



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Adopt resolution dispensing with competitive bidding pursuant to Elk Grove Municipal Code Section 3.42.180(B)(3) and authorizing the City Manager to execute an agreement with Enforcement Video LLC, doing business as WatchGuard Video, for the purchase of police body-worn cameras in an amount not to exceed \$130,500

MEETING DATE: December 9, 2015

PREPARED BY: Nicole York, Sr. Management Analyst

DEPARTMENT HEAD: Robert Lehner, Chief of Police

RECOMMENDED ACTION:

Staff recommends that the City Council adopt a resolution dispensing with competitive bidding pursuant to Elk Grove Municipal Code Section 3.42.180(B)(3) and authorizing the City Manager to execute an agreement with Enforcement Video LLC, doing business as WatchGuard Video, for the purchase of police body-worn cameras in an amount not to exceed \$130,500.

BACKGROUND INFORMATION:

Body-worn cameras provide law enforcement an additional layer of documentation for events, actions, conditions, and statements made during critical incidents and contact with members of the public. The technology and associated equipment can be used in conjunction with police reports, collection of evidence, and court testimony. In July 2015, the Elk Grove Police Department (EGPD) began researching and testing various

manufacturers of body-worn cameras for law enforcement, in an effort to find the most up to date and reliable technology.

After several months of testing and evaluating five of the leading law enforcement body-worn camera manufacturers, staff found Enforcement Video LLC, doing business as WatchGuard Video, provided the superior product. Among the features staff found to be superior included an “after-the-fact” video feature that makes it possible to retrieve video imaging of activity even in the event an officer forgets to activate his/her body camera.

Secondly, Enforcement Video LLC, doing business as WatchGuard Video, is the manufacturer of the Department’s current in-car camera system, making integration of the in-car and body-worn camera technologies seamless

Thirdly, information captured on WatchGuard Video systems is designed to be stored on local network servers, allowing secure, internal access as opposed to offsite storage or cloud storage.

Finally, Enforcement Video LLC, doing business as WatchGuard Video, offers an equipment trade-in program that will help ensure EGPD does not purchase equipment that becomes obsolete due to subsequent camera upgrades and improvements in technology.

The City typically requires that purchased goods come with a three-year warranty and implied warranties of merchantability and fitness for a particular use; however, this purchase only comes with a one-year warranty and the contract disclaims all implied warranties. Staff believes that this is sufficient for the following reasons:

- The Police Department currently uses WatchGuard in-car video systems that have performed beyond expectation.
- WatchGuard provides a body camera trade-in program that allows the Police Department to trade-in product at any time at a prorated value.
- Extended testing of the WatchGuard Body Cameras have demonstrated a superior product.
- WatchGuard is a leading manufacturer of law enforcement video systems.

Given the research and testing of available technology, and the features of the WatchGuard Video system, staff recommends that the City dispense with competitive bidding pursuant to EGMC section 3.42.180(B)(3), and proceed with a contract with Enforcement Video LLC, doing business as WatchGuard Video.

FISCAL IMPACT:

There is sufficient funding identified in the Police Department's Fiscal Year 2015-16 budget for this purchase.

ATTACHMENTS:

1. Resolution
2. Purchase Contract

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
DISPENSING WITH COMPETITIVE BIDDING PURSUANT TO ELK GROVE
MUNICIPAL CODE SECTION 3.42.180(B)(3) AND AUTHORIZING THE CITY
MANAGER TO EXECUTE AN AGREEMENT WITH ENFORCEMENT VIDEO LLC,
DOING BUSINESS AS WATCHGUARD VIDEO, FOR THE PURCHASE OF POLICE
BODY-WORN CAMERAS IN AN AMOUNT NOT TO EXCEED \$130,500**

WHEREAS, the Elk Grove Police Department has approximately 133 sworn positions; and

WHEREAS, the Department is interested in purchasing reliable, high quality body-worn cameras for its sworn officers; and

WHEREAS, the Department conducted research and a trial of the country's leading law enforcement body-worn camera manufacturers in an effort to find the most reliable, advanced technology in the field of body-worn cameras; and

WHEREAS, body-worn cameras provide law enforcement an additional layer of documentation for events, actions, conditions, and statements made during critical incidents and contact with the public; and

WHEREAS, after several months of testing and evaluation, Enforcement Video LLC, doing business as WatchGuard Video, was found to be the superior product; and

WHEREAS, Enforcement Video LLC, doing business as WatchGuard Video, is the current manufacturer of the Department's in-car camera system, thus offering a seamless integration of the two systems; and

WHEREAS, Enforcement Video LLC, doing business as WatchGuard Video, offers an equipment trade-in program that will help to ensure the Department's purchase doesn't become immediately obsolete due to subsequent camera upgrades and improvements.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby dispenses with competitive bidding pursuant to Elk Grove Municipal Code Section 3.42.180(B)(3) and authorizes the City Manager to execute an agreement with Enforcement Video LLC, doing business as WatchGuard Video, for the purchase of police body cameras in an amount not to exceed \$130,500.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 9th day of December 2015.

GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, CITY CLERK

JONATHAN P. HOBBS
CITY ATTORNEY

**CONTRACT BETWEEN
THE CITY OF ELK GROVE
AND
ENFORCEMENT VIDEO, LLC dba WATCHGUARD VIDEO
FOR THE SALE OF GOODS AND SERVICES**

This Contract for the Sale of Goods and Services ("Contract") is made and entered into this ____ day of _____ 2015 ("Effective Date") by and between the City of Elk Grove, a municipal corporation ("City" or "Buyer"), and Enforcement Video, LLC dba WatchGuard Video, a California limited liability company ("Seller").

RECITALS

A. Seller proposes to provide to City body cameras for the Elk Grove Police Department ("Goods") and technical support ("Services"), a more detailed description of the Services and Goods is described on Exhibit A (Scope of Work), which is attached hereto and incorporated herein by reference; and,

B. City agrees to accept the Goods and Services from Seller, subject to the terms and conditions of this Contract.

NOW, THEREFORE, in consideration of the mutual covenants and promises of City and Seller contained herein and the receipt of good and valuable consideration, the receipt of which is hereby acknowledged, City and Seller hereby agree as follows:

AGREEMENT

1. Recitals and Exhibits. The above Recitals and Exhibits identified herein, are true and correct and incorporated into this Contract by reference.

2. Purchase and Sale. Seller agrees to provide and Buyer agrees to accept the Goods and Services pursuant to the terms and conditions set forth in this Contract.

3. Price. The Seller shall be paid monthly for the actual fees, costs and expenses for the time and materials required and expended, and approved by the City, at the rates set forth on Exhibit B, but in no event shall total compensation exceed One Hundred Thirty Thousand Five Hundred Dollars and no cents (\$130,500.00), including all applicable sales tax which shall be itemized on the invoice sent to City, 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. If Seller'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 the City in writing.

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4. Term. 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 on December 31, 2016, unless earlier terminated pursuant to Section 6 of this Contract.

5. Schedule of Performance. Seller shall complete all work to be completed under the Scope of Work in accordance with the Schedule of Performance, attached hereto and incorporated herein by reference as Exhibit C.

6. Termination. This Contract may be terminated by City, at no additional cost to City, with or without cause, provided that City gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate.

The City may temporarily suspend this Contract, at no additional cost to City, provided that Seller is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If City gives such notice of temporary suspension, Seller 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.

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

In the event of termination, Seller shall be compensated as provided for in this Contract.

7. Delivery of Goods. Seller shall deliver the Goods F.O.B. to the Buyer's offices at 8400 Laguna Palms Way, Elk Grove, CA 95758, with shipping charges included in the price, within the schedule set forth on Exhibit C, Schedule of Performance, and in a fully functioning manner consistent with the manufacturer specifications, all to the complete satisfaction of Buyer. The Goods shall be delivered by Seller to Buyer free of any liens or encumbrances.

8. Inspection and Acceptance. The Goods and Services shall be received by Buyer subject to Buyer's reasonable inspection, testing, approval, and acceptance of the Goods and Services. If the Goods are rejected by the Buyer as nonconforming, Buyer may return the Goods to Seller at Seller's risk and expense, and the Goods shall not be replaced or repaired by Seller without written authorization from Buyer. If the Services are rejected by the Buyer as nonconforming, Seller may cure the nonconformance at Seller's risk and expense within 15 calendar days' notice by City of the nonconformance. Upon written notice to Buyer that the Goods have been installed or Services completed, Buyer shall have thirty (30) calendar days to inspect and accept the Goods and Services. If Buyer does not provide written acceptance or a list of deficiencies within the thirty (30) calendar days, the Goods and Services shall be deemed accepted.

9. Title/Risk of Loss. Title, ownership, and risk of loss or damage of the Goods shall remain with Seller until the Goods are delivered to, installed, inspected and accepted by Buyer, except when such loss or damage is due to the fault or negligence of Buyer. Once accepted by Buyer, title, ownership, and risk of loss shall transfer to Buyer.

