



STAFF REPORT

Meeting Date: June 11, 2013
Agenda Item: 10A

Agency: City of Belmont

Staff Contact: Chief Daniel J. DeSmidt, Police Department, 650-595-7404,
dand@belmont.gov

Agenda Title: CONSIDERATION OF A RESOLUTION EXERCISING THE OPTION FOR THE FINAL TWO YEARS OF THE FIVE YEAR CONTRACT WITH REDFLEX TRAFFIC SYSTEMS FOR AUTOMATED RED LIGHT PHOTO ENFORCEMENT SERVICES

Agenda Action: Resolution

Summary

The current contract extension with Redflex Traffic Systems, Inc. to provide automated red light photo enforcement services to the City of Belmont expires July 1, 2013. Staff has worked with representatives from Redflex to obtain a 20% reduction of costs to the City of Belmont for the final two years of the contract.

Background

At the May 14, 2013 City Council meeting Council directed staff to enter into a thirty day extension with Redflex Traffic Systems and return with additional information regarding reports of questionable business practices conducted by Redflex employees from 2005 to 2010.

In regard to the reported allegations of questionable business practices, staff provides the attached newspaper article which appeared in the Chicago Tribune outlining the allegations. Staff also met with Redflex representatives and requested a written summary for Council consideration. Attached is that summary from the Redflex CEO Robert DeVincenzi. Redflex representatives told staff that there are limits to the details that they are able to provide at this time regarding the allegations due to current and future personnel actions and/or civil and criminal proceedings.

It is important to note that no evidence has been found to link the alleged actions in Chicago with the photo red light enforcement program in Belmont. In addition, the evidentiary value of the data collected by Redflex for red light enforcement is not in question.

Analysis

Belmont's current red light photo enforcement system was activated on April 15, 2010. Since formal enforcement began in May 2010 the Belmont Police Department has issued an average of 173 citations per month for Red Light Violations. These numbers have been relatively steady since the program's inception. Staff feels that the program has been effective in that enforcement and accountability have been produced at these geographically challenging intersections, while allowing the City's very limited traffic enforcement resources to focus on enforcement issues elsewhere within Belmont.

It is important to note that under Vehicle Code section 21455.5(h)(3) a government agency cannot consider revenue generation, beyond recovering its actual costs of operating the system, as a factor when considering whether or not to operate a system within its jurisdiction. As such, the following data are presented only to document recovery of those actual costs.

Redflex has agreed to a 20% reduction in their costs to the City of Belmont for the current 30 day extension, as well as the final two year contract option. Accordingly, should the two year option be exercised, the monthly fees to Redflex would be \$9,392 (\$4,696 per approach). With this reduction, future revenues are projected to exceed all costs to the City by more than \$2,666 per month.

Recommendation

Staff recommends approval of the attached resolution exercising the option for the remainder of the five year contract (23 months) with Redflex Traffic Systems for photo red light enforcement.

Alternatives

1. Exercise the option for a shorter period than two years.
2. Take no action and allow contract to expire on or about July 1, 2013.
3. Provide direction to staff.

Attachments:

- A. Draft resolution exercising two year option.
- B. Chicago Tribune Article regarding Redflex.
- C. Letter from Redflex CEO.
- D. Original contract with Redflex Traffic Systems.
- E. Proposed 2 year extension

Fiscal Impact

- No Impact/Not Applicable
- Funding Source Confirmed: Funding will be placed in future budgets for the remainder of the contract in the Red Light Camera Fund 229-2-601-8351.

Source:

- Council
- Staff
- Citizen Initiated
- Other*

Purpose:

- Statutory/Contractual Requirement
- Council Vision/Priority
- Discretionary Action
- Plan Implementation*

Public Outreach:

- Posting of Agenda
- Other*

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT
AUTHORIZING THE CITY MANAGER TO EXERCISE THE OPTION FOR THE
FINAL TWO YEARS OF THE FIVE YEAR CONTRACT WITH REDFLEX TRAFFIC
SYSTEMS FOR AUTOMATED RED LIGHT PHOTO ENFORCEMENT SERVICES**

WHEREAS, The City of Belmont has been in contract with Redflex Traffic Systems, Inc. to provide automated red light photo enforcement services since May 2010; and,

WHEREAS, traffic related calls make up a high number of complaints received by the Police Department; and,

WHEREAS, automated red light enforcement systems allow for redeployment of limited police personnel while maintaining an enforcement presence at geographically challenging intersections; and,

WHEREAS, the current contract with Redflex Traffic Systems, Inc. includes an option for the final two years which the City of Belmont wishes to exercise.

