



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL AGENDA

Mayor Dave Potter, Councilmembers Jeff Baron,
Alissandra Dramov, Karen Ferlito, and Bobby
Richards
Contact: 831.620.2000 www.ci.carmel.ca.us

All meetings are held in the City Council Chambers
East Side of Monte Verde Street
Between Ocean and 7th Avenues

CITY COUNCIL SPECIAL MEETING Tuesday, March 14, 2023 4:00 PM

THIS MEETING WILL BE HELD IN PERSON IN THE COUNCIL CHAMBERS AND VIA TELECONFERENCE

This meeting will be held via teleconference and in-person in the City Council Chambers at City Hall located on Monte Verde Street between Ocean and Seventh Avenues. To participate via teleconference click the following link to attend via Zoom (or copy and paste link in your browser):

**<https://ci-carmel-ca-us.zoom.us/j/88971875194> Meeting ID: 889 7187 5194 Passcode:
085404 Dial in: (253) 215-8782**

The COVID-19 Community Level for Monterey County as of the date of this agenda posting on March 9, 2023, is LOW. Per Urgency Ordinance 2022-006, wearing a face mask to attend a meeting of a legislative body inside a City facility is optional when the community level is low. Seating will be limited and available on a first come first served basis.

The public can also email comments to cityclerk@ci.carmel.ca.us. Comments must be received 2 hours before the meeting in order to be provided to the legislative body. Comments received after that time and up to the beginning of the meeting will be added to the agenda and made part of the record.

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

PUBLIC APPEARANCES

Members of the Public are invited to speak on any item that does not appear on the Agenda and that is within the subject matter jurisdiction of the City Council. The exception is a Closed Session agenda, where speakers may address the Council on those items before the Closed Session begins. Speakers are usually given three (3) minutes to speak on any item; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak. If an individual wishes to submit written information, he or she may give it to the City Clerk. Speakers and any other members of the

public will not approach the dais at any time without prior consent from the Chair of the meeting.

CONSENT AGENDA

Items on the consent agenda are routine in nature and do not require discussion or independent action. Members of the Council, Board or Commission or the public may ask that any items be considered individually for purposes of Council, Board or Commission discussion and/ or for public comment. Unless that is done, one motion may be used to adopt all recommended actions.

1. Resolution 2023-031 authorizing the City Administrator to execute a 24-month service agreement with Flock Group Inc. for the lease of twenty-four (24) Falcon automated license plate reader (ALPR) cameras and six (6) Wing (ALPR) software overlays onto existing city cameras, for a year 1 cost of \$77,900 and authorize the city manager to enter into a two-year renewal agreement to maintain the program, not to exceed \$69,000 annually

ORDERS OF BUSINESS

Orders of Business are agenda items that require City Council, Board or Commission discussion, debate, direction to staff, and/or action.

2. Receive a presentation on the proposed Fiscal Year 2023/24 Capital Improvement Program and Five-Year Capital Improvement Plan, and provide direction to staff

ADJOURNMENT

This agenda was posted at City Hall, Monte Verde Street between Ocean Avenue and 7th Avenue, Harrison Memorial Library, located on the NE corner of Ocean Avenue and Lincoln Street, the Carmel-by-the-Sea Post Office, 5th Avenue between Dolores Street and San Carlos Street, and the City's webpage <http://www.ci.carmel.ca.us> in accordance with applicable legal requirements.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the City Council regarding any item on this agenda, received after the posting of the agenda will be available for public review at City Hall located on Monte Verde Street between Ocean and Seventh Avenues during regular business hours.

SPECIAL NOTICES TO PUBLIC

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at 831-620-2000 at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made to provide accessibility to the meeting (28CFR 35.102-35.104 ADA Title II).



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

March 14, 2023
CONSENT AGENDA

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Nova Romero, City Clerk

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: Resolution 2023-031 authorizing the City Administrator to execute a 24-month service agreement with Flock Group Inc. for the lease of twenty-four (24) Falcon automated license plate reader (ALPR) cameras and six (6) Wing (ALPR) software overlays onto existing city cameras, for a year 1 cost of \$77,900 and authorize the city manager to enter into a two-year renewal agreement to maintain the program, not to exceed \$69,000 annually

RECOMMENDATION:

A motion to approve Resolution 2023-031 authorizing the City Administrator to execute a 24-month service agreement with Flock Group Inc. for the lease of twenty-four (24) Falcon automated license plate reader (ALPR) cameras and six (6) Wing (ALPR) software overlays onto existing city cameras, for a year 1 cost of \$77,900 and authorize the city manager to enter into a two-year renewal agreement to maintain the program, not to exceed \$69,000 annually.

BACKGROUND/SUMMARY:

EXECUTIVE SUMMARY

Police agencies have used cameras and Automated License Plate Reader (ALPR) technology to help solve crimes, especially when an automobile has been used. ALPR technology has continued to evolve and has become less cost prohibitive. Traditional ALPR systems included expensive fixed camera locations or mobile devices mounted on patrol cars. The Carmel Police Department currently uses mobile ALPRs for parking management and is now looking to expand this beneficial tool to fixed locations throughout the ingress and egress locations of the city.

BACKGROUND

The Carmel Police Department is constantly looking for new opportunities and cutting-edge technology to support our public safety measures. Some of the most proven effective preventative and investigative tools available to police departments are license plate reader cameras.

The Flock safety automated license plate reader (ALPR) system is a deployment of cameras throughout the city to serve as an additional investigative resource for the police department. The flock safety lease

proposed here would include twenty-four (24) Falcon ALPR cameras and six (6) Wing software overlays on existing cameras. The twenty-four (24) Cameras would be strategically spread throughout the ingress and egress areas of the city. Flock safety's camera system captures the date, time, location, license plate number, license plate state, vehicle details (type and color), as well as objects (bicycles). The vehicle also alerts the Police Department when the system identifies a stolen or wanted vehicle within second.

The key benefits of Flock Safety are that they charge an annual flat rate lease per camera of \$2500, which is wireless, free of infrastructure set up, and has the option for solar or direct power. They also include a two-year warranty, criminal justice information services compliant cloud-based hosting, unlimited user licenses, ongoing software enhancements, camera set up, mounting, shipping, handling, and a cellular connection. The flock lease program prevents the city from being burdened with maintaining costly equipment at the end of the agreement, which could require replacement.

Flock safety provides a desirable approach to deploying ALPR cameras throughout the community. Unlike other fixed or mobile ALPR devices, the flock system provides the ability to cover more areas of the city with system maintenance provided by the vendor rather than the staff. The flock safety system is an all-inclusive model for deploying the ALPR cameras within the ingress and egress areas of the city. There are several other differences between flock safety and other ALPR companies. Most notably, they are the only manufacturer and service provider that leases ALPR services. Compared to others, which require the purchase of equipment. The technology is also different because the falcon camera system captures motion and not just the license plate of the vehicle. Flock is also the only ALPR system partnered with Evidence.com which is our current evidence storage system for the police department.

It is believed that the entire peninsula is either exploring Flock Safety or has signed contracts for Flock Safety to be installed in their cities to assist with crime prevention. Due to multiple surrounding police agencies investing in flock safety, Carmel would benefit from sharing and accessing data from other cities should a crime take place. Flock Safety would only be used for criminal investigations and serve as a deterrent to crime. Flock Safety does not share data, and all data is only retained for 30 days. Data would only be used for crime vehicles that are uploaded to the database and when investigating crimes. The system does not capture occupants in vehicles or obtain personal information. Once purchased, we will implement a policy to support the program and the privacy of those not associated with crimes. Flock safety has data that indicates significant reductions in violent crime throughout the nation.

The Carmel Police Department will not share any data with law enforcement agencies for purposes outside of solving criminal activity or locating vehicles on the "hotlist" (stolen cars, missing persons, crime vehicles). The system is not designed to capture human beings, nor will the system be used for random checks of vehicles. All inquiries and entries into our system will be login protected an officer must identify who they are and why they are checking data in the system. We will only maintain data in the cloud for 30 days and we will not authorize Flock Safety to share our data. The intention is to keep Carmel safe through objective, fair, and ethical measures.

The price for Flock Safety cameras will increase in April 2023 from \$2500 per camera to \$3000. We recommend City Council approve a two-year contract to lock us at a lower rate before the price increase takes effect.

To continue our efforts to enhance the safety of our community, we strongly believe this technology will deter crime and assist our officers in responding to and solving crime in a more expedient manner.

FISCAL IMPACT:

Start-up cost with equipment and installation: \$77,900.00 (24 solar-powered ALPR cameras and 6 software camera overlays on existing cameras). Annual program costs: \$69,000 (after year 1). Funding Source: 101

– 116 – 00 – 42104 General Fund Expenditures Police: Safety Equipment and Supplies.

PRIOR CITY COUNCIL ACTION:

On February 21, 2023, Council adopted the 22-23 FY mid year budget adjustment to cover the cost of ALPR cameras and software.

ATTACHMENTS:

Attachment 1) Resolution 2023-031

Attachment 2) Flock Safety FAQ's

Attachment 2) Flock Safety Sole Source Letter

Attachment 3) Flock Overview for Cities

Attachment 4) Flock Safety ALPR Privacy and Ethics

Attachment 5) Flock Group Inc. Agreement

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

RESOLUTION NO. 2023-031

RESOLUTION 2023-031 AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A 24-MONTH SERVICE AGREEMENT WITH FLOCK SAFETY GROUP INC. FOR THE LEASE OF TWENTY-FOUR (24) FALCON AUTOMATED LICENSE PLATE READER (ALPR) CAMERAS AND SIX (6) WING (ALPR) SOFTWARE OVERLAYS ONTO EXISTING CITY CAMERAS, FOR A YEAR 1 COST OF \$77,900 AND AUTHORIZE THE CITY MANAGER TO ENTER INTO A TWO-YEAR RENEWAL AGREEMENT TO MAINTAIN THE PROGRAM, NOT TO EXCEED \$69,000 ANNUALLY

WHEREAS, Police agencies have used cameras and Automated License Plate Reader (ALPR) technology to help solve crimes, especially when an automobile has been used. ALPR technology has continued to evolve and has become less cost prohibitive; and

WHEREAS, the Carmel Police Department currently uses mobile ALPRs for parking management and is now looking to expand this beneficial tool to fixed locations throughout the ingress and egress locations of the city; and

WHEREAS, Flock Safety Group is the only ALPR system that partners with Evidence.com, which is the current evidence storage system the Carmel Police Department uses. Flock manufacturer is also the only service provider that leases ALPR services, which will prevent the city from being burdened with maintaining costly equipment that would need replacement; and

WHEREAS, it is believed that the entire peninsula is either exploring flock Safety or has signed contracts for flock Safety to be installed in their cities to assist with crime prevention. Due to multiple surrounding police agencies investing in flock safety, Carmel would benefit from sharing and accessing data from other cities should a crime take place; and

WHEREAS, to continue our efforts to enhance the safety of our community, we strongly believe this technology will deter crime and assist our officers in responding to and solving crime in a more expedient manner; and

WHEREAS, the Flock ALPR start-up cost with equipment and installation is \$77,900.00 (24 solar-powered ALPR cameras and 6 software camera overlays on existing cameras). Annual program costs: \$69,000 (after year 1), and the annual program costs \$69,000; and

WHEREAS, on February 21, 2023, Council adopted Resolution 2023-025, which approved a mid-year budget adjustment for FY 22/23 to cover the first year start up cost of \$77,900 in fund 101-116-00-42104 for Police Safety Equipment and Supplies, which sufficient to cover the first year of the contract; and

WHEREAS, the annual renewal costs for the Flock Safety System ALPR program for \$69,000 per year will be submitted in the budget for Council approval in FY 23-24 and subsequent years.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

Authorize the City Administrator to execute a Professional Service Agreement with with Flock Safety Group Inc. for the lease of twenty-four (24) Falcon automated license plate reader (ALPR) cameras and six (6) Wing (ALPR) software overlays onto existing city cameras, for a year 1 cost of \$77,900 and authorize the city manager to enter into a two-year renewal agreement to maintain the program, not to exceed \$69,000 annually.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 14th day of March, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk

About Automatic License Plate Readers (ALPR)

The Problem: Violent Crime Is Not Going Away

Nationwide, cities are experiencing a disturbing rise in homicides and violence. The FBI's 2020 Crime Report shows a 30% increase in homicides from 2019 to 2020, the largest single-year increase recorded.