10. Workers' Compensation. For all installation, maintenance or other work related to the Services performed by Seller in conjunction with this Contract, Seller shall maintain Workers' Compensation insurance as required by California law.

11. Indemnification. To the fullest extent permitted by law, Seller shall defend, indemnify, protect, and hold harmless the Buyer and its employees, officers, and agents from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature ("Claims"), including reasonable attorneys' fees, costs, and disbursement arising out of or related to Seller's installation and/or maintenance of the Goods or Services, except as to those Claims arising out of the sole negligence or willful misconduct of the City. Seller shall defend, indemnify and hold harmless Buyer, and its officers, employees, and agents from all Claims arising out of or related to any infringement of any patent right, copyright or trademark of any person as a consequence of the use by Buyer or any of its officers, employees or agents, of the Goods or any component parts.

Buyer shall promptly notify Seller of the Claim and reasonably cooperate, assist and provide appropriate information (at Seller's expense) for the defense of the action. Seller shall pay all damages and costs awarded therein against Buyer but shall not be responsible for any compromise made without Seller's consent, which consent will not be unreasonably withheld. Seller may, at any time it is reasonably concerned over the possibility of patent, copyright, trademark, or other intellectual property infringement, at its option and expense, replace or modify the aforementioned products so that infringement will not exist, or remove the products involved and refund to Buyer the price thereof as depreciated or amortized by an equal annual amount over the lifetime of the products as established by Seller.

12. Warranties. Except as otherwise stated herein, Seller warrants that the Goods and Services, including any component or replacement parts, furnished, manufactured or provided by Seller shall be free from defects in material and workmanship for life, provided that the City owns the Goods. All Goods and Services with such defects shall be replaced by Seller at no charge to the City, and all associated labor and installation expenses for defective Goods will be provided to the City for three years from the effective date of this Contract. Any additional warranties provided by law, including, but not limited to, the warranty of merchantability and warranty of fitness for a particular purpose shall remain in full force and effect and inure to the benefit of Buyer. Buyer reserves all rights and remedies provided by law for breach of any applicable warranty related to the Goods.

13. Insurance. Prior to commencement of any work under this Contract, Seller 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. A summary of these insurance requirements are as follows:

TYPE	SINGLE LIMIT / OCCURRENCE	AGGREGATE	ENDORSEMENTS***
General Liability (1C)	\$1,000,000	\$1,000,000	Additional Insured Waiver of Subrogation Primary Non-Contributory
Auto Liability (2C)	\$1,000,000 Hired & Non-Owned		Additional Insured
Work Comp (3A) Employer's Liability	Statutory \$1,000,000 each		Waiver of Subrogation
Professional Liability (4A)	\$1,000,000	\$1,000,000	(1 year tail) (Retro Date)

***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 contract for specific requirements.

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

14. Evidence of Insurance Coverage. Seller or its insurance broker shall provide 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 shall be delivered to City's representative Ebix BPO (Ebix) as set forth below prior to execution of this Contract. Upon City's or Ebix's request, Seller shall submit copies of the actual insurance policies or renewals or replacements to Ebix. Unless otherwise required by the terms of this Contract, all certificates, endorsements, coverage verifications and other items required pursuant to this Contract shall be provided to:

By MAIL

Certificate Holder: The City of Elk Grove

c/o Ebix BPO

PO Box 257, Ref. # (Z379120)

Portland, MI 48875-0257

By FAX

(770) 325-3340

By E-MAIL

CertsOnly@periculum.com

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All certificates and endorsements shall include the EBIX reference number (Z379120).

15. Remedies. In the event of a material breach of this Contract by Seller, Buyer may avail itself of any other right and remedies available at law or in equity. Nothing herein shall limit Buyer's rights to seek any available remedy including, but not limited to, damages and/or equitable relief, in a court of competent jurisdiction.

16. Compliance with Laws. Seller shall comply with all applicable governmental laws, ordinances, codes, rules, regulations, programs, plans, and orders in the performance of this Contract.

17. Notice of Material Change in Business. In the event of a material change in Seller's business, written notice shall be given to Buyer of the proposed change. Buyer may, in its sole discretion, may reject the proposed change. Any amendments to the Contract shall be made in compliance with section 18 of this Contract. A material change in business must comply with all applicable laws, ordinances, codes, rules, regulations, programs, plans, and orders in the performance of this Contract.