NOW, THEREFORE, the City Council of the City of Belmont resolves as follows:

SECTION 1. Authorizes the City Manager to exercise the option for the final two years of the five year contract with Redflex Traffic Systems for automated red light photo enforcement services.

* * *

ADOPTED June 11, 2013, by the City Council of the City of Belmont by the following vote:

Ayes:

Noes:

Absent:

Abstain:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney

Attachment B

First Redflex internal probe 'clearly inadequate'

Experts say law firm hired to conduct initial investigation of bribery allegations may have been hamstrung or deceived by red-light camera firm

March 15, 2013 | By David Kidwell, Chicago Tribune reporter

When a red-light camera executive warned his bosses of an alleged bribery scheme in Chicago so serious it would "take down the contract and most likely the company," the corporate chiefs turned to the national law firm Quarles & Brady for help.

The result was a three-week, Quarles-led internal investigation that would mostly clear its client and end without a hint to stockholders — or to City Hall — that there might be a problem. For the next two years, millions of dollars continued to flow to Redflex Holdings Ltd. from its Chicago contract, the Australian company's largest and most lucrative camera program.

Those days are now long gone.

In the aftermath of Chicago Tribune reports last year about the close relationship between the company, its Chicago operations consultant and the former city official who oversaw its decadelong contract, Redflex now says the Chicago program was likely built on a \$2 million bribery scheme and that the company-initiated internal investigation in 2010 was "clearly inadequate."

Those were the findings of a second law firm hired by the company in October following the newspaper reports, which also prompted Mayor Rahm Emanuel to accuse Redflex of deceiving City Hall and call for an investigation by the city's inspector general.

The starkly contrasting conclusions of two different law firms investigating the same claims have some legal experts scratching their heads.

"There is definitely a tale to be told there," said James Grogan, chief counsel of the state Attorney Registration and Disciplinary Commission. "There's no way to really know without all the facts, but much of it has to do with the nature of the relationship between the law firm and corporation.

"I mean, if you are hamstrung, limited on the people you are allowed to interview, the availability of records from outside the country, noncooperative employees, you might be stuck because of the limitations set by the company itself," he said. "The bottom line is they have a duty of competency, and to do as exacting a job as permissible under the conditions of that relationship.

"Sometimes the law firms themselves are the victims of a conspiracy."

John W. Daniels Jr., chairman of Milwaukee-based Quarles & Brady LLP, referred all questions to Redflex at the request of the company. Redflex representatives declined to comment.

"Quarles & Brady LLP provides excellent, timely and appropriate legal work for its clients, including completing internal investigations within the confines of the projects clients retain us to perform in any

matter," the firm said in a statement to the Tribune. "The ethical rules that govern our conduct limit what we may say about our representation in any particular case without first receiving approval from our client."

In October, one of the law firm's longtime Chicago partners, Sanford Stein, accompanied the general counsel of Redflex's Phoenix subsidiary — Redflex Traffic Systems Inc. — to the Tribune's offices to be interviewed about the company's response to a 2010 whistle-blower letter. The letter, sent to the board of directors of the Australia-based parent company, detailed how the company plied former Chicago transportation official John Bills with "non reported lavish vacations" and the "illegal transfer of 'commission'" to him through its Chicago consultant.

Bills and the consultant, Marty O'Malley, have denied any wrongdoing.

Both Stein and then-Redflex General Counsel Andrejs Bunkse discredited the allegations during the October interview. They told the newspaper the Quarles & Brady review found no merit to the accusations, aside from one inadvertent \$910 hotel stay for Bills at the Arizona Biltmore paid by a top company salesman who was disciplined with anti-bribery training.

"When I read the letter I expected to find a great deal more," Bunkse said in the interview. "And we dug in very deeply, exhaustively into the expense reports and records of the company to the point of extreme redundancy, and the issue — the one instance of a problem — was this one instance where there were no meals reimbursed, there was no flight reimbursed and a two-day hotel stay was found.

"In every other instance, nothing else came up that was problematic," Bunkse said.

Stein even staked his firm's 120-year reputation on it.

"It's our reputation that we put on the line every day for every client. But it is our reputation of our law firm that is far more important — and our service — that supersedes everything," Stein said toward the beginning of the interview. "So we are happy to say that our investigation, which Andy will talk about, is consistent with the high quality standards that we support."

Later in the interview, Stein sought to reinforce that the results were trustworthy because of the firm's involvement.

