

AMENDMENT NUMBER ONE
TO
CONTRACT MA-060-21011432
BETWEEN THE
COUNTY OF ORANGE
AND
AXON ENTERPRISE

This AMENDMENT NUMBER ONE to Contract Number MA-060-21011432 (hereinafter “AMENDMENT NUMBER ONE”) between the County of Orange, a political subdivision of the State of California with a place of business at 320 N. Flower Street, 2nd Floor, Santa Ana, CA 92703 (hereinafter “COUNTY”) and Axon Enterprise, (hereinafter “CONTRACTOR”) with a place of business at 17800 N. 85th St., Scottsdale, AZ 85255, is made and entered upon execution of all necessary signatures.

RECITALS:

WHEREAS, the State of Minnesota has issued a Master Price Agreement as Contract No. 010720-AXN, through the Sourcewell Program, included in Attachment C, for public safety surveillance solutions with related equipment, software and accessories now in effect from February 21, 2020 through and including February 21, 2025; and

WHEREAS, COUNTY and CONTRACTOR executed a Contract pursuant to Sourcewell Program for Public Safety Surveillance Solutions with Related Equipment, Software and Accessories on July 27, 2021, for a five (5) year term of July 27, 2021 through and including July 26, 2026, in an amount not to exceed \$12,728,077.27 (hereinafter “ORIGINAL CONTRACT”); and

WHEREAS, Contractor and Sourcewell executed an amendment to Sourcewell Cooperative Contract No. 010720-AXN to add products and services, included in Attachment F;

WHEREAS, County desires to procure certain products and services, included in Attachment f;

WHEREAS, COUNTY desires to extend the ORIGINAL CONTRACT for an additional (7) year term of July 27, 2026 through and including July 31, 2033 in an amount not to exceed \$41,281,134.89; as well as amend Attachment A, Scope of Work, and Attachment B, Compensation and Pricing Provisions and the CONTRACTOR has agreed to provide those good/services at the rates set forth in the quotes provided to the County, included in Attachment E;

NOW THEREFORE, in consideration of the mutual obligations set forth herein, both COUNTY SHERIFF-CORONER DEPARTMENT and CONTRACTOR agree as follows:

ATTACHMENTS to the ORIGINAL CONTRACT is amended in its entirety as follows:

This Contract is comprised of this document and the following Attachments, which are incorporated by reference into this Contract:

Attachment A – Scope of Work
Attachment B – Compensation and Payment Terms
Attachment C - Sourcewell Cooperative Contract No. 010720-AXN
Attachment D - Sourcewell Cooperative Contract No. 010720-AXN Pricing List
Attachment E - Axon Enterprise Quote# Q-300332-44369.814BR replaced by Axon Enterprise
Quotes# Q-459709-45103.639AR and Q-489876-45103.653AR
Attachment F – Sourcewell Contract Amendment

1. ARTICLES

- a. Articles, Section 3 Term of Contract, of the ORIGINAL CONTRACT is amended in its entirety as follows:
3. Term of Contract: This Contract shall commence upon execution of all necessary signatures, and continue in effect through July 31, 2033, unless otherwise terminated by County. This Contract may not be renewed. The terms and conditions of Attachments A through F shall continue to be incorporated herein and applicable even after its termination or expiration.
- b. Articles, Section 5 Compensation & Payment, of the ORIGINAL CONTRACT is amendment in its entirety as follows:
5. Compensation & Payment: Contractor agrees to provide services in connection with the Sourcewell Program as set forth in **Attachment A, Scope of Work**, at the fixed discounted rates off Contractor's price lists specified in Attachment D and F and the Quotes (Attachment E). The maximum amount of compensation under this Contract shall not exceed the amount of \$41,281,134.89 for the contract term, as set forth more fully herein.
- c. Attachment A, Scope of Work, of the ORIGINAL CONTRACT is amendment in its entirety as follows:

ATTACHMENT A

Scope of Work

1. Contractor shall provide County with public safety video surveillance solutions with related equipment, software and accessories in the categories as listed in Attachment E Axon Enterprise Quotes# Q-459709-45103.639AR and Q-489876-45103.653AR. Contractor agrees to provide the products and services requested, as needed by the COUNTY, at prices discounted pursuant to Attachment E, regardless of quantity requested.
2. Contractor shall provide County as needed On-Site Axon Full Service as referenced Attachment E Axon Enterprise Quotes# Q-459709-45103.639AR and Q-489876-45103.653AR. Contractor shall provide products and services as listed in Sourcewell Cooperative Contract No. 010720-AXN, Master Services and Purchase Agreement Version 9.0, Professional Services Appendix, Page 10 and Attachment F. On-Site Service

Visits shall be coordinated by County and Contractor and be scheduled at the convenience of the County.