18. Attorneys' Fees. If any party to this Contract shall take any action to enforce this Contract or for any relief against any other party, declaratory or otherwise, arising out of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and costs incurred in such action, suit and/or enforcement of any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid by the losing party whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. For purposes of this section, attorneys' fees shall also include, but not be limited to, fees incurred in the following: (a) appeals or post-judgment motions and collection actions; (b) contempt proceedings; (c) garnishment, levy, and debtor and third party examinations; (d) discovery; and (e) bankruptcy litigation. The provisions of this section shall survive any termination of the Contract as provided for herein.

19. Notices. All notices, requests, demands, and other communications required to or permitted to be given under this Contract shall be in writing and shall be conclusively deemed to have been duly given (a) when hand delivered to the other party; (b) when received if sent by telex or facsimile at the address and number set forth below; (c) three (3) business days after the same have been deposited in a United States Post Office with certified mail, return receipt requested, postage prepaid and addressed to the parties as set forth below; or (d) the next business day after same have been deposited with a national overnight delivery service reasonably approved by the parties (Federal Express, Golden State Couriers, and DHL WorldWide Express being deemed approved by the parties), postage prepaid, addressed to the parties as set forth below with next-business-day delivery guaranteed:

TO SELLER: Enforcement Video, LLC dba
WatchGuard Video
415 Century Parkway
Allen, TX 75013
Telephone: (214) 785-2615

TO BUYER: CITY OF ELK GROVE
Attn: Nicole York
8380 Laguna Palms Way, Suite 200
Elk Grove, CA 95678
Telephone: (916) 683-7111

A party may change or supplement the addresses given above, or designate additional addresses, for purposes of this section by giving the other parties written notice of the new address in the manner set forth above.

20. Notice to Proceed. Prior to commencing work under this Contract, Seller 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 Seller for any goods or services provided prior to issuance of the Notice to Proceed.

21. Entire Agreement. This Contract contains the entire agreement between Buyer and Seller in connection with the transaction contemplated hereby and the subject matter hereof and this Contract supersedes and replaces any and all prior and contemporaneous agreements, understandings, and communications between the parties, whether oral or written, with regard to the subject matter hereof or any course of dealing, course of performance, or usage of the trade. Parol evidence shall be inadmissible to show agreement by and between Buyer or Seller to any term or condition contrary to or in addition to the terms and conditions contained in this Contract. Both parties acknowledge that each has not relied on any promise, representation or warranty, express or implied, not contained in this Contract.

22. Modifications. This Contract shall not be modified in any manner except by a writing signed by both Buyer and Seller.

23. Assignment. Seller shall not delegate or subcontract any duties or assign any rights or claims under this Contract without Buyer's prior written consent.

24. Severability. If any term or provision of this Contract shall, to any extent, be held invalid or unenforceable, the remainder of this Contract shall not be affected.

25. Waivers. A waiver or breach of a covenant or provision in this Contract shall not be deemed a waiver of any other covenant or provision in this Contract and no waiver shall be valid unless in writing and executed by the waiving party. An extension of time for performance

of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act.

26. Construction. The section headings and captions of this Contract are, and the arrangement of this instrument is, for the sole convenience of the parties to this Contract. The section headings, captions, and arrangement of this instrument do not in any way affect, limit, amplify, or modify the terms and provisions of this Contract. The singular form shall include plural, and vice versa. Unless otherwise indicated, all references to sections are to this Contract. All exhibits referred to in this Contract are attached hereto and incorporated herein by this reference.

27. Drafting. Buyer and Seller acknowledge and agree that this Contract has been negotiated at arm's length, that each party has been represented by independent counsel and/or has had an opportunity to consult with and be represented by independent counsel, that this Contract is deemed to be drafted by both parties, that no one party shall be construed as the drafter of this Contract, and that any rule of construction that ambiguities are to be construed against the drafter shall not apply in the interpretation or construction of this Contract.

28. Counterparts. This Contract may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument.

29. Time of the Essence. Seller and Buyer hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision hereof, particularly, and without limitation of factors contributing to the need for timely compliance of this Contract.

30. Successors. This Contract shall inure to the benefit of and shall be binding upon the parties to this Contract and their respective heirs, successors in interest, and assigns. This Contract may only be assigned upon written approval and agreement of the parties, which approval will not be unreasonably withheld. Any purported assignment of this Contract without the prior written approval of all parties shall be null and void.

31. Governing Law. The parties acknowledge that this Contract has been negotiated and entered into in the State of California, County of Sacramento. The parties agree that this Contract shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California. Venue for any action or proceeding relating to or arising out of this Contract shall be in the County of Sacramento.

32. No Third Party Beneficiary Rights. This Contract is entered into for the sole benefit of Buyer and Seller. No other parties are intended to be direct or incidental beneficiaries of this Contract and no third party shall have any right in, under or to this Contract.