"It was one incident, and never repeated and it's — you know — it is what it is. We can't make that fact disappear, but it is what it is. And it's not a series of events," Stein told the newspaper. "I am telling you that our reputation is such that you can count on that."

Stein declined to comment for this story.

In October, the attorneys also detailed what Bunkse described as a "deep dive" investigation.

"We, Quarles & Brady, reviewed exhaustively expense reports, interviewed every individual that is affiliated that is an employee of our company that is mentioned in this letter, asked questions directly related to allegations contained in the letter, particularly about Chicago, went through all of the

company's records relating to the Chicago contract and came up with one instance of an oversight and a lapse," Bunkse said.

"We spent nearly \$100,000 in an investigation in which our CEO — imagine how uncomfortable this is — our CEO sat off to the side because of all the things raised in this letter," Bunkse said. "It was taken quite seriously, and I will tell you again when I read the letter for the first time I thought that there was a lot more to it than there actually was after this big effort, I mean a big shut-down-the-company effort that occurred."

After the Emanuel administration began to take actions against the company last year and city investigators issued subpoenas, the company hired a second law firm, Sidley Austin LLP, to "conduct a new, independent and unrestricted investigation" into the allegations, according to the company's summary filed publicly March 4 with the Australian Securities Exchange.

The Sidley team, led by former city inspector general and federal prosecutor David Hoffman, dove deeper. After four months and upward of \$2.5 million in legal costs, the Sidley team reported that the allegations in the whistle-blower memo "did, in fact, have merit."

Hoffman's team found the company plied Bills with 17 trips, including hotels, flights, rental cars, meals and golf outings, according to the summary report. It also found that the \$2.03 million in company compensation to the Redflex consultant was likely part of a bribery scheme that would have made "any reasonable person highly suspicious."

The Hoffman findings also criticized the 2010 investigation and the company's oversight.

"The investigation consisted of interviews of three Redflex officials, no email review and very limited document review," a summary of the findings stated. "There was no attempt to interview the consultant. Some of those interviewed by the law firm did not provide complete and truthful information."

According to Hoffman's findings, the first investigation "was conducted in a manner that was clearly inadequate to determine whether the allegations were true, and there was inadequate oversight." He also found that some of the company's disclosures to the Tribune and to City Hall in October were "inaccurate and misleading."

"Among other things, it was improper for them to describe the 2010 investigation and the associated expense review as 'thorough, complete or exhaustive.'"

Redflex recently told its employees that the Phoenix office of Quarles & Brady led the first investigation of the whistle-blower letter, which in addition to the bribery allegations also made broad accusations of mismanagement by company executives. The investigation was led by an employment lawyer, which was not the proper approach given the allegations, the company told employees.

While not commenting on the specifics of Redflex's relationship with Quarles & Brady, legal experts interviewed said there are sometimes reasons to question internal investigations conducted by law

firms that already have an ongoing client relationship with the corporation, which Quarles & Brady had with Redflex.

"This skepticism is based on the fear that regular corporate counsel may have a motive to avoid criticizing, and thus alienating, senior management, the source of perhaps sizable past and future law firm revenues," wrote David M. Brodsky, a New York lawyer who wrote a manual on internal investigation conduct for the American College of Trial Lawyers.

But Jim Fieweger, a former federal prosecutor and partner at the Chicago firm Williams, Montgomery & John Ltd., said large and diversified firms such as Quarles & Brady are often able to overcome such perceived conflicts by assigning different lawyers.

"You have to assume that Quarles & Brady was acting in good faith," Fieweger said. "There are rules that say you have to be competent and diligent. That doesn't mean you can't ever do a bad job. People are fallible, of course."

Mark Rotert, another former federal prosecutor and partner at Stetler, Duffy & Rotert Ltd., said law firms that feel thwarted by corporate officials who they are investigating are ethically bound to address it.

"I call a halt to the investigation and I go directly to the audit committee and I tell them I am getting the runaround," Rotert said. "These people are supposed to be big boys who are ready to accept bad news."

In the case of Redflex, two members of the parent company's audit committee, including the chairman of the board, resigned in the wake of the findings from Sidley, which has headquarters in Chicago and New York. In addition, the U.S. subsidiary's president, chief financial officer and Bunkse also resigned, and the executive vice president accused of putting the city official's trips on his expense account was fired.

Rotert said the mass departures suggest the company might be more responsible for the outcome of the first investigation.

"Those guys are good lawyers. They are not crazy," Rotert said of Quarles & Brady. "And if they came into your office and were willing to put their stamp of approval on something like this, that tells me that they were probably thoroughly deceived. I cannot imagine that they would have gone to the mat to defend the integrity of something if they had any qualms about it."

