

**FIRST AMENDMENT TO AGREEMENT
FOR BODY WORN CAMERA AND
EVIDENCE MANAGEMENT SYSTEM
BETWEEN THE CITY OF SAN JOSE
AND AXON ENTERPRISE, INC.
(FORMERLY TASER INTERNATIONAL, INC.)**

This First Amendment to Agreement for Body Worn Camera and Evidence Management System between the City of San José (hereinafter “City”), a municipal corporation, and Axon Enterprise, Inc. (formerly Taser International, Inc.), a Delaware corporation authorized to conduct business in the State of California (hereinafter “Contractor”), is entered into on the date of execution by City (“Effective Date”).

RECITALS

WHEREAS, on June 24, 2016, City and Contractor entered into an agreement entitled “Agreement for Body Worn Camera and Evidence Management System between the City of San José and Taser International, Inc.” (“Agreement”) for the implementation of a Body Worn Camera and Evidence Management System for the San José Police Department; and

WHEREAS, on October 4, 2016, City entered into Change Order #1 to add additional subscription licenses and hardware, accelerate the deployment of body worn cameras, and increase the maximum amount of compensation to \$4,551,929; and

WHEREAS, on April 5, 2017, Contractor officially changed its name to Axon Enterprise, Inc.; and

WHEREAS, on July 18, 2017, City and Contractor entered into Change Order #2 to add additional hardware at no additional cost; and

WHEREAS, on September 25, 2017, City entered into Change Order #3 to add additional subscription licenses and hardware, and increase the maximum amount of compensation to \$4,817,684; and

WHEREAS, City and Contractor desire to amend the Agreement to increase compensation by \$387,871 to a revised not-to-exceed maximum compensation of \$5,205,555 for the initial five-

year period, for additional subscription licenses and body worn cameras as described in Fourth Revised Exhibit A, Appendix 6, entitled "Price List", and Fourth Revised Exhibit B, entitled "Compensation/Payment Schedule";

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

SECTION 1. Section 8.1 of the Agreement, entitled "Compensation", is amended to read as follows:

"City shall pay Contractor an amount not to exceed Five Million, Two Hundred Five Thousand, Five Hundred Fifty-Five Dollars (\$5,205,555) during the Initial Term ("Maximum Compensation") as per the agreed-to Scope of Services in Exhibit A. The terms, rate and schedule of payment are set forth in the attached Fourth Revised Exhibit A, Appendix 6, "Price List", and Fourth Revised Exhibit B, "Compensation/Payment Schedule." Contractor shall submit to City invoices at the completion of each milestone that include a breakdown of Services as provided in the attached Fourth Revised Exhibit B, "Compensation/Payment Schedule"." City will make payments to Contractor within thirty (30) days after the date of approval of each invoice. City will make payments when due in the form of a check, or wire transfer drawn on a U.S. financial institution."

SECTION 2. Third Revised Exhibit A, Appendix 6, "Price List" is amended to read as shown in Fourth Revised Exhibit A, Appendix 6, attached and incorporated into this First Amendment.

SECTION 3. Third Revised Exhibit B, "Compensation/Payment Schedule" is amended to read as shown in Fourth Revised Exhibit B, attached and incorporated into this First Amendment.

SECTION 4. All of the terms and conditions of the original Agreement not specifically modified by this First Amendment shall remain in full force and effect.

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WITNESS THE EXECUTION HEREOF on the day and year set forth beneath the respective names.

APPROVED AS TO FORM:

City of San José,
a municipal corporation

Rosa Tsongtaatarii
Sr. Deputy City Attorney
Date: _____

By _____
Name: Jennifer Cheng
Title: Deputy Director, Finance

Date: _____

Axon Enterprise, Inc.,
a Delaware corporation registered to do
business in the State of California

By _____
Name: _____
Title: _____
Date: _____

By _____
Name: _____
Title: _____
Date: _____

**Fourth Revised Exhibit A, Appendix 6 – Price List
(Amended and Restated)**

This Fourth Revised Exhibit A, Appendix 6 – Price List supersedes and replaces Appendix 6 – Price List as previously amended and restated by Change Order #3.