33. No Joint Venture, Partnership or Other Relationship Created. The relationship between Buyer and Seller is that solely of a Seller and a Buyer and no joint venture, partnership or other relationship is created or implied by this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Contract in Elk Grove, California, by affixing their signatures below, and this Contract shall be deemed effective as of the date on which each of the parties execute this Contract as indicated by the dates below. In the event that the parties do not execute this Contract on the same date, the effective date of this Contract shall be the latest date on which one of the parties executes this Contract.

SELLER
ENFORCEMENT VIDEO, LLC dba
WATCHGUARD VIDEO

Dated: 12-1, 2015

By:



Jason Stuczynski, Vice President of Sales

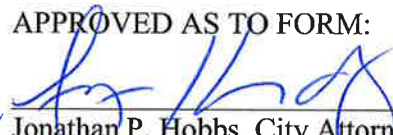
CITY
CITY OF ELK GROVE

Dated: _____, 2015

By:

Laura S. Gill, City Manager

APPROVED AS TO FORM:


For Jonathan P. Hobbs, City Attorney

12-2-15
Date

ATTEST:

Jason Lindgren, City Clerk

Date

EXHIBIT A
SCOPE OF WORK

Seller shall deliver to the Elk Grove Police Department at 8400 Laguna Palms Way, Elk Grove, CA 95758, the following equipment:

Model #	Description	Qty
VIS-EXT-KIT-001	VISTA HD Extended Capacity Wearable Camera with 9 hours continuous HD recording. Includes 32 GB of storage, USB charge and upload docking base with standard one-year warranty	100
VIS-VTS-DTC-	VISTA HD 8 Bay Ethernet Transfer Station	10
VIS-MNT-KIT-	VISTA HD Locking Magnetic Chest Mount	100
SFW-ELB-VIS-	VISTA HD, Evidence Library Software Protection, 1st Year	100

STANDARD WARRANTY:

Seller, in recognition of its responsibility to provide quality systems, components, and workmanship, warrants each system, part, and component it manufactures first sold to an end user to be free from defects in material and workmanship for a period of **ONE-YEAR** from the date of purchase. A defective component that is repaired or replaced under this limited warranty will be covered for the remainder of the original warranty period. Where defects in material or workmanship may occur, the following warranty terms and conditions apply:

PARTIES TO WHOM WARRANTY IS INTENDED – This warranty extends to the original end user of the equipment only and is not transferable. Any exceptions must be approved in writing from Seller.

PARTS AND COMPONENTS COVERED – All parts and components, including consumable items such as batteries, and repair labor of the warranted unit manufactured and/or installed by Seller are covered by this warranty, except those parts and components excluded below.

PARTS AND COMPONENTS NOT COVERED – The Limited Warranty excludes camera mounts and normal wear-and-tear items such as frayed or broken cords and scratched or broken displays. WatchGuard reserves the right to charge for damages resulting from abuse, improper use, or extraordinary environmental damage (such as submersion in liquid) to the unit during the warranty period at rates normally charged for repairing such units not covered under the Limited Warranty. In cases where potential charges would be incurred due to said damages, the agency submitting the system for repairs will be notified. Altered, damaged, or removed serial numbers results in voiding this Limited Warranty. If while under the warranty period, it is determined that

the WatchGuard Video system was internally changed, modified, or repair attempted, the system warranty will become null and void.

LIMITED LIABILITY – Seller’s liability is limited to the repair or replacement of components found to be defective by Seller. Seller will not be liable for any direct, indirect, consequential, or incidental damages arising out of the use of or inability to use the system even if the unit proved to be defective.

REMEDY – If, within the duration of this warranty, a unit or component covered by this warranty is diagnosed by Seller’s Customer Service phone support and proves to be defective in material or workmanship, Seller shall replace the defective unit with an Advance Replacement unit. The Advance Replacement unit will ship via UPS ground and include a prepaid shipping label to return the defective unit, which must be received by Seller within thirty days. The Advance Replacement unit pursuant to this warranty shall be warranted for the remainder of the warranty period.

SHIPPING –Throughout the duration of the warranty period, Seller shall provide an Advance Replacement unit with a prepaid shipping label to return any defective unit for end users in the continental United States provided serial numbers are submitted during the Customer Service diagnostic process. In such event, contact Seller’s Customer Service Department for troubleshooting and to start the diagnostic process. Any expedited shipping costs are the responsibility of the end user.

