

CITY OF ELK GROVE



MASTER SERVICES CONTRACT FOR
AUTOMATIC LICENSE PLATE DETECTION
FLOCK GROUP, INC.

MASTER SERVICES CONTRACT

THIS MASTER SERVICES CONTRACT (“Contract”) is made on October 10, 2022 by and between City of Elk Grove, a municipal corporation (the “City”) and Flock Group Inc. a Delaware corporation registered with the California Secretary of State (the “Consultant”), collectively referred to as the “Parties.”

WITNESSETH

WHEREAS, working in collaboration with, and at the request of, community-based organizations, the City has developed “Project Sentinel” to enhance public safety utilizing Consultant’s equipment and services as set forth in the Scope of Work attached hereto and incorporated herein by this reference as **Exhibit A**.

WHEREAS, Consultant has agreed to perform the Scope of Work pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, City and Consultant agree to as follows:

1. SCOPE OF SERVICES

A. Consultant shall do all work, attend all meetings, produce all reports and carry out all activities necessary to complete the services described in the Scope of Work. This Contract and its exhibits shall be known as the “Contract Documents,” except that the Flock Services Agreement attached hereto as Attachment 1 to Exhibit A shall be referred to separately as the Flock Services Agreement. Except as otherwise provided herein, the terms set forth in any exhibits shall be deemed to be incorporated in all Contract Documents as if set forth in full therein. In the event of conflict between terms contained in these Contract Documents and the Flock Services Agreement, the Contract Documents shall control whether or not the conflicting provision of the Flock Services Agreement is expressly disclaimed.

B. Consultant agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Contract is based on such independent investigation and research.

2. TERM OF CONTRACT

A. This Contract shall be effective as of the date executed by the Parties and approved as to form by the City Attorney and shall terminate at the later of: (1) end of the day on December 31, 2027, unless extended pursuant to Section 10 (Amendments, Changes or Modifications) of this Contract; or (2) upon completion of all task orders executed pursuant to this Contract, as set forth in **Exhibit A** (Scope of Work) of this Contract; (3) earlier terminated pursuant to Section 11 of this Contract.

Notwithstanding any other provision of this Contract, the City Manager shall be authorized to extend the termination date of this Contract (including, as necessary, modification of the Scope of Work and/or Schedule of Performance as to time of performance) by a writing signed by the City Manager and the



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Consultant prior to the initial termination or any extended termination date. The automatic renewal clause contained within section 6.1 (Term) of the Flock Services Agreement shall not apply.

3. SCHEDULE FOR PERFORMANCE

City and Consultant agree that time is of the essence and Consultant agrees that services shall be undertaken and completed in accordance with the schedule of performance (the “Schedule of Performance”) attached hereto and incorporated herein by reference as **Exhibit B**, and in accordance with each individual task order issued in accordance with this Contract and as set forth in **Exhibit A**. Deviations from the time schedule stated in the Schedule of Performance may be made with the written approval of City Manager, or their authorized representative. Consultant’s failure to complete work in accordance with the Schedule of Performance may result in delayed compensation as described in Section 4.

4. COMPENSATION

A. Consultant shall be paid monthly as set forth in **Exhibit C**, “Compensation and Method of Payment,” attached hereto and incorporated herein by reference, for the actual fees, costs and expenses for the time and materials required and expended, and approved by City, but in no event shall total compensation under this Contract exceed Fifty Thousand Dollars (\$50,000.00), without City’s prior written approval. Said amount shall be paid upon submittal of a monthly invoice showing completion of the tasks that month, including the services rendered, the costs incurred for materials, the person(s) rendering performed services, the amount of time spent by such person(s), and the applicable hourly rate.

B. If Consultant’s performance is not in conformity with the Scope of Work or Schedule of Performance, payments may be delayed or denied, unless otherwise agreed to by City in writing.

C. If the work is halted at the request of City, compensation shall be based upon the proportion that the work performed bears to the total work required by this Contract, subject to Section 11.

D. If City believes that Consultant has billed City incorrectly, City must contact Consultant no later than one year (365 days) after the closing date on the billing statement in which the error or problem appeared in order to receive an adjustment or credit.

E. Late interest shall only accrue on undisputed invoices and shall accrue at the maximum rate of eight (8%) percent per annum on the undisputed outstanding balances not paid within the time period required herein.

