



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#14-0818

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: June 17, 2014

TITLE: Motion to approve a proprietary three-year contract for legal publications and online research services - \$2,184 monthly with 4% increases in years two and three.

Recommendation

It is recommended that the City Commission approve a three-year contract, effective June 1, 2014, with West Publishing Corporation, a Thomson Reuters business, for the proprietary purchase of legal publications and WestlawNext online legal research services, in substantially the form attached, in the estimated annual amount of \$26,208 with 4% increases in years two and three. A three year contract is recommended in order to obtain an additional \$364 savings per month.

Background

The City Attorney's Office is charged with the responsibility of providing legal advice, counsel, and drafting assistance to all City Departments and Offices, involving a wide-variety of subjects. As represented in the City's Press Play Fort Lauderdale initiative, the "main objectives of the office are to protect the interests of the City, minimize future legal problems, and ensure compliance with city, state, and federal laws." Commencing February 2014, the City Attorney's Office is also responsible for the litigation of general and police professional liability lawsuits filed against the City and its employees, as well as continuing the prosecution of civil and criminal actions on behalf of the City. A fundamental tool in providing professional legal services and protecting the City's interests, including sustaining internal litigation, is the access and use of innovative, competent, efficient, and competitive legal research resources and technology. Although the City Attorney's Office has historically used various printed legal publications and reference materials necessary for the practice of law, since at least 1998, most printed legal research resources have been replaced by their on-line counterparts. WestlawNext, used for online legal research, has been a fundamental tool and an integral part of the City Attorney's Office's commitment to provide the best legal services in the most efficient and innovative ways, keeping the City Attorney's Office competitive and on an equal-footing within the legal community and with the judiciary. Notably, the use of WestlawNext has enabled the City Attorney's Office to

discontinue purchasing most printed publications at a substantial cost savings. The annual cost for the office consisting of 11 lawyers is \$26,208 for the first year; \$27,256.32 for the second year, and \$28,346.57 for the third year.

The City Attorney’s Office has purchased Westlaw computer legal research services since at least 1998. At that time the services were purchased from the Florida state contract. In 2009, *via* Commission Agenda Report No. 09-0426, the City Commission approved the proprietary purchase of Westlaw legal research services for three years. The use of Westlaw had “enabled the Office to discontinue purchasing several printed publications.” In 2012, *via* Commission Agenda Report No. 12-0978, the City Commission approved the proprietary purchase of WestlawNext on-line legal research services. Attached to that Agenda Report was a copy of a letter demonstrating the sole source nature of the product. In 2013, *via* City Commission Agenda Memo No. 13-1239, the City Commission approved a one-year renewal of the agreement for legal publications and WestlawNext online legal research services.

Comparative On-Line Legal Research Services

It is well-settled in the legal industry that there exist only two viable and competent on-line legal research services: Westlaw and LexisNexis, either one of which would be a proprietary purchase because they are different. The City Attorney’s Office has gone to great lengths to ensure access to the best, most-efficient, and reliable on-line research products at the best possible value available. The following data illustrates available competitive products and their respective pricing:

	WESTLAW	LEXIS
STATE CONTRACT DATABASES AND PRICING	<p><u>Westlaw Classic</u> <u>National Primary Plan 2B</u> - \$97 per user*</p> <ul style="list-style-type: none"> • Federal Case Law & Judicial Materials, Statutes & Legislative Materials, Administrative Law & Regulations • State Case Law & Judicial Materials, Statutes & Legislative Materials, Administrative Law & Regulations • Selected Practice – Area Materials • Legal Texts, Periodicals and Miscellaneous Materials • TP-ALL Databases 	<p><u>National Primary - Plus Plan 2</u> \$42 per user*</p> <ul style="list-style-type: none"> • Primary and Secondary legal materials throughout the United States, including federal and state cases, administrative and legislative sources, primary and secondary sources, selection of law reviews • Offline and Online Printing and Downloading • Florida Statutes Annotated • Shepard’s Citation Services • Natural Language and Boolean Search Capability • Navigational Tools • Onsite, online and/or telephonic training • Document retrieval features