3. Within 30 days of signing the contract, Contractor shall meet with the County staff at a project kickoff meeting to determine implementation details (e.g., tasks, training, due dates). Contractor shall provide ongoing consultation and assistance pursuant to the established implementation details and as stated in this Contract
4. The maximum amount that may be paid to Contractor under this Contract shall not exceed \$41,281,134.89 for the term ending on July 31, 2033.
5. Contractor will ship all items ordered to the following locations:

County of Orange
Sheriff Coroner/Technology Division
840 N. Eckhoff St., Ste. #104
Orange, CA 92868
Attn: Warehouse Receiving

- d. Attachment B, Compensation and Pricing Provisions, Section 1, Compensation, of the ORIGINAL CONTRACT is amended in its entirety as follows:

1. **Compensation:** This is a firm-fixed fee Contract between the County and Contractor for use of Public Safety Video Surveillance Solutions with Related Equipment, Software and Accessories as set forth in Attachment E Axon Enterprise Quotes# Q-459709-45103.639AR and Q-489876-45103.653AR as modified herein by Attachment A, "Scope of Work."

The Contractor agrees to accept the specified compensation as set forth in this Contract as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The Contractor shall only be compensated as set forth herein for work performed in accordance with the Scope of Work. **The County shall have no obligation to pay any sum in excess of the fixed rates specified herein unless authorized by amendment.**

- e. Attachment B, Compensation and Pricing Provisions, Section 2, Fees and Charges and Section 7. Payment – Invoicing Instructions, of the ORIGINAL CONTRACT are amended to read as follows:

2. **Fees and Charges:** County will pay fees in accordance to Axon Enterprise Quotes# Q-459709-45103.639AR and Q-489876-45103.653AR attached hereto in Attachment E.

Contract amount shall not exceed \$\$41,281,134.89

7. Payment – Invoicing Instructions:

Invoice and support documentation are to be forwarded to:

County of Orange
Sheriff-Coroner/Technology Division
840 N. Eckhoff St., Ste. #104
Orange, CA 92868
Email Invoices to: Technologyinvoices@ocsheriff.gov

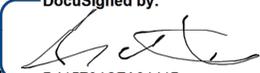
2. All other terms and conditions in this Contract shall remain unchanged and with full force and effect.

IN WITNESS WHEREOF, the Parties have executed AMENDMENT NUMBER ONE to ORIGINAL CONTRACT MA-060-21011432.

*Contractor: Axon Enterprise Inc.

DocuSigned by: 
By: _____ Title: VP, Assoc. General Counsel
55DAEBB131A4424
Print Name: Robert Driscoll Date: 6/27/2023 | 9:47 AM MST

*Contractor: Axon Enterprise Inc.

DocuSigned by: 
By: _____ Title: EVP, General Counsel
D415764CF A3141D...
Print Name: Isaiah Fields Date: 6/27/2023 | 9:39 AM MST

**If the contracting party is a corporation, (2) two signatures are required: (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.*

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Of Orange

A political subdivision of the State of California



Sheriff-Coroner Department

By: _____ Title: _____
Print Name: _____ Date: _____

Approved by the Board of Supervisors: _____

Approved as to Form

Office of the County Counsel
Orange County, California

By: **Annie Loo** Digitally signed by Annie Loo
DN: cn=Annie Loo, o=County Counsel, ou,
email=annie.loo@coco.ocgov.com, c=US
Date: 2023.06.27 14:30:27 -07'00'
Deputy

**County of Orange Contract #MA-060-21011432 with
Axon Enterprise Inc., pursuant to Sourcewell Cooperative Contract No. 010720-AXN
For Public Safety Video Surveillance Solutions with Related Equipment, Software and
Accessories**

This Contract MA-060-21011432 is made and entered into upon execution of all necessary signatures between Axon Enterprise Inc., having its principal place of business at 17800 N. 85th St., Scottsdale, AZ 85255 (referred as “Contractor”), and the County of Orange, operating through its Sheriff-Coroner Department, a political subdivision of the State of California, with a place of business at 320 N. Flower Street, Ste. 108, Santa Ana, CA 92703 (referred to as “County”) which are sometimes individually referred to as “Party” or collectively referred to as “Parties”.

