

EXCLUSIVE AGREEMENT BETWEEN THE CITY OF VICTORVILLE
AND REDFLEX TRAFFIC SYSTEMS, INC. FOR
PHOTO RED LIGHT ENFORCEMENT PROGRAM

This Agreement (this "Agreement") is made by and between Redflex Traffic Systems, Inc., a Delaware corporation ("Redflex"), and the City of Victorville, a municipal corporation (the "City"). The City and Redflex are sometimes referred to individually as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, Redflex has exclusive knowledge, possession, and ownership of certain equipment, licenses, applications, and citation processes related to digital photo red light enforcement systems; and

WHEREAS, the City desires to engage the services of Redflex to provide certain equipment, processes, and back office services to enable sworn peace officers or other qualified employees of the Police Department to monitor, identify, and enforce red light violations; and

WHEREAS, it is a mutual objective of both Redflex and the City to reduce the incidence of vehicle collisions at the traffic intersections and City streets that will be monitored pursuant to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration received, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **DEFINITIONS.** In this Agreement, the words and phrases below shall have the following meanings:
 - 1.1. "Authorized Officer" means (a) the Police Project Manager or such other individual(s) as the City shall designate to review Potential Violations and to authorize the issuance of Citations in respect thereto, or (b) a sworn peace officer or a qualified employee of the Police Department.
 - 1.2. "Authorized Violation" means each Potential Violation in the Violations Data for which authorization to issue a citation in the form of an Electronic Signature is given by the Authorized Officer by using the Redflex Photo Red Light System.
 - 1.3. "Citation" means the Notice to Appear prescribed by the California Vehicle Code for violations recorded by an automated enforcement system. During the Warning Period, "Citation" means the warning notice provided to Redflex by the City to be mailed to the registered owner of the vehicle.

- 1.4. “Confidential Information” or “Private Information” means any and all information which is disclosed by either party to the other verbally, electronically, visually, or in a written or other tangible form, which is either identified or should be reasonably understood to be confidential or proprietary. Confidential Information or Private Information includes, without limitation, trade secrets, computer programs, software, documentation, formulas, data, inventions, techniques, marketing plans, strategies, forecasts, customer lists, employee information, financial information, information concerning past, current, or future products or manufacturing or operational methods, including information about research, development, engineering, purchasing, manufacturing, accounting, marketing, and selling or leasing.

Notwithstanding the foregoing, Confidential Information will not include information that: (i) was generally available to the public or otherwise part of the public domain at the time of its disclosure, (ii) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission by any party hereto in breach of this Agreement, (iii) was subsequently lawfully disclosed to the disclosing party by a person other than a party hereto, (iv) was required by a court of competent jurisdiction to be described, or (v) was required by applicable state law to be described.

- 1.5. “Designated Intersection Approaches” means the Intersection Approaches set forth on Exhibit A attached hereto, and such additional Intersection Approaches as Redflex and the City shall mutually agree upon in writing.
- 1.6. “Electronic Signature” means the method through which the Authorized Officer indicates his or her approval of the issuance of a Citation in respect to a Potential Violation using the Redflex System.
- 1.7. “Enforcement Documentation” means the necessary and appropriate documentation related to the Photo Red Light Enforcement Program, including, but not limited to, warning letters, citation notices (using the specifications of the Judicial Council and the City, a numbering sequence for use on all citation notices (in accordance with applicable court rules), instructions to accompany each issued Citation (including in such instructions a description of basic court procedures, payment options and information regarding the viewing of images and data collected by the Redflex System), chain of custody records, criteria regarding operational policies for processing Citations (including with respect to coordinating with the Department of Motor Vehicles), and technical support documentation for applicable court and judicial officers.
- 1.8. “Equipment” means any and all cameras, sensors, equipment, components, products, software, and other tangible and intangible property relating to the Redflex Photo Red Light System(s), including, but not limited to, all camera systems, housings, radar units, servers, and poles.

- 1.9. “Fine” means a monetary sum assessed for Citation, including, but not limited to, bail forfeitures, but excluding suspended fines.
- 1.10. “Governmental Authority” means any domestic or foreign government, governmental authority, court, tribunal, agency, or other regulatory, administrative, or judicial agency, commission, or organization, and any subdivision, branch, or department of any of the foregoing.
- 1.11. “Installation Date” means the date Redflex completes the construction and installation of at least one (1) fully operational Intersection Approach in accordance with the terms of this Agreement.
- 1.12. “Intellectual Property” means, with respect to any Person, any and all now known or hereafter known tangible and intangible (a) rights associated with works of authorship throughout the world, including but not limited to copyrights, moral rights and mask-works, (b) trademark and trade name rights and similar rights, (c) trade secrets rights, (d) patents, designs, algorithms and other industrial property rights, (e) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated), whether arising by operation of law, contract, license, or otherwise, and (f) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing), of such Person.
- 1.13. “Intersection Approach” means a conduit of travel with up to four (4) contiguous lanes from the curb (e.g., northbound, southbound, eastbound or westbound), on which Redflex has installed at least one (1) Redflex Photo Red Light System.
- 1.14. “Operational Period” means the period of time during the Term, commencing on the Installation Date, during which the Photo Red Light Enforcement Program is functional to permit the identification and prosecution of Violations at the Designated Intersection Approaches by an Authorized Officer and the issuance of Citations for such Authorized Violations using the Redflex Photo Red Light System.
- 1.15. “Person” means a natural individual, company, Governmental Authority, partnership, firm, corporation, legal entity, or other business association.
- 1.16. “Photo Red Light Enforcement Program” means the process by which the monitoring, identification, and enforcement of Violations is facilitated by the use of certain equipment, applications, and back office processes of Redflex, including, but not limited to, cameras, flashes, central processing units, signal controller interfaces, and detectors (whether loop, radar, or video loop) which, collectively, are capable of measuring Violations and recording Violations Data in the form of photographic images of motor vehicles.

