



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper

SUBJECT: SEE BELOW

DATE: November 16, 2020

Approved

Date

11/20/20

SUBJECT: ACTIONS RELATED TO THE PURCHASE ORDERS WITH AXON ENTERPRISE, INC. FOR THE PURCHASE OF TASER 7 EVIDENCE.COM ACCESS LICENSES AND EQUIPMENT

RECOMMENDATION

Adopt a resolution authorizing the City Manager to:

- (a) Execute purchase orders with AXON Enterprise, Inc. for the purchase of Taser 7 Evidence.com Access software subscription licenses and Conducted Electrical Weapons (“CEWs”) including related accessories, training, and installation, subject to the pricing obtained from NPPGov contract number PS20270, for an initial five-year term starting on or about December 2, 2020 and ending on or about December 1, 2025, for an amount not to exceed \$4,612,055, subject to the appropriation of funds.
- (b) Execute amendments and change orders not-to-exceed \$350,000 to purchase additional CEWs, related accessories and software subscription license as required, subject to the appropriation of funds.

OUTCOME

Ensure that the Police Department is equipped with new Conducted Electrical Weapons to replace current Conducted Electrical Weapons as they reach the end of their useful life.

BACKGROUND

The Police Department currently assigns the Axon Taser Conducted Electrical Weapon (“CEW”) to every sworn police officer to be used as a less lethal weapon when required. Taser CEWs incapacitate threatening subjects via an electrical charge that specifically targets the motor nerves that control movement. Numerous studies, including the U.S. Department of Justice NIJ brief

and the Police Executive Research Forum (PERF), have cited dramatic reductions in arrestee and officer injuries with the deployment of a Taser. In one study, 24,000 instances of Taser use were analyzed amongst multiple agencies nationwide revealing a reduction of arrestee serious injury or death in 40-60 percent of the cases. Likewise, the rate of officer injury was reduced by over 70 percent. The use of a Taser has proven to be an effective medium range tool that has been used to incapacitate armed and combative subjects; its use is a key component in the Department's de-escalation strategy.

The current model currently in use is the X26P from Taser International, which was introduced in the last CEW replacement round that began in April 2014. At that time, the Chief Purchasing Officer reviewed and determined the Taser X26P model qualified as a brand name / sole source pursuant to San José Municipal Code Section 4.12.240.B, based on the following factors:

- Taser International and Phazzer International were the only two companies to offer CEW products on the market. Through a comprehensive technical evaluation conducted by the Police Department, it was determined that only Taser International's X26P CEW offered the key capability to capture and log litigation-critical data for court use, such as time of event, electric energy output and engineering performance
- Taser's X26P included unique safety features that offered protection to both police officers and threatening/resisting individuals, which was not offered by Phazzer.
- Taser International was the manufacturer and sole distributor of Taser products, therefore a competitive solicitation could not be conducted among distributors.
- The pricing offered to the City was equivalent to the pricing offered to three other public agencies, and therefore deemed fair and reasonable.

The last replacement round included the taser unit, warranty, holster, duty cartridges, and training cartridges and was procured through several purchase orders placed between 2014 and 2016. These devices have reached the end of their five-year useful life and must be replaced.

In June 2016, the City Council approved contract award to Taser International for the procurement of body worn camera and its cloud-based evidence management software system, Evidence.com. The software system allows for review, case management, annotation and sharing of evidence files. Currently, the Police Department uploads all X26P Taser device data to Evidence.Com for CEW device management but X26P Tasers are not automatically connected to the evidence management system and cannot upload data in real time like the body worn cameras do.

In April 2017, Taser International changed its name to Axon International; its line of CEW products continue to be referred to as Tasers.

ANALYSIS

Brand Name / Sole Source Determination: Staff from the Police and Finance Department worked together to assess the Police Department's options for CEW replacement and determined that the only competitor to the Axon Taser continues to be the Phazzer Enforcer. The Phazzer Enforcer does not capture or store all of the device usage information that is essential in court cases and lacks the ability to automatically load information to a cloud-based data storage system that would make information readily available for the City for evidence and case proceedings; instead all information must be stored on and retrieved from a stand-alone computer.

Axon International's latest CEW product is the Taser 7. The Taser 7 has been significantly upgraded and can automatically connect with the police officer's Axon body worn camera; all data associated from the event originating from both devices would be automatically uploaded to Evidence.com as the event is happening. Device data from the Taser 7 that would be captured includes information such as name and badge of officer, time/date, activation and deactivation of safety, trigger pulls, electric energy output and other key data. The information on Evidence.com can be made readily available for the City for evidence and case proceedings, allowing the City to manage, review, and share digital evidence. Axon's Evidence.com system is currently used by the Police Department, Internal Affairs, the Santa Clara County District Attorney's Office and every agency in Santa Clara County.