Description of Cost Elements	Initial Term					
	Quantity	Year 1	Year 2	Year 3	Year 4	Year 5
1. Hardware - Body Worn Cameras - Docking Stations - Mounting Equipment (Uniform clip/hook) - BWC Spares (~3%) - Axon Signal Units (as amended by Change Order #1)	983	Included	Included	Included	Included	Included
2. Software License/ SaaS Subscription - Evidence.com Unlimited License - Evidence.com CAD/RMS Integration License (as amended by Change Order #1)	983	\$775,464	\$931,884	\$931,884	\$931,884	\$931,884
3. Hosting Services - Unlimited Axon Video and Capture Storage (as amended by Change Order #1)	983	Included	Included	Included	Included	Included
4. Other Software License/ SaaS Subscription - Evidence.com Standard License - Evidence.com Pro License (as amended by Change Order #1)	63 Standard Licenses 40 Pro Licenses	Included	Included	Included	Included	Included
5. Professional Services for Implementation: - Implementation - CAD Integration - Training - Testing & Final Acceptance - Go- Live		\$15,000				
6. Other Hosting Related - Disaster Recovery		Included	Included	Included	Included	Included
7. Taser Assurance Plan	983	Included	Included	Included	Included	Included
8. Accelerated Deployment (Change Order #1)		\$27,530				
9. Additional Axon Clip Mounts (Change Order #1)	247	\$3,107.26				
10. Additional Molle Mounts (Change Order #1)	164	\$3,291.48				

Description of Cost Elements	Initial Term					
	Quantity	Year 1	Year 2	Year 3	Year 4	Year 5
11. Additional Hardware - Body Worn Cameras - Axon Rapidlock Magnet Mounts- Flexible - Axon Rapidlock Magnet Mounts- Thick Outerwear - Sync Cables, USB (Change Order #2)	59 additional of each of the items listed in #11.	\$0				
12. Additional Taser Assurance Plans (Change Order #2)	59	\$0				
13. Additional Hardware - Body Worn Cameras (74) - Body Worn Camera Spares (5) - Axon Rapidlock Magnet Mounts- Flexible - Axon Rapidlock Magnet Mounts- Thick Outerwear - Sync Cables, USB (Change Order #3)	79 additional of each of the items listed in #11.		Included	Included	Included	Included
14. Additional Wall Mount Brackets (Change Order #3)	41		\$1,435			
15. Axon Starter (Change Order #3)	1		\$1,250			
16. Additional Software License/ SaaS Subscription - Evidence.com Unlimited License - Evidence.com CAD/RMS Integration License (Change Order #3)	74		\$52,614	\$70,152	\$70,152	\$70,152
17. Additional Taser Assurance Plans (Change Order #3)	79		Included	Included	Included	Included
18. Additional Hardware - Body Worn Cameras (143) - Axon Rapidlock Magnet Mounts- Flexible - Axon Rapidlock Magnet Mounts- Thick Outerwear - Sync Cables, USB (Amendment #1)	143		Included	Included	Included	Included
19. Additional Wall Mount Brackets (Amendment #1)	24		\$420	\$588		

Description of Cost Elements	Initial Term					
	Quantity	Year 1	Year 2	Year 3	Year 4	Year 5
20. Additional Software License/ SaaS Subscription - Evidence.com Unlimited License - Evidence.com CAD/RMS Integration License (Amendment #1)	143		\$13,035	\$102,700	\$135,564	\$135,564
21. Additional Taser Assurance Plans (Amendment #1)	143		Included	Included	Included	Included
SYSTEM SUBTOTAL		\$824,392.74	\$1,000,638	\$1,105,324	\$1,137,600	\$1,137,600
SYSTEM GRAND TOTAL	\$5,205,555					

Fourth Revised Exhibit B Compensation / Payment Schedule

This Fourth Revised Exhibit B – Compensation/Payment Schedule supersedes and replaces Exhibit B – Compensation/Payment Schedule as previously amended and restated by Change Order #3.

1. Compensation

- 1.1. The maximum amount payable for all products and services provided under this Agreement shall not exceed Five Million, Two Hundred Five Thousand, Five Hundred Fifty-Five Dollars (\$5,205,555), during the initial five-year term. Any additional services requested by the City that would exceed the preceding maximum amount will be addressed in accordance with the Change Order Procedures. No additional services will be performed unless both parties execute a Change Order outlining the services requested and the compensation agreed for such services.
- 1.2. Progress payments shall be made to Contractor by City based on net thirty (30) days payment terms, following receipt of invoices that may be issued after acceptance of designated milestones as shown below in Fourth Revised Table B1-Payment Schedule. All payments are based upon City's acceptance of Contractor's performance as evidenced by successful completion of all of the deliverables as set forth for each milestone. City shall have no obligation to pay unless Contractor has successfully completed and City has approved the Milestone for which payment is due.
- 1.3. Payment for any part or parts of the System provided hereunder, or inspection or testing thereof by City, shall not constitute acceptance or relieve Contractor of its obligations under this Agreement. City may inspect the components of the System when delivered and reject upon notification to Contractor any and all the System, which does not conform to the Specifications or other requirements of this Agreement. Components of the System which are rejected shall be promptly corrected, repaired or replaced by Contractor. If City receives components of the System with defects or nonconformities not reasonably apparent on inspection, then City reserves the right to require prompt correction, repair or replacement by Contractor in accordance with Contractor's warranty obligations.

