



CITY OF
**PALO
ALTO**

City Council Staff Report

From: City Manager
Report Type: ACTION ITEMS
Lead Department: Police

Meeting Date: April 3, 2023
Report #: 2301-0741

TITLE

Approval of the following: 1) Contract with Flock Safety (S23187316) for Automated License Plate Recognition (ALPR) Implementation for a three-year term in an amount not to exceed \$174,400; 2) ALPR Surveillance Use Policy; and 3) Budget amendment in the Supplemental Law Enforcement Services fund; CEQA status – categorically exempt (Section 15321 enforcement actions);

RECOMMENDATION

Staff recommend that the City Council:

1. Approve Contract No. S23187316 (Attachment A) with Flock Safety, for 3 years, not to exceed \$174,400 to implement fixed Automated License Plate Recognition (ALPR) technology; and
2. Approve the fixed Automated License Plate Recognition (ALPR) surveillance use policy and use of ALPR technology to deter and investigate criminal activity (Attachment B); and
3. Amend the Fiscal Year 2023 Budget Appropriation (requires 2/3 approval) for the Supplemental Law Enforcement Services Fund (SLESF) by
 - a. Increasing SLESF Contract Services expense appropriation by \$61,900, and
 - b. Decreasing the ending fund balance by \$61,900.

EXECUTIVE SUMMARY

This report contains a surveillance evaluation of Automated License Plate Recognition (ALPR), as required by municipal ordinance, describing the uses and benefits of fixed ALPR technology,

associated privacy considerations and applicable law. Staff is recommending Council approve a three-year contract for the installation of fixed ALPR cameras at strategic locations in the City, as well as an ALPR surveillance use policy. ALPR technology uses a combination of cameras and computer software to scan the license plates of passing vehicles. The use of ALPR technology provides several potential benefits, including crime deterrence, real-time alerts to police when stolen or wanted vehicles enter an area, and enhanced investigative capabilities when a crime has already occurred. The initial year is recommended to be funded from COPS grant funds.

BACKGROUND

The City Council discussed the prospective use of fixed ALPR technology on October 24, 2022¹. This staff report brings forward a contract with Flock Safety for the deployment of fixed ALPR, as well as the associated Surveillance Use Policy.

Automated License Plate Recognition (ALPR) technology uses a combination of cameras and computer software to scan the license plates of passing vehicles. The cameras, which can be fixed (e.g., mounted on road signs or traffic lights) or mobile (i.e., mounted on a vehicle), capture computer-readable images that allow law enforcement to compare plate numbers against plates of known stolen vehicles or vehicles associated with individuals wanted on criminal charges. When a match is found, a real-time alert is generated, notifying police of the location where the image of the stolen or wanted vehicle was captured. ALPR data can also be used by investigators, after a crime has been committed, to identify and locate associated vehicles.

The Palo Alto Police Department has utilized a single mobile ALPR unit for over ten years. The limitation of a single mobile ALPR is that alerts and data collection only occur when that vehicle is being operated by an officer and data is also limited to the route and distance traveled by the patrol vehicle.

ANALYSIS

The addition of fixed ALPR cameras provides the City with a cost-effective force multiplier that helps direct officers to where crimes are occurring and provides invaluable investigative leads following a crime. Fixed ALPR technology is being used widely by many local police agencies to locate stolen vehicles and solve crimes where a vehicle has been used. Over time, the quality and accuracy of ALPR technology has continued to evolve, while also becoming more affordable.

This report recommends the Council approve the following:

- A three-year contract with Flock Safety (S23187316) for ALPR Implementation, and
- Automated License Plate Recognition (ALPR) Surveillance Use Policy and Surveillance Evaluation

¹ <https://www.cityofpaloalto.org/City-Hall/City-Council/Council-Agendas-Minutes>

- Budget adjustment in the Supplemental Law Enforcement Services fund (grant funding) to provide for this investment.

Three Year Contract with Flock Safety

The proposed three-year contract calls for Flock Safety to install and maintain twenty ALPR cameras at locations identified by the Police Department. It also calls for Flock Safety to provide the Department with searchable access to its ALPR data, and to store the data for 30 days.

