OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION 1) APPROVING THE OAKLAND POLICE DEPARTMENT (OPD) FORENSIC LOGIC COPLINK SURVEILLANCE USE POLICY (SUP); 2) AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO ENTER INTO A THREE YEAR CONTRACT WITH FORENSIC LOGIC, INC., FOR THE PERIOD OF JULY 1, 2020 THROUGH JUNE 30, 2023, FOR ONE HUNDRED AND NINETY EIGHT THOUSAND DOLLARS ($198,000) FOR THE FIRST YEAR, AND TWO HUNDRED FIFTY THREE THOUSAND DOLLARS ($253,000) PER YEAR FOR YEARS TWO AND THREE, FOR A TOTAL CONTRACT OF SEVEN HUNDRED FOUR THOUSAND DOLLARS ($704,000), FOR ACCESS TO THE COPLINK SEARCH AND ANALYTICS SYSTEM AND RELATED NETWORK, LICENSING, TECHNICAL SUPPORT, AND CONSULTING SERVICES; AND 3) WAIVING THE CITY'S ADVERTISING/ BIDDING AND REQUEST FOR PROPOSAL REQUIREMENTS FOR THE PROPOSED PURCHASE.

WHEREAS, the accurate collection of data and the ability to utilize the data across disparate operating platforms is vital in evaluating crimes and crime control operations; and

WHEREAS, Forensic Logic, Inc. has been providing consulting and technical services to the City of Oakland since 2009, including but not limited to access to their "Law Enforcement Analysis Portal" more commonly known as "LEAP"; and

WHEREAS, LEAP has provided OPD personnel access to mapping, charting, and advanced crime analysis tools, and also to link to data from both OPD systems as well as other police agencies in the LEAP network, providing OPD with both better access to its own data as well as intersections to regional data; and

WHEREAS, both OPD personnel as well as personnel from other police agencies can better investigate crimes that transcend local borders when data from different agencies is combined and connections can be seen; and

WHEREAS, Forensic Logic, Inc. purchased "CopLink," a public safety information sharing platform formerly owned by International Business Systems, and has since integrated LEAP with CopLink into a merged system rebranded as "CopLink"; and

WHEREAS, CopLink, like LEAP, allows OPD to connect its local Records Management System (RMS) and Computer Aided Dispatch (CAD) data with a Federal Bureau of Investigation (FBI)

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and Criminal Justice Information System (CJIS) compliant data warehouse to analyze trends within an agency and across neighboring agencies, which is critical for crime investigations as those that commit crimes in Oakland are not restricted by the City's geographic boundaries; and

WHEREAS, 615 distinct Oakland police officers logged into the CopLink SEARCH system between January 1, 2019 and March 30, 2020 in connection with over 717,000 separate searches during this time period; and

WHEREAS, Oakland's Surveillance Ordinance No.13489 C.M.S., adopted by the City Council on May 15, 2018 adds Chapter 9.64 to the Oakland Municipal Code (OMC), and covers policy areas related to surveillance technology; and

WHEREAS, OMC 9.64.030.1.C requires City Council approval for new and existing surveillance technology; additionally, OMC Section 9.64.020.1 requires that, "Prior to seeking City Council approval for existing city surveillance technology under Section 9.64.030, city staff shall submit a Surveillance Impact report and Surveillance Use Policy to the Privacy Advisory Commission (PAC) for its review at a regularly noticed meeting. The surveillance impact report and surveillance use policy must address the specific subject matter specified for such reports as defined under 9.64.010"; and

WHEREAS, OPD staff presented a draft Department General Order (DGO) I-24: Forensic Logic CopLink as its Surveillance Use Policy (SUP) as well as a draft Surveillance Impact Report (SIR) at the May 14, 2020 PAC meeting; and

WHEREAS, the PAC has expressed concern that this technology will be used by other agencies that access OPD data through CopLink in ways misaligned with local and state values and/or sanctuary city laws; and

WHEREAS, OPD and Forensic Logic staff have provided examples in which CopLink utilizes strong security features as well as systems for banning access to the United States Immigrations and Customs Enforcement (ICE) agency when used for immigration enforcement purposes; and

WHEREAS, OPD and Forensic Logic staff have provided the PAC with a complete list of local, county, state and federal agencies with access to OPD data through CopLink; and

WHEREAS, OPD presented updated drafts of its SUP and SIR at the May 14, 2020; June 4, 2020; July 2, 2020; August 6, 2020; and September 3, 2020 PAC meetings; and

WHEREAS, OPD and Forensic Logic also met with PAC commissioners in ad-hoc meetings on July 24, 2020 and had several conversations to facilitate dialogue in an effort to answer and address all outstanding PAC questions and concerns; and

