RESOLUTION NO.

WHEREAS, license plate readers gather objective and unbiased facts about vehicles; and

WHEREAS, license plate reader technology focuses solely on extracting empirical data, primarily the license plate numbers which Texas state law requires to be affixed to every vehicle; and

WHEREAS, license plate readers only record the vehicle make, model, and license plate number of a vehicle; and

WHEREAS, license plate readers are not a "live camera" and cannot be used for surveillance, traffic enforcement, or any other purpose; and

WHEREAS, these cameras do not capture images of vehicle drivers; and

WHEREAS, maintaining the privacy of the data collected through license plate readers is paramount; and

WHEREAS, the license plate readers historically used by the Austin Police Department are categorically objective and cannot collect information in ways that discriminate against any resident in the City; and

WHEREAS, the use of license plate readers assists police departments across the country by increasing their investigative efficacy while reducing unnecessary delays in pursuing leads; and

WHEREAS, camera data helps solve crimes when crimes occur; and

WHEREAS, license plate readers previously helped the Austin Police Department locate stolen or wanted vehicles, vehicles connected to AMBER

DRAFT

Alerts, Silver Alerts, missing person reports, abductions reports, and vehicles connected to other crimes; and

WHEREAS, the use of license plate readers bolsters the capability of local law enforcement to act and apprehend criminals swiftly, leading to the deterrence of crimes; and

WHEREAS, re-introducing license plate readers to the Austin Police Department will help reduce crime, will prevent residents and visitors to the City from being victimized, particularly from car and property thefts, and will lead to deterrence of crime; and

WHEREAS, license plate readers can notify Austin Police Department officers within seconds that a license plate has passed within the device's range, allowing Austin Police Department officers to take immediate action in furtherance of public safety; and

WHEREAS, the Texas Penal Code creates a criminal offense for an officer or other public servant who intentionally or knowingly misuses information from the license plate reader with the intent of obtaining a benefit, harming, defrauding, oppressing another person, or disclosing the information for a nongovernmental purpose that has not otherwise been made public; and

WHEREAS, the Austin Police Department's General Orders include rules on the Security and Release of Records and Information, General Conduct and Responsibilities, Racial or Biased Profiling, Responsibility to the Community, and other orders to ensure officers keep private or confidential information secure, know and comply with laws, do not engage in racial or biased profiling, perform their services in an impartial and equitable manner, and provide equal and fair

DRAFT

protection of all rights under local, state, and federal law for all members of the community; and

WHEREAS, a violation of General Orders provides cause to discipline a police officer under Section 143.052 of the Texas Local Government Code and Rule 10 of the Rules of Procedure for the Firefighters', Police Officers' and Emergency Medical Service Personnel's Civil Service Commission; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council directs the City Manager to identify funding in the amount of $114,775.00 that can be used for the license reader program in the Fiscal Year 2021-2022 budget and return with any actions that are necessary for Council to authorize this expenditure.

BE IT FURTHER RESOLVED:

Council directs the City Manager to include authorization for continuation of the license reader program for Council consideration during the upcoming budget adoption for Fiscal Year 2022-2023.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to re-evaluate the Austin Police Department's former policy and/or procedure on license plate readers; work with the Office of Police Oversight and coordinate a minimum of two community input sessions related to the policy; and take appropriate steps to ensure the policy and/or procedure includes, but is not limited to, the following safeguards.

DRAFT

1. Data used for the license plate reader program will be kept for a maximum of 30 days and destroyed thereafter. License plate reader data that is related to a criminal case or investigation may be stored in a criminal case folder for that case or investigation for longer periods as needed. One year from the passage of this Resolution, the Austin Police Department will return to Council to provide an evaluation of the 30-day data retention policy and its effectiveness.

2. Data sharing will only occur for investigating and/or prosecuting criminal activity for APD. If ~~unless~~ a circumstance arises where the City is required by state or federal law to share the information at the request of a state or federal agency for another law enforcement purpose, then APD will not grant direct access to the database, but will supply the requested information for a specific case or investigation to the extent legally possible. ~~able by state and federal law.~~ If the City receives a request for information that is broader than a specific case or investigation, then APD will report that request to the Office of Police Oversight, Mayor, and Council prior to sharing any information.

3. Annual training of all Austin Police Department personnel will be conducted on the policies and restrictions concerning license plate reader camera use and data, including how to properly respond to requests for data from other law enforcement agencies.