	<ul style="list-style-type: none"> • Law Reviews and Journals • Florida Jurisprudence 2d • Online Citation Checking (including KeyCite) • Offline Transmission • Alert Services (WestClip and KeyCite Alert) • Offline Automated Citation Checking (via WestCheck and including QuoteRight) • Training (reasonable) • Support (technical support and research assistance). • McQuillin Library – additional \$17 per user <p>* Available only through 8/18/2014</p> <p>Pricing: \$1,067 per month \$12,804 per year (at 40% discount) \$97 per user</p> <p>w/McQuillin: \$1,254 per month \$15,048 per year \$114 per user</p>	<ul style="list-style-type: none"> • Technical Support and 24/7 Customer Support • Law Reviews <p>Pricing: \$462 per month \$5,544 per year \$42 per user</p> <p>*See below for complete Plan/Proposal from Lexis, which combines the above-referenced State Contract basic databases and additional and critical discounted retail services.</p>
<p>DISCOUNT RETAIL DATABASES AND PRICING</p>	<p><u>Westlaw Next – Government Select Level 1</u></p> <ul style="list-style-type: none"> • Primary Law with KeyCite All-Florida (WestlawNext) • Advanced Employment Practice (WestlawNext) • All Analytical Library (WestlawNext) • All Primary Law (WestlawNext) • Analytical Library Florida (WestlawNext) • Municipal Law Practitioner Counselor – Florida , including McQuillin (WestlawNext) • State Trial Court Orders (WestlawNext) <p>Pricing: \$2,184 per month (for a 3</p>	<p><u>Lexis Advance - National Primary Plus, as described above, with the following additional databases:</u></p> <ul style="list-style-type: none"> • Labor & Employment (\$342) • Florida Practice Library (\$266.50) • All Briefs, Pleadings & Motions (\$182) • Lexis for Microsoft Office (\$25) • Collier on Bankruptcy (\$207.50) • Inter-Document Linking (\$195) <p>Pricing: \$462 – National Primary Plus \$1,218 - Additional Databases (at 50% Discount)</p> <p>Total Pricing: \$1,680 per month \$20,160 per year \$152.72 per user</p>

	<p>year commitment); \$2,548 per month if only one year commitment) \$198.55 / \$231.64 per user \$26,208 / \$30,576 per year 4% increase each successive year for 3 years</p>	<p>No annual increase because Purchase Order is pursuant to the MSA. However, 3 year commitment is recommended to lock price and avoid any increases in renewed MSA.</p>
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The above-referenced Westlaw per-user rates and pricing are consistent with or less than other current and ongoing contracts entered into between other City Departments and Westlaw. For example, Human Resources is currently contracted for similar research services with Westlaw for 2 users for \$347.18 per month, for a total of \$4,166.16 annually, representing a \$173.50 per user monthly rate. The Fort Lauderdale Police Department is also contracted with Westlaw for similar research services for 2 users for \$686.09 per month, for a total of \$8,233.88 annually, representing a \$343.04 per user monthly rate.

Upon review of the above-referenced plans and pricing options available to the City, and in light of the breadth of legal services provided by the City Attorney’s Office, including litigation, and based upon quality, efficiency, and reliability of product and services, the City Attorney’s Office has determined that WestlawNext provides the best value. WestlawNext is the most innovative and competitive technological product available for legal research, which enables the City Attorney’s Office to ensure the best and most efficient work product. Although the State Contract pricing for Westlaw has a lower per-user rate, the platform provided is Westlaw Classic, which provides a more dated and more time-consuming interface and result fields capability, and is only available through August 18, 2014. Similarly, the State Contract option for LexisNexis, which has the lowest price per user option, is inadequate and provides insufficient databases for even the most basic legal research, which would require constant out-of-plan searches resulting in higher per-search transactional charges. Consequently, the LexisNexis Advance option supplements the existing minimal State Contract rate and plan with additional databases for a more expansive research capability. Notwithstanding, despite the lower per-user cost of the LexisNexis Advance service, the WestNext natural-language and Boolean search capabilities and interface are superior, providing more focused, comprehensive, and efficient search results, ensuring the most precise and up-to-date references to pinpoint legal authority. Additionally, unlike Westlaw, LexisNexis Advance does not provide or have available the analytical resource of *The Law of Municipal Corporations*, by Eugene McQuillin, which is an essential tool used by the City Attorney’s Office, and considered by many to be the most comprehensive digest of local government and municipal law in the United States.

Resource Impact

There will be a fiscal impact to the City in the amount of \$2,184 per month for a remaining fiscal year total of \$8,736. Future expenditures are contingent upon approval and appropriation of the annual budget.

Although the Research Subscriber Agreement provides for indemnification by the City in connection with Regulated Data, the subscription does not include access to Regulated Data, and the City’s defenses are not waived.

<i>Funds available as of June 11, 2014</i>					
ACCOUNT NUMBER	INDEX NAME	OBJECT CODE/ SUB-OBJECT NAME	AMENDED BUDGET (Object Code)	AVAILABLE BALANCE (Object Code)	PURCHASE AMOUNT
001-ATT010101 – 3199	Other Professional Services	Services & Materials/ Other Professional Services	\$224,795	\$82,944	\$8,736
				PURCHASE TOTAL ►	\$8,736

Attachment

- Exhibit 1 – Order Notification
- Exhibit 2 – Research Subscriber Agreement

Prepared by: Ronald Archey, Procurement Specialist II
Elizabeth Cohen, Administrative Assistant I

Charter Officer: Cynthia A. Everett, City Attorney