

APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER GALLO, COUNCILMEMBER JENKINS,  
COUNCILMEMBER KALB, AND COUNCILMEMBER KAPLAN

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**RESOLUTION: (1) APPROVING THE OAKLAND POLICE DEPARTMENT'S REVISED AUTOMATED LICENSE PLATE READER USE (ALPR) POLICY; (2) AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT TO ACCEPT AND APPROPRIATE ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000) IN STATE LOAN FUNDING TO PURCHASE ALPR TECHNOLOGY AND SERVICES; (3) AWARD A THREE-YEAR AGREEMENT TO FLOCK SAFETY FOR ACQUISITION OF ALPR TECHNOLOGY AND RELATED SERVICES AT A COST OF ONE MILLION SEVENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$1,077,500) FOR THE FIRST YEAR, NINE HUNDRED THOUSAND DOLLARS (\$900,000) PER YEAR FOR YEARS TWO AND THREE, FOR A TOTAL AMOUNT NOT TO EXCEED TWO MILLION EIGHT HUNDRED SEVENTY-SEVEN THOUSAND AND FIVE HUNDRED DOLLARS (\$2,877,500); AND (4) WAIVING THE COMPETITIVE MULTIPLE-STEP SOLICITATION PROCESS REQUIRED FOR THE ACQUISITION OF INFORMATION TECHNOLOGY SYSTEMS AND WAIVING THE LOCAL AND SMALL LOCAL BUSINESS ENTERPRISE PROGRAM REQUIREMENTS**

**WHEREAS**, Automated License Plater Reader (ALPR) technology consists of cameras that can automatically scan license plates on vehicles that are publicly visible; ALPR reads these license plates with a lens and charge-coupled device (CCD) that senses and records vehicles, and connects the image to an optical character recognition (OCR) system that can connect the image to the actual license plate characters; and

**WHEREAS**, the Oakland Police Department's (OPD's) ALPR system updates daily with three California Department of Justice (CA DOJ) hotlists: felony wants, stolen plates, stolen vehicles, and there is no OPD ALPR connection to any federal databases; and

**WHEREAS**, OPD uses ALPR for: (1) the immediate (real time) comparison of the license plate characters against CA DOJ databases; and (2) the storage of the license plate characters – along with the date, time, and location of the license plate – in a database that is accessible by law enforcement (LEA) agencies for investigative purposes; and

**WHEREAS**, ALPR technology helps OPD personnel to leverage their public presence and to more effectively use their limited time for more critical crime response activity; and

**WHEREAS**, Oakland’s Surveillance Technology Ordinance (No.13489 C.M.S.), adopted by the City Council on May 15, 2018, and codified as Chapter 9.64 of the Oakland Municipal Code (OMC), sets forth rules and a public review process for the City of Oakland’s (City) acquisition and use of new and existing Surveillance Technology; and

**WHEREAS**, OPD staff has followed the requirements set forth by the Surveillance Technology Ordinance, including drafting a Surveillance Use Policy for ALPR, presenting that policy for feedback to the Privacy Advisory Commission (PAC), and ultimately, receiving City Council authorization for ALPR use in October 2022; and

**WHEREAS**, OPD’s Surveillance Use Policy for ALPR, also known as Department General Order (DGO) I-12: Automated License Plate Reader (*Attachment A to the accompanying report*) covers relevant elements required by OMC 9.64.030, including the following areas: • Technology Description; • Authorized Use; • Use Restrictions; • Data Access, Data Collection and Retention of 30 days, and Security; • Monitoring and Reporting; and • System Training; and

**WHEREAS**, OPD staff presented Surveillance Use Policy changes in a revised draft of DGO I-12: Automated License Plate Reader Technology at the October 5, 2023 PAC meeting; and

**WHEREAS**, the PAC voted to approve OPD’s proposed revised draft to DGO I-12 on October 5, 2023; and

**WHEREAS**, the Oakland City Council adopted Resolution 89906 No. C.M.S. on September 19, 2023, prioritizing Public Safety and directing the City Administrator to, among other things, request assistance from the state in placing high quality cameras on freeway on and off ramps, while ensuring compliance with the Surveillance Technology Ordinance; and

**WHEREAS**, the City of Oakland has been notified by the State of California (state) that it will receive a \$1.2 million loan for the purchase of automated license plate readers; and

**WHEREAS**, OPD would like to purchase an ALPR system from the vendor FLOCK Safety (FLOCK); and

**WHEREAS**, the City Administrator requests City Council authorization to accept and appropriate \$1.2 million of state loan funds for the purchase of a FLOCK ALPR system; and

**WHEREAS**, OPD requests the City Council to authorize the City Administrator to enter into a three year contract with FLOCK safety, for the period starting at the contract signing, for one million seventy seven thousand five hundred dollars (\$1,077,500) for the first year, and nine hundred thousand dollars (\$900,000) per year for years two and three, for a total amount not to exceed two million eight hundred seventy seven thousand five hundred dollars (\$2,877,500), for access to FLOCK operating system, FLOCK safety ALPR products (300 FLOCK Safety Falcon), and professional services; and