Customers that are outside the continental United States will be responsible for all transportation costs both to and from Seller’s factory for warranty service, including without limitation to any export or import fees, duties, tariffs, or any other related fees that may be incurred during transportation.

You may also obtain warranty service by contacting your local WatchGuard Authorized Service Center (ASC) for shipping instructions. A list of local ASCs may be obtained by contacting Seller’s Customer Service Department. City will be responsible for all transportation costs to and from the local ASC for warranty service.

EVIDENCE LIBRARY SOFTWARE PROTECTION PLAN:

WatchGuard Software Protection Plan for Evidence Library (herein referred to as the “Software Protection Plan”) is governed by these Terms and Conditions and constitutes your contract with Seller as described below. Subject to these Terms and Conditions:

- (i) The Evidence Library Software (“Covered Software”) first sold to an end user is guaranteed to be free from defects in material or workmanship for the duration of the Coverage Period.
- (ii) The Software Protection Plan provides you with access to telephone technical support and web-based support resources for the Covered Software.

- (iii) The Software Protection Plan provides you with access to software service packs and minor software updates,

The Software Protection Plan can be extended beyond the first year for years 2-5 provided payment for the annual Software Protection Plan for each year is made to WatchGuard prior to the end of the Coverage Period. The Software Protection Plan must be carried consecutively without any lapses in yearly coverage across the entire fleet of vehicles in which a 4RE unit was purchased. WatchGuard will track the serial numbers of each 4RE unit and associate coverage with the Software Protection Plan respectively. All 4RE In-Car and 4RE IT related hardware is excluded under the Software Protection Plan.

The duration of the Software Protection Plan ("Coverage Period") is for the period specified in the Coverage Period on the preceding page. WatchGuard may restrict service provided under this Software Protection Plan to the Covered Software's original country of purchase.

Service Options:

- (i) Remote Service which includes call center, on-line chat, email, will call, and remote desktop service, is provided free of charge for the Coverage Period. In instances where remote desktop capability is accessible, Seller shall make every reasonable effort to provide a solution remotely.
- (ii) On-Site Technical Service must be scheduled in advance and is available at a minimum daily rate. Contact Seller for further information regarding rates and availability.

TECHNICAL SUPPORT

Telephone and Web Support.

During the Coverage Period WatchGuard will provide you with access to telephone technical support and web-based technical support resources. Technical support may include assistance with installation, launch, configuration, troubleshooting, and recovery, interpreting system error messages, and determining when hardware repairs are required. WatchGuard will provide technical support for the Covered Software including software applications that are installed by WatchGuard or an Authorized Service Center. WatchGuard will provide support for the then-current version of the software.

Support Limitations.

The Software Protection Plan does not cover:

- (i) Issues that could be resolved by upgrading the software to the then-current version.
- (ii) Your use of or modification to the Covered Software in a manner for which the Covered Software is not intended to be used or modified.

- (iii) Third-party products or their effects on or interactions with the Covered Software.
- (iv) Your use of a computer or operating system that is unrelated to Covered Software
- (v) Connectivity issues with the Covered Software over networks not built or supported by WatchGuard.
- (vi) Covered Software that has been deleted or uninstalled.
- (vii) Preventative maintenance on the Covered Software.
- (viii) Damage to, or loss of, any software or data residing or recorded on the same computer as the Covered Software. The contents of the hard drive may be deleted in the course of service. Seller may install system software updates as part of your service that will prevent the software from reverting to an earlier version. Reinstallation of software programs and user data are not covered under this Plan.
- (ix) IT hardware and software which includes, but is not limited to, servers, computers, DVD burners, NAS, SAN, or JBOD online storage devices, uninterruptable power supplies, building mounted wireless access points, antennas, and all related brackets and mounting hardware ("IT Equipment").
- (x) On-Site technical service.
- (xi) Problems caused by the function of a network or viruses or other software problems introduced into the Covered Software or computer the Covered Software is running on.
- (xii) Except as specifically provided herein, any other damages that do not arise from defects in materials and workmanship or ordinary and customary usage of the Covered Software.

Any Incident deemed out of scope as defined in this Software Protection Plan or any incident that occurs while no Software Protection Plan Agreement is in place, shall be subject to additional fees and/or charges. The Customer will be quoted applicable charges and rates prior to any service(s) being performed. Approved service(s) will commence upon receipt of a purchase order.

Obtaining Technical Support

You may obtain technical support by calling the telephone number listed below. The Customer Service Representative will provide you technical support.

YOUR RESPONSIBILITY

To receive service or support under the Plan, you agree to comply with the following:

- (i) Provide your agency name and serial number (if required) of the Covered Software.
- (ii) Provide information about the symptoms and causes of the problems with the Covered

Software.

