

APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION: (1) RECEIVING THE ANNUAL SURVEILLANCE REPORT ON THE OAKLAND PUBLIC WORKS (OPW) ILLEGAL DUMPING SURVEILLANCE CAMERA PROGRAM (CAMERA PROGRAM); AND (2) APPROVING PROPOSED AMENDMENTS TO THE CAMERA PROGRAM USE POLICY (USE POLICY) AS RECOMMENDED BY THE PRIVACY ADVISORY COMMISSION (PAC)

WHEREAS, pursuant to the Surveillance Technology Ordinance, codified as Chapter 9.64 of the Oakland Municipal Code (OMC), the Oakland City Council approved the Oakland Public Works Department's (OPW) implementation of the Illegal Dumping Camera Program (Camera Program) on January 18, 2022, pursuant to City Council Resolution No. 89000 C.M.S., in response to the growing impacts of illegal dumping and the need to have more enforcement tools to catch illegal dumpers; and

WHEREAS, OPW launched the Camera Program in March 2022; and

WHEREAS, pursuant to OMC Sections 9.64.020 and 9.64.030, following City Council's initial approval, the following approval process must occur for OPW to continue to use and make modifications to the Camera Program:

- City staff submits an Annual Surveillance Report with information on the Camera Program outcomes to the Privacy Advisory Commission (PAC);
- City staff submits proposed changes in the Use Policy on the Camera Program to the PAC for feedback;
- After review by the PAC, City staff submits the Annual Surveillance Report, the proposed new Use Policy changes, and the PAC's recommendations, to the City Council for review and approval;
- The PAC makes a recommendation to the City Council that the benefits to the community of the Camera Program outweigh the costs and that civil liberties and civil rights are safeguarded; that use of the Camera Program cease; or propose modifications to the Use Policy that will resolve the concerns;
- Based upon information provided in City staff's Annual Surveillance Report and after considering the recommendation of the PAC, the City Council makes a determination that the benefits to the community of the Camera Program outweigh the costs; that the proposal will safeguard civil liberties and civil rights; and that, in

the City Council's judgment, no alternative with a lesser economic cost or impact on civil rights or civil liberties would be as effective, and approves of the continuing use of the Camera Program and proposed modifications to the Use Policy; and

WHEREAS, for the reporting period of March 2022 through February 2023, the Camera Program resulted in nearly 100 citations; and

WHEREAS, to make the Camera Program significantly more effective, OPW staff is proposing the following changes to the Use Policy for the Camera Program:

- Approve the addition of License Plate Reader (LPR) cameras;
- Approve the addition of Satellite Portable Observation Devices (PODs) to the surveillance system;
- Modify the provision for sharing and preserving video data with the City Attorney's Office (OCA) in *Section H. Third Party Data Sharing* of the Use Policy; and

WHEREAS, pursuant to the requirements outlined above, on June 8, 2023, OPW staff returned to the Privacy Advisory Commission (PAC) and presented its Annual Surveillance Report on the Camera Program's first year of operation, recommended the changes to the Use Policy, and received the PAC's feedback; and

WHEREAS, at the June 8, 2023 meeting, the PAC received and accepted the Annual Surveillance Report and approved OPW staff's recommended changes to the Use Policy with the following recommended changes:

- 1) Amend *Section H. Third Party Data Sharing* policy language
- 2) Select an LPR camera product that does not have the capability to be configured for Facial Recognition Technology; and

WHEREAS, OPW staff will conduct further research to identify the LPR camera without the capability to be configured for Facial Recognition Technology and will return to Council in the fall to seek procurement authority for the acquisition of such appropriate product; now, therefore, be it

RESOLVED: That the City Council receives and accepts the Annual Surveillance Report on the Camera Program, as provided in **Attachment A**; and be it

FURTHER RESOLVED: That pursuant to OMC Section 9.64.030.2.B, the City Council has considered the PAC's recommendation in favor of City Council authorizing the proposed modifications to the Camera Program as reflected in the proposed new Use Policy; and be it

FURTHER RESOLVED: That pursuant to OMC Section 9.64.030.2.B, for the reasons referenced above by City staff and addressed in the agenda report and Annual Surveillance Report accompanying this resolution, the City Council finds that the benefits to the community of the Camera Program outweigh the costs (cost benefit determination); that the Camera Program will safeguard civil liberties and civil rights, and that, no alternative with a lesser economic cost

or impact on civil rights or civil liberties would be as effective; and so authorizes City's staff's proposed modifications to the Use Policy for the Camera Program; and be it

FURTHER RESOLVED: That the City Council approves and adopts the proposed modifications for the Use Policy for the Camera Program as City policy, as provided in **Attachment B**; and be it

FURTHER RESOLVED: That OPW staff will return to City Council for approval of procurement of a specific LPR product that does not have the capability to be configured for Facial Recognition Technology; and

FURTHER RESOLVED: That the proposed changes to the Use Policy for the Camera Program shall be reviewed and approved by the City Attorney for form and legality prior to implementation.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, REID, RAMACHANDRAN, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California