ATTACHMENTS

This Contract is comprised of this document and the following Attachments, which are incorporated by reference into this Contract:

Attachment A- Scope of Work
Attachment B – Compensation and Payment Terms
Attachment C – Sourcewell Cooperative Contract No. 010720-AXN
Attachment D – Sourcewell Cooperative Contract No. 010720-AXN Pricing List
Attachment E - Axon Enterprises Quote# Q-300332-44369.814BR

RECITALS

WHEREAS, the State of Minnesota, has issued a Master Price Agreement as Contract No. 010720-AXN, through its Sourcewell program now in effect from February 21, 2020 through and including February 21, 2024; and

WHEREAS, County and Contractor desire to enter into a Contract for Contractor to perform services under the Sourcewell program; and

WHEREAS, Contractor is willing to provide the services specified in this Contract to the County of Orange, Sheriff-Coroner Department;

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

1. **Scope of Contract:** The terms and conditions of this Contract, including those in its Attachments, specifies the terms and conditions by which Sheriff-Coroner Department will procure services in connection with the Sourcewell Program from the Contractor, hereinafter referred to as “Services” as more fully detailed in **Exhibit A, Scope of Work**.
2. **Precedence:** In the event of a conflict between the terms and conditions in this Contract and terms and conditions in the Attachments, the conflict shall be resolved by giving precedence first to the terms and conditions of this Contract, then the terms and conditions of Attachments A and B, then the terms and conditions of Attachment C, D and E.

3. **Term of Contract:** This Contract shall commence upon execution of all necessary signatures, and shall be effective through and including June 21, 2026, unless otherwise terminated by County. Contract may not be renewed. The terms and conditions of Sourcewell Cooperative Contract No. 010720-AXN shall continue to be incorporated herein and applicable even after its termination or expiration.
4. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
5. **Compensation & Payment:** Contractor agrees to provide services in connection with the Sourcewell Program as set forth in **Attachment A, Scope of Work**, at the fixed discounted rates off Contractor's list price specified in the Sourcewell Cooperative Contract No. 010720-AXN. The maximum amount of compensation under this Contract shall not exceed the amount of \$12,728,077.27 for the contract term, as set forth more fully herein.
6. **Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon State budget approval; receipt of funds from, and/or obligation of funds by the State of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
7. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Contract without penalty for cause if such breach is not cured within 30 days' written notice or after 30 days' written notice without cause, unless otherwise specified. In the event County terminates this Contract without cause, Contractor shall promptly refund any amounts prepaid by County for services not yet rendered as of the date of termination. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Notwithstanding the foregoing, the County may terminate this Contract immediately upon: (a) Contractor's failure to maintain the insurance required under this Contract; (b) a federal or state proceeding for relief of debtors is undertaken by or against Contractor; (c) Contractor's assignment for the benefit of creditors; (d) assignment of the performance or administration of this Contract, or any portion thereof, without the express written consent of County; or (e) Contractor's engagement in any dishonest conduct related to the performance or administration of this Contract, violation of the law, or violation of County's ordinances, regulations or policies relating to lobbying. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.
8. **Invoicing:** Invoicing shall be done in accordance with **Attachment B, Compensation and Pricing Provisions**. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the contractor.
9. **Governing Law and Venue:** This Contract has been negotiated and executed in the State

of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

10. **Notices:** Any and all notices permitted or required to be given hereunder shall be deemed duly given (1) upon actual delivery, if delivery is by hand; or (2) upon delivery by the United States mail if delivery is by postage paid registered or certified return receipt requested mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time.