Over two-thirds of the country's most populous cities saw [even more homicides](#) in 2021.

One Solution: Technology that Detects Objective Evidence to Clear More Cases

Automated License Plate Readers (ALPR) capture computer-readable images of license plates and vehicles, allowing officers to compare plate numbers against those of stolen cars or wanted individuals on a crime database like the NCIC.

ALPR devices assist law enforcement in solving crime in two ways:

- Proactive - ALPR devices provide real-time alerts when a vehicle that is stolen or associated with a known suspect is detected.
- Investigative - ALPR cameras help determine whether and which vehicle(s) were at the scene of a crime.

Is ALPR effective ?

According to the National Conference of State Legislatures, when employed ethically and objectively, ALPRs are an effective tool for law enforcement, cutting down on the time required for investigations and acting as a force multiplier. In 2011, a study by the Police Executive Research Forum concluded that ALPRs used by the Mesa, Ariz., Police Department resulted in "nearly 3 times as many 'hits' for stolen vehicles, and twice as many vehicle recoveries."

Communities with ALPR systems report crime reductions of up to 70 percent. In some areas, that included a 60 percent reduction in non-residential burglaries, 80 percent reduction in residential burglary, and a 40 percent reduction in robberies.

ALPR Provides Objective Evidence While Protecting Privacy

ALPR does not include facial recognition capabilities and does not capture personally identifiable information (PII). While eyewitnesses and individual officers are subject to inherent human bias, ALPR cameras capture wholly-objective images of vehicles and license plates, providing a clear and actionable investigative lead.

ALPR Use Cases Include:

- **AMBER Alerts:** License plate readers in metro Atlanta were able to find a vehicle containing a kidnapped one-year-old, who had been taken from his mother at random off the street. The child was recovered unharmed. Some ALPR systems integrate directly with the National Center for Missing and Exploited Children's AMBER Alert system, sending real-time alerts to officers in seconds. [[New information released about 1-year-old's kidnapping](#)]
- **Silver Alerts:** Knoxville Police were able to locate a missing elderly man who suffers from dementia after he drove away in a family vehicle. ALPR technology has helped solve hundreds of Silver Alerts across the country. [[Missing man with dementia found using Flock camera](#)]
- **Firearm violence:** The Las Vegas Trail, a high-crime area in Fort Worth, TX, saw violent crime decrease by 22% in 2021 compared with the first nine months of 2019. Fort Worth Police attributed this drop partially to the license plate reader system implemented in the neighborhood during the same period of time. [[Crime is down 22% in Fort Worth's Las Vegas Trail. How neighbors and police made it safer](#)]
- **Organized theft:** Grafton, a growing village with a bustling retail district, is dealing with increased organized retail theft – Two-thirds of all the crimes reported to Grafton police in 2020 were retail thefts. Grafton Police have implemented a license plate reader system to identify vehicles that have been involved in thefts or have been stolen themselves. In one week alone, they recovered three stolen vehicles with drivers planning to engage in retail theft. [[Losses mount as retailers fight theft rings, accuse online storefronts of doing little to stop resale of stolen goods](#)]

Sole Source Letter for Flock Safety™ ALPR Cameras and Solution

Flock Safety is the sole manufacturer and developer of the Flock Safety ALPR Camera. Flock Safety is also the sole provider of the comprehensive monitoring, processing, and machine vision services which integrate with the Flock Safety ALPR Camera.

The Flock Safety ALPR camera and devices are the only Law Enforcement Grade ALPR System to offer the following combination of proprietary features:

1. Vehicle Fingerprint Technology™:

- Patented proprietary machine vision to analyze vehicle license plate, state recognition, and vehicle attributes such as color, type, make and objects (roof rack, bumper stickers, etc.) based on image analytics (not car registration data)
- Machine vision to capture and identify characteristics of vehicles with a paper license plate and vehicles with the absence of a license plate
- Ability to 'Save Search' based on description of vehicles using our patented Vehicle Fingerprint Technology without the need for a license plate, and set up alerts based on vehicle description
- Only LPR provider with "Visual Search" which can transform digital images from any source into an investigative lead by finding matching vehicles based on the vehicle attributes in the uploaded photo
- Falcon Flex™: an infrastructure-free, location-flexible license plate reader camera that is easy to self install. Falcon Flex ties seamlessly into the Flock ecosystem with a small and lightweight camera with the ability to read up to 30,000 license plates and vehicle attributes on a single battery charge

2. Integrated Cloud-Software & Hardware Platform:

- Ability to capture two (2+) lanes of traffic simultaneously with a single camera from a vertical mass
- Best in class ability to capture and process up to 30,000 vehicles per day with a single camera powered exclusively by solar power
- Wireless deployment of solar powered license plate reading cameras with integrated cellular communication weighing less than 5lbs and able to be powered solely by a solar panel of 60W or less
- Web based footage retrieval tool with filtering capabilities such as vehicle color, vehicle type, vehicle manufacturer, partial or full license plate, state of license plate, and object detection
- Utilizes motion capture to start and stop recording without the need for a reflective plate

flock safety

- Motion detection allows for unique cases such as bicycle capture, ATV, motorcycle, etc.
 - On device machine processing to limit LTE bandwidth consumption
 - Cloud storage of footage
 - Covert industrial design for minimizing visual pollution
3. Transparency & Ethical Product Design:
- One-of-a-kind “Transparency Portal” public-facing dashboard that details the policies in place by the purchaser, as well as automatically updated metrics from the Flock system
 - Built-in integration with NCMEC to receive AMBER Alerts to find missing children
 - Privacy controls to enable certain vehicles to “opt-out” of being captured
4. Integrated Audio & Gunshot Detection:
- Natively integrated audio detection capabilities utilizing machine learning to recognize audio signatures typical of crimes in progress (e.g., gunshots)
5. Live Video Integration:
- Ability to apply computer vision to third-party cameras using Wing™ LPR, transforming them to evidence capture devices using the same Vehicle Fingerprint technology offered on the Flock Safety Falcon™ ALPR cameras
 - Wing™ Livestream integrates live stream traffic cameras, publicly or privately owned livestream security cameras into one cloud-based situational awareness dashboard to increase response time in mission-critical incidents
 - Manage various government intelligence including ALPR, livestream cameras, CAD, automatic vehicle location (AVL) on Flock Safety's Wing™ Suite
 - Access Wing™ Replay to unlock enhanced situational awareness with 7-day footage retention, Hot List Live Video Instant Replay, and downloadable MP4
6. Partnerships:
- Flock Safety is the only LPR provider to officially partner with AXON to be natively and directly integrated into Evidence.com
 - Flock Safety is the only LPR provider to be fully integrated into a dynamic network of Axon's Fleet 3 mobile ALPR cameras for patrol cars and Flock Safety's Falcon cameras
 - Access to additional cameras purchased by our HOA and private business partners, means an ever-increasing amount of cameras and data at no additional cost
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7. Warranty & Service:

- Lifetime maintenance and support included in subscription price
- Flock Safety is the only fully integrated ALPR one-stop solution from production of the camera to delivery and installation
- Performance monitoring software to predict potential failures, obstructions, tilts, and other critical or minor issues

Thank you,



Garrett Langley CEO, Flock Safety

Let's defeat crime together

Help your city reduce crime with cameras that see like a detective

"Flock Safety made my job easy. The system was up and running in just a few weeks, and has proven to help our police department find the evidence to solve more crime."

City Manager in Ohio

Flock Safety provides an affordable, infrastructure-free automatic license plate reading (ALPR) camera system for cities who want to reduce crime within a principled framework. Unlike traditional ALPR, Flock uses Vehicle Fingerprint™ technology to transform hours of footage into a searchable database to find the single piece of evidence needed, even when a license plate isn't visible.

Not your average security cameras

Infrastructure-Free and Discreet Design

With solar power and LTE connectivity, we can install the devices almost anywhere. And the beautiful design means it will blend in with your city's aesthetic.

Safety-as-a-Service

We install and maintain the devices, so you can focus on running the city. That means we will support you from procurement, through permitting, and even preparing you to present this project to the city council.

Vehicle Fingerprint Technology

Your officers can find vehicle evidence by vehicle type, make, color, license plate state, missing and covered plates, and other unique features like bumper stickers, decals, and roof racks.

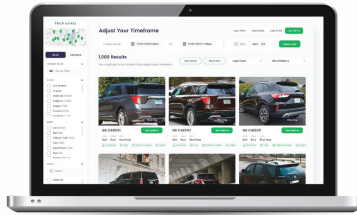


Join 2500+ cities using Flock Safety to eliminate crime



Detect

objective evidence your police need to solve crime



Decode

footage with machine learning so your police can investigate



Deliver

real-time alerts to police if a wanted or stolen vehicle drives by

Public Safety Technology Built with Principles

You own the footage

We won't share it or sell it. It's 100% yours for your law enforcement to use to solve crime.

Protect resident privacy

All data automatically deletes by default every 30 days on a rolling basis and is encrypted with AES-256 encryption.

Promote transparency and accountability

Flock provides a transparency portal to share data with your community about how the devices work on an ongoing basis. Flock requires an investigative reason to search and proactively provides an audit report to city leadership.

Clear pricing and infrastructure free

\$2500 per camera / year. All the footage is stored in the cloud at no additional fee and there are no hidden costs.

Protect the Whole Community

It takes all community members working together to eliminate crime, which is why we created a public-private partnership that enables businesses, neighborhoods, schools, and others to partner with your city and police department to build your network.

Learn More:



"Flock Safety continues to enhance and help our police department capture these vehicles and return the assets to their owners."

-Council member Josh McCurn of Lexington, KY



About Flock Safety ALPR

Privacy and Ethics Factsheet

How does Flock Safety keep devices and data secure?

Flock Safety holds itself to the highest level of security. We have implemented the following security policies and features:

- Flock Safety data and footage is encrypted throughout its entire lifecycle. All data is securely stored with AES256 encryption with our cloud provider, Amazon Web Services.
- On-device, data is only stored temporarily for a short time until it is uploaded to the cloud, at which point it is removed automatically from the local device. This means the data is secure from when it is on the Flock Safety device to when it is transferred to the cloud, using a secure connection to Flock Safety servers. While stored in the cloud, all data (both footage and metadata) is fully encrypted at rest.
- Flock Safety defaults to permanently deleting all data after 30 days on a rolling basis, setting a new standard in the industry.

Who has access to data collected by Flock Safety devices?

- Flock Safety's customers own 100% of their data and determine who has access. Flock Safety will never share or sell the data, per our privacy policy.
- With explicit written permission from the customer, Flock Safety does have the ability to grant law enforcement access to specific footage for a short period (24 hours, 48 hours, or however long the customer desires) in the event of an investigation following a crime. Access can only be granted through the approval of the customer.
- Flock Safety has maintenance software in place to measure device performance and image capture quality. This is used to diagnose issues preemptively and schedule service calls in the event of a device malfunction or emergency.

