



City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION WAIVING THE CITY'S ADVERTISING / BIDDING AND REQUEST FOR PROPOSAL REQUIREMENTS FOR THE PURCHASE OF BODY WORN CAMERA (BWC) ANCILLARY TECHNOLOGY PRODUCTS FROM AXON, INC. NOT TO EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS.

WHEREAS, OPD has adopted BWC technology because of its usefulness in capturing audio/video evidence and enhancing the Department's ability to conduct criminal investigations, administrative investigations, and review of police procedures and tactics; and

WHEREAS, OPD requires that sworn officers utilize BWCs to document the actions during field operations, and seeks to balance the benefits provided by digital documentation with the privacy rights of individuals who may be recorded during the course of legal and procedurally just public interactions; and

WHEREAS, Oakland Municipal Code (OMC) Section 9.64.030(1)(C) C requires City Council approval for new and existing surveillance technology; and

WHEREAS, at the September 2, 2021 Privacy Advisory Commission (PAC) meeting, the PAC Commissioners voted unanimously to recommend that the City Council approve OPD's BWC Use Policy and BWC Impact Report, with amendments:

- default 30 second silent buffer where BWCs are continuously recording to a 2-minute buffer;
- audio recording during the buffer (current default is no audio during continuous buffer);
- add required verbal consent to use BWC when officers take a statement from members of the public; and
- clarify in the "Training Section" of the Use Policy that training, "for those who are assigned a BWC, and training regarding the process for uploading and downloading BWC data," will be for the BWC Use Policy in particular; and

WHEREAS, the City Council adopted Resolution No. 88824 C.M.S. on

September 21, 2021, which approved OPD's BWC Use Policy and related Impact report, and

WHEREAS, the City Council also adopted Resolution No. 88825 C.M.S. on September 21, 2021, which authorized:

- 1) a contract with Axon, Inc.(Axon) to purchase 786 BWCs, 786 electronic control weapons (ECW, known as tasers), cloud-storage for the audio and video BWC storage system known as Evidence.com for the five year period of January 1, 2022 through December 31, 2026, for an annual cost not to exceed one million six hundred thirty eight thousand five hundred five dollars (\$1,638,505) for a total five year contract cost not to exceed eight million one hundred ninety two thousand five hundred twenty five dollars (\$8,192,525); and
- 2) waiving the city's advertising / bidding and request for proposal requirements for the proposed contract; and

WHEREAS, as part of OPD's ongoing efforts to reach full compliance with the Negotiated Settlement Agreement (NSA) in *Delphine Allen et.al. v. City of Oakland et.al.*, OPD needs to purchase ancillary Axon BWC-related items that are not surveillance technology to augment and improve how BWCs properly record officer interactions and ensure BWCs are activated on time, including signal vehicle installation technology and BWC mounts; and

WHEREAS, personnel accountability is a critical component of the NSA and capturing officers' interactions with the public is a federal Monitoring Team/Compliance Director-approved tool in these various investigations; and

WHEREAS, the Monitoring Team recognized OPD's hard work with their finding that the Department is in compliance with two additional tasks in their February 22, 2022 report to the Court; and

WHEREAS, the February 22, 2022 report acknowledged that both video and/or audio recordings proved to be a significant factor in allowing OPD to reach appropriate conclusions in its investigations; and

WHEREAS, OPD risks losing ground with NSA compliance by not implementing the signal vehicle installation, which would mean losing an automatic trigger for the BWCs that could reduce the incidences of officers activating their BWCs late and which the Department and Monitoring Team agree should be implemented; and

WHEREAS, OPD seeks to purchase installation of the Department's signal vehicle triggers so that BWCs are automatically activated when an officer's patrol vehicle door opens, and

WHEREAS, this technology will help automate officer BWC activation which will further enhance OPD's investigative capabilities for sustained NSA compliance and ensure BWC-usage in alignment with OPD's BWC usage policy; and

WHEREAS, OPD will also benefit from better BWC to uniform mounts so that BWCs have a lower incidence of falling from the officers' uniforms during foot pursuits, struggles, or other normal policing operations; and

WHEREAS, OPD's BWC technology program will also benefit from the Department's ability to purchase hardware unanticipated in the original contract (such as additional mounts, cords, or holsters) that further the Department's goals of ensuring the purchased BWC technology is fully operational and operating in a way that maximizes its use for accountability and NSA compliance; and

WHEREAS, Axon is a technology leader in the BWC hardware and audio-video data storage space, and

WHEREAS, staff have explored other signal vehicle installation technology providers, BWC uniform mounts, and providers of ancillary hardware that properly interfaces with the current BWC system to ensure that OPD has the best option for the most appropriate and efficient technology that also integrates with the new Axon BWC hardware systems and found that vendors other than Axon lack the capacity to install the technology in OPD patrol vehicles in the short time frame required for NSA compliance, as well as the technical expertise to ensure that the signal vehicle installations properly interface with the existing Axon BWCs in the field; and

WHEREAS, these other signal vehicle installation technology providers would require an unreasonable amount of downtime per police vehicle given the current time constraints, while Axon will install the mounts with less than 2 hours' downtime per vehicle; and

WHEREAS, OPD personnel have reviewed all options and determined that only Axon can provide the needed signal vehicle technology installation and mounts that are fully functional with the new Axon BWC hardware technology and can also be installed in a timely manner such that needed OPD vehicles are left for patrol service as much as possible; and

WHEREAS, staff also would benefit from additional spending authority given the complexity of the BWC program with myriad technology aspects and logistical challenges without asking for City Council authority for each purchase from Axon; and

WHEREAS, the total purchasing authority with Axon will be restricted to non-surveillance technology products that directly support OPD's BWC hardware and Evidence.com data management solution; and

WHEREAS, Oakland Municipal Code Section 2.04.020.B requires City Council approval of contracts for technology-related professional products or goods in excess of \$50,000, and for technology-related professional services in excess of \$15,000; and

WHEREAS, Oakland Municipal Code Sections 2.04.042.D and 2.04.051.B

permit the City Council to waive the request for proposal/qualifications (RFP/Q) requirements upon a finding that it is in the best interest of the City to do so; and

WHEREAS, staff recommends that it is in the best interests of the City to waive the RFP/Q process for all of the reasons in this Resolution and accompanying report; now, therefore be it

RESOLVED: that the City Administrator is authorized to purchase BWC-related technology and Evidence.com products and support with Axon for a total not to exceed \$250,000; and be it

FURTHER RESOLVED: That pursuant to OMC 2.04.042.D and for the reasons stated in this Resolution and in the staff report it, the City Council finds that it is in the best interests of the City to waive the multi-step proposal solicitation process for the purchase BWC-related products; and be it

FURTHER RESOLVED: that all Axon, Inc. contract funds shall be paid from the General-purpose Fund (1010), Police Information Technology Org (106410), Administrative Project (1000008), and Agency-wide Administration Program (PS01); and be it

FURTHER RESOLVED: That the City Administrator or designee is authorized to complete all negotiations, certifications, assurances and documentation required to accept, modify, extend, and/or amend the proposed contract except for any increases in the total costs, or contract duration, set forth herein, without returning to City Council; and be it

FURTHER RESOLVED: That the City Attorney shall approve the proposed agreements and contract terms as to form and legality; and be it

FURTHER RESOLVED: That the City Administrator or her designee shall place a copy of the fully executed agreements on file with the Offices of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT FORTUNATO BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council

of the City of Oakland, California