- 1.17. "Photo Red Light Violation Criteria" means the standards and criteria by which Potential Violations will be evaluated by sworn peace officers or other qualified employee of the Police Department, which standards and criteria shall include, but are not limited to, the duration of time that a traffic light must remain red prior to a Violation being deemed to have occurred, and the location(s) in an intersection which a motor vehicle must pass during a red light signal prior to being deemed to have committed a Violation, all of which shall be in compliance with all applicable laws, rules and regulations of Governmental Authorities.
- 1.18. "Police Project Manager" means the project manager appointed by the City in accordance with this Agreement, which shall be a sworn peace officer and shall be responsible for overseeing the installation of the Intersection Approaches and the implementation of the Redlight Photo Enforcement Program, and which manager shall have the power and authority to make management decisions relating to the City's obligations pursuant to this Agreement, including but not limited to change order authorizations, subject to any limitations set forth in the City's charter or other organizational documents of the City or by the city counsel or other governing body of the City.
- 1.19. "Potential Violation" means, with respect to any motor vehicle passing through a Designated Intersection Approach, the data collected by the Redflex System with respect to such motor vehicle, which data shall be processed by the Redflex System for the purposes of allowing the Authorized Officer to review such data and determine whether a Red Light Violation has occurred.
- 1.20. "Proprietary Property" means, with respect to any Person, any written or tangible property owned or used by such Person in connection with such Person's business, whether such property is copyrightable or also qualifies as Confidential Information, including, without limitation, products, samples, equipment, files, lists, books, notebooks, records, documents, memoranda, reports, patterns, schematics, compilations, designs, drawings, data, test results, contracts, agreements, literature, correspondence, spread sheets, computer programs and software, computer print outs, other written and graphic records, and the like, whether originals, copies, duplicates, or summaries thereof, affecting or relating to the business of such Person, financial statements, budgets, projections, and invoices.
- 1.21. "Redflex Marks" means all trademarks registered in the name of Redflex or any of its affiliates, such other trademarks as are used by Redflex or any of its affiliates on or in relation to the Photo Red Light Enforcement Program at any time during the Term of this Agreement, service marks, trade names, logos, brands and other marks owned by Redflex, and all modifications or adaptations of any of the foregoing.
- 1.22. "Redflex Photo Red Light System" means, collectively, the SmartCam™ System, the SmartOps™ System, the Photo Red Light Enforcement Program, and all of

the other equipment, applications, back office processes, and digital red light traffic enforcement cameras, sensors, components, products, software, and other tangible and intangible property relating thereto.

- 1.23. "Redflex Project Manager" means the project manager appointed by Redflex in accordance with this Agreement, which project manager shall initially be Jack Weaver or such person as Redflex shall designate by providing written notice thereof to the City from time to time, who shall be responsible for overseeing the construction and installation of the Designated Intersection Approaches and the implementation the Photo Red Light Enforcement Program, and who shall have the power and authority to make management decisions relating to Redflex's obligations pursuant to this Agreement, including but not limited to change-order authorizations.
 - 1.24. "SmartCam™ System" means the proprietary digital red light photo enforcement system of Redflex relating to the Photo Red Light Enforcement Program.
 - 1.25. "SmartOps™ System" means the proprietary back-office processes of Redflex relating to the Photo Red Light Enforcement Program.
 - 1.26. "SmartScene™ System" means the proprietary digital video camera unit, hardware and software required for providing supplemental Violations Data.
 - 1.27. "Traffic Signal Controller Boxes" means the signal controller interface and detector, including but not limited to the radar or video loop, as the case may be.
 - 1.28. "Violation" means any traffic violation contrary to the terms of the Vehicle Code or any applicable rule, regulation or law of any other Governmental Authority, including but not limited to operating a motor vehicle contrary to traffic signals, and operating a motor vehicle without displaying a valid license plate or registration.
 - 1.29. "Violations Data" means the images and other data gathered by the Redflex Photo Red Light System at the Designated Intersection Approaches.
 - 1.30. "Warning Period" means the period of thirty (30) days after the Installation Date of the each Intersection Approach.
2. **TERM.** The term of this Agreement shall commence as of the Installation Date and shall continue for a period of five (5) years (the "Initial Term"). The City shall have the exclusive right to extend the term of this Agreement for up to two (2) additional consecutive two (2) year periods following the expiration of the Initial Term (each, a "Renewal Term," and, collectively with the Initial Term, the "Term"). The City may exercise the right to extend this Agreement for a Renewal Term by providing written notice to Redflex not less than thirty (30) days prior to the last day of the Initial Term or the Renewal Term, as the case may be.

3. **SERVICES.** Redflex shall provide the Photo Red Light Enforcement Program to the City in accordance with the terms and provisions set forth in this Agreement.

3.1. **INSTALLATION.** With respect to the installation of the Redflex Photo Red Light System at the Designated Intersection Approaches, the City and Redflex shall have the respective rights and obligations set forth on Exhibit B attached hereto.

3.2. **MAINTENANCE.** With respect to the maintenance of the Redflex Photo Red Light System at the Designated Intersection Approaches, the City and Redflex shall have the respective rights and obligations set forth on Exhibit C attached hereto.

3.3. **VIOLATION PROCESSING.** During the Operational Period, Violations shall be processed pursuant to this section.

3.3.1. All Violations Data shall be stored on the Redflex System.

3.3.2. The Redflex Photo Red Light System shall process Violations Data gathered from the Designated Intersection Approaches into a format capable of review by the Authorized Officer.

3.3.3. The Redflex Photo Red Light System shall be accessible by the Authorized Officer through a virtual private network in encrypted format by use of a confidential password on any computer equipped with a high-speed internet connection and a web browser.

3.3.4. Redflex shall provide the Authorized Officer with access to the Redflex Photo Red Light System for the purposes of reviewing the pre-processed Violations Data within seven (7) days of the gathering of the Violations Data from the applicable Designated Intersection Approaches.

3.3.5. The City shall cause the Authorized Officer to review the Violations Data and to determine whether a Citation shall be issued with respect to each Potential Violation captured within such Violations Data, and transmit each such determination in the form of an Electronic Signature to Redflex using the software or other applications or procedures provided by Redflex on the Redflex Photo Red Light System for such purpose, and Redflex hereby acknowledges and agrees that the decision to issue a Citation shall be the sole, unilateral, and exclusive decision of the Authorized Officer and shall be made in such Authorized Officer's sole discretion (a "Citation Decision"), and in no event shall Redflex have the ability or authorization to make a Citation Decision.

3.3.6. With respect to each Authorized Violation, Redflex shall print and mail a Citation within six (6) days after Redflex's receipt of such authorization;

provided, however, during the Warning Period, warning violation notices shall be issued instead of Citations.

- 3.3.7. Redflex shall provide a toll-free telephone number for the purposes of answering citizen inquiries between the hours of 7:00 AM and 5:00 PM MTN, Monday through Friday (some holidays excluded).
 - 3.3.8. Redflex shall permit the Authorized Officer to generate monthly reports using the Redflex Standard Report System.
 - 3.3.9. Upon Redflex's receipt of a written request from the City and in addition to the monthly reports generated using the Redflex Standard Report System, Redflex shall provide, without cost to the City, reports regarding the processing and issuance of Citations, the maintenance and downtime records of the Designated Intersection Approaches, and the functionality of the Redflex Photo Red Light System with respect thereto, to the City in such format and for such periods as the City may reasonably request; provided, however, Redflex shall not be obligated to provide in excess of six (6) such reports in any given twelve (12) month period without cost to the City.
 - 3.3.10. Upon the City's receipt of a written request from Redflex, the City shall provide, without cost to Redflex, reports regarding the prosecution of Citations and the collection of fines, fees, and other monies in respect thereof in such format and for such periods as Redflex may reasonably request; provided, however, the City shall not be obligated to provide in excess of six (6) such reports in any given twelve (12) month period without cost to Redflex.
 - 3.3.11. Upon Redflex's receipt of a written request from the City at least fourteen (14) calendar days in advance of any court proceeding for any Violation, Redflex shall provide the custodian of records and/or expert witness(es) to testify regarding the Redflex Photo Red Light System; provided, however, the City shall use reasonable best efforts to seek judicial notice of the validity of the Redflex Photo Red Light System in lieu of requiring Redflex to provide such expert witnesses.
 - 3.3.12. During the three (3) month period following the Installation Date, Redflex shall provide such training to law enforcement personnel as the City deems reasonably necessary, in order to allow such personnel to act as expert witnesses on behalf of the City with respect to the Red Light Enforcement Program. Redflex shall further provide such training as may be reasonably necessary and requested by the City.
- 3.4. COMPENSATION. The City shall be obligated to pay, and Redflex shall have the right to receive, the compensation set forth in Exhibit D attached hereto, in accordance with the terms and conditions contained in this Agreement.