Staff proposes a follow-on contract procurement process as permitted under Palo Alto Municipal Code section 2.30.360(k), allowing the use of another governmental agency's contract or substantially the same contract terms and exempting the competitive solicitation requirements to acquire the fixed ALPR equipment. The contract is based upon the City of Alameda's recent procurement process that selected Flock Safety. The City's Procurement Officer has determined that the City of Alameda's solicitation process is substantially similar to the City's. City staff reviewed the marketplace for this technology and received uniformly positive feedback from numerous other local government agencies regarding their experiences with the quality and reliability of the ALPR systems supplied by Flock Safety. Therefore, staff recommend moving forward with Flock Safety. Use of the City of Alameda's contract terms provides a more timely and efficient deployment of this technology than if the City performed its own solicitation process.

Automated License Plate Recognition Surveillance Use Policy

Palo Alto's Surveillance Technology ordinance (No. 5420) modified PAMC §2.30.620, et seq. to establish criteria and procedures to protect personal privacy in the acquisition and use of surveillance technology, and provide for ongoing oversight. Fixed ALPR is "surveillance technology" as defined by the ordinance. The ordinance requires Council approval of the acquisition of new surveillance technology and of a Surveillance Use Policy for each new approved technology. In approving new surveillance technology, the Council must determine that its benefits outweigh the associated costs and concerns.

The ordinance sets forth specific elements that must be present in a Surveillance Use Policy, including proposed access, use, and retention, as well as a description of compliance procedures. The Department has prepared and attached a Surveillance Use Policy, which addresses each of these elements (Attachment B).

In addition, prior to the approval by the Council of a new surveillance activity, the ordinance requires the completion of a Surveillance Evaluation, consisting of five specific elements.

Surveillance Evaluation

(1) A description of the surveillance technology, including how it works and what information it captures;

A fixed ALPR system captures the date, time, location, license plate (state, partial, paper, and no plate), and vehicle characteristics (make, model, type, and color) of passing vehicles. ALPR cameras are positioned to capture rear license plates only and are not designed to capture images of vehicle occupants or use facial recognition technology. ALPR data is transmitted in an encrypted format to, and stored by, Flock Safety, consistent with Criminal Justice Information System (CJIS) protocols. The Department will access the data via a web-based platform.

(2) Information on the proposed purpose, use and benefits of the surveillance technology;

Purpose & Use: Recent years have seen regional increases in catalytic converter thefts, auto burglaries, vehicle thefts and organized retail thefts. The community has also experienced several brazen robberies and residential burglaries. Those responsible for such crimes commonly use a vehicle to travel to and flee from the crime scene. Moreover, they often engage in criminal offenses involving multiple jurisdictions, and commonly arrive in a stolen vehicle, a vehicle bearing stolen plates, or a vehicle that law enforcement has previously connected to verified criminal activity. Identifying such vehicles, via fixed ALPR, as they enter a target area provides law enforcement an opportunity to intervene before additional crimes are committed, and potentially apprehend wanted persons or recover stolen property. ALPR data also provides investigators with an additional technique to identify and apprehend offenders once a crime has already occurred.

Other local communities are currently using fixed ALPR technology, including Menlo Park, Atherton, Los Altos Hills, Saratoga, Campbell, San Jose, Los Gatos, Gilroy, Morgan Hill, Milpitas, and Santa Clara, with others in the process of implementing the technology. Anecdotally, these jurisdictions report that since the deployment of fixed ALPR, they have experienced a marked increase in the recovery of stolen vehicles and report investigative success stories attributable to ALPR data.

Benefits of Usage: The use of ALPR technology provides several potential benefits:

- *Real-Time Alerts:* When a real-time ALPR alert occurs, notifying police of the presence of a wanted or stolen vehicle, officers can respond to the area to search for the vehicle. If officers locate the vehicle, prior to making an enforcement stop, they visually confirm the plate number and manually check it against law enforcement databases to confirm the accuracy of the ALPR information and the legal justification for the stop.
- *Deterrence:* Even if officers are unable to locate and stop the vehicle in question, suspects may see the police response and be deterred from further criminal activity. Indeed the mere presence of the fixed ALPR cameras may act as a deterrent. Police personnel have reported to staff that some criminals will intentionally target jurisdictions without ALPR technology and avoid those where it is in use.

