

2014 JUL 12 PM 9:05

APPROVED AS TO FORM AND LEGALITY

Armand S. Fitt

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 90357 C.M.S.

RESOLUTION: (1) APPROVING THE OAKLAND POLICE DEPARTMENT'S REVISED AUTOMATED LICENSE PLATE READER USE (ALPR) POLICY; (2) AUTHORIZING THE CITY ADMINISTRATOR TO ENTER IN TO A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE CALIFORNIA HIGHWAY PATROL (CHP) FOR CHP AND THE CITY OF OAKLAND TO SHARE ALPR DATA WITH EACH OTHER FOR ONGOING INVESTIGATIONS; (3) AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A MOU WITH FLOCK SAFETY (FLOCK) AFFIRMING THAT FLOCK WILL INSTALL ALPR CAMERAS IN THE CITY OF OAKLAND AND PROVIDE THE OAKLAND POLICE DEPARTMENT WITH ACCESS TO FLOCK'S ALPR SYSTEM; AND (4) AUTHORIZING THE CITY ADMINISTRATOR TO APPROPRIATE NINE HUNDRED AND SEVENTY THOUSAND SIX HUNDRED DOLLARS (\$970,600), PLUS THE COST OF REPAIR FOR TEN PERCENT OF ALPR CAMERAS IN THE FIRST YEAR OF USE AT A COST OF TWENTY-THREE THOUSAND TWO HUNDRED DOLLARS (\$23,200), FOR A TOTAL COST NOT TO EXCEED NINE HUNDRED NINETY-THREE THOUSAND AND EIGHT HUNDRED DOLLARS (\$993,800) TO REIMBURSE THE CHP

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 agenda report*) covers relevant elements required by OMC 9.64.030, including the following areas: • Technology Description; • Authorized Use; • Use Restrictions; • Data Access, • Data sharing • Data Collection and Retention of 30 days, and Security; • Monitoring and Reporting; and • System Training; and

WHEREAS, in 2023 OPD staff presented Surveillance Use Policy changes ALPR 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 recommend that City Council 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, on October 13, 2023 City Council adopted Resolution No. 89952 C.M.S., which among other things updated OPD’s (ALPR) Surveillance Use Policy, authorized the City Administrator to accept and appropriate one million two hundred thousand dollars (\$1,200,000) in state loan funding to purchase ALPR technology and services, and awarded a three-year agreement to Flock for acquisition of ALPR technology in an amount not to exceed two million eight hundred seventy-seven thousand and five hundred dollars (\$2,877,500); and

WHEREAS, subsequently the State of California (State) informed the City of Oakland (City) that instead of a loan of funds to acquire ALPR cameras, the State, through the California Highway Patrol (CHP) would be entering into an agreement with Flock to install two hundred and ninety (290) ALPR cameras and provide related services for the City’s use and benefit; and

WHEREAS, Flock has entered into Agreement 2720-065PR3075 (dated March 29, 2024) with the CHP to implement its ALPR Camera System and related services and equipment within Alameda County, including locations in the City (“Flock-CHP Agreement”); and

WHEREAS, pursuant to the Flock-CHP agreement, the City will be CHP’s agent for the purposes of using the ALPR cameras and Flock will work directly with the City to install Flock’s ALPR system in the City of Oakland and to provide access to Flock’s ALPR software; and

WHEREAS: the Surveillance Technology Ordinance (codified in relevant part as Oakland Municipal Code Section 9.64.030.1.C) requires that City staff must obtain City Council approval prior to using existing surveillance technology for a purpose, in a manner, or in a new location not previously approved by the City Council

WHEREAS: the Surveillance Technology Ordinance (codified in relevant part at Oakland Municipal Code Section 9.64.030.1.E) requires that “City staff must obtain City Council approval prior to entering into a continuing agreement or written agreement with a non-City entity to acquire, share or otherwise use surveillance technology or the information it provides, including data sharing agreements;” and

WHEREAS: City staff presented the updated OPD ALPR Surveillance Use Policy, the MOU between the City and CHP, and the agreement between the City and Flock, to the PAC for feedback at its July 9, 2024 meeting; and

WHEREAS: at the July 9, 2024 meeting, the PAC made a motion to recommend that that City Council approve the revised ALPR Surveillance Use Policy with an edit noting that OPD has executed an MOU that provides for ALPR data sharing between OPD and CHP for the duration of the MOU; and

WHEREAS: OPD is in agreement with the recommended edit to the ALPR Surveillance Use Policy proposed by the PAC and that edit is incorporated in the proposed update to the ALPR Surveillance Use Policy; and

WHEREAS: Oakland City Charter Section 504(l) requires that intergovernmental agreements must be approved by City Council; now, therefore, be it

RESOLVED: That City Council does hereby approve OPD’s revised ALPR Surveillance Use Policy (DGO I-12: Automated License Plate Reader) that was recommended to be forwarded to the City Council by the PAC at its July 9, 2024 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 (SIR) accompanying this resolution (*Attachment E to the accompanying agenda report*), the City Council hereby approves the SIR and finds that the benefits to the community of the surveillance technology use and data sharing, 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 approves the updated ALPR

Surveillance Use Policy (*Attachment A to the accompanying agenda report*) and authorizes the City Administrator's or designee's continued use of OPD's ALPR; and be it

FURTHER RESOLVED: That the City Administrator is authorized to enter into a Memorandum of Understanding with the California Highway Patrol (*Attachment C to the accompanying agenda report*) for each agency (OPD and CHP) to share Flock ALPR data with the other agency for ongoing criminal or administrative investigations; and be it

FURTHER RESOLVED: That the City Council authorize the City Administrator to appropriate nine hundred and seventy thousand six hundred dollars (\$970,600), plus the cost of repair of ten percent of ALPR cameras in the first year at a cost of twenty-three thousand two hundred dollars (\$23,200), for a total cost not to exceed nine hundred ninety-three thousand and eight hundred dollars (\$993,800), to reimburse the CHP; and be it

FURTHER RESOLVED: That the funding to reimburse the CHP referenced above will be allocated from the General-Purpose Fund (1010), Information Technology Unit Org. (106410), 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 MOU with Flock (*Attachment D to the accompanying agenda report*) affirming that Flock will work directly with the City to install Flock's ALPR system in the City of Oakland and to provide access to Flock's ALPR software pursuant the Flock-CHP Agreement; 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 for the above-mentioned reimbursement to CHP, 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,

JUL 16 2024

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



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

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