About Flock Safety ALPR

Privacy and Ethics Factsheet

How long does Flock Safety keep data?

- Flock Safety stores footage for only 30 days on a rolling basis by default, after which the footage is automatically hard deleted. The only exception to this is if a democratically-elected governing body or official legislates a different data retention period.

What features do Flock Safety devices have that enable audits and oversight?

- While searching for footage or other evidence on the Flock Safety platform, law enforcement agencies must enter reason codes to verify the legitimacy of the search and create an audit trail.
- Authorized users go through training to properly use our system and communicate with their dispatch teams.
- Flock Safety customers commit not to use the data collected to work with third-party repossession companies, traffic enforcement, revenue collection, unpaid fines, or towing companies. We do not use facial recognition or capture any personally identifiable information such as name, phone number, or address, and we do not work with federal government agencies for immigration enforcement purposes.
- Flock Safety's ALPR Transparency Portal, an optional free feature for all law enforcement customers, is the first public-facing dashboard for law enforcement agencies, city leaders, and local government officials to share policies, usage, and public safety outcomes related to ALPR technology. The ALPR Transparency Portal helps promote transparency and accountability in the use of policing technology in order to build community trust while creating a safer, more equitable society.

FLOCK GROUP INC.
SERVICES AGREEMENT
ORDER FORM

This Order Form together with the Terms (as defined herein) describe the relationship between Flock Group Inc. (“**Flock**”) and the customer identified below (“**Agency**”) (each of Flock and Customer, a “**Party**”). This order form (“**Order Form**”) hereby incorporates and includes the “GOVERNMENT AGENCY AGREEMENT” attached (the “**Terms**”) which describe and set forth the general legal terms governing the relationship (collectively, the “**Agreement**”). The Terms contain, among other things, warranty disclaimers, liability limitations and use limitations.

The Agreement will become effective when this Order Form is executed by both Parties (the “**Effective Date**”).

Agency: CA – City of Carmel, Police Department	Contact Name: Jeff Watkins
Legal Entity Name: City of Carmel by the Sea, a municipal corporation	
Address: 4th Ave Carmel by the Sea, California 93921	Phone: (831) 624-6403 E-Mail: jwatkins@ci.carmel.ca.us
Expected Payment Method:	Billing Contact: (if different than above)

Initial Term: 24 months Renewal Term: 24 months	Billing Term: Billing Term: Invoice Plan payment due Net 30 per terms and conditions Billing Frequency: 1 year invoices broken into 3 payments. 1st invoice: All professional services/implementation costs and 50% of Annual Recurring Subtotal. 2nd Invoice: 25% of Annual Recurring Subtotal. 3rd Invoice: 25% of Annual Recurring Subtotal. Annual payment at annual subscription term date invoiced for the remainder subscription term after initial 12 months.
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Professional Services and One-Time Purchases

Name	Price/Usage Fee	QTY	Subtotal
Professional Services - Standard Implementation Fee	\$350.00	24.00	\$8,400.00
Professional Services - Advanced Implementation Fee	\$500.00	1.00	\$500.00

Hardware and Software Products

Annual recurring amounts over subscription term

Name	Price/Usage Fee	QTY	Subtotal
Falcon	\$2,500.00	24.00	\$60,000.00
Wing LPR	\$1,500	6.00	\$9,000.00

Subtotal Year 1:	\$77,900.00
Subscription Term:	24 Months
Annual Recurring Total:	\$69,000.00
Estimated Sales Tax:	\$0.00
Total Contract Amount:	\$146,900.00

I have reviewed and agree to the Customer Implementation Guide on Schedule B at the end of this agreement.

By executing this Order Form, Agency represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms attached. The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Agency: CA – City of Carmel by the Sea

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

flock safety

GOVERNMENT AGENCY AGREEMENT

This Government Agency Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Rd NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the government agency identified in the signature block of the Order Form (“**Agency**”) (each a “**Party**,” and together, the “**Parties**”).

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution for automatic license plates, video and audio detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Services are capable of capturing audio, video, image, and recording data and can provide notifications to Agency upon the instructions of Non-Agency End User (as defined below) (“**Notifications**”);

WHEREAS, Agency desires access to the Flock Service on existing cameras, provided by Agency, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, including those from Non-Agency End Users of the Flock Service (where there is an investigative or bona fide lawful purpose) such as schools, neighborhood homeowners associations, businesses, and individual users;

WHEREAS, Flock deletes all Footage on a rolling thirty (30) day basis, excluding Wing Replay which is deleted after seven (7) days. Agency is responsible for extracting, downloading and archiving Footage from the Flock System on its own storage devices for auditing for prosecutorial/administrative purposes; and

WHEREAS, Flock desires to provide Agency the Flock Service and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations by police departments, and archiving for evidence gathering (“**Permitted Purpose**”).

AGREEMENT

NOW, THEREFORE, Flock and Agency agree that this Agreement, and any addenda attached hereto or referenced herein, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Advanced Search**” means the provision of Services, via the web interface using Flock’s software applications, which utilize advanced evidence delivery capabilities including convoy analysis, multi-geo search, visual search, cradlepoint integration for automatic vehicle location, and common plate analysis.

1.2 “**Agency Data**” means the data, media and content provided by Agency through the Services. For the avoidance of doubt, the Agency Data will include the Footage.

1.3 “**Agency Generated Data**” means the messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, other information or materials posted, uploaded, displayed, published, distributed, transmitted, broadcasted, or otherwise made available on or submitted through the Wing Suite.

1.4. “**Agency Hardware**” means the third-party camera owned or provided by Agency and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5. “**Aggregated Data**” means information that relates to a group or category of individuals, from which any potential individuals’ personal identifying information has been permanently “anonymized” by commercially available standards to irreversibly alter data in such a way that a data subject (i.e., individual person or impersonal entity) can no longer be identified directly or indirectly.

1.6 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Agency accessing or using the Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

1.7 “**Deployment Plan**” means the strategic geographic mapping of the location(s) and implementation of Flock Hardware, and/or other relevant Services required under this Agreement.

1.8 “**Documentation**” means text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Services which are provided by Flock to Agency in accordance with the terms of this Agreement.

1.9 “**Embedded Software**” means the software and/or firmware embedded or preinstalled on the Flock Hardware or Agency Hardware.

1.10 “**Falcon Flex**” means an infrastructure-free, location-flexible license plate reader camera that enables the Agency to self-install.

1.11 “**Flock Hardware**” means the Flock cameras or device, pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services.

1.12 “**Flock IP**” means the Services, the Documentation, the Embedded Software, the Installation Services, and any and all intellectual property therein or otherwise provided to Agency and/or its Authorized End Users in connection with the foregoing.

1.13 “**Flock Safety Falcon™**” means an infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.14 “**Flock Safety Raven™**” means an audio detection device that provides real-time alerting to law enforcement based on programmed audio events such as gunshots, breaking glass, and street racing.

1.15 “**Flock Safety Sparrow™**” means an infrastructure-free license plate reader camera for residential roadways that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.17 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Agency Hardware in the course of and provided via the Services.

1.18 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e. NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.19 “**Implementation Fee(s)**” means the monetary fees associated with the Installation Services, as defined below.

1.20 “**Installation Services**” means the services provided by Flock for installation of Agency Hardware and/or Flock Hardware, including any applicable installation of Embedded Software on Agency Hardware.

1.21 “**Non-Agency End User(s)**” means any individual, entity, or derivative therefrom, authorized to use the Services through the Web Interface, under the rights granted to pursuant to the terms (or to those materially similar) of this Agreement.

1.22 “**Services**” or “**Flock Services**” means the provision, via the Web Interface, of Flock’s software applications for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.23 “**Support Services**” means Monitoring Services, as defined in Section 2.10 below.

1.24 “**Usage Fee**” means the subscription fees to be paid by the Agency for ongoing access to Services.

1.25 “**Web Interface**” means the website(s) or application(s) through which Agency and its Authorized End Users can access the Services, in accordance with the terms of this Agreement.

1.26 “**Wing Suite**” means the Flock interface which provides real-time access to the Flock Services, location of Flock Hardware, Agency Hardware, third-party cameras, live-stream video, Wing Livestream, Wing LPR, Wing Replay, alerts and other integrations.

1.27 “**Wing Livestream**” means real-time video integration with third-party cameras via the Flock interface.

1.28 “**Wing LPR**” means software integration with third-party cameras utilizing Flock’s Vehicle Fingerprint Technology™ for license plate capture.

1.29 “**Wing Replay**” means enhanced situational awareness encompassing Footage retention, replay ability, and downloadable content from Hot Lists integrated from third-party cameras.

1.30 “**Vehicle Fingerprint™**” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Agency’s designated administrator, listed on the Order Form, and any Authorized End Users to access and download via the Web Interface for thirty (30) days. Authorized End Users will be required to sign up for an account and select a password and username (“**User ID**”). Flock will also provide Agency with the Documentation to be used in accessing and using the Services. Agency shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Agency, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Agency. Agency shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User’s use of the Services and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage) which makes the Services available to Agency and Authorized End Users. Warranties provided by said third party service providers are the agency’s sole and exclusive remedy and Flock’s sole and exclusive liability with regard to such third-party services, including without limitation hosting the Web Interface. Agency agrees to comply with any acceptable use policies and other terms of any third-party service provider that are provided or otherwise made available to Agency from time to time.

2.2 Embedded Software License. Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as installed on the Flock Hardware or Agency Hardware; in each case, solely as necessary for Agency to use the Services.

2.3 Documentation License. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right and license to use the Documentation during the Term in connection with its use of the Services as contemplated herein, and under Section 2.5 below.

2.4 Wing Suite License. Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Wing Suite software and interface.

2.5 Usage Restrictions.

2.5.1 **Flock IP.** The permitted purpose for usage of the Flock Hardware, Agency Hardware, Documentation, Services, support, and Flock IP are solely to facilitate gathering evidence that could be used in a lawful criminal investigation by the appropriate government agency (“*Permitted Purpose*”). Agency will not, and will not permit any Authorized End Users to, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Services or Flock IP; (vi) use the Services, support, Flock Hardware, Documentation, or the Flock IP for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Agency’s rights under Sections 2.1, 2.2, 2.3, or 2.4.

2.5.2. **Flock Hardware.** Agency understands that all Flock Hardware is owned exclusively by Flock, and that title to any Flock Hardware does not pass to Agency upon execution of this Agreement. Except for Falcon Flex products, which are designed for self-installation, Agency is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Notwithstanding the notice and cure period set for in Section 6.3, Agency agrees and understands that in the event Agency is found to engage in any of the restricted actions of this Section 2.5.2, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination (without opportunity to cure) for material breach by Agency.

2.6 **Retained Rights; Ownership.** As between the Parties, subject to the rights granted in this Agreement, Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Agency further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock’s sole discretion. There are no implied rights.

2.7 Suspension.

2.7.1 **Service Suspension.** Notwithstanding anything to the contrary in this Agreement, Flock may temporarily suspend Agency’s and any Authorized End User’s access to any portion or all of the Flock IP or Flock Service if Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP by Agency; (b) Agency’s or any Authorized End User’s use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Agency or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Agency has violated any term of this provision, including, but not limited to, utilizing the Services for

anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Agency's account ("***Service Suspension***"). Agency shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit.