5. NOTICES

A. Consultant shall transmit invoices and any notices to City, with copy (excepting invoices) to City Attorney, as follows:



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City of Elk Grove
Attn: Finance Department
8401 Laguna Palms Way
Elk Grove, California 95758

City of Elk Grove
Attn: City Attorney's Office
8401 Laguna Palms Way
Elk Grove, California 95758

B. City shall transmit payments on invoiced amounts, and any notices required by this Contract to Consultant as follows:

Flock Group Inc.
Attn: Alex Latraverse
1170 Howell Mill Road NW, Ste 210
Atlanta, GA 30318

C. The receiving party may change the address for notices, invoices, or payment by delivering to the other party written notice of the new address for notices, invoices, or payment, which notice shall be effective ten (10) days after receipt.

6. PROFESSIONAL SERVICES

Consultant agrees that services shall be performed and completed in the manner and according to the professional standards observed by a competent practitioner of the profession in which Consultant and its subcontractors or agents are engaged. Consultant shall not, either during or after the term of this Contract, make public any reports or articles, or disclose to any third party any information, confidential or otherwise, relative to the work of City or the operations or procedures of City without the prior written consent of City.

Consultant further agrees that it shall not, during the term of this Contract, take any action that would affect its impartiality or professionalism due to City whether perceived or actual.

7. INDEPENDENT CONTRACTOR

A. It is understood and agreed that Consultant (including Consultant's employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto.

B. Consultant's assigned personnel shall not be entitled to any benefits payable to employees of City.

C. City is not required to make any deductions or withholdings from the compensation payable to Consultant under the provisions of the Contract and is not required to issue W-2 Forms for income and employment tax purposes for any of Consultant's assigned personnel.

D. Consultant, in the performance of its obligation hereunder, is only subject to the control or direction of City as to the designation of tasks to be performed and the results to be accomplished.



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E. Any third-party person(s) employed by Consultant shall be entirely and exclusively under the direction, supervision, and control of Consultant.

F. Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Contract.

8. AUTHORITY OF CONSULTANT

Consultant shall possess no authority with respect to any City decision and no right to act on behalf of City in any capacity whatsoever as agent, or to bind City to any obligations whatsoever.

9. CONFLICT OF INTEREST

Consultant certifies that it has disclosed to City any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Contract. Consultant agrees to advise City of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Contract. Consultant further agrees to complete any statements of economic interest if required by either City ordinance or State law.

10. AMENDMENTS, CHANGES OR MODIFICATIONS

Amendments, changes or modifications in the terms of this Contract may be made at any time by mutual written agreement between the Parties hereto and shall be signed by the persons authorized to bind the Parties.

11. TERMINATION

A. This Contract may be terminated by City, provided that City gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, City shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Section 15, Property of City.

B. City may temporarily suspend this Contract, at no additional cost to City, provided that Consultant is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If City gives such notice of temporary suspension, Consultant shall immediately suspend its activities under this Contract. A temporary suspension may be issued concurrent with the notice of termination provided for in subsection A of this section.

C. Notwithstanding any provisions of this Contract, Consultant shall not be relieved of liability to City for damages sustained by City by virtue of any breach of this Contract by Consultant, and City may withhold any payments due to Consultant until such time as the exact amount of damages, if any, due City from Consultant is determined.



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D. In the event of termination, Consultant shall be compensated as provided for in this Contract, except as provided in Section 11C. Upon termination, City shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Section 15, Property of City.

E. Section 6.3 (Termination) of the Flock Services Agreement shall not apply.

12. FUNDING

Consultant agrees and understands that renewal of this Contract in subsequent years is contingent upon action by City Council consistent with the appropriations limits of Article XIII B of the California Constitution and that the City Council may determine not to fund this Contract in subsequent years.

13. NOTICE TO PROCEED

Prior to commencing work under this Contract, Consultant shall receive a written “Notice to Proceed” from City. A Notice to Proceed shall not be issued until all necessary bonds and insurances have been received. City shall not be obligated to pay Consultant for any services prior to issuance of the Notice to Proceed.

14. EXTENSIONS OF TIME

Consultant may, for good cause, request extensions of time to perform the services required hereunder. Such extensions must be authorized in advance by City, in writing, and at City’s sole discretion. Such extensions, if authorized, shall be incorporated in written amendments to this Contract or the attached Scope of Work in the manner provided in Section 10.