~~4. An annual audit and review on license plate reader data and program will be conducted by the Austin Police Department, and to the extent allowed by the law, information obtained by the audit and review will~~

~~be shared with the Office of Police Oversight and the Public Safety Committee~~ and the Public Safety Commission. ~~Except for law enforcement sensitive information and information considered to be confidential by law, either constitutionally, statutorily, or by judicial decision, the audit and review will be posted on the City's website for the public to view. The audit shall include two reports from staff that will be provided to the City Council in April of 2023 and in October of 2023. This audit shall include:~~

~~A.~~ ~~How, why, and by whom the devices were used;~~

~~B.~~ ~~When and the number of times the devices were used;~~

~~C.~~ ~~Number and locations of cameras used;~~

~~D.~~ ~~Action taken due to the device; and~~

~~E.~~ ~~Demographic information on who the devices were used on.~~

5. The City Manager will post the Austin Police Department's usage and privacy policy regarding license plate readers on the City's website.

6. No person will be the subject of police action ~~solely~~ because of actual or perceived race, color, religion, creed, sex, gender, gender identity, sexual orientation, age, national origin, ethnicity, disability, veteran status, marital status, partnership status, political affiliation or beliefs, and, to the extent permitted by law, alienage or citizenship status, when license plate reader data is used.

7. Unless there is a criminal nexus, officers will not use license plate reader data for the purpose of investigating persons who are

exercising their First Amendment rights, including freedom of speech, assembly, and exercise of religion, such as attending ~~ALPR operators will attempt to avoid public gatherings such as~~ political rallies, public demonstrations, and religious gatherings.~~, if the sole purpose is to obtain plate reader intelligence. This does not preclude members from responding to a call for service where there may be incidental plate reads, or from searching for stolen vehicles and vehicles of interest in these areas.~~

~~8. The license plate reader data collected by the Austin Police Department will not be used for the purpose of investigations related to immigration status or access to reproductive health services to the extent legally possible.~~

9. A license plate reader alert alone, does not create reasonable suspicion to justify a traffic stop or the detention of an individual. Before making a stop or detention, the officer must: 1. Make a visual confirmation that the license plate matches the information captured by the license plate reader and reported in the last alert; and 2. Confirm the license plate information with the National Crime Information Center / Texas Crime Information Center.

10. The license plate reader data collected by the Austin Police Department will not be used for the purpose of collecting traffic fines, warrant roundups, or any other similar purpose of generating revenue or collecting money owed by the public.

~~11. The license plate reader data collected by the Austin Police Department will not be used for the purpose of investigations related~~

~~to immigration status or access to reproductive health services to the extent legally possible.~~

12. The Austin Police Department will use best practice and data security including, but not limited to:

A. Role-based access to limit database access to specific officers, who are ordered to operate in compliance with policy or else be subject to disciplinary action; and

B. Designation of a Chief Security Officer with responsibility for the following: receiving daily alerts on attempts to log in, limiting access to the license plate database for only permissible use, and/or regularly monitoring access to data stored under this provision; and

C. Other best practice provisions related to data security for data storage, including the most secure options available for maintaining data.

The City Manager is directed to consult with the City of Austin Chief Security Officer in the development of these provisions.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to ensure the Austin Police Department Chief takes appropriate steps to implement changes to the former policy and/or procedure and restore the Austin Police Department's license plate reader program by October 1, 2022, if funding is appropriated by Council for this purpose.

DRAFT

BE IT FURTHER RESOLVED:

The City Council directs the City Auditor to review or hire an external party to audit APD's ALPR audit process and review the license plate reader data and program. This will be done with assistance from the Austin Police Department, and to the extent allowed by law, information obtained by the audit and review will be shared with the City Council's Public Safety Committee, the Office of Police Oversight, and the Public Safety Commission. Except for law enforcement sensitive information and information considered to be confidential by law, either constitutionally, statutorily, or by judicial decision, the audit and review will be posted on the City's website for the public to view. The audit shall be provided to the City Council by end of the pilot program. This audit shall include, but not be limited to:

A. How, why, and by whom the devices were used;

B. When and the number of times the devices were used;

C. Number and locations of cameras used;

D. Action(s) taken due to the device; and

E. Demographic information on who the devices were used on.

The location of the cameras shall not be posted on the City's website or subject to public disclosure unless required by state or federal law.

BE IT FURTHER RESOLVED:

The program's pilot will automatically cease at the end of fiscal year 2023, unless further extended by Council. Four months prior to the cease of the pilot

DRAFT

program, the City Manager will present recommendations on the continuation of the program to Council during a work session, with action to be taken at the following Council meeting.

ADOPTED: _____, 2022 **ATTEST:** _____
Myrna Rios
City Clerk

DRAFT