- 3.5. OTHER RIGHTS AND OBLIGATIONS. During the Term, in addition to all of the other rights and obligations set forth in this Agreement, Redflex and the City shall have the respective rights and obligations set forth on Exhibit E attached hereto.
- 3.6. CHANGE ORDERS. The City may request changes to the services required pursuant to the terms of this Agreement by providing written notice thereof to Redflex, setting forth in reasonable detail the proposed changes (a "Change Order Notice"). Upon receipt of a Change Order Notice, Redflex shall, within ten (10) days, deliver to the City a written statement describing the effect, if any; the proposed changes would have on the pricing terms set forth in Exhibit D (the "Change Order Proposal"). The Change Order Proposal shall include (i) a detailed breakdown of the charge and schedule effects, (ii) a description of any resulting changes to the specifications and obligations of the parties, (iii) a schedule for the delivery and other performance obligations, and (iv) any other information relating to the proposed changes reasonably requested by the City. Following the City's receipt of the Change Order Proposal, the parties shall negotiate in good faith and agree to a plan and schedule for implementation of the proposed changes, the time, manner, and amount of payment or price increases or decreases, and any other matters relating to the proposed changes; provided, however, if any proposed change involves only the addition of equipment or services to the existing Designated Intersection Approaches, or the addition of Intersection Approaches to be covered by the terms of this Agreement, to the maximum extent applicable, the pricing terms set forth in Exhibit D shall govern. Any failure of the parties to reach agreement with respect to any of the foregoing as a result of any proposed changes shall not be deemed to be a breach of this Agreement, and any disagreement shall be resolved in accordance with Section 10.

4. LICENSE; RESERVATION OF RIGHTS.

- 4.1. LICENSE. Subject to the terms and conditions of this Agreement, Redflex hereby grants to the City, and the City hereby accepts from Redflex, upon the terms and conditions herein specified, a non-exclusive, non-transferable license during the Term of this Agreement to:
- 4.1.1. Access and use the Redflex Photo Red Light System for the purpose of reviewing Potential Violations in the City, and authorizing the issuance of Citations pursuant to this Agreement;
 - 4.1.2. Print copies of any content posted on the Redflex Photo Red Light System;
 - 4.1.3. Disclose to the public (including persons outside of the City) that Redflex is providing services to the City in connection with Photo Red Light Enforcement Program pursuant to this Agreement; and

- 4.1.4. Use and display the Redflex Marks on or in marketing, public awareness or education, or other publications or materials relating to the Photo Red Light Enforcement Program, so long as any and all such publications or materials are approved in advance by Redflex.
- 4.2. RESERVATION OF RIGHTS. The City hereby acknowledges and agrees that:
 - 4.2.1. Redflex is the sole and exclusive owner of the Redflex Photo Red Light System, the Redflex Marks, all Intellectual Property arising from or relating to the Redflex Photo Red Light System, and any and all related Equipment;
 - 4.2.2. The City neither has nor makes any claim to any right, title, or interest in any of the foregoing, except as specifically granted or authorized under this Agreement; and
 - 4.2.3. By reason of the exercise of any such rights or interests of the City pursuant to this Agreement, the City shall gain no additional right, title or interest therein.
- 4.3. RESTRICTED USE. The City hereby covenants and agrees that it shall not:
 - 4.3.1. Make any modifications to the Redflex Photo Red Light System, including, but not limited to, any Equipment;
 - 4.3.2. Alter, remove, or tamper with any Redflex Marks;
 - 4.3.3. Use any of the Redflex Marks in any way which might prejudice their distinctiveness, validity, or the goodwill of Redflex therein;
 - 4.3.4. Use any trademarks or other marks other than the Redflex Marks in connection with the City's use of the Redflex Photo Red Light System pursuant to this Agreement without first obtaining the prior consent of Redflex; or
 - 4.3.5. Disassemble, de-compile, or otherwise perform any type of reverse engineering to the Redflex Photo Red Light System, including, but not limited to, any Equipment, Intellectual Property or Proprietary Property of Redflex, or cause any other Person to do any of the foregoing.
- 4.4. PROTECTION OF RIGHTS. Redflex shall have the right to take whatever action it deems necessary or desirable to remedy or prevent the infringement of any Intellectual Property of Redflex, including, without limitation, the filing of applications to register as trademarks in any jurisdiction any of the Redflex Marks, the filing of patent application for any of the Intellectual Property of Redflex, and making any other applications or filings with appropriate Governmental Authorities. The City shall not take any action to remedy or

prevent such infringing activities, and shall not in its own name make any registrations or filings with respect to any of the Redflex Marks or the Intellectual Property of Redflex without the prior written consent of Redflex.

4.5. INFRINGEMENT. The City shall use its reasonable best efforts to give Redflex prompt notice of any activity or threatened activity of any Person of which it becomes aware that infringes or violates the Redflex Marks, any of Redflex's Intellectual Property, or that constitutes a misappropriation of trade secrets or an act of unfair competition that might dilute, damage, or destroy any of the Redflex Marks or any other Intellectual Property of Redflex. Redflex shall have the exclusive right, but not the obligation, to take action to enforce such rights and to make settlements with respect thereto. In the event that Redflex commences any enforcement action under this Section 4.5, then the City shall render to Redflex such cooperation and assistance as is reasonably requested by Redflex, and Redflex shall be entitled to any damages or other monetary amount that might be recovered after deduction of actual costs; provided, that Redflex shall reimburse the City for any reasonable costs incurred in providing such cooperation and assistance.

4.6. INFRINGING USE. The City shall give Redflex prompt written notice of any action or claim, whether threatened or pending, against the City alleging that the Redflex Marks, or any other Intellectual Property of Redflex, infringes or violates any patent, trademark, copyright, trade secret, or other Intellectual Property of any other Person, and the City shall render to Redflex such cooperation and assistance as is reasonably requested by Redflex in the defense thereof; provided, that Redflex shall reimburse the City for any reasonable costs incurred in providing such cooperation and assistance. If such a claim is made and Redflex determines, in the exercise of its sole discretion, that an infringement may exist, Redflex shall have the right, but not the obligation, to procure for the City the right to keep using the allegedly infringing items, modify them to avoid the alleged infringement, or replace them with non-infringing items.