15. PROPERTY OF CITY

A. It is mutually agreed that all materials prepared by Consultant under this Contract shall become the property of City, and Consultant shall have no property right therein whatsoever except that all equipment and software owned by Consultant shall remain the property of Consultant. Immediately upon termination, City shall be entitled to, and Consultant shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by Consultant in performing this Contract which is not Consultant’s privileged information, as defined by law, or Consultant’s personnel information, along with all other property belonging exclusively to City which is in Consultant’s possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this Contract must be approved in writing by City.

B. Additionally, it is agreed that the Parties intend this to be a contract for services and each considers the products and results of the services to be rendered by Consultant hereunder to be work



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made for hire. Consultant acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.

C. Nothing herein shall constitute or be construed to be any representation by Consultant that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.

16. COMPLIANCE WITH LAW

Consultant shall comply with all applicable laws, ordinances, and codes of federal, State and local governments, and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract.

17. REPRESENTATIONS

A. Consultant agrees and represents that it is qualified to properly provide the services set forth herein, in a manner which is consistent with the generally accepted standards of Consultant's profession.

B. Consultant agrees and represents that the work performed under this Contract shall be in accordance with applicable federal, State and local law.

C. Consultant shall designate a project manager who at all times shall represent Consultant before City on all matters relating to this Contract. The project manager shall continue in such capacity unless and until he or she is removed at the request of City, is no longer employed by Consultant, or is replaced with the written approval of City, which approval shall not be unreasonably withheld.

D. Consultant shall provide corrective services without charge to City for services which fail to meet the above professional and legal standards and which are reported to Consultant in writing within sixty (60) calendar days of discovery. Should Consultant fail or refuse to perform promptly its obligations, City may render or undertake performance thereof and Consultant shall be liable for any expenses thereby incurred.

18. APPROVAL OF STAFF MEMBERS

A. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Contract. Consultant shall notify City of any changes in Consultant's staff to be assigned to perform the services required under this Contract and shall obtain the approval of the City Manager of a list of all proposed staff members who are to be assigned to perform services under this Contract prior to any such performance.



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19. ASSIGNMENT AND SUBCONTRACTING

A. Except as expressly authorized herein, Consultant's obligations under this Contract are not assignable or transferable without prior written approval of City, not to be unreasonably withheld, and Consultant shall not subcontract any work, without the prior written approval of City. However, claims for money due or which become due to Consultant from City under this Contract may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to City.

B. Consultant shall be as fully responsible to City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by Consultant.

20. MATERIALS CONFIDENTIAL

All of the materials prepared or assembled by Consultant pursuant to performance of this Contract are confidential and Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If Consultant or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from Consultant for any damages caused by Consultant releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

21. LIABILITY OF CONSULTANT—NEGLIGENCE

Consultant shall be responsible for performing the work under this Contract in a manner which is consistent with the generally-accepted standards of Consultant's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. City shall have no right of control over the manner in which the work is to be done but only as to its outcome and shall not be charged with the responsibility of preventing risk to Consultant or its employees, agents, contractors or subcontractors.

22. INDEMNITY AND LITIGATION COSTS

To the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorneys' and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this Contract on the part of Consultant, except such loss or damage which was caused by the sole negligence, or willful misconduct of City, as determined by a Court of competent jurisdiction. Unless and until such judicial determination is made, or as otherwise agreed by the parties,



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Contractor shall remain obligated to defend, indemnify, and hold harmless City, its officers, officials, employees, volunteers, and agents pursuant to this Contract. The provisions of this section shall survive termination or suspension of this Contract.

In any contract that Consultant enters into with any subcontractor in any capacity related to any and all duties under this Contract, there must be an indemnification provision identical to the one provided in this Section applicable to the subcontractor requiring the subcontractor to assume the defense, indemnify and save harmless City to the same extent as Consultant. Consultant's failure to include such an indemnification provision in any contract with a subcontractor shall constitute a material breach of this Contract. In the event Consultant fails to obtain such indemnity obligations from others as required herein, Consultant agrees to be fully responsible and indemnify, and save harmless City as prescribed under this Section.