WHEREAS, OPD and Forensic Logic also provided a virtual introduction to the ad-hoc PAC commissioners so that they could see exactly how the system works, and provided manuals that outline all CopLink features; and

WHEREAS, the August 6, 2020 and September 3, 2020 PAC meetings focused primarily on the

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list of outside agencies that potentially see OPD data when making CopLink queries as the PAC has expressed that they do not reject OPD seeing other agencies' data, but wants to limit who sees OPD data so as to mitigate potential misaligned uses of OPD data; and

WHEREAS, a restricted version of CopLink will both require greater technical customizations and modifications on the part of Forensic Logic to accomplish bespoke data flows, and provide less utility to OPD for the reasons stated above; and

WHEREAS, the OPD's Criminal Investigations Division provided numerous additional examples in the revised SIR (*Attachment A*) to the report connected to this resolution that show how local and federal agencies use their CopLink accounts to access OPD data that directly supports investigations into major crimes occurring in Oakland and/or having a nexus to crime in Oakland; and

WHEREAS, the PAC voted at their September 3, 2020 meeting that DGO I-24: Forensic Logic CopLink SUP (*Attachment B* to the report accompanying this resolution) contains language that restricts a contract with Forensic Logic so that only local Alameda County agencies would have access to OPD data; and

WHEREAS, the SIR (*Attachment A* to the accompanying report) covers the following areas as required by the Surveillance Ordinance:
- Information describing the system and how it works;
- Purpose of the technology;
- Locations where, and Situations in which the technology may be used;
- Privacy Impact of the technology;
- Mitigations to prevent privacy impacts;
- Data Types and Sources;
- Data Security;
- Costs;
- Third Party Dependence;
- Alternatives Considered; and
- Track Record of Other Entities; and

WHEREAS, DGO I-24: FORENSIC LOGIC COPLINK SUP (*Attachment B* to the accompanying report) covers relevant areas required by OMC 9.64.030, including the following areas:
- Technology Description;
- Authorized Use;
- Use Restrictions;
- Data Access, Data Collection and Retention, and Security;
- Monitoring and Reporting; and
- System Training; and

WHEREAS, on April 11, 2012, the City Council adopted Resolution No. 83819 C.M.S, which authorized: 1) a two-year contract with Forensic Logic, Inc., for the initial purchase of their LEAP Crime Analysis System, in an amount not to exceed $195,000; and 2) the waiving of the City's Request for Proposal/Qualifications (RFP/Q) requirements; and

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WHEREAS, on June 12, 2014, the City Council adopted Resolution No. 83819 C.M.S., which authorized: 1) a two-year contract extension with Forensic Logic, Inc., for the continued use of the LEAP Crime Analysis System, in an amount not to exceed $309,605; and 2) the waiving of the City's RFP/Q requirements; and

WHEREAS, on July 5, 2016, the City Council adopted Resolution No. 86270 C.M.S., which authorized: 1) a one-year contract extension with Forensic Logic, Inc., for the period of July 1, 2016 through June 30, 2017, in the amount of Two Hundred and Twenty-Four Thousand, Three Hundred and Seventy Five Dollars ($224,375), for the continued use of the LEAP Crime Analysis System; and 2) the waiving of the City's RFP/Q requirements; and

WHEREAS, on June 20, 2017, the City Council Adopted Resolution No. 86801 C.M.S., which authorized a contract with Forensic Logic, Inc. for the period of July 1, 2017 through December 31, 2017, in an amount not to exceed one hundred twelve thousand one hundred eighty eight dollars ($112,188), for use of their LEAP Network suite of crime analysis applications, licensing, technical support, and consulting services; and 2) waiving the City's advertising/ bidding and request for proposal requirements for the proposed purchases; and

WHEREAS, on December 18, 2017, the City Council adopted Resolution No. 87002 C.M.S., which authorized a contract with Forensic Logic, Inc. for the period of January 1, 2018 through June 30, 2018, for a total not to exceed ninety-four thousand five hundred dollars ($94,500), for the continued use of the LEAP crime analysis system; and 2) the waiving of the city's RFP/Q requirements; and

WHEREAS, on May 15, 2018, the City Council adopted Resolution No. 87193 C.M.S., which authorized a contract with Forensic Logic, Inc. for the period of July 1, 2018 through June 30, 2020, for a total not to exceed Three Hundred Twenty Six Thousand Dollars ($326,000), for the continued use of the LEAP crime analysis system; and 2) the waiving of the City's RFP/Q requirements; and