Tribune reporter Ameet Sachdev contributed.



MAKING A SAFER WORLD.

CC - Council
Dan
Scott

May 28, 2013

Attachment C

VIA US POSTAL MAIL

The Honorable Christine Wozniak, Mayor
The Honorable Warren Lieberman, Vice Mayor
The Honorable David Braunstein, Council Member
The Honorable Coralin Feierbach, Council Member
The Honorable Dave Warren, Council Member
City of Belmont
One Twin Pines Lane
Belmont, CA 94002

Re: Red Light Camera System Extension

Dear Mayor Wozniak and Council Members:

Redflex Traffic Systems, Inc. is proud of the partnership we have built with the City of Belmont over the last five years. We look forward to continuing to support your public safety efforts and hope you will strongly consider supporting the Belmont Police Departments' recommendation to extend your Red Light Traffic Safety program for another two years. I am writing to you today because I want to address the concerns you have regarding our recently concluded internal investigation into our City of Chicago contract and other related matters. This letter outlines the associated findings from this internal investigative activity and our corrective actions.

Last September our Board of Directors engaged a reputable law firm to conduct an internal investigation into misconduct allegations brought forward by a whistleblower and reporting in the Chicago Tribune. These allegations centered on employee conduct and the administration of our Chicago contract and alleged a City employee involved in our program had received excessive gifts and gratuities and monetary payments in a time period approximating 2005-2010.

The findings of the investigation concluded that a Redflex executive did provide excessive gifts and gratuities (travel, accommodation, meals, and entertainment) to a City employee in violation of Redflex policies and Chicago municipal ordinances. The findings also concluded that certain Redflex employees had knowledge that would have made any reasonable person highly suspicious that a bribery scheme existed between a Redflex consultant and a City employee. A more complete description of our findings is available on the investor section of our website located on: www.redflex.com.

Redflex Corrective Actions

First, extensive changes have been made in the company leadership structure. The former Chief Executive Officer, former Executive Vice President for Business Development, former General Counsel and former Chief Financial Officer – are no longer with the company.



MAKING A SAFER WORLD.

Mayor and Council Members
May 28, 2013
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Second, we are implementing a comprehensive compliance and training program to ensure we conduct business in a way that meets the highest ethical standards. A detailed description of the remediation actions is posted below and more information can also be found on: www.redflex.com.

Key elements of the program include:

1. **New Board Member Appointments:**
 - a. Michael McConnell as Interim Non-Executive Chairman of the Board of Redflex Holdings.
 - b. Albert Moyer as Independent Director and Chairman of the Audit and Risk Management Committee.

2. **New Position:** The appointment of Kim Tomena in a new position as Director of Compliance. She reports directly to the Audit Committee of Redflex Holdings, comprised of independent directors.

3. **New Training:** An enhanced program to train all employees on compliance policies on a regular basis.
 - a. Anti-Bribery, Anti-Corruption and Compliance Training for all employees and Board of Directors via the Redflex internal HR training delivery system.
 - b. Expanded Anti-Bribery/Anti-Corruption training for high risk job classifications.
 - c. Anti-Bribery, Anti-Corruption and Compliance Training to be extended to include all contracted commercial intermediaries.
 - d. All trainees will be required to complete compliance certificates, with customer facing employees doing so on an annual basis.

4. **New Assessment and Reporting Processes:** Established specific policies and procedures to monitor compliance with the Redflex Code of Conduct and/or municipal gift and hospitality policies, including appropriate reporting obligation to customers.

5. **Hotline and Compliance Email:** A whistleblower program, including a 24-hour hotline and dedicated email address enables employees and others, including Redflex customers, to report suspicious or illegal or unethical behavior on an anonymous basis and an assurance those reports will be reviewed, investigated and resolved. Reports will flow directly to the Audit Committee Chairman and Director of Compliance simultaneously.

6. **New Compliance Association Membership and Software Solutions:** Membership in TRACE International, an association that provides compliance solutions and software to enable the company to track observance of Redflex policies and provide reports to customers.



MAKING A **SAFER** WORLD.

Mayor and Council Members

May 28, 2013

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7. **New Contract Provisions and Processes:** The company will include contract language to stress compliance with its policies and change its processes to help ensure compliance.
 - a. Sales Consulting Agreements will be evaluated and include strong Anti-Bribery and Anti-Corruption provisions.
 - b. The Master Subcontractor Agreement and Professional Services agreement will be updated to include strong Anti-Bribery and Anti-Corruption compliance provisions.
 - c. All Sales Consulting Agreements and administration will be under the supervision of the General Counsel's office.
 - d. The company will clearly delineate the different roles of its sales consultants and lobbyists.

