

ORDINANCE NUMBER 3170

AN ORDINANCE ACKNOWLEDGING A PROPOSED INSTALLATION AND ACCESS AGREEMENT BY AND BETWEEN LIBERTY PARK MASTER OWNERS' ASSOCIATION AND FLOCK GROUP, INC FOR INSTALLATION OF SAFETY CAMERAS IN LIBERTY PARK

WHEREAS, the Liberty Park Masters Owner's Association, an Alabama not-for-profit corporation ("LPMOA") is desirous of installation of safety cameras along some of their designated streets; and

WHEREAS, The Vestavia Hills Police Department ("VHPD") currently utilizes camera installation through a company called Flock Group, Inc. ("Flock"); and

WHEREAS, LPMOA and Flock wish to enter into a multi-year agreement for the installation of safety cameras on privately owned property in which neither the City of Vestavia Hills or the VHPD is a party to said agreement, but the signature page requires and acknowledgement by the City of said agreement; and

WHEREAS, a copy of said proposed agreement is marked as Exhibit A, attached to and incorporated into this Ordinance Number 3170 as if written fully therein; and

WHEREAS, the City Attorney has recommended that the Council acknowledge said agreement and authorize the Mayor and City Manager to execute said acknowledgement.

NOW, THEREFORE, IT BE ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. That the Mayor and City Manager are hereby authorized to execute an acknowledgement of said agreement between LPMOA and Flock; and
2. That this Ordinance Number 3170 be effective immediately upon adoption and posting/publication as required by Alabama law.

ADOPTED and APPROVED this the 27th day of March, 2023.


Ashley C. Curry
Mayor

ATTESTED BY:

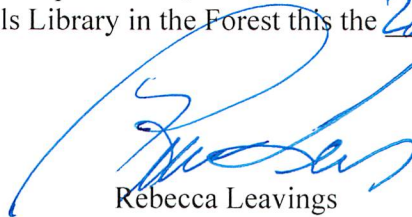


Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance #3170 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 27th day of March, 2023 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the 27th day of March, 2023.



Rebecca Leavings
City Clerk

INSTALLATION AND ACCESS AGREEMENT

This Installation and Access Agreement (this "Agreement"), made as of _____, 2023, is between Liberty Park Master Owners' Association, Inc., an Alabama not-for-profit corporation ("LPMOA"), and Flock Group, Inc., a Delaware corporation ("Flock").

WHEREAS, the City of Vestavia Hills, Alabama ("the City") and Flock have entered into an agreement for the use of Flock safety cameras by the City's police department;

WHEREAS, the City's police department would like to install Flock safety cameras within the City's Liberty Park community on property owned by LPMOA;

WHEREAS, Flock and the City will select the locations of such safety cameras (the "Designated Locations"), LPMOA will approve of such Designated Locations, and Flock will install the safety cameras within the Designated Locations;

WHEREAS, the Designated Locations are shown on the attached Exhibit A;

WHEREAS, by this Agreement, LPMOA desires to provide access to Flock for the sole purpose of installing and maintaining the safety cameras in the Designated Locations for use by the City's police department.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Access for Installation and Maintenance. LPMOA agrees to allow Flock, and its agents, reasonable access in and near the Designated Locations at reasonable times upon reasonable notice for the purpose of installing the safety cameras and performing any required maintenance to the safety cameras. The parties do not intend to create an easement, right-of-way, lease or any other interest in real property for Flock or the City through this Agreement. Installation and maintenance shall be completed in a workman-like, professional manner in accordance with Flock's standard installation and maintenance procedures.

2. Term and Termination of Agreement.

(a) The term of this Agreement shall commence upon the date of installation for the Flock safety cameras and shall expire on the same day as the termination date for the agreement between the City and Flock for the use of the safety cameras (the "Expiration Date"). Upon expiration of this Agreement, Flock shall promptly remove all safety cameras and any other equipment from the Designated Locations and Flock shall restore the Designated Locations to their original condition.