2.7.2 Service Interruption. Services may be interrupted in the event that: (a) Flock's provision of the Services to Agency or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("***Service Interruption***"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Agency and to provide updates regarding resumption of access to Flock Services. Flock will use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Agency or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Agency's direct actions or by the actions of parties associated with the Agency, the expiration of the Term will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day) prorated for the proportion of cameras on the Agency's account that have been impacted. For example, in the event of a Service Interruption lasting five (5) continuous days, Agency will receive a credit for five (5) free days at the end of the Term.

2.8 Installation Services.

2.8.1 Designated Locations. For installation of Flock Hardware, excluding Falcon Flex products, prior to performing the physical installation of the Flock Hardware, Flock shall advise Agency on the location and positioning of the Flock Hardware for optimal license plate image capture, as conditions and location allow. Flock may consider input from Agency regarding location, position and angle of the Flock Hardware ("***Designated Location***") and collaborate with Agency to design the Deployment Plan confirming the Designated Locations. Flock shall have final discretion on location of Flock Hardware. Flock shall have no liability to Agency resulting from any poor performance, functionality or Footage resulting from or otherwise relating to the Designated Locations or delay in installation due to Agency's delay in confirming Designated Locations, in ordering and/or having the Designated Location ready for installation including having all electrical work preinstalled and permits ready, if necessary. After installation, any subsequent changes to the Deployment Plan ("***Reinstalls***") will incur a charge for Flock's then-current list price for Reinstalls, as listed in the then-current Reinstall policy (available at <https://www.flocksafety.com/reinstall-fee-schedule>) and any equipment fees. For clarity, Agency will receive prior notice and provide approval for any such fees. These changes include but are not limited to re-positioning, adjusting of the mounting, re-angling, removing foliage, replacement, changes to heights of poles, regardless of whether the need for Reinstalls related to vandalism, weather, theft, lack of criminal activity in view, and the like. Flock shall have full discretion on decision to reinstall Flock Hardware.

2.8.2 *Agency Installation Obligations.* Agency agrees to allow Flock and its agents reasonable access in and near the Designated Locations at all reasonable times upon reasonable notice for the purpose of performing the installation work. Although Flock Hardware is designed to utilize solar power, certain Designated Locations may require a reliable source of 120V or 240V AC power. In the event adequate solar power is not available, Agency is solely responsible for costs associated with providing a reliable source of 120V or 240V AC power to Flock Hardware. Flock will provide solar options to supply power at each Designated Location. If Agency refuses recommended solar options, Agency waives any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar power. Additionally, Agency is solely responsible for (i) any permits or associated costs, and managing the permitting process of installation of cameras or AC power; (ii) any federal, state, or local taxes including property, license, privilege, sales, use, excise, gross receipts, or other similar taxes which may now or hereafter become applicable to, measured by or imposed upon or with respect to the installation of the Flock Hardware, its use (excluding tax exempt entities), or (iii) any other supplementary cost for services performed in connection with installation of the Flock Hardware, including but not limited to contractor licensing, engineered drawings, rental of specialized equipment, or vehicles, third-party personnel (i.e. Traffic Control Officers, Electricians, State DOT-approved poles, etc., if necessary), such costs to be approved by the Agency (“***Agency Installation Obligations***”). In the event that a Designated Location for Flock Hardware requires permits, Flock may provide the Agency with a temporary alternate location for installation pending the permitting process. Once the required permits are obtained, Flock will relocate the Flock Hardware from the temporary alternate location to the permitted location at no additional cost. Without being obligated or taking any responsibility for the foregoing, Flock may pay and invoice related costs to Agency if Agency did not address them prior to the execution of this Agreement or a third party requires Flock to pay. Agency represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation.

2.8.3 *Flock’s Obligations.* Installation of Flock Hardware shall be installed in a workmanlike manner in accordance with Flock’s standard installation procedures, and the installation will be completed within a reasonable time from the time that the Designated Locations are confirmed. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Following the initial installation of the Flock Hardware and any subsequent Reinstalls or maintenance operations, Flock’s obligation to perform installation work shall cease; however, for the sole purpose of validating installation, Flock will continue to monitor the performance of Flock Hardware for the length of the Term and will receive access to the Footage for a period of seven (7) business days after the initial installation for quality control and provide any necessary maintenance. Labor may be provided by Flock or a third-party. Flock is not obligated to install, reinstall, or provide physical maintenance to Agency Hardware. Notwithstanding anything to the contrary, Agency understands that Flock will not provide installation services for Falcon Flex products.

2.8.4 *Ownership of Hardware.* Flock Hardware shall remain the personal property of Flock and will be removed upon the natural expiration of this Agreement at no additional cost to Agency. Agency shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Agency default on any

payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Agency's default and Flock shall have the right to enforce any other legal remedy or right.

2.9 Hazardous Conditions. Unless otherwise stated in the Agreement, Flock's price for its services under this Agreement does not contemplate work in any areas that contain hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately in the area affected until such materials are removed or rendered harmless.

2.10 Support Services. Subject to the payment of fees, Flock shall monitor the performance and functionality of Flock Services and may, from time to time, advise Agency on changes to the Flock Services, Installation Services, or the Designated Locations which may improve the performance or functionality of the Services or may improve the quality of the Footage. The work, its timing, and the fees payable relating to such work shall be agreed by the Parties prior to any alterations to or changes of the Services or the Designated Locations ("**Monitoring Services**"). Flock will use commercially reasonable efforts to respond to requests for support. Flock will provide Agency with reasonable technical and on-site support and maintenance services ("**On-Site Services**") in-person or by email at support@flocksafety.com, at no additional cost. Notwithstanding anything to the contrary, Agency is solely responsible for installation of Falcon Flex products. Agency further understands and agrees that Flock will not provide monitoring services or on-site services for Falcon Flex.

2.11 Special Terms. From time to time, Flock may offer certain special terms related to guarantees, service and support which are indicated in the proposal and on the Order Form and will become part of this Agreement, upon Agency's prior written consent ("**Special Terms**"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

2.12 Upgrades to Platform. Flock may, in its sole discretion, make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock's products or services to its agencies, (b) the competitive strength of, or market for, Flock's products or services, (c) such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not materially change any terms or conditions within this Agreement.

3. RESTRICTIONS AND RESPONSIBILITIES

3.1 Agency Obligations. Flock will assist Agency Authorized End Users in the creation of a User ID. Agency agrees to provide Flock with accurate, complete, and updated registration information. Agency may not select as its User ID a name that Agency does not have the right to use, or another person's name with the intent to impersonate that person. Agency may not transfer its account to anyone else without prior written permission of Flock. Agency

will not share its account or password with anyone and must protect the security of its account and password. Unless otherwise stated and defined in this Agreement, Agency may not designate Authorized End Users for persons who are not officers, employees, or agents of Agency. Authorized End Users shall only use Agency-issued email addresses for the creation of their User ID. Agency is responsible for any activity associated with its account. Agency shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services. Agency will, at its own expense, provide assistance to Flock, including, but not limited to, by means of access to, and use of, Agency facilities, as well as by means of assistance from Agency personnel to the limited extent any of the foregoing may be reasonably necessary to enable Flock to perform its obligations hereunder, including, without limitation, any obligations with respect to Support Services or any Installation Services.

3.2 Agency Representations and Warranties. Agency represents, covenants, and warrants that Agency will use the Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of video, photo, or audio content. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

4. CONFIDENTIALITY; AGENCY DATA

4.1 Confidentiality. To the extent allowable by applicable FOIA and state-specific Public Records Acts, each Party (the "**Receiving Party**") understands that the other Party (the "**Disclosing Party**") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "**Proprietary Information**" of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Agency includes non-public data provided by Agency to Flock or collected by Flock via the Flock Hardware or Agency Hardware, to enable the provision of the Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event will a Party apply less than reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. Flock's use of the Proprietary Information may include processing the Proprietary Information to send Agency alerts, or to analyze the data collected to identify motion or other events. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing

Party reasonable prior notice of such disclosure to contest such order. For clarity, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Flock, its users, a third party, or the public as required or permitted by law, including respond to an emergency situation. Flock may store deleted Footage in order to comply with certain legal obligations, but such retained Footage will not be retrievable without a valid court order.

4.2 Agency Data. As between Flock and Agency, all right, title and interest in the Agency Data, belong to and are retained solely by Agency. Agency hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to (i) use the Agency Data and perform all acts with respect to the Agency Data as may be necessary for Flock to provide the Flock Services to Agency, including without limitation the Support Services set forth in Section 2.10 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Data as a part of the Aggregated Data, (ii) disclose the Agency Data (both inclusive of any Footage) to enable law enforcement monitoring for elected law enforcement Hotlists as well as provide Footage search access to law enforcement for investigative purposes only, and (iii) and obtain Aggregated Data as set forth below in Section 4.5. As between Agency and Non-Agency End Users that have prescribed access of Footage to Agency, each of Agency and Non-Agency End Users will share all right, title and interest in the Non-Agency End User Data. This Agreement does not by itself make any Non-Agency End User Data the sole property or the Proprietary Information of Agency. Flock will automatically delete Footage older than thirty (30) days. Agency has a thirty (30) day window to view, save and/or transmit Footage to the relevant government agency prior to its deletion. Notwithstanding the foregoing, Flock automatically deletes Wing Replay after seven (7) days, during which time Agency may view, save and/or transmit such data to the relevant government agency prior to deletion. Flock does not own and shall not sell Agency Data.

4.3 Agency Generated Data in Wing Suite. Parties understand that Flock does not own any right, title, or interest to third-party video integrated into the Wing Suite. Flock may provide Agency with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available on or submit through the Wing Suite, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Agency. Agency shall retain whatever legally cognizable right, title, and interest that Agency has in Agency Generated Data. Agency understands and acknowledges that Flock has no obligation to monitor or enforce Agency's intellectual property rights to Agency Generated Data. To the extent legally permissible, Agency grants Flock a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Generated Data for the sole purpose of providing Flock Services. Flock does not own and shall not sell Agency Generated Data.

4.4 Feedback. If Agency provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency hereby assigns (and will cause its agents and representatives to assign) to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

4.5 Aggregated Data. Flock shall have the right to collect, analyze, and anonymize Agency Data and Agency Generated Data to create Aggregated Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Agency hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right (during and after the Term hereof) to use and distribute such Aggregated Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, other Flock offerings, and crime prevention efforts. Parties understand that the aforementioned license is required for continuity of Services. No rights or licenses are granted except as expressly set forth herein. Flock does not sell Aggregated Data.

5. PAYMENT OF FEES

5.1.1 Software Product Fees. For Order Forms listing Wing Suite, Advanced Search and other software-only products, Agency will pay Flock the fees for the Initial Term (as described on the Order Form attached hereto) on or before the 30th day from the date of invoice. For any Renewal Terms, Agency shall pay invoice on or before the 30th day from the date of renewal invoice.

5.1.2 Hardware Product Fees. For Order Forms listing Falcon, Sparrow, Raven and Falcon Flex products, Agency will pay Flock fifty percent (50%) of the fees for the Initial Term as set forth on the Order Form on or before the 30th day from date of invoice. Upon commencement of installation, Flock will issue an invoice for twenty-five percent (25%) of total fees, and Agency shall pay on or before 30th day following date of invoice. Upon completion of installation, Flock will issue an invoice for the remaining balance and Agency shall pay on or before 30th day following date of final invoice. Flock is not obligated to commence the Installation Services unless and until the first payment has been made and shall have no liability resulting from any delay related thereto. For any Renewal Terms, Agency shall pay the total invoice on or before the 30th day from the date of renewal invoice.