5. REPRESENTATIONS AND WARRANTIES.

5.1. REDFLEX REPRESENTATIONS AND WARRANTIES.

5.1.1. AUTHORITY. Redflex hereby warrants and represents that it has all right, power, and authority to execute and deliver this Agreement and perform its obligations hereunder.

5.1.2. PROFESSIONAL SERVICES. Redflex hereby warrants and represents that any and all services provided by Redflex pursuant to this Agreement shall be performed in a professional and workmanlike manner and, with respect to the installation of the Redflex Photo Red Light System, subject to applicable law, in compliance with all specifications provided to Redflex by the City.

5.2. CITY REPRESENTATIONS AND WARRANTIES.

5.2.1. AUTHORITY. The City hereby warrants and represents that it has all right, power, and authority to execute and deliver this Agreement and perform its obligations hereunder.

5.2.2. PROFESSIONAL SERVICES. The City hereby warrants and represents that any and all services provided by the City pursuant to this Agreement shall be performed in a professional and workmanlike manner.

5.3. LIMITED WARRANTIES. Redflex warrants that the Redflex Photo Red Light System will operate in the manner described in this Agreement, including the ability to accurately capture Violation images. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, REDFLEX MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE REDFLEX PHOTO RED LIGHT SYSTEM OR ANY RELATED EQUIPMENT OR WITH RESPECT TO THE RESULTS OF THE CITY'S USE OF ANY OF THE FOREGOING. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, REDFLEX DOES NOT WARRANT THAT ANY OF THE DESIGNATED INTERSECTION APPROACHES OR THE REDFLEX PHOTO RED LIGHT SYSTEM WILL OPERATE IN THE WAY THE CITY SELECTS FOR USE, OR THAT THE OPERATION OR USE THEREOF WILL BE UNINTERRUPTED. THE CITY HEREBY ACKNOWLEDGES THAT THE REDFLEX PHOTO RED LIGHT SYSTEM MAY MALFUNCTION FROM TIME TO TIME, AND SUBJECT TO THE TERMS OF THIS AGREEMENT, REDFLEX SHALL DILIGENTLY ENDEAVOR TO CORRECT ANY SUCH MALFUNCTION IN A TIMELY MANNER.

5.4. MALFUNCTIONING OR NON-OPERATING INTERSECTION APPROACHES. The City shall not be obligated to pay, and will not be billed, for each calendar day that a particular Designated Intersection Approach is not functioning for a period of 48 hours due to equipment related malfunction. The invoice for the relevant period will show a credit for a fraction of the Fixed Fee based on the number of calendar days in that month.

6. TERMINATION.

6.1. TERMINATION FOR CAUSE. Either party shall have the right to terminate this Agreement immediately by written notice to the other if (i) state statutes are amended to prohibit or substantially change the operation of photo red light enforcement systems; (ii) any court having jurisdiction over the City rules, or state or federal statute declares, that results from the Redflex Photo Red Light System are inadmissible in evidence; or (iii) the other party commits any material

breach of any of the provisions of this Agreement. In the event of a termination due to Section 6.1(i) or 6.1(ii), the City shall be relieved of any further obligations for payment to Redflex other than as specified in Exhibit "D". Either party shall have the right to remedy the cause for termination within forty-five (45) calendar days (or within such other time period as the City and Redflex shall mutually agree, which agreement shall not be unreasonably withheld or delayed) after written notice from the non-causing party setting forth in reasonable detail the events of the cause for termination..

6.2. TERMINATION FOR CONVENIENCE. The City may terminate this Agreement without cause ("Termination for Convenience") at any time during the one year period following the Installation Date by giving thirty (30) days' written notice thereof to Redflex. In the event the City exercises its right to Termination for Convenience, the City shall reimburse Redflex an amount equal to the Unamortized Value, as hereinafter defined, of the direct labor costs and direct material costs (not including Equipment costs and salvageable material costs) solely associated with the installation of the Redflex Photo Red Light System at all Intersection Approaches where such system(s) have been installed prior to the effective date of Termination for Convenience (the "Reimbursable Costs"). Redflex shall provide an itemization of the Reimbursable Costs, with supporting invoices and labor expense documentation, to the City within thirty (30) days of the completion of installation of the Redflex Photo Red Light System at each designated Intersection Approach. Said Reimbursable Costs are currently estimated to equal approximately \$50,000 to \$80,000 per Intersection Approach but, in no event, shall said amount exceed \$80,000 per Intersection Approach. For the purpose of this section, the Unamortized Value for each Intersection Approach shall be derived as follows: first, by multiplying the Reimbursable Costs by the number of complete months remaining between the effective Termination for Convenience date and the date that is five years after the execution of the Agreement, and, then, by dividing said product by the number of complete months between the date of the completion of installation of the Redflex Photo Red Light System at said Intersection Approach and the date that is five years after the execution of the Agreement.

6.3. PROCEDURES UPON TERMINATION. Except as otherwise provided herein, the termination of this Agreement shall not relieve either party of any liability that accrued prior to such termination. Except as set forth in Section 6.3, upon the termination of this Agreement, all of the provisions of this Agreement shall terminate and:

6.3.1. Redflex shall (i) immediately cease to provide services, including, but not limited to, work in connection with the construction or installation activities and services in connection with the Photo Red Light Enforcement Program; (ii) promptly deliver to the City any and all Proprietary Property of the City provided to Redflex pursuant to this Agreement; (iii) promptly deliver to the City a final report regarding the collection of data and the issuance of Citations in such format and for such periods as the City may reasonably request, and which final report Redflex shall update or supplement from time

to time when and if additional data or information becomes available; (iv) promptly deliver to the City a final invoice stating all fees and charges properly owed by the City to Redflex for work performed and Citations issued by Redflex prior to the termination; and (v) provide such assistance as the City may reasonably request from time to time in connection with prosecuting and enforcing Citations issued prior to the termination of this Agreement.

6.3.2. The City shall (i) immediately cease using the Photo Red Light Enforcement Program, accessing the Redflex Photo Red Light System, and using any other Intellectual Property of Redflex; (ii) promptly deliver to Redflex any and all Proprietary Property of Redflex provided to the City pursuant to this Agreement; and (iii) promptly pay any and all fees, charges, and amounts properly owed by the City to Redflex for work performed and Citations issued by Redflex prior to the termination.

6.3.3. Unless the City and Redflex have agreed to enter into a new agreement relating to the Photo Red Light Enforcement Program or have agreed to extend the Term of this Agreement, Redflex shall remove any and all Equipment or other materials of Redflex installed in connection with Redflex's performance of its obligations under this Agreement, including, but not limited to, housings, poles, and camera systems, and Redflex shall restore the Designated Intersection Approaches to substantially the same condition such Designated Intersection Approaches were in immediately prior to this Agreement.