- (iii) Respond to requests for information, including but not limited to the associated serial number of Covered Software, version, model, IT hardware, and software including operating system and database software, third-party software installed, any peripherals devices connected or installed with the Covered Software, any error messages displayed, actions taken before the Covered Software experienced the issue and steps taken to resolve the issue.
- (iv) Update software to currently published releases prior to seeking service.
- (v) You shall maintain all IT Equipment related to or required by the Covered Software. Any incident arising from inadequate maintenance of these systems shall be subject to additional per incident charges
- (vi) Any changes to the hardware or software environment for both the Covered Software and IT Equipment made by Customer that results in any degradation in performance will be the responsibility of you including any related costs to correct the issue. Changes include, but are not limited to, in-car installation resulting in a non-approved installation, damaged or misalignment of wireless antennas caused by the customer or weather, untrimmed trees or added obstacles that degrade wireless signal strength, added vehicles without regard for adding additional wireless access points that results in degraded performance, adding or changing video storage locations in an improper manner, adding or updating server software without the approval of WatchGuard, changes to the 4RE related network topology or architecture without consultation of Seller.

GENERAL TERMS

- (i) Seller may subcontract or assign performance of its obligations to third-parties but will not be relieved of its obligations to you in doing so.
- (ii) Seller is not responsible for any failures or delays in performing under the Plan that are due to events outside Seller's reasonable control.
- (iii) This Plan is offered and valid only in the United States of America. This Plan may not be available in all states, and is not available where prohibited by law.
- (iv) In carrying out its obligations Seller may, at its discretion and solely for the purposes of monitoring the quality of Seller's response, record part or all of the calls between you and Seller.
- (v) Seller is not obligated to renew the Software Protection Plan after termination. If a new Software Protection Plan is offered, Seller will determine the price and terms.

LIMITATION OF LIABILITY

EXCEPT FOR THE LIMITED WARRANTIES AND REMEDIES CONTAINED HEREIN, THIS PRODUCT IS PROVIDED ON AN "AS IS" BASIS, WITHOUT ANY OTHER WARRANTIES OR CONDITIONS, EXPRESSED OR IMPLIED, INCLUDING

BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THOSE ARISING BY LAW, STATUTE, USAGE OF TRADE, OR COURSE OF DEALING. NEITHER WATCHGUARD NOR ITS DEALERS OR SUPPLIERS WILL HAVE ANY LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO, LOSS OF REVENUE OR PROFIT, WHETHER RESULTING FROM THE USE, MISUSE OR INABILITY TO USE THIS PRODUCT OR FROM DEFECTS IN THE PRODUCT, EVEN IF WATCHGUARD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR THEY ARE FORESEEABLE. WATCHGUARD IS ALSO NOT RESPONSIBLE FOR CLAIMS BY A THIRD PARTY. WATCHGUARD'S MAXIMUM AGGREGATE LIABILITY TO YOU, AND THAT OF ITS DEALERS AND SUPPLIERS, SHALL NOT EXCEED THE AMOUNT PAID BY YOU FOR THIS PRODUCT AS EVIDENCED BY YOUR PURCHASE RECEIPT.

This limited warranty gives you specific legal rights. You may also have other rights that may vary from state to state or from country to country. You are advised to consult applicable state or country laws for a full determination of your rights.

EQUIPMENT TRADE-IN PROGRAM:

The VISTA HD Extended Capacity Wearable Camera, #VIS-EXT-KIT-001 may be traded-in for the purchase of Seller's next generation HD Extended Capacity Wearable Camera once it becomes available, currently estimated to be spring 2016. VISTA units that are traded-in will be given a prorated value/purchase credit based on how long they have been owned. The trade-in value/purchase credit will be 1/36th of the original purchase price per month from the original date of receipt. All new VISTA Wireless cameras will come with a complete one-year Standard Warranty from WatchGuard Video.

TRADE IN RESTRICTIONS

The following pre-requisites must be met in order to qualify for the VISTA Wireless Trade-In Program:

1. All units to be traded-in must have an existing warranty, and must have had full continuous warranty coverage from the initial purchase date.
2. Customers wishing to take advantage of the VISTA Wireless Trade-In Program must initiate the trade-in process within six months after the release of the next generation VISTA Wireless cameras.