For Contractor: Axon Enterprise, Inc.
17800 N. 85th St.
Scottsdale, AZ 85255
Attn: Ben Rubke
Ph: 415-314-9573

For County: **PURCHASING**
County of Orange
Sheriff-Coroner Department/Purchasing Services Bureau
320 N. Flower Street, 2nd Floor
Santa Ana, CA 92703
Attn: Tyrone Waiters, Senior Procurement Buyer
Ph: 714-834-4385

11. **Insurance Provisions:** Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the

following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subcontractor's performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$2,000,000 per claims-made
Technology Errors & Omissions	\$2,000,000 per claims-made

\$2,000,000 aggregate

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the *County of Orange its elected and appointed officials, officers, agents and employees* as Additional Insured's, or provide blanket coverage, which will state *AS REQUIRED BY WRITTEN CONTRACT.*
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement naming the *County of Orange, its elected and appointed officials, officers, agents and employees* as Additional Insured's for its vicarious liability.
- 2) A primary and non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
- 3) The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the *County of Orange, its elected and appointed officials, officers, agents and employees* or provide blanket coverage, which will state *AS REQUIRED BY WRITTEN CONTRACT.*

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

If Contractor's Technology Errors & Omissions and/or Network Security & Privacy Liability are "Claims-Made" policy(ies), Contractor shall agree to maintain coverage for two (2) years following the completion of the Contract.

The Commercial General Liability policy shall contain a severability of interest's clause also known as a "separation of insured's" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this contract which shall be mutually agreed upon. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

12. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County (which approval shall not be unreasonably withheld), and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any third-party claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the provision of defective products or services, negligent acts, errors or omissions, or willful misconduct by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.
13. **County Data – Ownership and Use:**
 - a. The County will and does own all right, title and interest in Agency Content as defined in Attachment C Agency Content shall be owned solely and exclusively by County and will at all times remain the property of County. Contractor acknowledges and agrees that, as between the Parties, County owns all right, title, and interest in all County Data.
 - b. Agency Content may not be deleted, used or copied for direct or indirect use by Contractor, except as required or permitted in connection with performance of Contractor's duties under this Contract or as specifically directed by County in writing. Contractor shall not access County user accounts or Agency Content, except: (1) in the

course of the provision of services/operations of the Body Worn Cameras, (2) in response to service or technical issues, (3) as required by the express terms of this Contract, (4) as required by law. Nothing herein shall be construed to confer any license or right to the Agency Content, including user tracking and exception Agency Content within the system, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third party unless the County gives prior express written consent and Contractor binds such third party to confidentiality and non-disclosure terms that are at least as protective of Contractor's and County's interests as the terms stated herein.

- c. Unauthorized use of Agency Content by Contractor, its officers, directors, employees, or agents, or third parties is prohibited. For the purposes of this requirement, the phrase "unauthorized use" includes, but is not limited to: (1) using for any purpose other than as required under this Contract in connection with providing the services hereunder; (2) disclosing, selling, assigning, leasing, or otherwise providing to third parties; (3) modifying or merging it with other data; (4) data mining or processing of data for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security or service delivery analysis that is not explicitly authorized; or (5) doing (or refraining from doing) any other thing that may in any manner adversely affect the integrity, security, or confidentiality of such Agency Content, other than as specified herein or as directed by County in writing.

14. Security Incident, Data Breach, Technical Failure, Human Error:

a. Definitions:

- i. **Data Breach:** Any access, destruction, loss, theft, use, modification or disclosure of Agency Content by an unauthorized party or that is in violation of Contract terms and/or applicable state or federal law.
- ii. **Security Incident:** The unauthorized access to Agency Content that the Contractor believes could reasonably result in the use, disclosure or theft of the Agency Content within the possession or control of the Contractor. A Security Incident may or may not turn into a Data Breach.
- iii. **Technical Failure:** A malfunction in the Contractor's hardware or software which prevents the accomplishment of the services specified in the Scope of Work. A malfunction of the hardware prevents the accomplishment of the hardware's intended functions and services specified in the Scope of Work. A malfunction of the software prevents the accomplishment of intended services even though the hardware may be functioning properly. Technical Failures include, but are not limited to, an improper or incomplete conversion or upgrade of the hardware or software.
- iv. **Human Error:** Any action or inaction on the part of a Contractor's employee or agent that prevents the accomplishment of the Body Work Camera system's intended functions and the services specified in the Scope of Work.

