

BUDGET RESOLUTION 2019-139

A RESOLUTION AMENDING THE FISCAL YEAR 2019 BUDGET TO APPROPRIATE FUNDING FOR FARO 3D VISIONARY TECHNOLOGIES IN THE AMOUNT OF \$65,000

WHEREAS, the Law Enforcement Recovery Property Fund was created to deposit revenues received as a result of criminal funds recovered and monies recovered; and

WHEREAS, the specific purpose for these funds may be used by the seizing agency, the Police Department, as necessary components not funded through the General Fund budget; and

WHEREAS, the department will utilize these funds solely for the purpose of purchasing equipment to assist in the collection and recovery of evidence; and

WHEREAS, the Police Department has accumulated approximately \$196,407 in the Law Enforcement Recovery Property Fund to be utilized for this purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OCALA, FLORIDA, duly assembled in regular session, that the FY2019 Police Department budget be amended as outlined below to appropriate \$ 65,000 for the purchase of FARO 3D_HW_LSFocusS Visionary equipment.

SOURCE:

610-099-999-521-81-99999 Reserve for Fund Balance (\$65,000)

USE:

610-018-854-521-66-64010 Machinery & Equip (\$5,000+) \$65,000

This resolution adopted this 19 day of March, 2019.

CITY OF OCALA

By: Mary S. Rich

Mary S. Rich
President, Ocala City Council

ATTEST:

By: Angel B. Jacobs

Angel B. Jacobs
City Clerk

Approved as to form and legality:

By: Patrick G. Gilligan

Patrick G. Gilligan
City Attorney

Reviewed for accounting accuracy & completeness:

By:  _____
John Zobler
City Manager

FARO Warranty

4.00

Warranties and Exclusions; Exclusive Remedies and Disclaimers

4.01

Subject to Section 4.05, FARO warrants that any Product (but excluding Software and services) shall be free from material defects in workmanship or material affecting the fitness of Product for its usual purpose under normal conditions of use, service and maintenance. FARO makes no warranty that any Product will operate in an uninterrupted or error free manner.

4.02

Subject to Section 4.05, FARO warrants that any Software shall operate substantially according to written user documentation provided by FARO. FARO makes no warranty that any Software will operate in an uninterrupted or error free manner.

4.03

The warranties set out in paragraphs 4.01 and 4.02 above (together, the 'Warranties') shall expire at the end of the twelve (12) month period commencing on the last day of the calendar month

in which Product was delivered to Purchaser (the 'Warranty Period').

4.04

To properly make a claim under the Warranties, Purchaser must deliver written notice to FARO during the Warranty Period, at FARO's contact information set forth on the Order, of a breach of the Warranties, together with a description of such breach in reasonable detail. Within a reasonable time following receipt of such proper notice FARO shall have Product diagnosed by its service

personnel. Nothing herein contained shall be construed as obligating FARO to make service, parts, or repairs available for any breach reported after the expiration of the Warranty Period. If Product is

determined by FARO, in its reasonable opinion, to be covered by and in breach of the Warranties, FARO will, as Purchaser's sole and exclusive remedy, repair or adjust Product to the extent

determined by FARO to be necessary or, at the option of FARO, will replace Product with replacement Product or parts therefor at no cost to Purchaser, other than the cost of shipping Product to FARO

pursuant to Section 4.06. If Product is determined by FARO, in its reasonable opinion, not to be covered by or not to be in breach of the Warranties, Purchaser shall pay the cost of service, which shall

be the amount that FARO would otherwise charge for an evaluation under a non-warranty service evaluation.

4.05

The Warranties shall not apply to or cover:

a) Any defects in any component of a Product if, in the reasonable opinion of FARO, (i) Product has been improperly stored, installed, operated, or maintained; (ii) the defect was caused by or relates to misuse or extraordinary use of Product, or to use of Product outside the purpose for which Product was designed and manufactured; (iii) Purchaser has permitted unauthorized modifications,

additions, deletions, adjustments and/or repair to any Software, hard drive structure or content, or any other part of Product, or which might otherwise affect Product; or (iv) the defect was caused by, or

repairs are required as a result of, causes external to FARO workmanship or the materials used by FARO. As used herein, 'unauthorized' means that which has not been approved and authorized by

FARO in writing.