(b) LPMOA may terminate this Agreement at any time by giving Flock and the City 30 days' prior written notice of such termination.

3. Maintenance. Throughout the term of this Agreement, Flock shall take good care of the Designated Locations. Flock shall also be responsible for the cost to repair any damage to the Designated Locations caused by Flock or its respective employees, agents, or contractors. The repair obligations herein shall survive any cancellation, expiration or termination of this Agreement.

4. Release & Indemnification.

(a) In consideration of the use of the Designated Locations, Flock does hereby release, waive, and discharge LPMOA, and all of its affiliates and subsidiaries and all of their directors, officers, employees, representatives and agents from liability related to any and all claims of personal injury,

accidents, or illnesses (including death) and property loss arising from or in any way related to the use of the Designated Locations or arising from or in any way related to this Agreement.

(b) To the fullest extent permitted by law, Flock shall be liable for, indemnify, defend, and hold harmless LPMOA and any other persons or entities affiliated with LPMOA, and the officers, directors, shareholders, partners, members, representatives, agents and employees of each of them (individually, the "Indemnitee," and collectively, the "Indemnitees") from and against any losses, claims, actions, causes of action, suits, demands, damages, liabilities, judgments, penalties, fees, fines, sanctions, forfeitures, expenses, injury, death or property damage, including attorneys' fees, consultants' fees, and court costs, (collectively, "Losses") arising from or in any way related to the use of the Designated Locations or arising from or in any way related to this Agreement.

(c) Flock and the City acknowledge and agree that LPMOA shall have no liability regarding the location, installation, maintenance, servicing or use of the Flock safety cameras. LPMOA does not have access to the informational data and images captured by the cameras. Flock and the City acknowledge and agree that LPMOA shall not be liable for any damage or loss to the safety cameras or any damage or loss related to the safety cameras.

(d) The obligations to release, indemnify, defend, and hold harmless hereunder shall survive the expiration or earlier termination of this Agreement.

5. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL LPMOA BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES WHATSOEVER.

6. Miscellaneous.

(a) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

(b) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

(c) **Section Headings.** The section titles herein are for convenience only and do not define, limit, or construe the contents of such sections.

(d) **Attachment and Exhibits.** All attachments and exhibits to this Agreement are hereby made a part hereof as if fully set out herein.

(e) **Severability.** If any provision in this Agreement is found to be in violation of any law or otherwise unenforceable, all other provisions remain unaffected and in full force and effect.

(f) **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns and shall not be modified except by an express written agreement signed by a duly authorized representative of both parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement to be effective as of the date first above written.

LIBERTY PARK MASTER OWNERS'
ASSOCIATION, INC.

By: _____

Name:

Title:

FLOCK GROUP, INC.

By: _____

Name:

Title:

ACKNOWLEDGED BY:

CITY OF VESTAVIA HILLS, ALABAMA

By: _____

Name:

Title:

EXHIBIT A
DESIGNATED LOCATIONS

The Flock LPRs will be placed in the 400 to 500 blocks of Liberty Parkway.



**CITY OF VESTAVIA HILLS
POLICE DEPARTMENT
INTER-DEPARTMENT MEMO**

March 27, 2023

To: Jeff Downes, City Manager

Cc: Dan Rary, Police Chief
Jason Hardin, Asst. Police Chief

From: Johnny Evans, Captain

RE: Ordinance Number 3170 - An Ordinance authorizing the Mayor and City Manager to acknowledge an Installation and Access agreement by and between Liberty Park Master Owners' Association and Flock Group, Inc., for the installation of safety cameras on private property in Liberty Park

Background:

To install LPRs (Flock Cameras) for the safety and protection of Liberty Park Residents

Recommendation:

This has been reviewed by myself and City Attorney Pat Boone

Fiscal Impact:

None

Attachments:

1. Ordinance 3170
2. Installation and Access Agreement.RW.2.14.2023 3-21-2023

3. PH Boone Legal Opinion to Deputy Chief Hardin March 13, 2023