- b. Notwithstanding any other obligations Contractor may have under applicable law, Contractor agrees to notify the County within twenty-four (24) hours after discovery or confirmation of any Security Incident, Data Breach, Technical Failure, or Human Error (collectively "Incident(s)"). Notification must be given in the most expedient time possible and without unreasonable delay. Verbal notification may be followed

by a written report. Contractor's notification shall identify:

- i. The nature of the Incident(s);
 - ii. Any data accessed, used, lost, modified, or disclosed;
 - iii. Any other impact the Incident(s) may or will have on County or individuals;
 - iv. The person(s) who accessed, used, lost, modified, or disclosed and/or received data (if known);
 - v. What Contractor has done or will do to quarantine and mitigate the Incident(s), provided, however, that if the resolution path is unknown at the time notice is provided, Contractor shall promptly advise County that the resolution path is unknown and Contractor shall immediately work to determine the resolution path;
 - vi. Expected resolution time, if known at the time of notice; and
 - vii. What corrective action Contractor has taken or will take to prevent future Incident(s).
- c. Contractor will provide daily updates, or more frequently if required by the County, regarding findings and actions performed by Contractor until the Incident(s) has been effectively resolved to the County's satisfaction.
- d. Contractor shall quarantine the Incident(s), ensure secure access to Agency Content, and repair the system as needed.
- e. If the Contractor causes or knowingly experiences a breach of the security of the Agency Content containing personal information, as defined by Civil Code Section 1798.3, Contractor shall immediately report any breach of security of such system to the County's Project Manager and County Counsel following discovery or notification of the breach in the security of such Agency Content. The County shall determine whether notification to the individuals whose data has been lost or breached is appropriate. If personal information of any resident of California was, or is reasonably believed to have been acquired by an unauthorized person as a result of a security breach of such system and data that is not due to the fault of the County or any person or entity under the control of the County, Contractor shall bear any and all costs associated with the County's notification obligations and other obligations set forth in Civil Code Section 1798.29 (d) as well as the cost of credit monitoring, subject to the dollar limitation, if any. These costs may include, but are not limited to staff time, material costs, postage, media announcements, and other identifiable costs associated with the breach of the security of such personal information.
- f. Contractor shall conduct an investigation of the Incident(s) and shall share the report of the investigation with the County. The County and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the County, its agents and law enforcement.
- g. After any significant Incident, or as a result of any disaster or catastrophic failure that results in significant data loss or extended loss of access to Data or services, Contractor shall conduct an investigation of the disaster or catastrophic failure and shall inform County of its preliminary assessment of the scale and quantity of data loss, Contractor's intended actions to recover data from backups and mitigate any deleterious effect of data and services loss, and corrective action Contractor will take to prevent future loss. Contractor will, at its expense, have an independent, industry-recognized, County-

approved third party perform an information security audit. The audit results shall be shared with the County within seven (7) days of Contractor's receipt of such results. Upon Contractor receiving the results of the audit, Contractor will provide the County with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Contract. Contractor shall cooperate fully with County, its agents and law enforcement related to this failure.

