



# Board Agenda Item 27

DATE: December 17, 2024

TO: Board of Supervisors

SUBMITTED BY: John Zaroni, Sheriff-Coroner-Public Administrator

SUBJECT: Agreement with Performa Labs, Inc. Mobile Platform Application, Software Licenses, Maintenance, and Support Services

RECOMMENDED ACTION(S):

- 1. Under Administrative Policy No. 34 for competitive bids or requests for proposals (AP 34), determine that an exception to the competitive bidding requirements under AP 34 is satisfied and a suspension of competition is warranted due to unusual or extraordinary circumstances, and that the best interest of the County would be served by entering into an Agreement with Performa Labs Inc., as Performa Labs Inc. is the only vendor who currently provides mobile platform application, software licenses, maintenance and support services, for Use of Force and De-escalation training that is approved and certified by the California Commission on Peace Officer Standards and Training (POST); and**
- 2. Approve and authorize the Chairman to execute an Agreement with Performa Labs, Inc. for mobile platform application, software licenses, maintenance and support services, POST-certified Use of Force and De-escalation training, effective January 1, 2025 to October 31, 2025, not to exceed ten months, total amount not to exceed \$477,000.**

There is no additional Net County Cost associated with the recommended actions. The Sheriff's Office received an allocation of \$1,150,000 from the State of California Senate Bill 154 through the Board of State and Community Corrections, for the Use of Force and De-escalation Training (UFDT) Pilot Program. Approval of recommended actions will allow the Sheriff's Office to enter into an agreement with Performa Labs Inc. (Performa) to provide the Sheriff's Office's Training Unit with a mobile platform option to provide the training to law enforcement personnel through October 31, 2025. This item is countywide.

ALTERNATIVE ACTION(S):

Should your Board not approve the recommended actions, the Sheriff's Office will not have this Use of Force and De-escalation Training mobile platform application, which would impact the Sheriff's Office's ability to collect the required data to report to the Board of State and Community Corrections (BSCC) and may impact the Sheriff's Office's ability to use the BSCC grant funding.

SUSPENSION OF COMPETITION CONTRACT:

It is requested that the County find, under AP 34, that an exception to the competitive bidding requirement is satisfied and a suspension of competition is warranted due to unusual or extraordinary circumstances, as Performa is the only vendor whose training program operates on a mobile platform and uses body worn camera footage and is certified by POST. Performa Labs Inc. approved use of force and de-escalation training, including self-guided training approved by the California Commission on POST pursuant to Section 1053 of Title 11 of the California Code of Regulations.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The costs for the Use of Force and De-escalation Training (Training) software application services in the amount of \$477,000 will be funded with the allocation provided to the Sheriff's Office, by the State of California Senate Bill 154 (SB 154). Sufficient appropriation and revenue are included in the Sheriff's Office's 2024-25 Adopted Budget for the Sheriff-Coroner-Public Administrator Org 3111.

DISCUSSION:

The Sheriff's Office received an allocation of \$1,150,000 by the State of California Senate Bill 154 (SB 154) through the BSCC, for the UFDT Pilot Program. The BSCC specified the funding appropriated shall only be used for POST approved use of force and de-escalation training, including self-guided training approved by the Commission on POST pursuant to Section 1053 of Title 11 of the California Code of Regulations. This section allows for distance learning course certification. Trainings that provide flexible modes of use, such as mobile platforms, or trainings that utilize the use of body camera footage, shall be prioritized that any equipment or technology purchased with the funding must be utilized in the implementation of the UFDT Pilot Program.

To satisfy the POST required training and to satisfy the mandates of the State of California BSCC, the Sheriff's Office has identified Performa as the ideal candidate to provide Use of Force and De-escalation training.

On June 18, 2024, Purchase Order M07-0000022961 was executed with Performa for a mobile platform training application on Use of Force and De-escalation. Sheriff's Office is now recommending the services performed pursuant to the Purchase Order be continued by entering into a Board agreement with Performa, as further services are needed, and the maximum allowable compensation exceeds the Purchasing Manager's authority of \$200,000. Approval of the recommended action will allow the Sheriff's Office to enter a Software-as-a-Service (SaaS) agreement with Performa to continue to provide the Sheriff's Office's Training Unit with a mobile platform option to provide the Training to law enforcement personnel through October 31, 2025, decreasing the time and cost of training, and increasing efficiency. In conjunction with other current in-person training programs, deputies will be able to complete self-led, POST certified training courses in an electronic mobile device, which incorporate real-life training scenarios utilizing actual body worn camera video footage. Performa is the only POST certified training program that operates on a mobile platform and uses body camera footage.

The recommended agreement differs from the County standard agreement language as follows:

1. Performa limits its liability to an aggregate amount equal to two times the actual amount paid to Performa by the Sheriff's Office in the 12 months preceding the accrual of the cause of action that gives rise to the claim.
2. An Arbitration Clause is included.
3. The indemnification clause requires that the County indemnify Performa for damages arising from County's negligent or willful actions, and only requires that Performa indemnify the County from intellectual property claims.

While there are risk exposures with the services provided by Performa, the Sheriff's Office believes that the benefits of entering into the recommended agreement outweigh these risks and is accepting these modifications as a prudent business decision.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Suspension of Competition  
On file with Clerk - Agreement with Performa Labs Inc.

CAO ANALYST:

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