8. **Enhanced Expense Report Processes:** The company's expense reimbursement system will be fortified and regularly monitored.
 - a. Expense reimbursement processes, controls, and training will be enhanced and Compliance will conduct a quarterly risk-based audit sampling expenditure requests/reimbursements.
 - b. Expense reimbursement form will be updated to require additional detail and a signature legend that requires the employee and approver to attest that the expenses are compliant with policy.

These programmatic elements were developed from recommendations made by Sidley Austin and other well-respected advisors in the interest of assuring Redflex Compliance processes were best in class.

Moving Forward

I also want to reinforce these investigative activities do not impact the quality or performance of our products and services, nor do they diminish our commitment to our clients. Information gained through this process has been adopted and used to dramatically strengthen our company. The remediation actions and process improvements we have made in personnel, policies, processes and systems have added extraordinary strength to the operations of our company and have in turn made us the low-risk vendor. Since we announced our investigation, Redflex has executed, signed or extended over 30 contracts. We are grateful to our clients for their continued support and look forward to working with you in the future. If you have any concerns about our Chicago situation, our corrective actions, or any other aspect of our relationship, please contact me directly at rdevincenzi@redflex.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert T. DeVincenzi".

Robert T. DeVincenzi
President and CEO of Redflex Holdings Limited
CEO Redflex Traffic Systems, Inc.

Cc: Chief DeSmidt

Redflex Traffic Systems, Inc.

Attachment D

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

This Agreement (this "Agreement") is made as of this 12th day of February, 2008 by and between Redflex Traffic Systems, Inc. with offices at 6047 Bristol Parkway 1st Floor, Culver City, California 90230 ("Redflex"), and The City of Belmont a municipal corporation, with offices at One Twin Pines Lane, Belmont, CA 94002 (the "Customer").

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 Customer desires to engage the services of Redflex to provide certain equipment, processes and back office services so that sworn peace officers of the Customer are able to monitor, identify and enforce red light running violations; and

WHEREAS, it is a mutual objective of both Redflex and the Customer 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 the Police Project Manager or such other individual(s) as the Customer shall designate to review Potential Violations and to authorize the Issuance of Citations in respect thereto, and in any event, a sworn peace officer or a qualified employee of the Police Department.
 - 1.2. "Authorized Violation" means each Potential Violation in the Violation 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 System.
 - 1.3. "Citation" means the notice of a Violation, which is mailed or otherwise delivered by Redflex to the violator on the appropriate Enforcement Documentation in respect of each Authorized Violation.
 - 1.4. "Confidential or Private Information" means, with respect to any Person, any information, matter or thing of a secret, confidential or private nature, whether or not so labeled, which is connected with such Person's business or methods of operation or concerning any of such Person's suppliers, licensors, licensees, customers or others with whom such Person has a business relationship, and which has current or potential value to such Person or the unauthorized

disclosure of which could be detrimental to such Person, including but not limited to:

- 1.4.1. Matters of a business nature, including but not limited to information relating to development plans, costs, finances, marketing plans, data, procedures, business opportunities, marketing methods, plans and strategies, the costs of construction, installation, materials or components, the prices such Person obtains or has obtained from its clients or customers, or at which such Person sells or has sold its services; and
- 1.4.2. Matters of a technical nature, including but not limited to product information, trade secrets, know-how, formulae, innovations, inventions, devices, discoveries, techniques, formats, processes, methods, specifications, designs, patterns, schematics, data, access or security codes, compilations of information, test results and research and development projects. For purposes of this Agreement, the term "trade secrets" shall mean the broadest and most inclusive interpretation of trade secrets.
- 1.4.3. 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 Customer shall mutually agree from time to time.
- 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 of 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 of the Photo Red Light Program” means the date on which Redflex completes the construction and installation of at least one (1) Intersection Approach in accordance with the terms of this Agreement so that such Intersection Approach is operational for the purposes of functioning with the Redlight Photo Enforcement Program.
- 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 at least one (1) system has been installed by Redflex for the purposes of facilitating Redlight Photo Enforcement by the Customer.
- 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 in order to permit the identification and prosecution of Violations at the Designated Intersection Approaches by a sworn peace officer of the Customer and the issuance of Citations for such approved Violations using the Redflex System.
- 1.15. “Person” means a natural individual, company, Governmental Authority, partnership, firm, corporation, legal entity or other business association.
- 1.16. “Police Project Manager” means the project manager appointed by the Customer 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 Customer’s obligations pursuant to this Agreement, including but not limited to change order authorizations, subject to any limitations set forth in the Customer’s charter or other organizational documents of the Customer or by the city counsel or other governing body of the Customer.
- 1.17. “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.

