



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/19/2023

ITEM NO: 14

DATE: December 14, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Axon Enterprises Incorporated Agreement:
a. Authorize the Town Manager to Execute a Five-Year Agreement In Substantially the Form Attached to this Report with Axon Enterprises Incorporated for the Purchase and Maintenance of Axon Officer Safety Plan 10+ Body Worn Cameras (BWC), Tasers, and a Digital Evidence Management System in The Amount Not to Exceed \$800,000; and
b. Authorize an Expenditure Budget Adjustment in the Amount of \$68,356 from the Available General Fund Capital/Special Projects Reserve

RECOMMENDATION:

Staff recommends the Town Council:

- a. Authorize the Town Manager to execute a five-year agreement in substantially the form attached to this report with Axon Enterprises Incorporated for the purchase and maintenance of Axon Officer Safety Plan 10+ Body Worn Cameras (BWC), Tasers, and a digital evidence management system in an amount not to exceed \$800,000; and
- b. Authorize an expenditure budget adjustment in the amount of \$68,356 from the available General Fund Capital/Special Projects Reserve.

BACKGROUND:

The Los Gatos-Monte Sereno Police Department was a pioneer in Santa Clara County by deploying Officers with Body-Worn Cameras (BWC) beginning in 2008. In addition, since 2007, the Department was an early adopter in the integration and use of Axon Enterprises Inc. Tasers as a less lethal de-escalation of force option.

In 2020, the Police Department identified Axon Enterprises Inc. as a preferred sole source vendor with upgraded BWC technology and a digital evidence storage platform for a successful BWC program, in compliance with legislative mandates.

PREPARED BY: Clint Tada
Support Services Captain

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

On February 18, 2020, the Town Council approved allocation of \$377,130 of total funding to authorize the Town Manager to execute two five-year agreements with Axon Enterprises Inc. for the purchase and maintenance of Body-Worn Cameras (BWC), Evidence.com (digital cloud storage platform), and conducted energy weapons (Tasers) for sworn officers for the duration of an agreement term through FY 2023/24.

With the evolution and expansion of technology, demands for increased transparency, and legislative mandates, the Police Department incurred additional costs during this agreement term. These added costs included the purchase and maintenance of additional body-worn cameras for civilian field personnel and the need to increase digital evidence storage capacity due to the increase in digital evidence collected and requested for the prosecution of cases.

Additionally, new legislation created unfunded requirements for more robust storage capacity due to extended retention schedules and investigative obligations that necessitated the storage of materials. Some of these legislative mandates resulting in storage, extended retention, and release of redacted recorded information include Assembly Bill (AB) 748 (2018), Senate Bill (SB) 1421 (2018), SB 2 (2022), and SB 16 (2022).

Between 2021 and 2023, the Police Department purchased an additional three Axon BWC devices and an additional 6 terabytes of storage capacity on the Axon Digital Evidence System. The total for both BWC and Tasers agreements then increased to \$398,405.

Since the release of the most current Axon Officer Safety Plan (OSP 10), Axon Enterprises Inc. has changed their pricing structures and plans to incorporate additional options to bundle specific Axon products, features, and platforms. Beginning in January 2024, Axon has indicated to existing customers that all currently offered OSP 10 pricing plans will increase in excess of 16% immediately, and thereafter incur additional inflation increases. This would be a significant increase and would impact OSP 10 plan renewals and new plan agreements in future years.

DISCUSSION:

The Police Department is in the final year of two separate five-year agreements with Axon for the maintenance and services of individual equipment such as Tasers, Taser Cartridges, body-worn cameras, docking stations, and a limited cloud-based storage for body-worn camera videos and other digital video evidence.

At the time of the original Axon agreements in 2020, the Department opted to purchase the Officer Safety Plan 7 (OSP 7) which included Axon body-worn cameras, Axon digital evidence system, and Axon Tasers with limited features and an “a la carte” pay for additional options.