5.2 Notice of Changes to Fees. Flock reserves the right to change the fees or applicable charges and to institute new charges and fees on subsequent terms by providing sixty (60) days' notice prior to the end of such Initial Term or Renewal Term (as applicable) to Agency (which may be sent by email).

5.3 Invoicing, Late Fees; Taxes. Flock may choose to bill through an invoice, in which case, full payment for invoices must be received by Flock thirty (30) days after the receipt of invoice. If Agency is a non-tax-exempt entity, Agency shall be responsible for all taxes associated with Services other than U.S. taxes based on Flock's net income. If Agency believes that Flock has billed Agency incorrectly, Agency must contact Flock no later than sixty (60) days after the closing date on the first billing statement in which the error or problem appeared, in order to

receive an adjustment or credit. Agency acknowledges and agrees that a failure to contact Flock within this sixty (60) day period will serve as a waiver of any claim Agency may have had as a result of such billing error.

6. TERM AND TERMINATION

6.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form and shall commence at the time outlined in this section below (the “**Term**”). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

- a. For Wing Suite products: the Term shall commence upon execution of this Agreement and continue for one (1) year, after which, the Term may be extended by mutual consent of the Parties, unless terminated by either Party.
- b. For Falcon and Sparrow products: the Term shall commence upon first installation and validation of Flock Hardware.
- c. For Raven products: the Term shall commence upon first installation and validation of Flock Hardware.
- d. For Falcon Flex products: the Term shall commence upon execution of this Agreement.
- e. For Advanced Search products: the Term shall commence upon execution of this Agreement.

6.2 **Termination for Convenience.** At any time during the agreed upon Term, either Party may terminate this Agreement for convenience. Termination for convenience of the Agreement by the Agency will be effective immediately. Termination for convenience by Agency will result in a one-time removal fee of \$500 per Flock Hardware. Termination for convenience by Flock will not result in any removal fees. Upon termination for convenience, a refund will be provided for Flock Hardware, prorated for any fees for the remaining Term length set forth previously. Wing Suite products and Advanced Search are not subject to refund for early termination. Flock will provide advanced written notice and remove all Flock Hardware at Flock’s own convenience, within a commercially reasonable period of time upon termination. Agency’s termination of this Agreement for Flock’s material breach of this Agreement shall not be considered a termination for convenience for the purposes of this Section 6.2.

6.3 **Termination.** Notwithstanding the termination provisions in Section 2.5.2, in the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period. Either Party may terminate this Agreement, without notice, (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. Upon termination for Flock’s material breach, Flock will refund to Agency a pro-rata portion of the pre-paid fees for Services not received due to such termination.

6.4 No-Fee Term. Flock will provide Agency with complimentary access to Hotlist alerts, as further described in Section 4.2 (“*No-Fee Term*”). In the event a Non-Agency End User grants Agency access to Footage and/or notifications from a Non-Agency End User, Agency will have access to Non-Agency End User Footage and/or notifications until deletion, subject to a thirty (30) day retention policy for all products except Wing Replay, which is subject to a seven (7) day retention policy. Flock may, in their sole discretion, provide access or immediately terminate the No-Fee Term. The No-Fee Term will survive the Term of this Agreement. Flock, in its sole discretion, can determine to impose a price per No-Fee Term upon thirty (30) days’ notice to Agency. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon thirty (30) days’ notice.

6.5 Survival. The following Sections will survive termination: 2.5, 2.6, 3, 4, 5, 6.4, 7.3, 7.4, 8.1, 8.2, 8.3, 10.1 and 10.6.

7. REMEDY; WARRANTY AND DISCLAIMER

7.1 Remedy. Upon a malfunction or failure of Flock Hardware or Embedded Software (a “*Defect*”), Agency must notify Flock’s technical support as described in Section 2.10 above. If Flock is unable to correct the Defect, Flock shall, or shall instruct one of its contractors to repair or replace the Flock Hardware or Embedded Software suffering from the Defect. Flock reserves the right in their sole discretion to refuse or delay replacement or its choice of remedy for a Defect until after it has inspected and tested the affected Flock Hardware provided that such inspection and test shall occur within a commercially reasonable time, but no longer than seven (7) business days after Agency notifies the Flock of a known Defect. In the event of a Defect, Flock will repair or replace the defective Flock Hardware at no additional cost to Agency. Absent a Defect, in the event that Flock Hardware is lost, stolen, or damaged, Agency may request that Flock replace the Flock Hardware at a fee according to the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Agency shall not be required to replace subsequently lost, damaged or stolen Flock Hardware, however, Agency understands and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen Flock Hardware and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted. Flock is under no obligation to replace or repair Flock Hardware or Agency Hardware.

7.2 Exclusions. Flock will not provide the remedy described in Section 7.1 if Agency has misused the Flock Hardware, Agency Hardware, or Service in any manner.

7.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of

other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

7.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE EMBEDDED SOFTWARE. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6.

7.5 Insurance. Flock will maintain commercial general liability policies with policy limits reasonably commensurate with the magnitude of Flock's business risk. Certificates of Insurance can be provided upon request.

7.6 Force Majeure. Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, acts or omissions of third-Party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, weather conditions or acts of hackers, internet service providers or any other third Party acts or omissions. Force Majeure includes the novel coronavirus Covid-19 pandemic, and the potential spread of variants, which is ongoing as of the date of the execution of this Agreement.

8. LIMITATION OF LIABILITY; NO FEE TERM; INDEMNITY

8.1 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL HARDWARE AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY, INCOMPLETENESS OR CORRUPTION OF DATA OR FOOTAGE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE OR IDENTIFY AND/OR CORRELATE A LICENSE PLATE WITH THE FBI DATABASE; (D) FOR ANY PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION MADE IN GOOD FAITH; (E) FOR CRIME PREVENTION; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH

ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY AGENCY TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6.

8.2 Additional No-Fee Term Requirements. IN NO EVENT SHALL FLOCK'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THE COMPLIMENTARY NO-FEE TERM AS DESCRIBED IN SECTION 6.4 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. Parties acknowledge and agree that the essential purpose of this Section 8.2 is to allocate the risks under the No-Fee Term described in Section 6.4 and limit potential liability given the aforementioned complimentary service, which would have been substantially higher if Flock were to assume any further liability other than as set forth herein. Flock has relied on these limitations in determining whether to provide the complementary No-Fee Term. The limitations set forth in this Section 8.2 shall not apply to claims or damages resulting from Flock's other obligations under this Agreement.

8.3 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own officers, agents, or employees.

9. INDEMNIFICATION

Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses in connection with any claim or action that arises from an alleged violation of Section 3.1, a breach of this Agreement, Agency's Installation Obligations, Agency's sharing of any data in connection with the Flock system, Flock employees or agent or Non-Agency End Users, or otherwise from Agency's use of the Services, Flock Hardware, Agency Hardware and any Embedded Software, including any claim that such actions violate any applicable law or third Party right. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of Section 3.1 or this Agreement.

Flock agrees to indemnify and hold Agency harmless against any damages, losses, liabilities, settlements and expenses, including attorney's fees and costs arising out of third party claims for copyright and intellectual property infringement, public records act claims, an alleged violation of Flock's obligations under this agreement, Flock's

sharing of any data in connection with the Flock system, Flock employees or agent or Non-Agency End Users, or otherwise from Flock's provision of Services, Flock Hardware, Agency Hardware and any Embedded Software, including any claim that such actions violate any applicable law or third Party right.

10. MISCELLANEOUS

10.1 Compliance With Laws. The Agency and Flock and its agents agree to comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s). In the event Flock is legally compelled to comply with a judicial order, subpoena, or government mandate, to disclose Agency Data or Agency Generated Data, Flock will provide Agency with notice.

10.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

10.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

10.4 Entire Agreement. This Agreement, together with the Order Form(s), the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>), Deployment Plan(s), and any attached addenda are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Agency's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail.

10.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Agency does not have any authority of any kind to bind Flock in any respect whatsoever. Flock shall at all times be and act as an independent contractor.

10.6 Governing Law; Venue. This Agreement shall be governed by the laws of the State in which the Agency is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Agency is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

10.7 Publicity. Upon prior consent from Agency, Flock has the right to reference and use Agency's name and trademarks and disclose the nature of the Services provided hereunder in each case in business and development and marketing efforts, including without limitation on Flock's website.

10.8 Export. Agency may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

10.9 Headings. The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

10.10 Authority. Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

10.11 Notices. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210
ATLANTA, GA 30318
ATTN: LEGAL DEPARTMENT
EMAIL: legal@flocksafety.com

AGENCY NOTICES ADDRESS:

ADDRESS:

City of Carmel City Hall
4th Ave

Carmel, California 93921

ATTN:

EMAIL:



CITY OF CARMEL-BY-THE-SEA CITY COUNCIL Staff Report

March 14, 2023
ORDERS OF BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Robert Harary, P.E, Director of Public Works

APPROVED BY: Chip Rerig, City Administrator

SUBJECT: Receive a presentation on the proposed Fiscal Year 2023/24 Capital Improvement Program and Five-Year Capital Improvement Plan, and provide direction to staff

RECOMMENDATION:

Receive a report regarding:

- Capital projects completed, or are scheduled to be completed, in FY 2022/23
- Projects to be cancelled or deferred
- Capital projects funded in FY 2021/22 and/or FY 2022/23 that are recommended to be carried over, with remaining funds, into FY 2023/24
- Potential FY 2023/24 projects with external funding, donations, and by volunteers
- Potential new capital improvement projects for FY 2023/24
- Introduction of the 5-year Capital Improvement Plan update
- Discussion on carry-over funding, capacity, and “Catching Up” on previously-funded projects

Provide guidance regarding funding priorities for Capital Improvement Projects.

BACKGROUND/SUMMARY:

Capital Project Fiscal Summary

For Fiscal Year 22/23, the City Council approved \$5,029,000 for 25 CIP projects that were recommended. During last year’s presentation, 12 “carry-over” projects from FY 2021/22 were briefly presented and agreed upon by City Council, however, the budget appropriations were inadvertently not authorized and not included in the FY 23/24 budget. This discussion includes the following:

- \$2.62M for 5 carry -over projects from FY 2021/22
- \$4.18M for 11 carry-over projects from FY 2022/23

The five-year financial projection reflects \$6.8M for capital improvement projects for both fiscal year carry-over projects and all new capital improvement projects (CIP) will be incorporated into the financial forecast

after the preliminary discussion.

Capital Project Definition

While reviewing capital projects, it is helpful to have a common understanding of what constitutes a “Capital Project.” The Government Accounting Standard Board uses the term “capital assets” to include “land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, historical treasures, infrastructure, and other tangible or intangible assets that are used in operations and that have initial useful lives extending beyond a single reporting period.”

For the City of Carmel-by-the-Sea, staff recommends that we continue to define a Capital Project, or a Capital Outlay, as an asset with any single component or piece of equipment that **costs more than \$10,000** and has an expected **useful life exceeding ten (10) years**.

Note: Some of the projects listed below, such as reports and plans, may not fall under the true definition of a capital project. However, some of these reports may include recommendations for future capital projects. One example would be the Coastal Engineering Study which will identify physical improvements to be made along the shoreline over future years.

Other projects and plans would not result in future capital improvements and are considered one-time special projects designed to meet regulatory requirements, address public safety needs of the community, and/or enhance operational effectiveness. Staff seeks Council direction regarding these projects so that funding may be allocated within the operating budget of the respective department.