- 1.18. “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 or not 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.
- 1.19. “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 Photo Red Light Enforcement at any time during the Term this Agreement, service marks, trade names, logos, brands and other marks owned by Redflex, and all modifications or adaptations of any of the foregoing.
- 1.20. “Redflex Project Manager” means the project manager appointed by Redflex in accordance with this Agreement, which project manager shall initially be John Babek or such person as Redflex shall designate by providing written notice thereof to the Customer 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.
- 1.21. “Redflex Photo Red Light System” means, collectively, the SmartCam™ System, the SmartOps™ System, the Redlight Photo 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.
- 1.22. “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 such Violation data in the form of photographic images of motor vehicles.
- 1.23. “Photo Redlight Violation Criteria” means the standards and criteria by which Potential Violations will be evaluated by sworn peace officers of the Customer, 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.

- 1.24. "SmartCam™ System" means the proprietary digital redlight 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 violation 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 Violations data gathered by the Redflex System at the Designated Intersection Approaches.
 - 1.30. "Warning Period" means the period of thirty (30) days after the Installation Date of the first intersection approach.
 - 1.31. "Reimbursable Costs" means the Unamortized Value 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 L
2. **TERM.** The term of this Agreement shall commence as of the date hereof and shall continue for a period of three (3) years after the Installation Date (the "Initial Term"). The Customer shall have the right, but not the obligation, to extend the term of this Agreement for one (1) additional two (2) year period following the expiration of the Initial Term ("Renewal Term" and collectively with the Initial Term, the "Term"). The Customer may exercise the right to extend the term of 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.
 3. **SERVICES.** Redflex shall provide the Photo Red Light Enforcement Program to the Customer, in each case in accordance with the terms and provisions set forth in this Agreement.
 - 3.1. **INSTALLATION.** With respect to the construction and installation of (1) the Designated Intersection Approaches and the installation of the Redflex System at such Designated Intersection Approaches, the Customer 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 System at the Designated Intersection Approaches the Customer 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 as follows:

- 3.3.1. All Violations Data shall be stored on the Redflex System;
- 3.3.2. The Redflex System shall process Violations Data gathered from the Designated Intersection Approaches into a format capable of review by the Authorized Officer via the Redflex System;
- 3.3.3. The Redflex 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 System for the purposes of reviewing the pre-processed Violations Data within seven (7) days of the gathering of the Violation Data from the applicable Designated Intersection Approaches
- 3.3.5. The Customer 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 Violation 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 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 in respect of all Authorized Violations;
- 3.3.7. Redflex shall provide a toll-free telephone number for the purposes of answering citizen inquiries
- 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 Customer and in addition to the Standard Reports, Redflex shall provide, without cost to the Customer, reports regarding the processing and issuance of Citations, the maintenance and downtime records of the Designated Intersection Approaches and the functionality of the Redflex System with respect thereto to the Customer in such format and for such periods as the Customer 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 Customer;
- 3.3.10. Upon the Customer's receipt of a written request from Redflex, the Customer 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 Customer 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. During the six (6) month period following the Installation Date and/or upon Redflex's receipt of a written request from the Customer at least fourteen (14) calendar days in advance of court proceeding, Redflex shall provide expert witnesses for use by the Customer in prosecuting Violations; provided, however, the Customer shall use reasonable best efforts to seek judicial notice in lieu of requiring Redflex to provide such expert witnesses; and

3.3.12. During the three (3) month period following the Installation Date, Redflex shall provide such training to law enforcement personnel as shall be reasonably necessary in order to allow such personnel to act as expert witnesses on behalf of the Customer with respect to the Redlight Enforcement Program.

3.4. PROSECUTION AND COLLECTION; COMPENSATION. The Customer shall diligently prosecute Citations and the collection of all Fines in respect thereof, and Redflex shall have the right to receive, and the Customer shall be obligated to pay, the compensation set forth on Exhibit D attached hereto.

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 Customer shall have the respective rights and obligations set forth on Exhibit E attached hereto.