23. EVIDENCE OF INSURANCE COVERAGE

Prior to commencement of any work under this Contract, Consultant shall provide and maintain in effect during the term of this Contract evidence of insurance coverage as set forth in **Exhibit D**, attached hereto and incorporated herein by reference. These insurance requirements are summarized as follows:

TYPE	SINGLE LIMIT / OCCURRENCE	AGGREGATE	ENDORSEMENTS***
General Liability	\$1,000,000	\$1,000,000	Additional Insured Waiver of Subrogation Primary & Non-Contributory
Cyber Liability	\$1,000,000	\$1,000,000	Additional Insured Waiver of Subrogation

*****Must be actual endorsements. Typed statements on Certificates of Liability are unacceptable. This is a summary only. Please refer to the insurance section and/or exhibit of this Agreement for specific requirements.**

Furthermore, Consultant shall certify its compliance with Labor Code Section 3700 in the form attached hereto and incorporated by reference, as **Exhibit E**.

24. EVIDENCE OF INSURANCE COMPLIANCE

Consultant or its insurance broker shall deliver the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage to City. City may designate an insurance certificate processor ("Processor") to accept and process Consultant's proof of insurance. Consultant shall deliver copies of the actual insurance policies, renewals, or replacements directly to City or Processor upon their request.



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25. EMPLOYMENT PRACTICES

Consultant, by execution of this Contract, certifies that it does not discriminate against any person upon the basis of race, color, creed, national origin, age, sex, disability or marital status in its employment practices.

26. UNAUTHORIZED ALIENS

Consultant hereby promises and agrees to comply with all of the provisions of the federal immigration and nationality act (8 U.S.C.A. § 1101 et seq.), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Contract, and should the federal government impose sanctions against City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City in connection therewith.

27. LICENSES, PERMITS, AND OTHER APPROVALS

Consultant represents and warrants to City that it has all licenses, permits, qualifications and approvals of whatsoever nature legally required for Consultant to practice its profession and perform the work described herein. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, obtain and/or keep in effect at all times during the term of this Contract any licenses, permits, and approvals which are legally required for Consultant to practice its profession at the time the services are performed.

28. RECORDS AND INSPECTION

Consultant shall maintain records, books, documents and other evidence directly pertinent to the performance of work under this Contract in accordance with generally accepted accounting principles and practices. City shall have the right to access and examine such records, without charge, during normal business hours. City shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

29. MISCELLANEOUS PROVISIONS

A. Attorneys' Fees: In the event an action or proceeding is instituted by either party for the breach or enforcement of any provision of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and all litigation expenses, including, but not limited to expert's fees and disbursements.

B. Venue: This Contract shall be deemed to be made in, and the rights and liabilities of the Parties, and the interpretation and construction of the Contract governed by and construed in accordance with the laws of the State of California. Any legal action arising out of this Contract shall be filed in and adjudicated by a court of competent jurisdiction in the County of Sacramento, State of California.



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C. Enforceability: If any term or provision of this Contract is found to be void, voidable, invalid or unenforceable by a court of competent jurisdiction under the laws of the State of California, any and all of the remaining terms and provisions of this Contract shall remain binding.

D. Time: All times stated herein or in any other Contract Documents are of the essence.

E. Binding: This Contract shall bind and inure to the heirs, devisees, assignees and successors in interest of Consultant and to the successors in interest of City in the same manner as if such parties had been expressly named herein.

F. Survivorship: Any responsibility of Consultant for warranties, insurance, indemnity, record-keeping or compliance with laws with respect to this Contract shall not be invalidated due to the expiration, termination or cancellation of this Contract.

G. Construction and Interpretation: Consultant and City agree and acknowledge that the provisions of this Contract have been arrived at through negotiation and that each party has had a full and fair opportunity to revise the provisions of this Contract and to have such provisions reviewed by legal counsel. Therefore, any ambiguities in construing or interpreting this Contract shall not be resolved against the drafting party. The titles of the various sections are merely informational and shall not be construed as a substantive portion of this Contract.

H. Waiver: The waiver at any time by any party of any of its rights with respect to a default or other matter arising in connection with this Contract shall not be deemed a waiver with respect to any subsequent default or other matter.

I. Severability: The invalidity, illegality or unenforceability, of any provision of this Contract shall not render the other provisions invalid, illegal or unenforceable.