FARO Warranty

- b) Any replacement of expendable items, including, but not limited to, fuses, diskettes, printer paper, printer ink, printing heads, disk cleaning materials, or similar cleaning items.
- c) Minor preventive and corrective maintenance, including, but not limited to, replacement of fuses, disk drive head cleaning, fan filter cleaning and system clock battery replacement.
- d) Any Product or component which was sold or transferred to any party other than the original Purchaser unless transferred in accordance with section 4.11 or prior express written consent is obtained.
- e) Any defect in or related to Product which FARO cannot duplicate with reasonable effort.
- f) Any defect in or related Product caused by materials, including hardware, software or data not supplied by FARO.
- g) Any defect caused or resulting from accident, physical, electrical or magnetic stress, failure of electric power, air condition or environmental controls, use in or with defective or non-compatible equipment, hardware, software or data.
- h) Any defect or problem caused by changes in the operating characteristics of computer systems, hardware or software developed after Product is delivered.
- i) Any Product exported by Purchaser outside of the United States or Canada.
- j) Any demonstration or used Product.
- k) Any services of FARO. ALL SERVICES OF FARO ARE PROVIDED TO PURCHASER 'AS IS' WITHOUT WARRANTY OF ANY KIND.
- l) Any Third Party Product sold or included with the Products. Such Third Party Products are provided with the manufacturer's warranties, if any, which FARO is permitted to pass on to Purchaser. OTHERWISE, SUCH THIRD PARTY PRODUCTS ARE PROVIDED TO PURCHASER 'AS IS' WITHOUT WARRANTY OF ANY KIND.

4.06

Factory Repairs

a) IF PRODUCT IS UNDER WARRANTY: Purchaser agrees to ship Product to FARO in the original packing container at Purchaser's sole cost and expense. FARO will return the repaired or

replacement Product to Purchaser at FARO's sole cost and expense.

IF PRODUCT IS UNDER A SEPARATE PREMIUM SERVICE PLAN: When practical, as determined by FARO in its sole discretion, and subject to availability, FARO will make available to Purchaser

substitute component parts or substitute Product ('Temporary Replacements') as appropriate while Purchaser's Product is undergoing repair. Shipping charges for these Temporary Replacements will

be the responsibility of FARO.

b) IF PRODUCT IS NOT UNDER WARRANTY: Purchaser shall be responsible for the cost of any repair or replacement of any part, Software or Product, together with all shipping charges related to such repair or replacement. All charges shall be estimated and prepaid by Purchaser to FARO prior to commencement of repairs.

4.07

FARO may authorize the manufacturer of a component of Product to perform any Warranty service.

4.08

Purchaser's sole and exclusive remedy, and FARO's sole and exclusive liability hereunder, with respect to breach of warranty relating to any Product, consists of the obligation to repair, adjust or replace Product as provided in Section 4.04.

4.09

DISCLAIMER OF WARRANTIES. THE WARRANTIES SPECIFIED IN THIS SECTION 4.00 ARE THE COMPLETE WARRANTIES BETWEEN FARO AND PURCHASER. THEY

FARO Warranty

SUPERSEDE ALL PROPOSALS, PROMOTIONS, ADVERTISEMENTS, REPRESENTATIONS OR PRIOR WARRANTIES, VERBAL OR WRITTEN, AND ANY COMMUNICATIONS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THESE WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION 4.00, FARO EXPRESSLY DISCLAIMS

ALL WARRANTIES, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO IMPLIED

CONDITIONS AND WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, CORRESPONDENCE WITH DESCRIPTION OR QUALITY, AND NON-INFRINGEMENT.

4.10

FARO does not authorize any person (whether natural or corporate) to assume for FARO any liability in connection with or with respect to Product. No agent or employee of FARO has any authority to make any representation or promise on behalf of FARO, except as expressly set forth herein or in the Order, or to modify the terms or limitations of the Warranties. No verbal statements shall be binding upon FARO.

4.11

The Warranties extend only to Purchaser and are transferable by Purchaser only under the following conditions:

1. Product is currently within the Warranty Period;
2. The new owner is, or becomes, a Certified User;
3. A FARO warranty transfer form is completed and submitted to FARO Customer Service.

4.12

All claims under the Warranties must originate with Purchaser, or any subsequent owner that becomes a Certified User, and Purchaser will indemnify, defend and hold FARO harmless from any and all claims, liabilities, damages, costs and expenses for breach of warranty asserted against FARO by any third party.

4.13 PURCHASER ACKNOWLEDGES THAT IT HAS PURCHASED PRODUCT BASED UPON ITS OWN KNOWLEDGE OF THE USES TO WHICH PRODUCT WILL BE PUT. FARO SPECIFICALLY DISCLAIMS ANY WARRANTY OR LIABILITY RELATED TO THE FITNESS OF PRODUCT FOR ANY PARTICULAR PURPOSE OR ARISING FROM THE INABILITY OF PURCHASER

TO USE PRODUCT FOR ANY PARTICULAR PURPOSE.

4.14

FARO is an equal opportunity employer. All candidates for employment will be considered without regard to race, color, religion, sex, national origin, physical or mental disability, veteran status, or any other basis protected by applicable federal, state or local law.