Strategy

A preliminary 5-year Capital Improvement Plan (CIP) is included in Attachment 1. This 5-year CIP provides information on the needs for necessary infrastructure for the upcoming fiscal year, as well as a forecast for the subsequent four years. Many of these needs have been identified through assessments and plans for City assets, including:

- 2013 Carmel Facilities Assessment and 2023 Facility Condition Assessments
- 2018 ADA Transition Plan
- 2022 Street Saver Pavement Management Plan
- 2020 Storm Drain Master Plan and 2023 Master Plan Update
- 2022 Climate Action and Climate Adaptation Plans
- City Council Strategic Priorities list

This CIP provides a framework for the Council to allocate funding for the most critical projects over time.

1. Projects Completed in Fiscal Year 2022/23

Fourteen (14) capital improvement projects were completed in Fiscal Year 2022/23, or are anticipated to be substantially completed by June 30, 2023:

- **ADA Upgrades, Year 5 (FY 2022/23, \$15,000):** As identified in the City’s 2018 Americans with Disabilities Act Transition Plan, the drinking fountain at the Park Branch Library was replaced, the emergency phone at Forest Hill Park was relocated, the disabled access notification system at the

Harrison Memorial Library was rebuilt, and currently, railings are being fabricated for the Piccadilly Park restroom and in front of the Harrison Memorial Library. All of these upgrades meet ADA standards.

- **Electric Vehicles for Community Planning and Building (FY 2022/23, \$30,000):** Two electric vehicles were purchased for the Community Planning and Building Department for \$50,000. The CIP allocated \$30,000 from the Vehicle and Equipment Fund, and the balance was appropriated with the February 2023 Mid-Year Budget.
- **Facilities Component Inspections (FY 2022/23, \$85,000):** At the December 2022 meeting, Council awarded a \$56,518 Professional Services Agreement with Bureau Veritas North America to provide facility condition assessment reports for four buildings: City Hall, Fires Station, Public Works, and Vista Lobos. Draft reports have been received, and final reports are anticipated to be complete by the end of the Fiscal Year. Some of the more urgent recommendations for repairs will be included as Facility Renovation Projects over subsequent CIP cycles.
- **Fire Engine:** In October 2022, Council appropriated \$880,000 and added the fire engine into the FY 2022/23 CIP. The Pierce Manufacturer Enforcer diesel fire engine has been ordered with delivery anticipated in approximately two years.
- **Library Master Plan (FY 2021/22, \$50,000):** This project complements the Library's Strategic Plan objective to develop facility plans for the Harrison Memorial and Park Branch library buildings. In January 2023, Council awarded a \$55,000 Professional Services Agreement to Jayson Architecture to prepare the Master Plan. The Plan is anticipated to be substantially complete by the end of the Fiscal Year. Implementation of the Plan by designing the first set of improvements should begin in FY 2023/24.
- **Mission Trail Nature Preserve Drainage Improvements–Design (FY 2021/22, \$90,000):** Engineering and environmental work has been completed for the first three (3) of eight (8) stream restoration and drainage improvement projects, located near the Rio Road entrance of the Preserve, which were recommended in the 2019 Mission Trail Nature Preserve Stream Stability Study. There are still two regulatory permits to be obtained before we can advertise this project for construction bids, and they are anticipated to be issued before the end of the Fiscal Year. This Project was split into two phases - Design, which is now complete, and the construction phase in which remaining funds need to be carried forward into next Fiscal Year as listed below.
- **North Dunes Habitat Restoration Project, Year 7 (FY 2022/23, \$10,000):** This project continues the highly successful, multi-year effort to restore the native habitat of the North Dunes. Funding was utilized to continue restoration activities including weed removal and native planting, post and cable fencing installation, and biological monitoring and reporting. The project received a 5-year Coastal Development Permit extension in August 2021 to continue restoration activities.
- **Police Radios Lease, Year 2, (FY 2022/23, \$30,000):** Twenty-two (22) radios were purchased in 2021 for \$30,000 per year payments for six years, with funding from the Vehicle and Equipment Fund.
- **Public Access Property Records, Phase II (FY 2022/23, \$67,000):** The Community Planning and Building Department retained a consultant to digitize the City's vast property files, link those records to the City's existing online GIS portal, and incorporate additional data layers into the GIS. This \$135,000 project is now substantially complete.
- **Scenic Pathway Renovation Barrier Rails (FY 2021/22, \$50,000):** The FY 2021/22 budget of

\$50,000 was carried over into the current year budget. Carmel Cares prepared an improvement plan to repair the most heavily-damaged areas of the barrier rail, as well as several areas of missing rail. The plans were approved by staff, and Carmel Cares obtained quotes for lumber and materials to be purchased by the City. Award of the materials will be submitted to Council within the next two months. Carmel Cares will hire a contractor and pay for the costs for installation, under guidance of the Public Works and Community Planning and Building Department.

- **Storm Water Ordinance:** While previously discussed as a capital project, and as one of Council's strategic priorities, this project was not incorporated into the CIP because it was funded by the Public Works operating budget. An environmental consultant, the City Attorney's office, and Public Works staff significantly updated the City's ordinances Chapters 17.42 and 17.43 to remain in compliance with state storm water mandates. The California Water Quality Control Board provided minor comments; however, we are still awaiting comments from the Coastal Commission. It is anticipated that comments will be received and the Ordinances will be adopted by Council by the end of the Fiscal Year.
- **Street Sweeper (FY 2022/23, \$550,000):** In July 2022, Council awarded a \$563,814 purchase of a RAVO SE 5 electric street sweeper, offset by a \$250,000 Central Coast Community Energy grant. This was funded by the Vehicle and Equipment Fund. The sweeper is currently being manufactured and is scheduled to be delivered in May 2023.
- **Sunset Center HVAC Building Control Unit Replacement (FY 2021/22, \$50,000):** At the April 2022 City Council meeting, this project was added into the FY 2021/22 CIP. Due to unforeseen delays in obtaining parts, the project was not completed until late 2022.
- **Uninterrupted Power Supply System (FY 2022/23, \$20,000):** UPS systems were purchased and related electrical work is currently in progress. This IT project will be completed by the end of the Fiscal Year.

2. Prior Projects Recommended to be Cancelled or Deferred

Three (3) projects should be cancelled or deferred as discussed below.

- **Ocean Avenue Medians Split Rail Fence:** The Carmel Residents Association planned to donate \$55,000 for installation of a split rail fence along all five Ocean Avenue raised median islands, possibly installed in a saw-tooth pattern, along the center of each median island. The Forest and Beach Commission was receptive to a small, pilot test area in one of the median islands, but after all five median islands are complete with landscaping renovations. The CRA has since withdrawn its application for the project.
- **Vista Lobos Interior Remodel (FY 2022.23, \$25,000):** This project was intended to launch design work to provide additional modular offices for City staff in the Vista Lobos conference room. Since last year, the Community Planning and Building and Public Works (front) offices have been renovated, and there is now a reduced need for additional staff space at this time. Further, Vista Lobos is also being considered as possible "Swing Space" for the Police Department during renovation of the existing building. This project should be deferred until Council pursues specific direction on the Police Building project.
- **Wayfinding Signs (FY 2021/22, \$18,500):** As approved at the March 2021 Council meeting, TAMC would reimburse the City up to \$18,500 for 15 wooden signs. Our initial understanding of the project

was to install signs that provide directions for bicyclists, pedestrians, and visitors, to various Carmel area points of interest, including Sunset Center, beach access, Devendorf Park, etc. Staff developed a layout plan for these signs; however, TAMC denied our layout and provided an entirely different configuration of signs, clustering all the signs near the Pebble Beach gate on San Antonio and Second Avenue, and in the vicinity of Carmel Mission. These clustered locations are not supported by staff. Furthermore, the cost of the signs, if made of wood as intended, will exceed the available funds. Staff recommends canceling the project and reimbursement agreement with TAMC.

3. Projects Funded in Fiscal Year 2021/2022 and/or 2022/23 that are recommended to be carried over to FY 2023/24

The following 25 capital improvement projects, funded in Fiscal Year 2021/22 and/or 2022/23 but not fully completed, should be carried over into FY 2023/24:

- **Ambulance (FY 2021/22, \$200,000 + \$50,000 donation) and Ambulance Equipment and AED (FY 2022/23, \$75,000):** These two projects are combined. A contract to build the new ambulance with equipment for \$410,000 will be submitted for Council approval at an upcoming meeting. There is a long lead time for delivery of approximately three years. The total combined funding of \$275,000 from the Vehicle and Equipment Fund, and \$50,000 donation, will need to be carried forward until the invoice is due. Staff recommends carrying the funding over each fiscal year until needed for payment, and placing the estimated \$85,000 balance for the ambulance into the CIP for Fiscal Year 2025/2026.
- **Beautification Project (FY 2022/23, \$25,000).** Costs for the purchase of new trees, plants, and other aesthetic enhancements over most of the current Fiscal Year were funded by the Forestry Operating budget. Of note, the City purchased 60 new trees late last calendar year, and 40 have been planted to date. We do anticipate planting the remaining 20 trees within the next several months and purchasing additional new trees from this CIP project account. Any remaining funds should be carried forward into Fiscal Year 2023/2024 and merged with additional funding for the proposed Beautification Project next year.
- **City Hall Retaining Wall Repair (FY 2022/23, \$100,000):** The redwood retaining wall in the south parking lot of City Hall failed due to the lateral loads from the historic City Hall building over to the under-designed wall. With project management services provided by Ausonio, Inc., structural and geotechnical engineers were retained to design a permanent fix. The fix includes removal of the redwood planter area, constructing a large, concrete wall and footing below the existing building footing, particularly below the office of the Planning and Building Director, and replacing the planter. Bids are due on March 16th, and award of the construction contract is scheduled for the April Council meeting. Remaining funds need to be carried over into Fiscal Year 2023/24 for construction.
- **Coastal Engineering Study (FY 2022/23, \$150,000) and the Beach Sand Survey Project (FY 2021/22, \$25,000):** These projects have been combined. This Study was identified in the Climate Adaptation Plan as a critical document for sea level rise resilience planning to ensure the City has the tools necessary to make decisions related to the long-term maintenance of coastal resources and infrastructure. At the November 2022 meeting, Council awarded a \$157,000 Professional Services Agreement to EMC Planning Group, who teamed up with Integral Corporation and Haro Kashunich & Associates, to complete the four key tasks for Phase I of this Project. The results of Task 1, the Coastal Engineering Condition Evaluation, was presented to the Forest and Beach Commission on March 9th. Remaining funds should be carried over into FY 2023/24 to finish Phase I. Phase II is being proposed for Fiscal Year 2023/24.