J. No Third-Party Beneficiary: It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to City and Consultant. Nothing contained in the agreement shall give or allow any claim or right of action whatsoever by any third party. It is the express intent of City and Consultant that any such person or entity, other than City or Consultant, receiving benefits or services under this agreement shall be deemed as incidental beneficiary.

K. Non-Discrimination/Non-Preferential Treatment Statement: In performing this Contract, the parties shall not discriminate or grant preferential treatment on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, and shall comply to the fullest extent allowed by law, with all applicable local, state, and federal laws relating to nondiscrimination.

L. Authority to Execute: The person or persons executing this Contract on behalf of Consultant warrant and represent that they have the authority to execute this Contract on behalf of their agency and further warrant and represent that they have the authority to bind Consultant to the performance of its obligations hereunder.



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M. Dispute Resolution: Prior to either party commencing any legal action under this Contract, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may pursue available legal and equitable remedies the other.

N. Force Majeure: Neither party shall be in default by reason of any failure in the performance of this Contract if such failure arises out of causes beyond its reasonable control. Such causes may include, but are not limited to, acts of God, acts of the public enemy, acts of government in either its sovereign or contractual capacity, acts of the party whose performance is not sought to be excused, fires, flood, weather, epidemics, quarantine restrictions, strikes, freight embargoes, failure of transmission or power supply, mechanical difficulties with equipment which could not have been reasonably forecasted or provided for, or other causes beyond its sole control. The party so affected will resume performance as soon as practicable after the force majeure event terminates.

O. California Prevailing Wage Requirements. The Consultant and any subconsultant hired by Consultant shall comply with California Labor Code section 1720, et seq., regarding the payment of prevailing wage to the extent applicable to the activities undertaken pursuant to this Contract. Prevailing wage rates may be obtained from the California Director of Industrial Relations. The Consultant shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

(1) The Consultant acknowledges that it has examined the prevailing rate of per diem wages as established by the California Director of Industrial Relations. The Consultant agrees to pay workers not less than the applicable prevailing rate of per diem wages.

(2) Consultant shall keep an accurate payroll record which shows the name, address, social security number, correct work classification (in accordance with the wage decision), both straight and overtime worked each day and week, and hourly rate of pay, gross wages earned, deductions made and net wages paid to each journeyman, apprentice (attention shall be directed to California Labor Code Section 1777.5 for compliance), worker or other employee paid by the Consultant/subconsultant in connection with the Work.

(3) These payroll records shall be certified and shall be made available at Consultant's principal office. These records shall be maintained during the course of the contract. The Consultant and all subconsultants shall make the certified payroll records available for inspection by City representatives upon request and shall permit such representatives to interview employees during the work hours on the job site.

(4) The City shall notify the Consultant in writing of any discrepancies or violations that are discovered during such inspections. Written notification pursuant to this Section shall include the actions that will be necessary to resolve the discrepancies and/or violations. The Consultant shall be held entirely responsible for the prompt resolution of all non-compliances with the prevailing wage laws, including those pertaining to all subconsultants and any lower-tier subconsultants.



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(5) Consultant shall indemnify, defend, release and hold the City harmless from any and all claims related to Consultant’s failure to comply with California Labor Code section 1720, et seq.

The project will not be accepted as complete by the City nor final payment made until all items of non-compliance are corrected or until appropriate provision is made by depository agreement to assure the ultimate resolution and payment of any back wages that may be found due.

30. ENTIRE AGREEMENT

This instrument and any attachments hereto, including the Flock Services Agreement, constitute the entire Contract between City and Consultant concerning the subject matter hereof and supersedes any and all prior oral and written communications between the Parties regarding the subject matter hereof.