SUBJECT: Authorize Actions Related to an Agreement with Axon Enterprises Incorporated

DATE: December 14, 2023

DISCUSSION (continued):

With advancement in equipment, technology, and system capabilities, Axon has since restructured their Officer Safety Plan bundle packages as Officer Safety Plan 10 (OSP 10), (OSP 10+), and (OSP 10 Premium). See Exhibit A for current OSP10 packages (with features) offered by Axon Enterprises.

The total cost of the five-year Axon OSP 10+ proposed agreement which includes a bundle package for Axon Body Worn Cameras, Digital Evidence Storage, and Tasers is \$780,612.55. The annual cost for the proposed Axon OSP 10+ Agreement is approximately \$156,000, an average annual increase of \$77,000 over the previous Axon OSP 7 BWC and Taser agreements budgeted. The increase in costs between Axon's OSP 7 and OSP 10+ bundles include increasing quantities of BWC devices from 47 to 51, increase of Tasers from 40 to 47, and transitioning from limited paid capacity digital evidence storage to unlimited storage.

The Police Department's goal is to outfit all sworn staff and civilian field staff (Reserve Police Officers, Community Service Officers, and Parking Control Officers) with their own BWC, with a surplus of additional cameras for immediate deployment in the event of faulty equipment or repairs. There is a need to increase the number of Tasers to provide current Reserve Police Officers with Tasers as standard issued equipment. Axon OSP 10+ provides redaction assistant software, the increase of four additional user licenses and numerous technology features which were not included in the current OSP 7 package. The Department would be upgraded to the latest high-definition Axon cameras and Taser 10 conducted energy weapon on the OSP 10+ plan with an accommodating 5-year warranty for service and replacement.

Body Worn Cameras have proven to improve law enforcement legitimacy by enhancing transparency and aiding in the investigation and resolution of community complaints, as well as providing better evidence for criminal prosecutions, and reduced time for Officers in criminal court. From 2020 to 2023, the Police Department has uploaded and maintained over 81,000 digital files to Axon's secure, cloud-based digital evidence management system for evidentiary purposes. During that time, over 1,400 criminal cases with videos with digital evidence were submitted electronically to the District Attorney's Office, and over 125,000 community contacts were recorded. Axon's cloud-based storage system stores both body-worn video and crime scene photos. Currently, the system is storing over 13 terabytes (TB) of evidence.

The original Axon OSP 7 agreement included 8 TB of storage; however, an additional 6 TB were purchased in 2023 for the remaining two years of the agreement to accommodate the increase in digital evidence and the ability to adhere to mandatory retention periods. The proposed OSP 10+ agreement includes unlimited storage for digital evidence which is projected to exponentially reduce potential add-on storage costs under the current pricing structure.

SUBJECT: Authorize Actions Related to an Agreement with Axon Enterprises Incorporated

DATE: December 14, 2023

DISCUSSION (continued):

Other Santa Clara County law enforcement agencies employ Axon's technology for collection, management, storage and sharing of Body-Worn Camera (BWC) video evidence. Because of this, the Santa Clara County District Attorney's Office has invested resources into developing and maintaining the ability to receive and discover this evidence. Switching providers would cause the District Attorney and the Police Department to incur significant increased costs as well as lost productivity to replicate processes utilizing a different vendor's technology and resources. A change of this nature would also negatively impact the ability for video management and evidence discovery for criminal justice proceedings.

In 2019, a new law took effect that required police agencies to produce video and audio recordings of critical incidents in response to a public records request. Critical incidents are events involving the discharge of a firearm at a person by a peace officer or a situation in which the use of force by a peace officer against a person resulted in death or great bodily injury.

The proposed Axon OSP 10+ agreement also includes Axon's Redaction Assistant Program, a necessary redaction tool that will enable the Police Department to comply with mandated public records requests specific to California Penal Code 832.7.

Staff recommends approving a sole-source purchase agreement because the materials manufactured and distributed by Axon are unique and specialized, and there is no other source for this equipment with the integrated platforms and technology capability already in use by the Department. In addition, the proposed agreement replaces outdated Axon equipment every 3 years with Axon's newest model and generational features. There are no other vendors capable of meeting the requirements of this service or product. Furthermore, Axon is not imposing any penalties for restructuring the existing contracts and entering into a new 5-year agreement for all services under its Officer Safety Plan 10+ and bundling of Tasers and body-worn cameras.