3.6. CHANGE ORDERS. The Customer may from time to time request changes to the work required to be performed or the addition of products or services to those 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 Redflex's receipt of a Change Order Notice, Redflex shall deliver 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"), which 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 Customer. Following the Customer'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, as the case may be, and any other matters relating to the proposed changes; provided, however, in the event that 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 the Customer, and the Customer hereby accepts from Redflex upon the terms and conditions herein specified, a non-exclusive, non-transferable license during the Term of this Agreement to: (a) solely within the City of Belmont, access and use the Redflex System for the sole purpose of reviewing Potential Violations and authorizing the issuance of Citations pursuant to the terms of this Agreement, and to print copies of any content posted on the Redflex System in connection therewith, (b) disclose to the public (including outside of the City of Belmont that Redflex is providing services to the Customer in connection with Photo Red Light Enforcement Program pursuant to the terms of this Agreement, and (c) 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 Customer hereby acknowledges and agrees that: (a) Redflex is the sole and exclusive owner of the Redflex System, the Redflex Marks, all Intellectual Property arising from or relating to the Redflex System, and any and all related Equipment, (b) the Customer 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 (c) by reason of the exercise of any such rights or interests of Customer pursuant to this Agreement, the Customer shall gain no additional right, title or interest therein.

4.3. RESTRICTED USE. The Customer hereby covenants and agrees that it shall not (a) make any modifications to the Redflex System, including but not limited to any Equipment, (b) alter, remove or tamper with any Redflex Marks, (c) use any of the Redflex Marks in any way which might prejudice their distinctiveness, validity or the goodwill of Redflex therein, (d) use any trademarks or other marks other than the Redflex Marks in connection with the Customer's use of the Redflex System pursuant to the terms of this Agreement without first obtaining the prior consent of Redflex, or (e) disassemble, de-compile or otherwise perform any type of reverse engineering to the Redflex System, the Redflex System, including but not limited to any Equipment, or to any, 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 Customer 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 Customer shall use its reasonable best efforts to give Redflex prompt notice of any activities or threatened activities of any Person of which it becomes aware that infringes or violates the Redflex Marks or any of Redflex's Intellectual Property or that constitute a misappropriation of trade secrets or 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 Customer shall render to Redflex such reasonable cooperation and assistance as is reasonably requested by Redflex, and Redflex shall be entitled to any damages or other monetary amount that might be awarded after deduction of actual costs; provided, that Redflex shall reimburse the Customer for any reasonable costs incurred in providing such cooperation and assistance.

4.6. INFRINGING USE. The Customer shall give Redflex prompt written notice of any action or claim action or claim, whether threatened or pending, against the Customer 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 Customer shall render to Redflex such reasonable cooperation and assistance as is reasonably requested by Redflex in the defense thereof; provided, that Redflex shall reimburse the Customer 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 Customer 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 System, subject to applicable law, in compliance with all specifications provided to Redflex by the Customer.

5.2. Customer Representations and Warranties.

5.2.1. Authority. The Customer 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 Customer hereby warrants and represents that any and all services provided by the Customer pursuant to this Agreement shall be performed in a professional and workmanlike manner.

5.3. **LIMITED WARRANTIES.** 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 SYSTEM OR ANY RELATED EQUIPMENT OR WITH RESPECT TO THE RESULTS OF THE CUSTOMER'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 SYSTEM WILL OPERATE IN THE WAY THE CUSTOMER SELECTS FOR USE, OR THAT THE OPERATION OR USE THEREOF WILL BE UNINTERRUPTED. THE CUSTOMER HEREBY ACKNOWLEDGES THAT THE REDFLEX 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.

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 federal or state court with jurisdiction over the City rules, or state or federal statute declares, that results from the Redflex System of photo red light enforcement 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) above, Customer 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 (Sec 6.1) within forty-five (45) calendar days (or within such other time period as the Customer 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. The rights to terminate this Agreement given in this Section 6.1 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.

6.3. **TERMINATION FOR CONVENIENCE:** The Customer 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 terminate this Agreement without cause during the Term, Redflex shall be entitled to a cancellation fee for each installed approach which reflects reimbursement 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 (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. The Reimbursable Costs are currently estimated to equal approximately \$40,000 to \$80,000 per Intersection Approach but, in no event, shall that amount exceed \$80,000 per Intersection Approach. For the purpose of this section, the cancellation fee shall be derived in accordance with the following formula:

X = the number of months remaining in the Initial Term

Y = the number of months of the Initial Term

X/Y = the percentage of remaining Initial Term

Z = the Reimbursable Costs per Installed Approach (not to exceed \$80,000)

(X/Y)*Z = amount to be paid as cancellation fee

For example, if the Agreement ends on the last day of the 24th month and the Installed Approach was installed in month 1, and if the Reimbursable Costs are \$60,000, the cancellation fee would be:

X = 12 (36 months – 24 months transpired under the Initial Term).