6.4. SURVIVAL. Notwithstanding the foregoing, the definitions and each of the provisions set forth in this Agreement, which by their terms state that the provisions survive the expiration or termination of the Agreement, or must survive to give effect to the provisions of this Agreement, shall survive the termination of this Agreement.

7. CONFIDENTIALITY. During the term of this Agreement and for a period of three (3) years thereafter, neither party shall disclose to any third person, or use for itself in any way for pecuniary gain, any Confidential Information learned from the other party during the course of the negotiations for this Agreement or during the Term of this Agreement. Upon termination of this Agreement, each party shall return to the other all tangible Confidential Information of such party. Each party shall retain in confidence and not disclose to any third party any Confidential Information without the other party's express written consent, except (a) to its employees who are reasonably required to have the Confidential Information, (b) to its agents, representatives, attorneys, and other professional advisors that have a need to know such Confidential Information, provided that such parties undertake in writing (or are otherwise bound by rules of professional conduct) to keep such information strictly confidential, and (c) pursuant to, and to the extent of, a request by any member of the public or order by any Governmental Authority, including laws relating to public records.

8. INDEMNIFICATION AND LIABILITY.

- 8.1. INDEMNIFICATION BY REDFLEX. Subject to Section 8.3, Redflex hereby agrees to defend and indemnify the City and its elected and appointed officials, affiliates, shareholders or other interest holders, managers, officers, directors, employees, agents, representatives and successors, permitted assignees and each of their affiliates, and all persons acting by, through, under or in concert with them, or any of them (individually a "City Party" and collectively, the "City Parties") against, and to protect, save, and keep harmless the City Parties from, and to pay on behalf of or reimburse the City Parties as and when incurred for, any and all liabilities, obligations, losses, damages, penalties, demands, claims, actions, suits, judgments, settlements, costs, expenses, and disbursements (including reasonable attorneys', accountants', and expert witnesses' fees) of whatever kind and nature (collectively, "Losses"), which may be imposed on or incurred by any City Party arising out of or related to (a) any material misrepresentation, inaccuracy, or breach of any covenant, warranty or representation of Redflex contained in this Agreement, or (b) the negligent or willful misconduct of Redflex, its employees or agents, which result in death or bodily injury to any natural person (including third parties) or any damage to any real or tangible personal property (including the personal property of third parties), except to the extent caused by the willful misconduct of any City Party.
- 8.2. INDEMNIFICATION BY CITY. Subject to Section 8.3, the City hereby agrees to defend and indemnify Redflex and its affiliates, shareholders or other interest holders, managers, officers, directors, employees, agents, representatives and successors, permitted assignees and all persons acting by, through, under or in concert with them, or any of them (individually a "Redflex Party" and collectively, the "Redflex Parties") against, and to protect, save and keep harmless the Redflex Parties from, and to pay on behalf of or reimburse the Redflex Parties as and when incurred for, any and all Losses which may be imposed on or incurred by any Redflex Party arising out of or in any way related to (a) any material misrepresentation, inaccuracy or breach of any covenant, warranty or representation of the City contained in this Agreement, or (b) the willful misconduct of the City, its employees, contractors or agents which result in death or bodily injury to any natural person (including third parties) or any damage to any real or tangible personal property (including the personal property of third parties), except to the extent caused by the negligent or willful misconduct of any Redflex Party.
- 8.3. INDEMNIFICATION PROCEDURES. In the event any claim, action, or demand (a "Claim") in respect of which any party hereto seeks indemnification from the other, the party seeking indemnification (the "Indemnified Party") shall give the party from whom indemnification is sought (the "Indemnifying Party") written notice of such Claim promptly after the Indemnified Party first becomes aware thereof; provided, however, that failure so to give such notice shall not preclude indemnification with respect to such Claim, except to the extent of any

additional or increased Losses or other actual prejudice directly caused by such failure. The Indemnifying Party shall have the right to choose counsel to defend such Claim (subject to the approval of such counsel by the Indemnified Party, which approval shall not be unreasonably withheld, conditioned, or delayed), and to control, compromise, and settle such Claim, and the Indemnified Party shall have the right to participate in the defense at its sole expense; provided, however, the Indemnified Party shall have the right to take over the control of the defense or settlement of such Claim at any time if the Indemnified Party irrevocably waives all rights to indemnification from and by the Indemnifying Party. The Indemnifying Party and the Indemnified Party shall cooperate in the defense or settlement of any Claim, and no party shall have the right enter into any settlement agreement that materially affects the other party's rights or interests without such party's prior written consent, which consent will not be unreasonably withheld or delayed.

8.4. LIMITED LIABILITY. Notwithstanding anything to the contrary in this Agreement, neither party shall be liable to the other, by reason of any representation or express or implied warranty, condition, or other term, or any duty at common or civil law, for any indirect, incidental, special, lost profits, or consequential damages, however caused and on any theory of liability arising out of or relating to this Agreement.

9. NOTICES. Any notices to be given hereunder shall be in writing, and shall be deemed to have been given (a) upon delivery, if delivered by hand, (b) three (3) days after being mailed first class, certified mail, return receipt requested, postage and registry fees prepaid, or (c) one Business Day after being delivered to a reputable overnight courier service, excluding the U.S. Postal Service, prepaid, marked for next day delivery, if the courier service obtains a signature acknowledging receipt, in each case addressed or sent to such party as follows:

9.1. Notices to Redflex:

Redflex Traffic Systems, Inc.
15020 North 74th Street
Scottsdale, AZ 85260
Attention: Ms. Karen Finley
Facsimile: (480) 607-5552

9.2. Notices to the City:

City of Victorville
14343 Civic Drive
PO Box 5001
Victorville, CA 92393-5001
Attention: Jon Roberts, City Manager
Phone: 760.955.5000

10. **DISPUTE RESOLUTION.** Upon the occurrence of any dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), the parties shall engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it shall be to meet for the purpose of attempting to resolve such Dispute. The designated officers shall meet as often as the parties shall deem to be reasonably necessary. Such officers will discuss the Dispute. If the parties are unable to resolve the Dispute, and in the event that either of the parties concludes in good faith that amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then either party may file suit in the nearest court of competent jurisdiction in the County of San Bernardino, California.
11. **INSURANCE.** During the Term, Redflex shall procure and maintain at Redflex's sole cost and expense the following insurance coverage with respect to claims for injuries to persons or damages to property which may arise from or in connection with the performance of work or services pursuant to this Agreement by Redflex, and each of Redflex's subcontractors, agents, representatives, and employees.
- 11.1. Commercial General Liability Insurance. Commercial General Liability Insurance with coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage.
- 11.1.1. The City Parties shall be covered as additional insureds with respect to any liability arising from any act or omission of any Redflex Parties on the premises upon which any such Redflex Parties may perform services pursuant to this Agreement, and such coverage shall contain no special limitations on the scope of protection afforded to such additional insureds.
- 11.1.2. The insurance coverage procured by Redflex and described above shall be the primary insurance with respect to the City Parties in connection with this Agreement, and any insurance or self-insurance maintained by any of the City Parties shall be in excess, and not in contribution to, such insurance.
- 11.2. Commercial Automobile Liability Insurance. Commercial Automobile Liability Insurance with coverage of not less than One Million Dollars (\$1,000,000) combined single limit per accident for bodily injury or property damage, including, but not limited to, coverage for all automobiles owned by Redflex or hired by Redflex.
- 11.3. Professional Liability (Errors and Omissions) Insurance. Redflex will procure and maintain Professional Liability (Errors and Omissions) Insurance with coverage of not less than One Million Dollars (\$1,000,000) per claim.