**WHEREAS**, the OPD provided FLOCK with a “heat map” of criminal activity as it relates to violent crime, burglary and grand theft crime. The OPD crime analysis unit identified known hot spots as it relates to said criminal activity and provided the analysis to FLOCK; and

**WHEREAS**, FLOCK reviewed the locations and identified the majority ingress and egress locations and although the locations may be altered after a site visit due to environmental restrictions, the locations may only be slightly moved; and

**WHEREAS**, Oakland Municipal Code (OMC) Section 2.04.042.A requires that the City Administrator conduct a competitive multiple-step solicitation process for the acquisition of any computerized or information technology systems; and

**WHEREAS**, OMC Section 2.04.042.D provides that the City Council may waive the competitive process upon a recommendation of the City Administrator and finding and determination by the City Council that it is in the best interests of the City to waive the solicitation processes; and

**WHEREAS**, staff recommends that it is in the best interests of the City to waive the competitive multiple-step solicitation process for the acquisition of any computerized or information technology systems because FLOCK is the most frequently used ALPR system in the Bay Area, is used by most Law Enforcement agencies, and has the capability of generating automated audits of its use, which is will enable OPD to better track Surveillance Use Policy compliance pursuant to DGO I-12; and

**WHEREAS**, the Local/Small Local Business Enterprise (L/SLBE) Program, Ordinance No. 13647 C.M.S., requires a minimum fifty-percent (50%) participation for all professional service contracts valued at or over fifty thousand dollars (\$50,000) when there are at least three certified businesses listed in the industry, trade, or profession that constitutes a major category of work; and if at least three L/SLBEs are not certified, then the requirement is either waived, or the 50% requirement may be set at a percentage from 50 % to 0%, but not less than 20% if at least one L/SLBE is certified and available; and

**WHEREAS**, the City Council may, in its discretion, waive the requirements of the L/SLBE Program; and

**WHEREAS**, staff has determined that the upgrade to a FLOCK ALPR system is time-sensitive due to the current batch of available state funding and it is not certain whether delaying the upgrade while the City evaluates L/SLBE program eligibility impacts such funding eligibility; and

**WHEREAS**, the proposed agreement with FLOCK for a new ALPR system will need to be completed within a shortened time span and will be used to upgrade an existing system, and that waiver of L/SBE requirements is reasonable and economically prudent under the circumstances; and

**WHEREAS**, the ability to renew and upgrade the existing ALPR systems will provide significant staff cost savings since the auditing capability of the new FLOCK ALPR system will be automated as opposed to the limited manual auditing capability of the current system; and

**WHEREAS**, the City Administrator has determined that this contract is professional, scientific or technical and temporary in nature, and the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive services; now, therefore be it

**RESOLVED:** That City Council does hereby approve OPD's revised ALPR Surveillance Use Policy that was recommended to be forwarded to the City Council by the PAC at its October 5, 2023 meeting (*Attachment A* to the report accompanying this resolution); and be it

**FURTHER RESOLVED:** That pursuant to OMC Section 9.64.020.2, for the reasons referenced above by and in the agenda report and the Surveillance Impact Report (*Attachment E* to the report accompanying this resolution), the City Council hereby finds that the benefits to the community of the surveillance technology outweigh the costs (cost-benefit determination); that the proposal 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 the City Administrator's or designee's continued use of OPD's ALPR and approves the Surveillance Impact Report; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to enter into an agreement to accept one million two hundred thousand dollars (\$1,200,000) of state loan funding and is authorized to approve and appropriate these funds for the purchase of FLOCK automated license plate readers and related services; and be it

**FURTHER RESOLVED:** That the state funding will be allocated from the General-Purpose Fund (1010), Information Technology Unit Org. TBD, Contract Services Account (54919), Administrative Project TBD, Agency- wide Administrative Program TBD; and be it

**FURTHER RESOLVED:** that the City Administrator, is authorized to enter into a three-year contract with FLOCK, Inc., at a cost of one million seventy seven thousand five hundred dollars (\$1,077,500) for the first year, and nine hundred thousand dollars (\$900,000) per year for years two and three, for a total contract amount not to exceed two million eight hundred seventy-seven thousand and five hundred dollars (\$2,877,500), for use of the FLOCK operating system, FLOCK safety ALPR products (300 FLOCK safety Falcon), and related services; and be it

**FURTHER RESOLVED:** That for the reasons stated above and in the report accompanying this Resolution, the City Council hereby finds and determines that it is in the best interests of the City to waive the multi-step solicitation processes pursuant to Oakland Municipal Code section 2.04.042.D, and, to the extent necessary and for good cause shown, the City's Local/Small Local Business Enterprise program requirements, and so waives these requirements for the proposed IT agreement with FLOCK; and be it

**FURTHER RESOLVED:** That the City Administrator or designee is authorized to conduct all negotiations, applications, agreements, extensions and related actions consistent with the purposes of this Resolution, except for increasing the dollar amount, without returning to Council; and be it

**FURTHER RESOLVED:** That in accordance with Article IV, Section 401(6) of the City Charter, the City Attorney's Office shall review and approve all contracts authorized by this resolution as to form and legality before execution, and a copy of each fully executed agreement shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

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