- Drainage System Repair Design (FY 2021/22, \$100,000), and Drainage System Repair Design Phase II (FY 2022/23, \$500,000):** should now be considered one combined project. The City-wide Drainage Master Plan identified numerous spot repairs needed for our existing underground storm drain pipes, as well as significant "bottlenecks" in the drainage system. In October 2022, Council awarded a \$50,000 Professional Services Agreement to Schaaf & Wheeler Consulting Engineers to update their 2020 Drainage Master Plan to reflect recommendations from the Climate Committee to evaluate 20-year storm event impacts to the drainage system, versus 10-year storm events as previously evaluated, and as much of the drainage infrastructure of the City was built. The Updated Master Plan is complete, and highlights will be presented to Council at an upcoming meeting. On a parallel track, Neill Engineers was issued a \$24,999 Professional Services Agreement to design eight to ten specific drainage repairs and bottleneck elimination projects. The design of those improvements is in progress. Remaining funds should be carried-forward into Fiscal Year 2023/24 to complete the design. At least \$4M will be needed to fix the most critical repairs and bottlenecks, and allocations for specific repairs will be recommended in future year CIP plans.
- Electrical Panel Upgrades for City Hall, Public Works, Sunset Center, and Vista Lobos (FY 2022/23, \$75,000):** Electrical panel upgrades are necessary for these facilities to carry new electric vehicle charging stations, and to provide additional capacity for electric loads since these panels are at or over capacity. Based on the Police Building Project, it is recommended that the Public Works facility of these four panels be incorporated into the Police Building, and that the Fire Station, which is also over capacity be substituted in its place. In February 2023, \$35,000 was added to the Public Works Operating Budget for Mid-Year Budget augmentation to support the active electrical work at the Vista Lobos parking lot. A contract was executed with PG&E to install the \$200,000 transformer for 5 new charging stations at Vista Lobos at no cost to the City. Staff is currently negotiating a new Professional Services Agreement with an electrical/mechanical engineering consultant to provide design services for both the 4 Electrical Panel Upgrades and the Vista Lobos EV Charging Station projects.
- Facility Renovation Projects (all FY 2022/23, combined \$715,000):** The following six (6) facility renovations have been bundled into one design and construction project for cost-effectiveness and efficiency. These projects are being managed by contract project managers with Ausonio, Inc. In February 2023, Council approved a \$78,900 Amendment to the Professional Services Agreement with Ten Over Studio, for architectural and engineering design services for these projects. Preliminary design work is nearly complete, and final design and commencement of construction bidding is likely by the end of this Fiscal Year; however, remaining funds for these projects should be carried forward for construction into Fiscal Year 2023/24.
 - **City Hall Roof Replacement: \$100,000.**
 - **Harrison Memorial Library Backup Generator: \$60,000.**
 - **Harrison Memorial Library Carpet Replacement: \$100,000.** This will be bid as an alternative and/or deferred if recommended in the Library Master Plan.
 - **Harrison Memorial Library Renovations Exterior and Interior Painting: \$200,000**
 - **Sunset Center Cottage Window Repairs: \$105,000**
- FY 2022/23 Concrete Street Repairs (FY 2022/23, \$1,005,000):** At the January 2012 meeting, Council awarded a \$189,667 Professional Services Agreement to BKF Engineers for design of this project. The project includes repairs and resurfacing of concrete intersections at Ocean/San Antonio, San Carlos/Fifth, San Carlos/Sixth, and along Ocean Avenue, between Monte Verde and San

Antonio, and along San Carlos between Fifth and Sixth. An ADA ramp and bulb outs will also be included at the Junipero/Seventh intersection. The total project budget includes \$441,300 in external funds (i.e. Measure X, SB-1) plus the Maintenance of Effort requirement of \$563,700. The project is currently in preliminary design, and final design is anticipated to be substantially completed this summer. The remaining balance should be carried forward into the Fiscal Year 2023/24 CIP for construction.

- **FY 2019/20 Citywide Annual Paving Project (refunded in FY 2021/22 budget) and carried forward:** This Project, which includes the bike route and recently-deleted median islands along San Carlos Street, land was presented to the City Council at the March 7th meeting. This project is bundled with another prior carryover project called **Mission Street Sidewalk Repairs (FY 2021/22)**. The City was allocated \$15,311 from RSTP funding via TAMC to repair a significantly uneven brick sidewalk on the west side of Mission Street, between Fifth and Sixth Avenues.
- **Mission Trails Nature Preserve (MTNP) Stream Stability Projects-Construction (FY 2022/23, \$142,000):** This project, which consists of the first three (3) of eight (8) stream restoration and erosion control measures recommended by the Mission Trail Nature Preserve Stream Stability Study, is largely funded by a California State Parks Per Capita Grant in the amount of \$187,000. The design and environmental permits for the project were listed in the completed projects above. Construction must be substantially completed by December 2023. Remaining funding should be carried over in Fiscal Year 2023/24.
- **Police Building Renovation Project (FY 2021/22, \$2.0M) and Police Renovation Additional Scope (FY 2022/23, \$1.3M):** These projects should now be considered one combined project. At the February 2023 meeting, the Ad Hoc Committee recommended, and Council approved, issuing a Request for Proposal to architects with expertise in police building design, to perform a detailed evaluation of the building, including elements shared with the Public Works Department. In brief, the evaluation will consider building code deficiencies, needed safety repairs, police operational deficiencies and best practices, and the useful life of the facility with such investments. The architect will also consider swing space during construction, develop a rough cost for complete reconstruction within the current building footprint, and a cost for an entirely new building. The RFP has been issued, and proposals are due on March 14th. A Professional Services Agreement with the selected architect will be presented to Council for award at an upcoming meeting. The project is being managed by a 4 Leaf project manager.
- **Resilience Infrastructure Planning and Design (FY 2022/23, \$85,000):** As recommended in the Climate Adaptation Plan, this project involves developing plans for sustainable backup power to provide continued operations of critical facilities. Preliminary review to date suggests focusing the project on the Police, Public Works, Vista Lobos, and Youth Center in the event of an extended power outage. The project is currently on hold pending the outcome of the Police Building Evaluation (discussed above).
- **Urban Forest Master Plan (FY 2021/22, \$170,000):** The Urban Forest Master Plan (UFMP) is one of Council's high priority strategic initiatives. During FY 2021/22, the City was awarded a Cal Fire reimbursement grant of \$150,000 for the UFMP. At the August 2022 meeting, Council awarded a \$150,000 Professional Services Agreement with Davey Resources Group to prepare the Plan. Contractual issues, which delayed the start of the project for several months, have all been resolved. This is an 18-month duration project with the tree inventory and initial technical studies currently in progress. An Amendment to the Agreement with Davey is currently being negotiated for additional services that are prudent, and will be forthcoming to Council for approval. The remaining CIP funds will need to be carried forward into Fiscal Year 2023/24 to complete the project.

- **Water Well and Tank Removal in MTNP (FY 2021/22, \$150,000):** Regulatory decommissioning of the water well, and physical removal of the elevated tank, stone pump house, and abandoned power pole are needed. Under contract to the City, a Wallace Group project manager completed the design of the project and environmental approvals, including the Coastal Development Permit, have been obtained. The Project is anticipated to be advertised for construction bids by the end of the Fiscal Year; however, remaining funds should be carried forward into Fiscal Year 2023/24 for construction.
- **Wildfire Risk Assessment Plan:** This project is one of Council's high priority strategic initiatives. The current FY 2022/23 operating budget for the Fire Department included \$20,000 for a Wildfire Risk Assessment Plan. The Plan is being implemented in conjunction with the cities of Monterey and Pacific Grove. The remaining balance of these funds will be submitted to be reallocated into the Fiscal Year 2023/24 to complete the Plan.

4. Recommended FY 2023/24 Projects with External Funding, Donations, and Volunteers

The following projects and initiatives do not appear to require any City funding at this time; however, like all City projects, project management oversight would be needed.

- **Carmel Cares Projects (Not CIP Projects):** Facilitated and supported by Public Works, Carmel Cares has a number of ongoing community engagement programs and potential new projects under consideration for FY 2023/24. These projects are included in this CIP discussion for information only. Potential projects include:
 - Forest Theater, Picnic tables and ADA
 - Ocean Avenue Median Islands Landscaping with modified design
 - Post Office Parking Lot Landscaping Renovation
- **North Dunes Habitat Restoration Interpretive Signage and Split Rail Fencing (FY 2022/23, \$25,000 donation):** Several organizations, including the North Dunes volleyball players, Rotary Club, and Carmel Cares, have expressed interest in donating funds and/or volunteer support to design and install interpretive signage and/or install split rail fencing along the Ocean Avenue and San Antonio frontages of the North Dunes site. These projects are in line with the recreation goals of the North Dunes Restoration Plan. While no plans were solidified yet in FY 2022/23, this project should be carried over into Fiscal Year 2023/24.
- **Scout House Renovation (Not a CIP Project):** This project is one of Council's strategic initiatives. At the April meeting, Council will be requested to adopt findings pertaining to the Surplus Lands Act and authorize the release of a Request for Proposal for interested parties to renovate the Scout House, at an estimate cost of \$400,000 to \$500,000. Once renovated, the selected Proposer would then provide activities programming and facility management and maintenance. No City funds are proposed. This project is included in this CIP discussion for information only.

5. Potential Capital Improvement Projects for FY 2023/24

Numerous projects were incorporated into the CIPs for FY 2021/22 and FY 2022/23 as funding became available as the COVID-19 Pandemic starting phasing out. While 17 projects were completed during Fiscal Year 2021/22, and an estimated 14 projects will be completed by the end of Fiscal Year 2022/23, there are

still 25 active projects, or portions of projects, that should be carried over into Fiscal Year 2023/24. On a typical year, 25 capital projects alone would be considered a full slate of improvement projects and capital investment.

With this in mind, staff suggests that Fiscal Year 2023/24 be considered a year to “Catch Up” on the backlog, and update the carry-over funding from FY 2021/22 that was inadvertently not carried over last year.

That said, many new projects are still needed and worthwhile. The following is a list of the most pressing or urgent projects identified by staff. Many larger-scale or costly projects, such as additional drainage repairs, repaving parking lots, Police records management, or purchase of a dump truck, are suggested to be deferred. Therefore, the list below certainly does not identify all of the potential projects!

However, the fiscal impact to the FY 2023/24 Budget for Capital Improvement Projects cannot yet be assessed until specific capital projects are tentatively selected by Council. In other words, screening the projects at the March 14th Workshop and fine-tuning the list will allow us to focus on the highest priority projects and associated cost estimates for incorporation into the final CIP and Budget for FY 2023/24.

No.	Project Description	Estimated Cost	Notes
1	ADA Upgrades, Year 6	\$20,000	\$15k prior years
2	Annual Paving Project (incl. portions of Mission, Santa Lucia, Scenic, upper Ocean), with Bike Route improvements and Sidewalk Repairs	\$600,000	Maintenance of Effort budget. Assume + \$400 external funds
3	Beautification Project	\$25,000	
4	CIP Contingency Fund	\$500,000	Cover high bids, multiple projects
5	Coastal Engineering Study, Phase II	\$100,000	Possible grant
6	IT Servers	\$50,000	
7	Library Master Plan, Design	\$100,000	Design of first improvements identified in the MP
8	MTNP – Invasive Removals	\$15,000	
9	North Dunes Habitat	\$15,000	Ongoing restoration
10	Police Radios, Year 3 of 6	\$30,000	
11	Shoreline Infrastructure Repairs, Design - Stairs, Walls, Revetments	\$250,000	Results of Task 1 of Coastal Engineering Study
12	Sunset Center North Lot – Electrical Panel Upgrade	\$100,000	
13	Vehicles: 2 Forestry (2000, 2002), 1 PD Admin (2006)	\$175,000	All electric vehicles
	Total	\$1,980,000	

The forecasted available budget for FY 2023/24 may not cover all of these worthwhile projects. Regardless of the amount of Council’s allocation of funding for capital projects, infrastructure throughout the City will continue to deteriorate.

6. 5-Year Capital Improvement Plan

A preliminary 5-year Capital Improvement Plan is included as Attachment 1.

Although only the first fiscal year (2023/24) would be funded as part of the City Budget, the remaining years serve as a planning tool to identify, early on, anticipated future projects. A multi-year plan also accommodates scheduling larger projects into multiple years, to allow more projects to be underway concurrently, and to allocate construction funding only when those funds are needed. Note that the needs for infrastructure renewal and facility repairs far exceed the anticipated revenue over the subsequent four years as well.

7. Council Guidance

Staff is seeking Council's direction on the following issues. Note that this is just the first review and screening of potential projects. Staff will return at the April 5th meeting to refine the potential projects based on comments received on March 14th.