EXHIBIT B
PRICE

Model #	Description	Qty	Price	Extended
VIS-EXT-KIT-001	VISTA HD Extended Capacity Wearable Camera with 9 hours continuous HD recording. Includes 32 GB of storage, USB charge and upload docking base with standard one-year warranty	100	\$895.00	\$89,500
VIS-VTS-DTC-001	VISTA HD 8 Bay Ethernet Transfer Station	10	\$1,495	\$14,950
VIS-MNT-KIT-001	VISTA HD Locking Magnetic Chest Mount	100	\$0.00	\$0.00
SFW-ELB-VIS-1ST	VISTA HD, Evidence Library Software Protection Plan, one-year	100	\$150.00	\$15,000
	SHIPPING		\$1,450	\$1,450
			TOTAL	\$120,900

EXHIBIT C
SCHEDULE OF PERFORMANCE

1. Complete order shall be delivered within thirty (30) days of vendor's receipt of purchase order from City of Elk Grove.
2. Completed order consists of signed contract and purchase order.
3. Vendor shall invoice the City of Elk Grove within thirty (30) days of delivering the complete order.

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:

1. General Liability:

- a. Comprehensive general liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability and product and completed operations 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)
Products & Completed Operations:	One Million Dollars (\$1,000,000)
Personal & Advertising Injury:	One Million Dollars (\$1,000,000)
- e. If a products and completed operations aggregate limit of liability is used, the minimum products and completed operation aggregate shall be twice the each occurrence limit or the policy shall contain an endorsement stating that the products and completed operations aggregate limit shall apply separately to the project which is the subject of the contract.
- f. Coverage shall contain a provision or endorsement that waives any rights of subrogation against the City, its officers, officials, employees, agents, and volunteers.

2. Automobile Liability:

- a. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of hired, and non-owned automobiles.
- b. Coverage shall be at least as broad as Insurance Services Office Automobile Liability coverage form CA 0001, symbols 8, and 9 (hired, and non-owned).
- c. The limits of liability per accident shall not be less than:

Combined Single Limit	One Million Dollars
(\$1,000,000)	
- d. If general liability coverage, as required above, is provided by the Commercial General Liability form, the automobile liability policy shall include an endorsement providing automobile contractual liability.

3. Worker's Compensation

- a. Worker's Compensation Insurance, with coverage as required by the State of California (unless the Consultant is a qualified self-insurer with the State of California), and Employers Liability coverage. The Consultant shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in Exhibit E.
- b. Employer's Liability Coverage shall not be less than the statutory requirements.
- c. If an injury occurs to any employee of the Consultant for which the employee or his dependents, in the event of his death, may be entitled to compensation from the City under the provisions of the Acts, for which compensation is claimed from the City, there will be retained out of the sums due the Consultant under this Contract, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to the Consultant. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by the Consultant.

4. Errors and Omissions; Malpractice; Professional Liability. Errors and omissions, malpractice, or professional liability insurance with coverage of not less than \$1,000,000 per occurrence. Consultant shall provide Retroactive Date for claims-made policies. Upon termination of this agreement, the same insurance requirements in Section 3 of this Exhibit will apply for a one (1) year period following such termination. A "tail" policy may be purchased as an alternative to satisfy this requirement.

5. Other Insurance Provisions: The general liability and automobile liability coverages shall contain the following provisions and endorsements:

- a. The City, its officials, employees, agents and 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 owned, leased, hired, or borrowed by the Consultant on a separate endorsement acceptable to the Risk Manager.
- b. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents or volunteers.
- c. Provision or endorsement stating that for any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers to the extent the City is an additional insured. Any insurance or self-insurance maintained by the City,

its officers, officials, employees or 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.

- d. Any failure to comply with reporting or other provisions of the policies on the part of the Consultant, including breaches of warranties, shall not affect Consultant's requirement to provide coverage to the City, its officers, officials, employees, agents or volunteers.
6. Acceptability of Insurers: Insurance is to be placed with insurers with a **Bests' rating of no less than A:VII.**
 7. 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.
 8. 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 anytime 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.
 9. The City, 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.
 10. 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.
 11. If the Consultant fails to procure or maintain insurance as required by this section, and any 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.
 12. Failure of the City to obtain such insurance shall in no way relieve the Consultant from any of its responsibilities under the contract.
 13. The making of progress payments to the Consultant shall not be construed as

. *Enforcement video, LLC dba WatchGuard Video*

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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.

14. 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.
15. 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.

EXHIBIT E

Certificate of Compliance With Labor Code § 3700

I am 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 I have complied or will comply with such provisions before commencing the performance of the work of this contract. (Cal. Labor Code §§1860, 1861.)

SELLER



Jason Stucznski, Vice President
of Sales