AGREED to this 10th day of October, 2022, by the Parties as follows:

Approved to as form:

CONSULTANT

By: _____
Attorney for Consultant

By: Mark Smith 10/6/2022 | 4:21 PM PDT

Approved as to form:

CITY OF ELK GROVE

By: Jonathan P. Hobbs 10/7/2022 | 7:19 AM PDT
Jonathan P. Hobbs, City Attorney

By: [Signature] 10/10/2022 | 8:18 AM PDT
Jason Behrmann, City Manager

Attest to:

By: [Signature]
Jason Lindgren, City Clerk

Dated: 10/10/2022 | 8:23 AM PDT



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EXHIBIT A

Scope of Work

1. On a task order basis, Consultant shall place Consultant’s automatic license plate readers (“ALPR”) at the locations set forth on each separate task order. City and Consultant shall utilize the task order form attached hereto and incorporated herein by reference as “Attachment 1.” Each Task Order shall continue for the duration stated therein, unless extended in writing by mutual agreement of City and Consultant. The terms of this Contract shall govern each Task Order. For each ALPR location, Consultant shall provide the Elk Grove Police Department (EGPD) with Flock Access, a software and hardware solution for ALPRs through Flock’s technology platform, as further set forth in the Flock Group, Inc. Proposal and Services Agreement (collectively referred to as the “Flock Services Agreement”) which is attached hereto and incorporated herein by reference as Attachment 2 to Exhibit A. In the event of a conflict between the terms and conditions of this Contract and the Services Agreement, the terms and conditions of this Contract shall control.
2. Elk Grove Police Department employees shall have access to the Flock Technology Platform 24 hours a day, 7 days a week. The community groups requesting participation in Project Sentinel shall have no access to any data or other services provided by Consultant; and City maintains control over the use and location of the ALPRs.
3. Consultant’s data and information systems shall comply with minimum federal regulations of FBI Criminal Justice Information Services (CJIS).

ACCESS TO CITY PROPERTY

Prior to accessing any City property for purposes of install, maintaining, repairing, or removing its property and/or equipment, Consultant shall apply for and obtain a City-issued encroachment or other permit if required by the City’s Public Works Department. Any cost to obtain any required permits shall be for Consultant’s account.

No ALPRs shall be placed on private property without first obtaining the prior written consent of the City and all private property owners.

REMOVAL OF PROPERTY AND EQUIPMENT

Upon termination or expiration of this Contract, Consultant shall remove all Consultant-owned property and equipment and return the property to the same condition it was in prior to Consultant’s installation of its property and/or equipment.

MAINTENANCE.

Prior to installing any equipment and/or property related to this Contract, Consultant agrees to obtain a permit from the City for such work, and agrees to safely and properly maintain any



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encroachment placed by Consultant in the City right-of-way in accordance with the highest of industry standards. If Consultant fails to meet this requirement to the sole satisfaction of the City as determined by the City Engineer, the Consultant shall be liable for all loss, damage, expense, or claim incurred by the City by reason of any encroachment on City property; expenses include, but are not limited to, correcting, repairing, or eliminating the encroachment and any tort liabilities.

APPROVAL OF SITE LOCATIONS.

Site locations shall be approved by the City prior to work being installed, and shall be stated on the approved Task Order.

TRAFFIC CONTROL.

Consultant shall provide a Traffic Control Plan (“TCP”) to the City for approval prior to any work being done in the City right-of-way. TCPs shall comply with guidelines and mandates provided in Part 6 of the California Manual on Traffic Control Devices and local provisions and shall be approved by the City’s Public Works Department.

FLOCK SERVICES AGREEMENT

Any changes to the Flock Services Agreement, or any referenced agreements, terms, or conditions incorporated therein, shall not be binding on the City unless the City has agreed to those changes in advance and in writing, signed by an authorized City employee.

Any references to governing law, venue or forum contained within the Flock Services Agreement is in direct conflict of this Contract; only California law, venue and forum shall apply.

Consultant shall comply with all applicable law, including, without limitation, California Civil Code section 1798.90.5, et seq.

Section 8.1(F) (Limitation of Liability) of the Flock Services Agreement is expressly disclaimed and shall not apply to this Contract.

Section 8.2 (Additional No-Fee Term Requirements) of the Flock Services Agreement is expressly disclaimed and shall not apply to this Contract.

Section 10.6 (Governing Law; Venue) of the Flock Services Agreement is expressly disclaimed and shall not apply to this Contract.

Section 10.7 (Publicity) of the Flock Services Agreement is expressly disclaimed and shall not apply to this Contract.