15. **Incident Resources:** In addition to the other obligations that Contractor may have under the Contract, including Contractor's responsibilities for certain costs in connection with Incidents as provided in Paragraph #16 of Additional Terms and Conditions ("Incident Costs"), Contractor shall, consistent with County's reasonable instructions, if any, which will be based on County's assessment of each Security Incident and that any harm that County reasonably anticipates may result therefrom:
- a. Assist in the identification of affected Persons and relevant jurisdictions;
 - b. Allocate resources and training to manage inquiries;
 - c. Provide affected Persons with such assistance (e.g., as to the availability and use of credit monitoring, etc.) as County deems reasonable under the circumstances;
 - d. Promptly assist County with the delivery of electronic, hard copy, and telephone notifications to affected individuals, as provided to Supplier by County; and,
 - e. Undertake a procedural review and audit to determine any appropriate corrective measures to avoid the recurrence of a similar situation, and promptly report to County all correction actions taken.
 - f. Supplier shall not make any announcement or publish or otherwise authorize any broadcast of any notice or information about an Incident without the prior written consent of and prior written Approval by the County of the content, media and timing of any such announcement, publication, or broadcast.
16. **Incident Costs:** If an Incident results from Contractor's negligent acts or omissions or willful misconduct and County determines notice of the Incident is required to be provided to affected persons, Contractor shall provide the notification assistance described in Paragraph # ("Incident Resources") of Additional Terms and Conditions at no cost to County, including actions necessary to provide notices as required by law. Contractor will bear all reasonable costs and expenses for mitigation actions incurred as a result of such Incident primarily caused directly or indirectly by Contractor, including the mitigation costs incurred in connection with opening and closing accounts, printing new checks, embossing new cards, providing notice, printing and mailing notices, answering inquiries by affected individuals, and obtaining credit monitoring services and identity theft insurance for no longer than a one (1) year period or such timeframe as may be required by applicable Law for those individuals who have been affected by such Incident. In the event there are damages and/or expenses, including attorney's fees, which Contractor is obligated to pay and pays under this section, and it is finally determined that liability for such damages and/or expenses, including attorney's fees, is attributable to acts or omissions by the County, County shall reimburse Contractor for such damages and/or expenses, including attorney's fees, paid by Contractor in proportion to the percentage of liability for such damages and/or expenses, including attorney's fees, finally determined to be attributed to the County.

17. **Notice Regarding Other Jurisdictions:** Contractor shall promptly notify the County Project Manager upon discovery or reasonable belief of the following: (a) Incident(s) known or reasonably known to have occurred in the provision of services in another jurisdiction; (b) any claim or action against, or any loss by, Contractor that involves or may reasonably be expected to involve similar services; (c) the initiation of any government investigation that may result in a finding that Contractor is not in compliance with all applicable federal, state and local laws.
18. **Security Processes:** The Contractor shall disclose its non-proprietary security processes and technical limitations to the County such that adequate protection and flexibility can be attained between the County and the Contractor.
19. **Inspection, Acceptance and Rejection:** Unless otherwise specified herein:
 - a. When acquiring hardware or software, the County may rely on Contractor's existing quality assurance system as a substitute for County inspection and testing. For all other acquisitions, Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the County covering good and services under this Contract and will tender to the County only those goods that have been inspected and found to conform to this Contract's requirements. The Contractor will keep records evidencing inspections and their result, and will make these records available to the County during Contract performance and for three (3) years after final payment. The Contractor shall permit the County to review procedures, practices, processes and related documents to determine the acceptability of the Contractor's quality assurance System or other similar business practices related to performance of the Contract.
 - b. All goods may be subject to inspection and test by the County or its authorized representatives.
 - c. The Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
 - d. Pursuant to subsection (a) herein, all goods may be subject to final inspection, test and acceptance by the County at destination, notwithstanding any payment or inspection at the source.
 - e. The County shall give written notice of rejection of goods received or services performed hereunder within fifteen (15) days after receipt of such goods or performance of such services. Such notice of rejection will specify how the goods do not substantially conform to their specifications. Failure to advise Contractor of rejection within the 15-day inspection period will be deemed acceptance.
20. **Compatibility of Resources:** All Services, software, assets, hardware, equipment, and other resources and materials provided by Contractor to County, otherwise utilized by Contractor, or approved by Contractor for utilization by County, in connection with this Contract, (collectively, the "Contractor Resources") must be successfully and fully integrated and interfaced by Contractor and must be compatible with all applicable County software, systems, items, and other resources owned by or leased or licensed to County or that are provided to County by third party Contractors (collectively, the "County Resources") or that may be used in conjunction with County Resources,

including but not limited to the software, systems, items, and other resources of the County and other partner agencies (e.g., Public Defender, District Attorney, the courts). To the extent any interfaces need to be developed or modified in order for the Contractor Resources to integrate fully and successfully and be compatible with the County Resources, Contractor is responsible for the development or modification of such interfaces and for such integration, and all such activities are deemed to be Services within the scope of this Contract.