- 11.4. Workers' Compensation and Employer's Liability Insurance. Workers' Compensation Insurance with coverage of not less than that required by the Labor Code of the State of California, and Employer's Liability Insurance with coverage of not less than One Million Dollars (\$1,000,000) per occurrence.
- 11.5. Any deductibles or self-insured retentions must be declared to and approved by the City and any changes to such deductibles or self-insured retentions during the Term must be approved in advance in writing by the City.
- 11.6. Any failure to comply with the reporting provisions of the various insurance policies described herein shall not affect the coverage provided to the City Parties, and such insurance policies shall state the such insurance coverage shall apply separately with respect to each additional insured against whom any claim is made or suit is brought, except with respect to the limits set forth in such insurance policies.
- 11.7. If any of the Redflex Parties are notified by any insurer that any insurance coverage will be cancelled, Redflex shall immediately provide written notice thereof to the City and shall take all necessary actions to correct such cancellation in coverage limits, and shall provide written notice to the City of the date and nature of such correction. If Redflex, for any reason, fails to maintain the insurance coverage required pursuant to this Agreement, such failure shall be deemed a material breach of this Agreement, and the City shall have the right, but not the obligation, and exercisable in its sole discretion, to (i) terminate this Agreement and seek damages from Redflex for such breach, or (ii) purchase such required insurance, and without further notice to Redflex, deduct from any amounts due to Redflex pursuant to this Agreement, any premium costs advanced by the City for such insurance. If the premium costs advanced by the City for such insurance exceed any amounts due to Redflex pursuant to this Agreement, Redflex shall promptly remit such excess amount to the City upon receipt of written notice thereof.
- 11.8. Redflex shall provide certificates of insurance evidencing the insurance required pursuant to the terms of this Agreement, which certificates shall be executed by an authorized representative of the applicable insurer, and which certificates shall be delivered to the City prior to Redflex commencing any work pursuant to the terms of this Agreement.

12. MISCELLANEOUS.

- 12.1. **ASSIGNMENT.** This Agreement, and any portion thereof, shall not be assigned or transferred, nor shall any of Redflex's duties be delegated, without the prior written consent of the City. Any attempt to assign or delegate this Agreement without the prior written consent of the City shall be void and of no force or effect. A consent by the City to one assignment shall not be deemed a consent to any subsequent assignment.

- 12.2. RELATIONSHIP BETWEEN REDFLEX AND THE CITY. Nothing in this Agreement shall create, or be deemed to create, a partnership, joint venture, or the relationship of principal and agent or employer and employee between the parties. The relationship between the parties shall be that of independent contractors, and nothing contained in this Agreement shall create the relationship of principal and agent or otherwise permit either party to incur any debts or liabilities or obligations on behalf of the other party.
- 12.3. NONDISCRIMINATION. Redflex shall not discriminate against any person related to the performance under this Agreement (including any employee or applicant) because of race, color, religious creed, national origin, physical disability, mental disability, medical condition, marital status, sexual orientation, or sex.
- 12.4. FORCE MAJEURE. Neither party will be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or Governmental Authorities approval delays which are not caused by any act or omission by Redflex, and unusually severe weather. The party whose performance is affected agrees to notify the other promptly of the existence and nature of any delay.
- 12.5. ENTIRE AGREEMENT. This Agreement represents the entire Agreement between the parties, and there are no other agreements (other than invoices and purchase orders), whether written or oral, which affect its terms. This Agreement may be amended only by a subsequent written agreement signed by both parties.
- 12.6. SEVERABILITY. If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or part, this Agreement shall continue to be valid as to the other provisions thereof and the remainder of the affected provision.
- 12.7. WAIVER. Any waiver by either party of a breach of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.
- 12.8. CONSTRUCTION. Except as expressly otherwise provided in this Agreement, this Agreement shall be construed as having been fully and completely negotiated and neither the Agreement nor any provision thereof shall be construed more strictly against either party.
- 12.9. HEADINGS. The headings of the sections contained in this Agreement are included herein for reference purposes only, solely for the convenience of the parties hereto, and shall not in any way be deemed to affect the meaning,

interpretation, or applicability of this Agreement or any term, condition, or provision hereof.

- 12.10. EXECUTION AND COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute only one instrument.
- 12.11. COVENANT OF FURTHER ASSURANCES. All parties to this Agreement shall, upon request, perform any and all acts and execute and deliver any and all certificates, instruments, and other documents that may be necessary or appropriate to carry out any of the terms, conditions, and provisions hereof, or to carry out the intent of this Agreement.
- 12.12. REMEDIES CUMULATIVE. Each and all of the several rights and remedies provided for in this Agreement shall be construed as being cumulative and no one of them shall be deemed to be exclusive of the others or of any right or remedy allowed by law or equity, and pursuit of any one remedy shall not be deemed to be an election of such remedy, or a waiver of any other remedy. The rights to terminate this Agreement given in Section 6 shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach of this Agreement.
- 12.13. BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon all of the parties hereto and their respective executors, administrators, successors, and permitted assigns.
- 12.14. COMPLIANCE WITH LAWS. Nothing contained in this Agreement shall be construed to require the commission of any act contrary to law, and whenever there is a conflict between any term, condition, or provision of this Agreement and any present or future statute, law, ordinance, or regulation contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the term, condition, or provision of this Agreement affected shall be curtailed and limited only to the extent necessary to bring it within the requirement of the law, provided that such construction is consistent with the intent of the parties as expressed in this Agreement.
- 12.15. NO THIRD PARTY BENEFIT. Nothing contained in this Agreement shall be deemed to confer any right or benefit on any Person who is not a party to this Agreement.
- 12.16. APPLICABLE LAW. This Agreement shall be governed by and construed in all respects solely in accordance with the laws of the State of California, United States.

- 12.17. JURISDICTION AND VENUE. Any dispute arising out of or in connection with this Agreement shall be submitted to the exclusive jurisdiction and venue of the nearest court of competent jurisdiction located in the County of San Bernardino, California, and both parties specifically agree to be bound by the jurisdiction and venue thereof.
- 12.18. ATTORNEY'S FEES. In any action brought by either Party in connection with the interpretation or enforcement this Agreement, the prevailing Party in such action shall be entitled to recover from the non-prevailing Party, in addition to any other relief granted, reasonable attorneys' fees, costs, and expenses.