- *Solving Crimes Already Committed:* Commonly, by the time a crime is reported to police, the suspects have already fled the area, and it is the job of police to identify and locate the suspects at a later time. While victims and witnesses can often provide a description of the vehicle used by a suspect, those descriptions are frequently incomplete (e.g., a partial license plate number, vehicle type and color only) or consist of a license plate number that corresponds to a stolen vehicle or a stolen plate. Investigators can turn that imperfect information into actionable leads by querying the ALPR database. Existing DMV databases do not offer this capability.
- *Regional Coordination:* ALPR data sharing among local law enforcement partners allows agencies to collaboratively investigate, identify and apprehend multi-jurisdictional offenders, or those who commit crimes in one jurisdiction but reside in another. For example, in the case of organized retail thieves, ALPR data sharing may allow investigators to connect multiple cases across disparate jurisdictions, share evidence, and obtain the best prosecutorial outcomes.
- *Expanded Searchable Data Set:* Private entities (e.g., shopping centers, individual retailers) utilizing ALPR cameras can share their data with local law enforcement, to include real-time alerts. This is a one-way share. In other words, an entity that shares its ALPR data with law enforcement does not gain access to law enforcement data in return. The investigative usefulness of an ALPR system is greatly enhanced as its searchable data set increases, whether from other law enforcement contributors or private entities.

One of the City Council's four priorities this calendar year is Community Health and Safety. While the implementation of ALPR for policing was not previously identified as an objective, based on prior Council discussion and subject to approval staff will recommend adding this as an objective. Further, the 2030 Comprehensive Plan includes policies S-1.6 and S-1.7, which supports a balanced approach of utilizing safety technology with policy-driven safeguards. The Department believes that the deployment of a fixed ALPR system, with sound policies and training, would support crime prevention, criminal apprehension, stolen vehicle recovery, and criminal investigation.

(3) The location or locations where the surveillance technology may be used;

To derive maximum benefit with the fewest cameras needed, cameras will be placed at strategically selected locations based on several factors: crime statistics, common vehicular ingress and egress points, and traffic volume. Accounting for these factors provides the greatest likelihood of capturing images of suspects' vehicles and their license plates. While the Department has no intention of permanently installing ALPR cameras in residential neighborhoods, cameras could be temporarily repositioned in response to a specific crime in a specific neighborhood. If placed in a residential neighborhood, cameras would not be positioned to capture images of homes, front yards, or pedestrians.

(4) Existing federal, state and local laws and regulations applicable to the surveillance technology and the information it captures; the potential impacts on civil liberties and privacy; and proposals to mitigate and manage any impacts;

Some organizations, such as the American Civil Liberties Union (ACLU), have generally expressed concerns about the use of ALPR, specifically on the aspects of data access, storage, retention, sharing, and reporting. The Department's proposed Surveillance Use Policy is responsive, in whole or in part, to each of these concerns and the ACLU's LPR guidelines². For example, while many local law enforcement agencies retain ALPR data for one year and often longer, the Department believes that a retention period of 30 days will adequately support its investigative needs. Only data which has been identified as relevant to a specific criminal investigation will be retained longer.

In addition to the City Surveillance Technology Ordinance, California Civil Code §1798.90.5, et seq. governs the collection of license plate information by government agencies. It spells out the policies and training that an agency must implement when collecting ALPR data. These policies, largely, address the same concerns set forth above. The Department will ensure that its policies and training satisfy the requirements of this statute. Flock Safety has adopted a usage and privacy policy consistent with California Civil Code §1798.90.5, et seq. Moreover, by the terms of the proposed contract with the City, Flock Safety is required to observe specific data security protocols, including restricting data access only to that which is necessary for system maintenance, logging all access by its employees, conducting quarterly compliance audits, and permitting the City to review these audits logs.