21. Documentation:

a. The Contractor agrees to provide to the County, at no charge, all Documentation as described within the Statement of Work, and updated versions thereof, which are necessary or useful to the County in its use of the hardware or software provided hereunder. At no additional charge to County, Contractor shall provide County with electronic copies of Documentation developed for County pursuant to this Contract (or otherwise required to be provided to County under this Contract and which Contractor is authorized to provide). The Contractor agrees to provide additional Documentation at prices not in excess of charges made by the Contractor to its other customers for similar Documentation.

22. Corrective Action: In the event any goods or services provided by the Contractor in the performance of the Contract should fail to conform to the requirements in this Contract, it shall become the duty of the Contractor to immediately advise the County of the failure and correct the goods or performance of services, without expense to the County. If corrective action (including but not limited to patches, bug fixes, updates) is taken by the Contractor in the provision of similar Body Worn Camera systems or services in other jurisdictions, such corrective action shall be provided to the County at no additional cost if such corrective action is needed for the Contractor to meet its obligations under this Contract.

23. Legal Requests and Appearances:

- a. **Responding to Legal Requests:** Contractor shall promptly notify the County upon receipt of any legal requests, including but not limited to subpoenas, court or administrative agency orders, service of process, or requests by any person or entity (other than Contractor's employees), which in any way might reasonably require access to the County's Data. Contractor shall notify the County by the fastest means available and also in writing, unless prohibited by law from providing such notification. Contractor shall provide such notification within forty-eight (48) hours after Contractor receives the request. Thereafter, Contractor shall comply with such legal requests only to the extent required by applicable law. In responding to legal requests, Contractor shall take measures to protect Personal Data or Non-Public Data, the disclosure of which would violate Contract terms, court orders, and/or applicable state or federal law. Such protective measures may include, but are not limited to, seeking protective orders or filing the Data under seal. Contractor shall not respond to legal requests directed to the County unless authorized in writing to do so by the County.
- b. **Personal Appearances:** Upon request by the County, Contractor shall make appropriate employees available to appear in court, submit to examination under oath, and cooperate in the investigation or settlement of a claim. This applies in criminal, civil or administrative legal proceedings in response to requests or demands for testimony or records concerning information

acquired in the course of an employee performing official duties or because of the employee's official status regardless of whether the person would otherwise be subject to service of a subpoena or other legal process in the State of California.

- Signature Page to Follow -

Signature Page

The Parties hereto have executed this Contract#MA-060-21011432 on the dates shown opposite their respective signatures below

Contractor*: Axon Enterprise Inc.

DocuSigned by:
 By:  Title: VP, Assoc. General Counsel
 Print Name: Bobby Driscoll Date: 6/23/2021 | 2:58 PM MST

Contractor*: Axon Enterprise Inc.

DocuSigned by:
 By:  Title: EVP, General Counsel
 Print Name: Isaiah Fields Date: 6/23/2021 | 3:10 PM MST

**If the contracting party is a corporation, (2) two signatures are required: (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.*

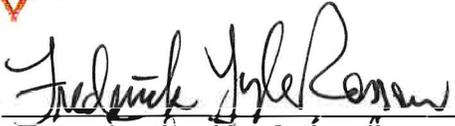
In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Of Orange

A political subdivision of the State of California



Sheriff-Coroner Department

By:  Title: Purchasing Manager
 Print Name: Frederick Lyle Rossow Date: 7/27/2021

Approved by the Board of Supervisors: 7/27/2021

Approved as to Form

Office of the County Counsel
Orange County, California

By: 
Deputy

ATTACHMENT A**Scope of Work**

1. Contractor shall provide County with public safety video surveillance solutions with related equipment, software and accessories in the categories as listed in the Appendix Section of Sourcewell Cooperative Contract No. 010720-AXN, Attachment D Sourcewell Cooperative Contract No. 010720-AXN Pricing List, and Attachment E Axon Enterprises Quote# Q-300332-44369.814BR. Contractor agrees to provide the products and services requested, as needed by the COUNTY, at prices discounted pursuant to Attachment D Sourcewell Cooperative Contract No. 010720-AXN Pricing List, regardless of quantity requested.
2. Contractor shall provide County as needed On-Site Axon Full Service as referenced in Attachment E Axon Enterprises Quote# Q-300332-44369.814BR. Contractor shall provide products and services as listed in Sourcewell Cooperative Contract No. 010720-AXN, Master Services and Purchase Agreement Version 9.0, Professional Services Appendix, Page 10. On-Site Service Visits shall be coordinated by County and Contractor and be scheduled at the convenience of the County.
3. Contractor shall provide the products within the dates for the following hardware delivery schedule:

	Body 3	8 Bay Dock	Single Bay Dock	Fleet 3 Units
Within 10 days of contract approval	149	18	10	
+25 days	509	64		
+74 days	360	68		
+91 days				168
+111days	33			167
Total:	1051	150	10	335

4. Within 30 days of signing the contract, Contractor shall meet with the County staff at a project kickoff meeting to determine implementation details (e.g., tasks, training, due dates). Contractor shall provide ongoing consultation and assistance pursuant to the established implementation details and as stated in this Contract
5. The maximum amount that may be paid to Contractor under this Contract shall not exceed \$12,728,077.27 for the five (5) year contract term.
6. Contractor will ship all items ordered to the following locations:

County of Orange
 Sheriff Coroner/Records Division
 320 N. Flower St, 3rd Floor
 Santa Ana, CA 92703
 Attn: Media Analysis Bureau

ATTACHMENT B
Compensation and Pricing Provisions

1. **Compensation:** This is a firm-fixed fee Contract between the County and Contractor for use of Public Safety Video Surveillance Solutions with Related Equipment, Software and Accessories as set forth in Attachment E Axon Enterprises Quote# Q-300332-44369.814BR and as modified herein by Attachment A, "Scope of Work."

The Contractor agrees to accept the specified compensation as set forth in this Contract as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The Contractor shall only be compensated as set forth herein for work performed in accordance with the Scope of Work. **The County shall have no obligation to pay any sum in excess of the fixed rates specified herein unless authorized by amendment in accordance with this Contract and Sourcewell Cooperative Contract No. 010720-AXN Terms and Conditions.**

2. **Fees and Charges:** County will pay fees in accordance to Axon Enterprises Quote# Q-300332-44369.814BR attached hereto in Attachment E.

Contract amount shall not exceed \$12,728,077.27

3. **Firm Discount and Pricing Structure:** Contractor agrees that no price increases shall be passed along to the County during the term of this Contract not otherwise specified and provided for within this Contract.
4. **Contractor's Expense:** The Contractor will be responsible for all costs related to photo copying, telephone communications and fax communications while on County sites during the performance of work and services under this Contract.
5. **Payment Terms:** Contractor invoices upon shipment of the related hardware. Payment for hardware will be arrears, whereas payment of all other services will be paid in advance. Invoices are to be submitted for hardware paid in arrears and all other services paid in advance separately to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Vendor shall reference Contract number on invoice. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to the County and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

6. **Taxpayer ID Number:** The Contractor shall include its taxpayer ID number on all invoices submitted to the County for payment to ensure compliance with IRS requirements and to expedite payment processing.
7. **Payment – Invoicing Instructions:** The Contractor will provide an invoice on the Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:
 - a. Contractor's name and address
 - b. Contractor's remittance address, if different from 1 above
 - c. Contractor's Taxpayer ID Number
 - d. Name of County Agency/Department
 - e. Delivery/service address
 - f. Master Agreement No. MA-060-21011432
 - g. Agency/Department's Account Number
 - h. Date of invoice
 - i. Product/service description, quantity, and prices
 - j. Sales tax, if applicable
 - k. Freight/delivery charges, if applicable
 - l. Total

Invoice and support documentation are to be forwarded to:

County of Orange
Sheriff Coroner/Body Worn Camera Program
431 The City Drive South
Orange, CA 92868
Attn: Jeff McMillian

10. Payment (Electronic Funds Transfer (EFT))

The County offers Contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County via an EFT Authorization Form. To request a form, please contact the agency/department representative listed in Section 9. Notices. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.

ATTACHMENT D

Sourcewell Cooperative Contract No. 010720-AXN Pricing List

ATTACHMENT E

Axon Enterprises Quote# Q-300332-44369.814BR