(The remainder of this page is left intentionally blank)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth below.

THE CITY

REDFLEX

CITY OF VICTORVILLE

REDFLEX TRAFFIC SYSTEMS, INC.,

Terry E. Caldwell
Terry E. Caldwell, Mayor
Date: 10-9-07

By: Karen Finley
Name: Karen Finley
Title: President and CEO

ATTEST:

Carolee Bates
Carolee Bates, City Clerk

APPROVED AS TO FORM:

Andre de Bortnowsky
Andre de Bortnowsky, City Attorney

EXHIBIT "A"
Designated Intersection Approaches

The contract is for the implementation of up to 15 intersections. Identification of the Designated Intersection Approaches will be based on mutual agreement between Redflex and the City as warranted by community safety and traffic needs. The City shall establish guidelines for the selection of Designated Intersection Approaches as required by Vehicle Code sections 21455.5(c)(2) and 21455.5(d).

EXHIBIT "B"

Construction and Installation Obligations

Timeframe for Installation: Fixed Photo Red Light System

Redflex will have each Designated Intersection Approach installed and activated in phases in accordance with an implementation plan to be mutually agreed to by Redflex and the City.

Redflex will use reasonable commercial efforts to install the system in accordance with the schedule set forth in the implementation plan that will be formalized upon project commencement.

Redflex will use reasonable commercial efforts to install and activate the first Designated Intersection Approach within forty-five (45) to sixty (60) days subsequent to formal project kick-off. The City agrees that the estimated timeframe for installation and activation are subject to conditions beyond the control of Redflex and are not guaranteed.

In order to provide the City with timely completion of the photo enforcement project, Redflex requires that the City assist with providing timely approval of City permit requests. The City acknowledges the importance of the safety program and undertakes that in order to keep the project on schedule the City is to provide City engineers review of Redflex permit requests and all documentation in a timely manner.

1. Redflex Obligations. Redflex shall do or cause to be done each of the following (in each case, unless otherwise stated below, at Redflex's sole expense):
 - 1.1. Appoint the Redflex Project Manager and a project implementation team consisting of between one (1) and four (4) people to assist the Redflex Project Manager;
 - 1.2. Request current "as-built" electronic engineering drawings for the Designated Intersection Approaches (the "Drawings") from the city traffic engineer;
 - 1.3. Develop and submit to the City for approval construction and installation specifications in reasonable detail for the Designated Intersection Approaches, including, but not limited to, specifications for all radar sensors, pavement loops, electrical connections, and traffic controller connections, as required;
 - 1.4. Seek approval from the relevant Governmental Authorities having authority or jurisdiction over the construction and installation specifications for the Designated Intersection Approaches (collectively, the "Approvals"), which will include compliance with City permit applications;
 - 1.5. Finalize the acquisition of the Approvals;

- 1.6. Submit to the City a public awareness strategy for the City's consideration and approval, which strategy shall include media and educational materials for the City's approval or amendment (the "Awareness Strategy");
- 1.7. Implement the Red Light Violation Criteria as directed by the City, as the City does not have the authority to contract out the establishment of such criteria pursuant to Vehicle Code section 21455.5(d);
- 1.8. Develop the Enforcement Documentation for approval by the City, which approval shall not be unreasonably withheld at the sole determination of the City;
- 1.9. Complete the installation and testing of all necessary Equipment, including hardware and software, at the Designated Intersection Approaches (under the supervision of the City);
- 1.10. Cause an electrical sub-contractor to complete all reasonably necessary electrical work at the Designated Intersection Approaches, including, but not limited to, the installation of all related Equipment and other detection sensors, poles, cabling, telecommunications equipment, and wiring, which work shall be performed in compliance with all applicable local, state and federal laws and regulations;
- 1.11. Install and test the functionality of the Designated Intersection Approaches with the Redflex Photo Red Light System and establish fully operational Violation processing capability with the Redflex Photo Red Light System;
- 1.12. Implement the use of the Redflex Photo Red Light System at each of the Designated Intersection Approaches;
- 1.13. Deliver the Materials to the City;
- 1.14. Issue Citation notices for Authorized Violations;
- 1.15. Redflex shall provide training (i) for up to fifteen (15) personnel of the City, including, but not limited to, the Persons that the City shall appoint as Authorized Officers and other Persons involved in the administration of the Red Light Photo Enforcement Program, (ii) for at least sixteen (16) hours in the aggregate, (iii) regarding the operation of the Redflex Photo Red Light System and the Red Light Photo Enforcement Program, which training shall include training with respect to the Redflex Photo Red Light System and its operations, strategies for presenting Violations Data in court and judicial proceedings, and a review of the Enforcement Documentation;
- 1.16. Interact with court and judicial personnel to address issues regarding the implementation of the Redflex Photo Red Light System, the development of a subpoena processing timeline that will permit the offering of Violations Data in

court and judicial proceedings, and coordination between Redflex, the City and court personnel;

- 1.17. Provide reasonable public relations resources and media materials to the City in the event that the City elects to conduct a public launch of the Red Light Photo Enforcement Program; and
 - 1.18. Citation processing and citation re-issuance.
2. CITY OBLIGATIONS. The City shall do or cause to be done each of the following (in each case, unless otherwise stated below, at City's sole expense):
- 2.1.1. Appoint the Project Manager;
 - 2.1.2. Assist Redflex in obtaining the drawings from the relevant Governmental Authorities;
 - 2.1.3. Notify Redflex of any specific requirements relating to the construction and installation of any Designated Intersection Approaches or the implementation of the Red Light Photo Enforcement Program;
 - 2.1.4. Provide assistance to Redflex in obtaining access to the records data of the Department of Motor Vehicles in Redflex's capacity as an independent contractor to the City;
 - 2.1.5. Assist Redflex in seeking the Approvals;
 - 2.1.6. Provide reasonable access to the City's properties and facilities in order to permit Redflex to install and test the functionality of the Designated Intersection Approaches and the Red Light Photo Enforcement Program;
 - 2.1.7. Provide reasonable access to the personnel of the City and reasonable information about the specific operational requirements of such personnel for the purposes of performing training;
 - 2.1.8. Seek approval or amendment of Awareness Strategy and provide written notice to Redflex with respect to the quantity of media and program materials (the "Materials") that the City will require in order to implement the Awareness Strategy during the period commencing on the date on which Redflex begins the installation of any of the Designated Intersection Approaches and ending one (1) month after the Installation Date;
 - 2.1.9. Develop the Red Light Violation Criteria pursuant to Vehicle Code section 21455.5(d) and direct Redflex to implement the same; and
 - 2.1.10. Seek approval of the Enforcement Documentation.