Internally, data will only be accessible to trained staff with a legitimate law enforcement need, and all queries will be logged and subject to audit. Whereas some local law enforcement agencies share data with federal and out of state law enforcement agencies, the Department will only share its data with other local law enforcement agencies with whom an MOU is in place, and those queries would likewise be logged. Neither the Department, nor Flock Safety, will share the Department's data with any non-law enforcement entities. The Department will make accessible to the public, via its ALPR webpage³, relevant policies as well as information concerning the number of cameras deployed, the data retention period, and the names of law enforcement agencies with whom it shares data. Flock Safety will also maintain a publicly-accessible Transparency Portal containing much of the same information.

(5) The costs for the surveillance technology, including acquisition, maintenance, personnel and other costs, and current or potential sources of funding.

² <https://www.aclunc.org/publications/making-smart-decisions-about-surveillance-guide-community-transparency-accountability>

³ <https://www.cityofpaloalto.org/Departments/Police/Public-Information-Portal/Automated-License-Plate-Recognition-ALPR>

In year one, the initial deployment of this ALPR technology would come at a total cost of \$61,900, including the initial installation and setup. In years two and three, the on-going annual cost is \$52,500. This includes access to the cameras, data storage, and access to the ALPR database. The Department anticipates no more \$2,500 will be needed annually to repair any damaged equipment. The Department intends to use existing COPS funds to fund the initial deployment.

TIMELINE

The Department is informed that, following Council approval, Flock Safety can complete the installation and setup process within 8 weeks. Associated Department personnel training and policy implementation can also be accomplished during this timeframe.

FISCAL/RESOURCE IMPACT

The Department is contracting for the installation and use – not the purchase – of ALPR cameras. Flock Safety will complete the installation and setup of the cameras and will be the owner of the equipment. The cameras are solar-powered and transmit data via a wireless cell signal, requiring no utility connection. Flock Safety will maintain or replace the cameras as needed. Data storage - other than specific images identified as evidence in a criminal investigation - will be the responsibility of Flock Safety who will be responsible for maintaining CJIS data protocols, and the data will be accessed via a web platform, requiring no new software.

The implementation of this ALPR technology will come at a total cost of \$61,900, including the initial installation and setup, which should encompass the remainder of FY 2023 and FY 2024. For subsequent years (FY2025 and FY 2026), costs are projected to be \$52,500 annually. This includes access to the cameras, data storage, and access to the ALPR database. Damaged cameras will be replaced by Flock Safety at a cost of \$500 per camera, with an annual cost not expected to exceed \$2,500. Funding for years one and two of contract will come from the SLES Fund balance for FY 2023 and FY 2024. Subsequent years of the contract are subject to appropriation of funds through the annual budget process. Staff will seek to continue use of grant funds for future funding, however, if unsuccessful, this would be an ongoing General Fund cost.

STAKEHOLDER ENGAGEMENT

The Department participated in a Council ALPR study session on October 24, 2022. Prior to that, the Department consulted with several other agencies to gather best practices for the deployment, and oversight of a fixed ALPR program.

In November 2022, the Department met with a representative of the Peninsula Chapter of the ACLU to better understand the ACLU's concerns about the use of ALPR technology, and to discuss the Department's efforts to be responsive to those concerns in drafting a surveillance use policy.

Additionally, in December 2022, the Department accepted invitations to address the topic with the Palo Alto Chamber of Commerce and a neighborhood group.

On February 13, 2023, the Department launched an informational webpage, including an opportunity for community input. This yielded 7 total submissions: 1 solicitation from an ALPR vendor, 1 comment questioning the need for ALPR, and 5 supportive comments.

On March 9, 2023, the Department presented a virtual information session on ALPR technology. A recording was subsequently posted to the Department's dedicated ALPR webpage, and has been viewed 30 times.

ENVIRONMENTAL REVIEW

Approval of this agreement and surveillance policy are categorically exempt under CEQA regulation 15321 for enforcement actions.

ATTACHMENTS

Attachment A – Flock Safety, Contract No. S23187316

Attachment B – Palo Alto Police Fixed ALPR Surveillance Use Policy

Attachment C – ACLU Guidelines

APPROVED BY:

Andrew Binder, Police Chief