WHEREAS, $198,000 in funds are available from the General-Purpose Fund (1010), Information Technology Unit Org. (106410), Contract Services Account (54919), Project (1000008), Agency-wide Administrative Program (PS01); and

WHEREAS, Oakland Municipal Code Section 2.04.020.B requires City Council approval of contracts for technology-related professional products or goods in excess of $50,000, and for technology-related professional services in excess of $15,000; and

WHEREAS, Oakland Municipal Code Section 2.04.051.B. permits the City Council to waive the request for proposal/qualifications (RFP/Q) requirements upon a finding that it is in the best interest of the City to do so; and

WHEREAS, staff recommends that it is in the best interests of the City to waive the RFP/Q process because Forensic Logic, Inc. is the sole developer and operator of the CopLink Search system, which offers a unique form of critical data analysis to OPD; therefore be it

RESOLVED: that City Council does hereby approve the OPD DGO I-24: Forensic Logic

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CopLink as OPD's Surveillance Use Policy (*Attachment B* to the report accompanying this resolution); and be it

FURTHER RESOLVED: that pursuant to OMC 9.64.020.2, City Council has considered the PAC's recommendation to favor City Council authorization of the acquisition and use of OPD UAS; and be it

FURTHER RESOLVED:

1) Authorized uses shall be limited to: 1) Crime Report Production (as written in OPD's proposed use policy presented to the PAC on September 3, 2020); and 2) Search (as written in OPD's proposed use policy presented to the PAC on September 3, 2020);

2. The contract between the City and Forensic Logic shall include the following provisions:
> a. OPD owns all data and any information derived from such data
> **b.** The vendor shall make a customized version of its software available to OPD, allowing only for crime report production and search as stated in the proposed policy's authorized uses. OPD may use Forensic Logic to search its own records and those of any third parties. OPD's data shall not be made available via the Forensic Logic platform to any third parties, **except for entities located within Alameda County.**
> c. Termination for convenience and/or immediate termination for material breaches, to include:
>> i. If Forensic Logic bids on any contracts subject to our Sanctuary Contracting Ordinance
>> ii.   If Forensic Logic provides any additional features to OPD beyond the two above approved uses (and features needed to support the functionality of the approved uses), absent future council approval.
>> iii.   If Forensic Logic allows OPD data to be available via the Forensic Logic platform to any third parties located outside of Alameda County, absent future council approval.
>> —
> d. If approved by the City Council, and prior to its execution, the contract shall be provided to the Chair of the PAC and the Chief Privacy Officer, to ensure the above provisions have been incorporated.

FURTHER RESOLVED: That pursuant to OMC Section 9.64.020.2, for the reasons referenced above by and in the agenda report and SIR (*Attachment A* to the report accompanying this resolution), the City Council 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 or designee's acquisition and use of CopLink in accordance with OPD DGO I-24: Forensic Logic CopLink; and be it

FURTHER RESOLVED: that the City Administrator, or designee, is authorized to enter into a three-year contract with Forensic Logic, Inc., for the period of July 1, 2020 through June 30, 2023, for $198,000 for the first year, and $253,000 per year for years two and three, for a total contract of $704,000, for access to the CopLink search and analytics system and related network, licensing, technical support, and consulting services; and be it

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FURTHER RESOLVED: That the City Council finds that pursuant to Oakland Municipal Code sections 2.04.051.1.5 and 2.04.051.B, for the reasons stated above and in the City Administrator's report accompanying this resolution, that it is in the best interests of the City to waive the advertising and bidding requirements and the request for proposal/qualification (RFP/Q) process for the Forensic Logic, Inc. contract extension; and be it

FURTHER RESOLVED: That the City Council waives the Local and Small Local Business Enterprise Program (L/SLB) Provisions for the proposed agreement extension with Forensic Logic, Inc.; and be it

FURTHER RESOLVED: that the City Council waives the City's contracting prohibitions of OMC 2.23.030, finding that no reasonable alternative exists for the services outlined in the proposed contract with Forensic Logic, Inc.; and be it

FURTHER RESOLVED: That the City administrator is authorized to extend the contract with Forensic Logic, Inc. for the period of July 1, 2020 to June 30, 2023, for use of their CopLink Network suite of crime analysis applications, licensing, technical support, and consulting services; and be it

FURTHER RESOLVED: that funding for the contract with Forensic Logic, Inc. is contingent upon Council adoption of the Fiscal Year (FY) 2020-21 mid-cycle budget as well as the FY 2021-23 bi-annual budget such that sufficient funding is maintained in the OPD baseline budget; 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 - FORTUNATO-BAS, GALLO, GIBSON MCELHANEY, KALB, TAYLOR, THAO, REID, AND PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST:_____

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

Attachment A