2. Project Performance & Payment Schedule

- 2.1. Work shall commence immediately upon execution of the Agreement.
- 2.2. Invoicing procedure: The City agrees to compensate Contractor for the Services performed in accordance with the terms and conditions of this Agreement. Contractor shall send invoices to the City according to Fourth Revised Table B1 listed below. The actual dates of completion for each milestone may vary from the estimated completion date indicated in Fourth Revised Table B1 and the Preliminary Project Schedule (Exhibit A-1, Appendix 2). Milestone completion date may be updated and revised as mutually agreed upon between City and Contractor. Payment shall be made based on City acceptance of milestones and SOS deliverables.
- 2.3. For ongoing cloud subscription and storage services after the implementation period (see Fourth Revised Table B1), City shall prepay for the Services provided under this Agreement at the start of each option period. In the event of early termination of the Agreement, Contractor shall refund the City any fees not expended and paid in advance on a prorated basis.
- 2.4. Contractor shall submit invoices to designated SJPD contact.

Fourth Revised Table B1: Compensation/Payment Schedule

Milestone/Item	Scope of Services Deliverables (Exhibit A-1)	Estimated Completion Date	Payment Amount	% of Year 1 Total
A. YEAR 1 IMPLEMENTATION:				
1. Phase 1- Project Planning, Implementation, Training & Go-Live (approximately 387 cameras)	Section 9	8/2/16	\$249,559	30.3%
2. Phase 2- Implementation, Training & Go-Live (approximately 192 cameras)	Section 10.1-10.4	8/25/16	\$123,812	15%
3. Accelerated Deployment	Change Order #1	9/28/16	\$27,530	3.3%
4. Phase 3- Implementation, Training & Go-Live (approximately 192 cameras)	Section 10.1-10.4	9/28/16	\$123,812	15%
5. Phase 4- Implementation & Training (approximately 192 cameras)	Section 10.1-10.5	10/26/16	\$123,812	15%
6. Additional Cameras	Change Order #1	10/26/16	\$14,220	1.7%
7. Additional Axon Clip Mounts	Change Order #1	10/26/16	\$3,107.26	.38%
8. Additional Molle Mounts	Change Order #1	10/26/16	\$3,291.48	.4%
9. Final Go-Live	Section 10.4.1-10.4.2	10/27/16	\$77,624	9.4%
10. Post Go-Live and Final System Acceptance	Section 10.4.4-10.4.5	12/11/16	\$77,625	9.4%
Total Year 1 (initial license, installation, setup)			\$824,393	100%
B. On-going Services:			Payment Amount	
Year 2 (cloud subscription & storage services)			\$997,533	
Year 3 (cloud subscription & storage services)			\$1,104,736	
Year 4 (cloud subscription & storage services)			\$1,137,600	
Year 5 (cloud subscription & storage services)			\$1,137,600	
Total On-going Services			\$4,377,469	
C. On-going Purchases:			Payment Amount	
59 Additional Body Worn Cameras	Change Order #2	8/31/17	\$0	
59 Additional Axon Rapidlock Magnet Mounts-Flexible	Change Order #2	8/31/17	\$0	
59 Additional Axon Rapidlock Magnet Mounts- Thick Outerwear	Change Order #2	8/31/17	\$0	
59 Additional Sync Cables, USB	Change Order #2	8/31/17	\$0	
59 Additional Taser Assurance Plans	Change Order #2	8/31/17	\$0	
41 Additional Wall Mount Brackets	Change Order #3	10/31/17	\$1,435	
1 Axon Starter	Change Order #3	10/31/17	\$1,250	
26 Additional Wall Mount Brackets	Amendment #1	10/31/19	\$1,008	
MAXIMUM COMPENSATION (INITIAL 5-YEAR TERM)			\$5,205,555	

All amounts stated above are in United States Currency.

3. Renewal Period Compensation

- 3.1. Pursuant to Section 2.2 of the Agreement, the City reserves the right to extend the term of this Agreement for five additional one-year terms ("Option Periods") for ongoing Body Worn Camera and Evidence Management System subscription licenses.
- 3.2. After the initial five-year term, ongoing subscription license costs shall be set at \$1,137,600 per year for the Evidence.com Unlimited Plan, which is inclusive of all of the cost elements listed in Fourth Revised Exhibit A, Appendix 6, Price List.

4. Additional Cameras/ Subscription Licenses

Should the City require additional body worn cameras/ Evidence.com Unlimited subscription licenses, Contractor shall provide them at the following rate.

- 4.1. Evidence.com Unlimited License (includes camera): \$948 per user per year.

5. Additional Training

Should the City require additional training, Contractor shall provide the training at the following rate.

- 5.1. On-site Training: \$2,000 per day.

6. Additional Storage

Should the City require additional storage (data not uploaded from Axon body worn cameras), Contractor shall provide the training at the following rate.

- 6.1. Additional storage: 6.25¢ per gigabyte per month.