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ATTACHMENT 1 TO EXHIBIT A

(See Attached)



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PROJECT SENTINEL

**TASK ORDER NO. _____
TO THE MASTER SERVICES AGREEMENT
BETWEEN THE CITY OF ELK GROVE AND FLOCK GROUP, INC.**

THIS TASK ORDER (“Task Order”), dated for convenience this _____ day of _____, 20__ is made and entered into by and between Flock Group, Inc., a Delaware corporation registered with the California Secretary of State (“CONSULTANT”) and the City of Elk Grove, a California (“CITY”) pursuant to the Master Services Contract entered into the parties on or about _____, with contract ref. C-22-_____ (“Master Services Contract”). The City and Consultant agree as follows:

AGREEMENT

- (1) INCORPORATION OF MASTER SERVICES CONTRACT. This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Services Contract for Automatic License Plate Readers (“ALPR”) and related equipment, software, and services.
- (2) Scope of Service. Consultant agrees to perform the work set forth in Exhibit A of the Master Services Contract and install ALPR(s) at the location(s) stated below (“Location(s)”):

[INSERT LOCATION ADDRESSES]

- (3) Time of Performance. Consultant shall complete installation of the ALPR(s) at the Location(s) between the following dates:

Installation start date: _____

Installation end date: _____

Unless amended, modified, or changed pursuant to Section 10 of the Master Services Contract, Consultant shall remove the ALPR(s) from the Location(s) between the following dates:

Removal start date: _____

Removal end date: _____

- (4) Compensation. Consultant shall be compensated at the rates set forth in Exhibit C



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(Compensation and Method of Payment) of the Master Services Contract.

- (5) Notice to Proceed. Prior to commencing work under this Task Order, Consultant shall receive a written “Notice to Proceed” from City. A Notice to Proceed shall not be issued until all necessary insurance has been received. City shall not be obligated to pay Consultant for any services prior to issuance of the Notice to Proceed.
- (6) Signatures. The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the Consultant and the City. This agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

AGREED to this _____ day of _____, 20____, by the Parties as follows:

Approved to as form:

CONSULTANT

By: _____
Attorney for Consultant

By: _____

Approved as to form:

CITY OF ELK GROVE

By: _____
Jonathan P. Hobbs, City Attorney

By: _____
Jason Behrmann, City Manager

Attest to:

By: _____
Jason Lindgren, City Clerk

Dated: _____

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ATTACHMENT 2 TO EXHIBIT A

(See Attached)

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EXHIBIT B

Schedule of Performance

Consultant shall complete the installation and implementation of the Flock Falcon Camera systems as set forth on each individual Task Order. Thereafter, during the remaining term of the Contract, including any optional extension periods, Consultant shall perform all work as required under this Contract; if no specific time frame is stated herein, Consultant shall perform work in a reasonably diligent manner on a time schedule that meets the City's needs.



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EXHIBIT C
Compensation and Method of Payment

For the work to be performed under this Contract and in accordance with each Task Order, Consultant shall be compensated for each ALPR at a designation location at the prices set forth below:

Product/Service	Annual Cost/Item
Flock Falcon Camera System – includes camera hardware, maintenance and support, camera software, software updates, unlimited users, 30 days unlimited data storage, solar panels, poles, LTE connectivity, mounting equipment, and monitoring.	\$2,500.00
Product/Service	One-Time Cost/Item
Implementation Fee*	\$350

*One-time fee per camera system.

The prices set forth above are inclusive of the services provided by Consultant under this Contract. Any services provided under this Contract that are not expressly listed above shall be provided at no additional cost to the City.

Upon execution of the Contract, City has the option to terminate the Contract at no cost to City for the first sixty (60) days.

At City's sole discretion, City may increase the quantity of cameras at the pricing outlined above during the term of this Contract.

Consultant shall invoice City on an annual basis and shall receive payment within 30 days of City's receipt on an undisputed invoice. The first invoice shall be sent to City after the initial sixty (60) days of the Contract term and shall include the one-time implementation fees.

Under no circumstances shall the aggregate amount paid under this Contract exceed the amount specified in Section 4A above and if the Contract is approved by the City Manager, all compensation paid to Consultant each year shall meet the cost limitation set forth in City of Elk Grove Municipal Code Chapter 3.42.



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EXHIBIT D

Insurance Requirements

Prior to commencement of any work under this Contract, Consultant shall provide to the City proof of, and maintain in full force and effect at all times during the term of the Contract, at its sole cost and expense, policies of insurance as set forth herein. Consultant shall comply with all reporting and other provisions of the policies of insurance as set forth herein including, but not limited to, timely reporting of claims and suits, and fulfillment of self-insured retentions.