EXHIBIT "C"

Maintenance

1. All repair and maintenance of Photo Red Light Enforcement systems and related equipment will be the sole responsibility of Redflex, including, but not limited to, maintaining the casings of the cameras included in the Redflex Photo Red Light System and all other Equipment in reasonably clean and graffiti-free condition.
2. Redflex shall not open the Traffic Signal Controller Boxes without a representative of the City Engineering department present.
3. The provision of all necessary communication, broadband, and telephone services to the Designated Intersection Approaches will be the sole responsibility of the Redflex.
4. The provision of all necessary electrical services to the Designated Intersection Approaches will be the sole responsibility of the City.
5. In the event that images of a quality suitable for the Authorized Officer to identify Violations cannot be reasonably obtained without the use of flash units, Redflex shall provide and install such flash units.
6. The Redflex Project Manager (or a reasonable alternate) shall be available to the Police Project Manager each day, on a reasonable best efforts basis.

EXHIBIT "D"
COMPENSATION & PAYMENT

1. Commencing on the expiration of the Warning Period for each Designated Intersection Approach, the City shall be obligated to pay Redflex a fixed fee of \$ 6,000 per month for each Designated Intersection Approach ("Fixed Fee") as full remuneration for performing all of the services contemplated in this Agreement.

Cost Neutrality

The Customer agrees to pay Redflex within thirty (30) days after the invoice is received. City shall be obligated to pay the cumulative balance invoiced by Redflex, in accordance with terms set forth above, to the extent of gross cash received by the City from automated red light violations. In the event that a balance remains unpaid due to a deficit in gross cash received by the City compared to invoiced amounts, City will provide to Redflex with each monthly payment, an accounting of such gross receipts supporting the amount withheld. In the event that the contract ends or is terminated and an invoiced balance is still owed to Redflex, all subsequent receipts from automated red light violations for a period of 12 months from date of termination will be applied to such balance and paid to Redflex.

BUSINESS ASSUMPTIONS FOR ALL PRICING OPTIONS:

1. Redflex construction will be able to utilize existing conduit for installation where space is available.
2. Each year the pricing will increase by the CPI. CPI will be derived from the publication of the U.S. Department of Labor Consumer Price Index for U.S. City average.

Exhibit "E"
Additional Rights and Obligations

Redflex and the City shall respectively have the additional rights and obligations set forth below:

1. Redflex shall assist the City in public information and education efforts, including, but not limited to, the development of artwork for utility bill inserts, press releases, and schedules for any public launch of the Red Light Photo Enforcement Program (actual print and production costs are the sole responsibility of the City).
2. Redflex shall be solely responsible for installing such signage. Redflex shall be solely responsible for the fabrication of any signage, notices, or other postings required pursuant to any law, rule, or regulation of any Governmental Authority ("Signage"), including, but not limited to, the Vehicle Code, and shall assist in determining the placement of such Signage.
3. The Redflex Project Manager and the Police Project Manager shall meet on a weekly basis during the period commencing as of the date of execution hereof and ending on the Installation Date, and on a monthly basis for the remainder of the Term, at such times and places as the Redflex Manager and the Police Project Manager shall mutually agree.
4. The City shall not access the Redflex Photo Red Light System or use the Red Light Photo Enforcement Program in any manner other than as prescribed by law and which restricts or inhibits any other Person from using the Redflex Photo Red Light System or the Redflex Photo Enforcement Program with respect to any Intersection Approaches constructed or maintained by Redflex for such Person, or which could damage, disable, impair, or overburden the Redflex System or the Redflex Photo Enforcement Program, and the City shall not attempt to gain unauthorized access to (i) any account of any other Person, (ii) any computer systems or networks connected to the Redflex Photo Red Light System, or (iii) any materials or information not intentionally made available by Redflex to the City by means of hacking, password mining, or any other method whatsoever, nor shall the City cause any other Person to do any of the foregoing.
5. The City shall maintain the confidentiality of any username, password, or other process or device for accessing the Redflex Photo Red Light System or using the Red Light Photo Enforcement Program.
6. Redflex and the City shall advise each other in writing with respect to any applicable rules or regulations governing the conduct of the other on or with respect to the property of such other party, including, but not limited to, rules and regulations relating to the safeguarding of confidential or proprietary information, and when so advised, each of Redflex and the City shall obey any and all such rules and regulations.
7. The City shall promptly reimburse Redflex for the cost of repairing or replacing any portion of the Redflex Photo Red Light System, or any property or equipment related thereto, damaged directly or indirectly by the City, or any of its employees, contractors or agents.

Exhibit F
FORM OF ACKNOWLEDGMENT AND CONSENT

This Acknowledgement and Consent, dated as of September 18, 2007, is entered into by and between the City of Victorville (the "City") and Redflex Traffic Systems, Inc., ("Redflex"), with reference to the Agreement between the City of Victorville and Redflex Traffic Systems, inc. for Photo red light enforcement program, dated as of September 18, 2007, by and between the City and Redflex (the "Agreement").

1. Redflex has entered into a Credit Agreement, dated as of August 3, 2003 (the "Harris-Redflex Credit Agreement"), with Harris Trust and Savings Bank (the "Bank"), pursuant to which the Bank has provided certain working capital credit facilities to Redflex. Such credit facilities will provide Redflex the working capital that it needs to perform its obligations to the City under the Agreement.

2. Pursuant to the Harris-Redflex Credit Agreement, Redflex has granted Harris a security interest in all of Redflex's personal property as collateral for the payment and performance of Redflex's obligations to the Bank under the Harris-Redflex Credit Agreement. Such security interest applies to and covers all of Redflex's contract rights, including, without limitation, all of Redflex's rights and interests under the Agreement.

3. Redflex will not, by virtue of the Harris-Redflex Credit Agreement, be relieved of any liability or obligation under the Agreement, and the Bank has not assumed any liability or obligation of Redflex under the Agreement.

4. The City hereby acknowledges notice of, and consents to, Redflex's grant of such security interest in favor of the Bank in all of Redflex's rights and interests under the Agreement pursuant to the Harris-Redflex Credit Agreement.

5. The City further acknowledges and agrees that this Acknowledgement and Consent shall be binding upon the City and shall inure to the benefit of the successors and assigns of the Bank and to any replacement lender which refinances Redflex's obligations to the Bank under the Harris-Redflex Credit Agreement.

IN WITNESS WHEREOF, the City and Redflex have caused this Acknowledgement and Consent to be executed by their respective duly authorized and elected officers as of the date first above written.

<p>The City:</p> <p>THE CITY OF VICTORVILLE</p> <p>By: <u>Terry E. Caldwell</u> Terry E. Caldwell, Mayor</p> <p>Date: <u>10/9/07</u></p>	<p>Redflex:</p> <p>REFLEX TRAFFIC SYSTEMS, INC., a Delaware Corporation</p> <p>By: <u>Karen Finley</u> Name: Karen Finley Title: President and CEO</p>
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