Staff has asked Axon to add a provision stating that, in the event of litigation, venue will be in the County of Santa Clara and to remove the requirement that the Town notify Axon when Public Records Act requests are received. If Axon agrees to those changes, the agreement will be modified accordingly. In the interest of obtaining beneficial pricing, staff is presenting the agreement to the Town Council now pending resolution of those two requests and asking for authorization to sign the agreement with minor modifications.

CONCLUSION:

Authorize the Town Manager to execute a five-year agreement in substantially the form attached to this report with Axon Enterprises Incorporated for the purchase and maintenance of Axon Officer Safety Plan 10+ Body Worn Cameras (BWC), Tasers, and a digital evidence

SUBJECT: Authorize Actions Related to an Agreement with Axon Enterprises Incorporated

DATE: December 14, 2023

CONCLUSION (continued):

management system in the amount of not to exceed \$800,000. In addition, authorize an expenditure budget adjustment in the amount of \$68,356 from the available General Fund Capital/Special Projects Reserve.

ALTERNATIVES:

Alternatively, the Town Council could direct staff to delay the replacement of equipment and early renegotiation of the Axon services agreement. Staff does not recommend this alternative as the current equipment is approaching the recommended service life expectancy, additional costs for nonincluded features under the current limited OSP 7 plan will be required, and Axon has provided notice that all service plan costs will significantly increase beginning January 2024.

FISCAL IMPACT:

Over the last five years, the total budgeted amount of the existing Axon OSP 7 BWC and Taser Agreements was increased to \$398,405, as result of two amendments to the original Axon agreement. The chart below depicts actual expenses for the Axon OSP 7 agreements.

Chart#1

EXISTING AGREEMENT - AXON OFFICER SAFETY PLAN (OSP 7)				
PAYMENT	AXON BWC	TASERS	ADD-ON COSTS	TTL ANNUAL EXP
Year 1	\$ 50,867	Trade-In Credit	\$ -	\$ 50,867
Year 2	\$ 49,916	\$ 28,383	\$ 2,350	\$ 80,650
Year 3	\$ 49,916	\$ 31,464	\$ 5,694	\$ 87,074
Year 4	\$ 49,916	\$ 31,464	\$ 6,858	\$ 88,238
Year 5	\$ 49,916	\$ 31,464	\$ 6,858	\$ 88,238
TOTAL	\$ 250,533	\$ 122,775	\$ 21,760	\$ 395,068

The existing agreements are set to expire in 2024, requiring renegotiation of a revised Axon OSP 10, OSP 10+, or OSP 10 Premium plan with an increase of 16% above the proposed Axon OSP 10+ agreement depicted in Chart #2 below. The total cost of the proposed Axon OSP 10+ Agreement is \$780,612.55, which is approximately \$156,000.00 annually.

SUBJECT: Authorize Actions Related to an Agreement with Axon Enterprises Incorporated

DATE: December 14, 2023

FISCAL IMPACT (continued):

Chart #2

PROPOSED AGREEMENT - AXON OFFICER SAFETY PLAN (OSP 10+)				
PAYMENT	AXON BWC	TASERS	ADD-ON COSTS	TTL ANNUAL EXP
Year 1	Included	Included	Included	\$ 156,616
Year 2	Included	Included	Included	\$ 155,999
Year 3	Included	Included	Included	\$ 155,999
Year 4	Included	Included	Included	\$ 155,999
Year 5	Included	Included	Included	\$ 155,999
TOTAL	Included	Included	Included	\$ 780,612

For the reasons stated in this report, staff recommends the authorization of a FY 23/24 Expenditure Budget Adjustment of \$68,356 from the available General Fund Capital/Special Project Reserve. Ongoing annual payments summarized in the table above would be requested through the annual budget process.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

ATTACHMENTS:

1. Sole Manufacturer Letter
2. Axon OSP 10+ Proposed Quote for BWC, Tasers, and Digital Evidence Storage System with Exhibit A – Axon Officer Safety Plan Comparison Features
3. Axon Draft Agreement