1. General Liability:
 - a. Comprehensive general liability insurance including, but not limited to, protection for claims of personal & advertising injury liability.
 - b. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
 - c. Claims-made coverage is not acceptable.
 - d. The limits of liability shall not be less than:

Each occurrence:	One Million Dollars (\$1,000,000)
Personal & Advertising Injury:	One Million Dollars (\$1,000,000)
Aggregate:	One Million Dollars (\$1,000,000)
 - e. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents, and authorized volunteers for losses arising from work performed by the Consultant.

2. Cyber Liability
 - a. Cyber liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence or claim.
 - b. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this Contract and shall include, but not be limited to, claims involving security breach, cyber extortion, social engineering, invasion of privacy violations, information theft, and release of private information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses. The policy shall provide coverage for third-party liability (claims against the City).

3. Other Insurance Provisions: The general liability and cyber liability coverage shall contain the following provisions and endorsements:



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- a. The City, its officials, employees, agents and authorized volunteers shall be covered and specifically named as additional insured as respects liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied, or used by the Consultant, or automobiles leased, hired, or borrowed by the Consultant on a separate endorsement acceptable to the City.
 - b. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents, and authorized volunteers for losses arising from work performed by the Consultant.
 - c. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents, or authorized volunteers.
 - d. Provision or endorsement stating that for any claims related to this contract, the Consultant's insurance coverage shall be primary insurance as respects the City, its officials, employees, agents, and authorized volunteers to the extent the City is an additional insured. Any insurance or self-insurance maintained by the City, its officials, employees, agents, or authorized volunteers shall be in excess of the Consultant's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss or judgment.
4. Acceptability of Insurers: Insurance is to be placed with insurers with a **Bests' rating of no less than A:VII**.
 5. Any deductibles, aggregate limits, pending claims or lawsuits that may diminish the aggregate limits, or self-insured retention(s), must be declared to, and approved by, the City.
 6. The Consultant shall furnish the City with certificates of insurance and original endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this Contract. At the written request of the City, Consultant agrees to furnish a duplicate original or certified copy of each required policy including the declaration pages, conditions, provisions, endorsements, and exclusions.
 7. The City, due to unforeseen risk or exhaustion, failure, or dilution of Consultant's insurance coverage, at its discretion, may increase the amounts and types of insurance coverage required hereunder at any time during the term of the contract by giving 30 days written notice.
 8. The Consultant shall serve the City notice, in writing by certified mail, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement that concern the suspension, voidance, cancellation, termination, reduction in coverage or limits, non-renewal, or material changes of coverage proposed or otherwise.
 9. If the Consultant fails to procure or maintain insurance as required by this section, and any



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Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due the Consultant under the contract.

10. Failure of the City to obtain such insurance shall in no way relieve the Consultant from any of its responsibilities under the contract.
11. The making of progress payments to the Consultant shall not be construed as relieving the Consultant or its Sub-Consultants or agents of responsibility for loss or direct physical loss, damage, or destruction occurring prior to final acceptance by the City.
12. The failure of the City to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at any time during the term of the contract.
13. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Consultant are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Consultant under the Contract.



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EXHIBIT E

Certificate of Compliance With Labor Code § 3700, Release and Indemnification

The undersigned, on behalf of and as the duly certified representative of Consultant, certifies as follows:

1. Consultant is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and Consultant has complied or will comply with such provisions before commencing the performance of the work of this contract.

2. Should Consultant fail to secure Workers’ Compensation coverage as required by the State of California, Consultant shall release, hold harmless, defend and indemnify City of Elk Grove from and against any damage, liability, claim, cause of action and any other loss, including without limitation, court costs, reasonable attorney’s fees and costs resulting from any failure to take and/or maintain Workers’ Compensation insurance as required by law. The provisions of this Exhibit shall survive termination, suspension and/or completion of this Contract. It is further understood and agreed that this release and assumption of risk is to be binding on Consultant’s successors, heirs and assigns.

CONSULTANT

By: Mark Smith

Date: 10/6/2022 | 4:21 PM PDT

Name: Mark Smith

Title: General Counsel