Based on the above factors, the Chief Purchasing Officer determined that it is appropriate to expand and extend the 2014 brand name / sole source determination to include Axon International's Taser 7, pursuant to San José Municipal Code Section 4.12.240.B 2 and 3.

Council's approval of this recommendation would allow the replacement of 1,160 end-of-life Taser X26P CEWs with Taser 7 CEWs, including full on-site installation, training, the purchase of 20 six-unit docking stations, and a software subscription to Evidence.com. The Police Department would begin the new replacement cycle of their CEWs over the course of the next several months.

Pricing and NPPGov: Axon's pricing structure for this purchase is based on a five-year software subscription plan for Evidence.com. With the purchase of the subscription, the Taser 7 CEWs, battery packs, holsters, docking stations, and cartridges are included at no cost. The subscription fee is paid annually over the course of five years. There is a one-time charge for on-site installation and training and for 20 extra docking stations in the first year.

The City is leveraging pricing from NPPGov's contract number PS20270 with the League of Oregon Cities for this procurement. NPPGov is a national cooperative procurement organization that assists local governments in reducing costs by offering access to publicly solicited contracts to government entities nationwide. To confirm fair and reasonable pricing, Staff also obtained a copy of the County of Riverside's Request for Quote # SHARC 408, under which the agency purchased a quantity of 1,213 Taser 7 CEWs. The solicitation resulted in an award to AXON,

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the only bidder. The pricing offered to County of Riverside matched the pricing in the NPPGov contract.

Agreement: The City's standard purchase order terms and conditions will apply to this purchase, with a purchase order addendum reflecting a few key negotiated terms, including a limitation of liability clause for taser hardware that matches the clause included in the Body Worn Camera agreement. The purchase order will also reference the terms and conditions of Evidence.com software subscription agreement that is incorporated in the City's Agreement with Axon for Body Worn Cameras.

CONCLUSION

Approval of this recommendation will ensure all sworn San José Police Officers will continue to be equipped with current CEWs as a less lethal weapon option.

EVALUATION AND FOLLOW-UP

This memorandum will not require any follow-up from staff.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the December 1, 2020 Council Meeting.

COORDINATION

This memo was coordinated with the Police Department, City Attorney's Office, and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

This Council item is consistent with the City’s 2020-2021 Adopted Operating Budget City Service Area Delivery Framework: “To create safe places to live, work and learn through community partnerships.”

COST SUMMARY/IMPLICATIONS

The following outlines the elements of the purchase order:

1. AMOUNT OF RECOMMENDATION	\$4,612,055
2. COST ELEMENTS	
Year 1:	
1,160 Taser 7 Certification License (\$720/ea x 1,160 units)	\$835,200
20 Docking Stations	30,000
1 CEW Full Service (onsite installation and training)	17,000
Sales tax	80,031
Year 1 Subtotal	\$962,231
Year 2:	
1,160 Taser 7 Certification License (\$720/ea x 1,160 units)	\$835,200
Sales Tax	77,256
Year 2 Subtotal	\$912,456
Year 3:	
1,160 Taser 7 Certification Fee (\$720/ea x 1,160 units)	\$835,200
Sales Tax	77,256
Year 3 Subtotal	\$912,456
Year 4:	
1,160 Taser 7 Certification Fee (\$720/ea x 1,160 units)	\$835,200
Sales Tax	77,256
Year 4 Subtotal	\$912,456
Year 5:	
1,160 Taser 7 Certification Fee (\$720/ea x 1,160 units)	\$835,200
Sales Tax	77,256
Year 5 Subtotal	\$912,456
PURCHASE ORDERS NOT-TO-EXCEED TOTAL	\$4,612,055
Contingency	350,000
GRAND TOTAL	\$4,962,055

3. SOURCE OF FUNDING: Supplemental Law Enforcement Services (SLES) Grant (2019-2021)

4. FISCAL IMPACT: N/A

BUDGET REFERENCE

Fund #	Appn #	Appn Name	Current Total Appn	PO Amount for Year One*	2020-2021 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
414	209L	SLES Grant 2019-2021	\$2,412,015	\$962,231	VIII – 349.	10/27/2020 Ord. 30498

* Purchase order years two through five are subject to the appropriation of funds.

CEQA

Not a Project, File No. Public Project Number PP17-003: Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/
JULIA H. COOPER
Director of Finance

For questions about the procurement or contract, please contact Jennifer Cheng, Deputy Director of Finance at jennifer.cheng@sanjoseca.gov. For questions about the equipment or program, please contact Police Lieutenant Todd Lonac, Training Unit Commander, at (408) 501-0960.