- Acceptance of the 14 projects completed in FY 2022/23 (Section 1 above)
- Confirmation to cancel or defer the 3 projects described in Section 2
- Confirmation to carry over 25 projects from FY 2021/22 and FY 2022/23, including their remaining project funds, into FY 2023/24 (Section 3)
- Confirmation to proceed with various projects anticipated to be funded by others (Section 4)
- Review potential projects for the FY 2023/24 CIP in Section 5
- Review the preliminary 5-Year CIP, Attachment #1, and delete, defer, and/or add projects (Section 6)
- Incorporating any public comments and suggestions into the FY 2023/24 CIP or 5-Year CIP

Upon Council's tentative approval in April, the CIP document will be presented to the Planning Commission in May for a General Plan consistency review as required by State law and the City's Municipal Code.

FISCAL IMPACT:

If City Council approves \$2.62M budget appropriation for the FY 2021/22 (5) carry-over projects and \$4.18M for (11) carry-over projects from FY 2022/23 the total carryover, at a minimum, will be \$6.8M to the FY 23/24 budget for Capital Improvement Projects (CIP). The additional fiscal impact for new projects cannot yet be assessed until specific projects are selected by Council.

PRIOR CITY COUNCIL ACTION:

None for Fiscal Year 2023/24.

ATTACHMENTS:

Attachment 1) Preliminary 5-Year Capital Improvement Plan

City of Carmel-by-the-Sea Attachment J 5-Year Capital Improvement Plan For Fiscal Years 2023/24 Through 2027/28														
		EXTERNAL FUNDING		3/9/23										
Category		CARRY - OVERS	Initial		Year 1	Year 1	Year 2	Year 2	Year 3	Year 3	Year 4	Year 4	Year 5	Year 5
		FY 2021/22 & FY 2022/23	Budget	Status	FY 2023/24	Estimate	FY 2024/25	Estimate	FY 2025/26	Estimate	FY 2026/27	Estimate	FY 2027/28	Estimate
Contingency			0		CIP Contingency	500	CIP Contingency	200		0		0		0
\$700						\$ 500		\$ 200		\$ -		\$ -		\$ -
		Design for Broken Pipes & Bypass	100	Carry Over			Junipero (7th-9th) Bypass Pipe	500	Drainage Repairs	500	Drainage Repairs	350	Drainage Repairs	350
Drainage		Design Bottlenecks & Spot Repairs	\$500	Carry Over			Reconst. 4th Ave Outfall - Design	50	Reconst. 4th Ave Outfall	200	4th Ave CDS - Design	75	4th Ave CDS - Construction	350
\$2,975			\$ 600			\$ -		\$ 550		\$ 700		\$ 425		\$ 700
		FY 23 Concrete Street Repairs	564	Carry Over	FY 24 Paving, Bikes, S/W	600	FY 25 Paving, Bikes, S/W	610	FY 26 Paving, Bikes, S/W	620	FY 27 Paving, Bike, S/W	630	FY 28 Paving, Bike, S/W	640
		TAMC: SB1, X, RSTIP, HUTA	441	Carry Over	TAMC: SB1, X, RSTIP, HUTA	400	TAMC: SB1, X, RSTIP, HUTA	410	TAMC: SB1, X, RSTIP, HUTA	420	TAMC: SB1, X, RSTIP, HUTA	430	TAMC: SB1, X, RSTIP, HUTA	440
		FY 20 Paving Overlay/Micro Surf	572	Carry Over			Sunset Ctr - 2 Parking Lot Walls	200	Resurface Parking Lots	250	Pavement Survey Update	30		
Streets		San Carlos Bike Route	inc	Carry Over			Bicycle Master Plan	60						
		Mission St Sidewalk	inc	Carry Over										
		TAMC: SB1, X, HUTA, RSTP	364	Carry Over										
		Wayfinding Signs	18	Cancel										
\$7,699			\$ 1,959			\$ 1,000		\$ 1,280		\$ 1,290		\$ 1,090		\$ 1,080
		PD Renovation + Additional Scope	3,300	Carry Over	ADA Updates - Year 6	20	ADA Updates - Year 7	20	ADA Updates - Year 8	20	ADA Updates - Year 9	20	ADA Updates - Year 10	25
		Sunset Ctr HVAC Controller	50	Done	Sunset Center N Lot E Panel	100	Panel Upgrades (VL, PW, FS, CH)	75	Resilience Infrastructure	100	Resilience Infrastructure	100	Sunset Center Railings	150
		Sunset Center Ext Painting	150	Carry Over	Scout House Renovation	tdb	3CE Panel Upgrades for EV Charg	60	Vista Lobos Painting	60	Energy Upgrades	50	Energy Upgrade	50
		Sunset Ctr Cottage Windows	105	Carry Over			Fire Backflows (3 bldgs)	120	Fire Station Painting	60	Construct Repairs - CH, FS, VL	300		
Facilities		City Hall Roof Replacement	100	Carry Over			Facilities Assessments (FM, RR)	85	Sunset Ctr Painting, Widows 2	150				
		City Hall Retaining Wall Repair	100	Carry Over					Flanders Structural Repairs	250				
		Vista Lobos Int. Remodel Design	25	Cancel					Park Restroom Repairs	75				
		Panel Upgr. Design (VL,FS, SC,CH)	75	Carry Over					Design Repairs - CH, FS, VL	75				
		Resilience Infr. Pilot Design	85	Carry Over										
		Facilities Inspections	85	Done										
		ADA Updates - Year 5	15	Done										
\$6,055			\$ 4,090			\$ 120		\$ 360		\$ 790		\$ 470		\$ 225
		MTNP - Design 3 Stream Projects	20	Done	Beautification	25	Beautification	25	Beautification	25	Beautification	25	Beautification	25
		MTNP - Stream Projects Grant	70	Done	N Dunes Habitat Restoration	15	N Dunes Habitat Restoration	15	N Dunes Habitat Restoration	15	N Dunes Habitat Restoration	20	N Dunes Habitat Restoration	20
		MTNP - Stream 3 Projects Constr	25	Carry Over	MTNP Invasives Removal	15	MTNP Stream Projects 4-6 Design	125	MTNP - Stream 4-6 Const	275	MTNP-Stream Projects 7&8-Design	125	MTNP-Stream 7&8 - Const.	275
		MTNP Stream Projects Grant	117	Carry Over	Carmel Cares Projects	tdb	Carmel Cares Projects	tdb	Carmel Cares Projects	tdb	Carmel Cares Projects	tdb	Carmel Cares Projects	tdb
Forestry,		Urban Forest Master Plan	20	Carry Over										
Parks & Beach		Urban Forest Master Plan - Grant	150	Carry Over										
		MTNP Tank & Well Demo	150	Carry Over										
		Scenic Pathway, Ph 2 Barrier Rails	50	Done	Shoreline Infrastructure Repairs									
		Beautification Project	25	Carry Over	Moved to Environmental									
		N Dunes Split Rail + Signage	25	Carry Over										
		N Dunes Habitat Restoration	10	Done										
		CRA Zig Zag fence on Ocean	0	Cancel										
\$1,687			\$ 662			\$ 55		\$ 165		\$ 315		\$ 170		\$ 320
		Ambulance	200	Carry Over	Radios Lease, Year 3	30	Radios Lease, Year 4	30	Radios Lease, Year 5	30	Radios Lease, Year 6	30	PW Patch Truck (1999)	120
		Ambulance (donation)	50	Carry Over	Forestry Truck (2000)	65	PW Dump Truck (1995)	150	Forestry Bucket Truck (1995)	225	Admin Vehicle (2013)	45	PW Pickup Truck (2012)	50
		Ambulance Equip. + AED	75	Carry Over	Forestry Truck (2002)	65	PD Motorcycle (2008)	30	Fire Vehicle (2010)	50	Fire Vehicle (2012)	45	Forestry Water Truck (1994)	120
Fleet &		Street Sweeper (2010 Tymco)	550	Done	PD Admin Vehicle (2006)	45	PD Animal Control (2009)	45	Ambulance Heart Monitor	30	PW Facilities Truck (2007)	70	EV Vehicles - 3CE Grants	25
Equipment		3CE rebate if electric sweeper	250	Done	EV Vehicles - 3CE Grants	tdb	EV Vehicles - 3CE Grants	25	PD Radar Trailer (2000)	20	Forestry Truck (2000)	65		
(Vehicle &		Radios Lease, Year 2	30	Done					EV Vehicles - 3CE Grants	25	EV Vehicles - 3CE Grants	50		
Equipment Fund)		2 Residential EVs (CP&B)	50	Done										
		Fire Engine	880	Done					Ambulance - Balance of \$410k	85				
\$3,625			\$ 2,085			\$ 175	\$ -	\$ 280	\$ -	\$ 465		\$ 305		\$ 315
		Beach Sand Survey	25	Carry Over	Coastal Eng Study, Ph 2	100	Coastal Eng Study, Ph 3	200	Shoreline Inf Repairs - Const 2	750	Climate Action Plan Projects	50	Climate Action Plan Projects	50
Environmental		Coastal Engineering Study, Ph I	150	Carry Over	Shoreline Inf Repairs-Design 1	250	Shoreline Inf Repairs - Const 1	750	Shoreline Inf Repairs - Const 2	250				
(Inc. Climate Change)		Wildfire Risk Assessment	20	Carry Over	Underground Utility Dist	Rule 20A	Shoreline Inf Repairs - Const 1	250	Climate Action Plan Projects	25				
		Stormwater Ordinance	-	Done			Shoreline Inf Repairs - Design 2	150						
\$3,020			\$ 195			\$ 350	\$ -	\$ 1,350	\$ -	\$ 1,025		\$ 50		\$ 50
		HML Generator	60	Carry Over	IT Servers	50	PD Records Management	200	IT Network Refresh	50	IT Equipment	60	IT Equipment	70
IT		UPS Systems	20	Done			Network Firewalls	180	Wireless Access Point	45				
		Pub Access Pty Records Yr 2	67	Done			iPhones Updated	20	GIS Upgrades	25				
\$847			\$ 147			\$ 50	\$ -	\$ 400	\$ -	\$ 120		\$ 60		\$ 70
		Libraries Master Plan	55	Done	MP Project #1 - Design	100	MP Project #1 - Construction	200	MP Project #2 - Design	250	MP Project #1 - Construction	300	MP Project #3 - Design	350
Library		HML Ext. + Int. Paint	200	Carry Over			MP Project #1 - Const - Donations	800			MP Project #1 - Const - Donations	1200		
		HML Carpet	100	Carry Over										
\$3,555			\$ 355			\$ 100		\$ 1,000		\$ 250		\$ 1,500		\$ 350
Grand Totals	\$30,163		\$10,093			\$2,350		\$5,585		\$4,955		\$4,070		\$3,110
City Funding	\$23,893		\$8,608			\$1,950		\$4,040		\$4,260		\$2,390		\$2,645
External Funding	\$6,270		\$1,485			\$400		\$1,545		\$695		\$1,680		\$465

Projects Done by Others

Category			Current FY	
			FY 2021/22	Estimate
Facilities				
Forestry, Parks & Beach			Ocean Median Split Rail Fence	\$55

	Year 1	Year 1	
Status	FY 2022/23	Estimate	Status
	Scenic Barrier Rails	\$50	Awaiting application to Planning Commission
	Scout House Renovation	\$400	Operations and Maintenance Agreement in development
Awaiting application to Planning			
	Laiolo Footbridge Design & Construction	\$50	Design in process