Y = 36 (number of months of the Initial Term).

Z = \$60,000 (value of reimbursable costs)

X/Y *Z = (12/36 * \$60,000)

Calculation of Fee = \$20,000

6.4. PROCEDURES UPON TERMINATION. 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:

6.4.1. 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 Customer any and all Proprietary Property of the Customer provided to Redflex pursuant to this Agreement, (iii) promptly deliver to the Customer a final report to the Customer regarding the collection of data and the issuance of Citations in such format and for such periods as the Customer 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 Customer a final invoice stating all fees and charges properly owed by Customer to Redflex for work performed and Citations issued by Redflex prior to the termination, and (v) provide such assistance as the Customer may reasonably request from time to time in connection with prosecuting and enforcing Citations issued prior to the termination of this Agreement.

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

6.4.3. Unless the Customer 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. At the termination of the contract, the Customer shall hold back \$2,000 for each operational Intersection Approach from final payment pending the removal of the equipment installed by Redflex. Upon the successful removal of the above-mentioned equipment, the Customer shall release all monies held back from Redflex.

6.5. **SURVIVAL.** Notwithstanding the foregoing, the definitions and each of the following shall survive the termination of this Agreement: (x) Sections 4.2 (Reservation of Rights), 5.1 (Redflex Representations and Warranties), 5.2 (Customer Representations and Warranties), 5.3 (Limited Warranty), 7 (Confidentiality), 8 (Indemnification and Liability), 9 (Notices), 10 (Dispute Resolution), 11.1 (Assignment), 11.17 (Applicable Law), 11.16 (Injunctive Relief; Specific Performance) and 11.18 (Jurisdiction and Venue), and (y) those provisions, and the rights and obligations therein, set forth in this Agreement which either by their terms state, or evidence the intent of the parties, that the provisions survive the expiration or termination of the Agreement, or must survive to give effect to the provisions of this Agreement.

7. **Equipment Relocation.** The Customer may request that equipment be relocated at any time following the first year anniversary of the "go live" date for the system in question. If the decision to relocate the system is not mutually agreed to by Redflex, the Customer will be solely responsible for all associated relocation costs (i.e. construction, post-mortem conditions, equipment remedies, etc.). Payment for relocation of each system will be paid in one of two ways: 1) Costs to be paid in full at the time of relocation; 2) Costs to be amortized over the remaining length of the contract term and applied to the monthly fee for the system being relocated.

8. **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 or order by any Governmental Authority, including laws relating to public records.

9. **Indemnification and Liability.**

9.1. **Indemnification by Redflex.** Subject to Section 8.3, Redflex hereby agrees to defend and indemnify the Customer and its 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 "Customer Party" and collectively, the "Customer Parties") against, and to protect, save and keep harmless the Customer Parties from, and to pay on behalf of or reimburse the Customer 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 Customer 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, (b) gross negligence or (c) the 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 Customer Party.

9.2. **Indemnification by Customer.** Subject to Section 8.3, the Customer 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 Customer contained in this Agreement, (b)

gross negligence or (c) the willful misconduct of the Customer, 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 willful misconduct of any Redflex Party. ,

9.3. 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 material rights or material interests without such party's prior written consent, which consent will not be unreasonably withheld or delayed.

9.4. 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.

9.5. INSURANCE.

1. 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:

a) Commercial General Liability Insurance. Commercial General Liability Insurance with coverage of not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence for bodily injury and property damage. The limit of insurance may be provided through the use of primary Commercial General Liability Insurance and Excess/Umbrella Liability Insurance in any combination.

- b) Commercial Automobile Liability Insurance. Commercial Automobile Liability Insurance with coverage of not less than Two Million Dollars (\$2,000,000) combined single limit per accident for bodily injury or property damage, including but not limited to coverage for all automobiles owned by Redflex and hired by Redflex. The limit of insurance may be provided through the use of primary Commercial Automobile Liability Insurance and Excess/Umbrella Liability Insurance in any combination.
 - c) Professional Liability (Errors and Omissions) Insurance. Redflex will use its commercial best efforts to procure and maintain Professional Liability (Errors and Omissions) Insurance with coverage of not less than Two Million Dollars (\$2,000,000) per claim and in the aggregate.
 - d) 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 (insert name), and Employer's Liability Insurance with coverage of not less than Two Million Dollars (\$2,000,000) per occurrence. The limit of insurance may be provided through the use of primary Employer's Liability Insurance and Excess/Umbrella Liability Insurance in any combination.
2. With respect to the insurance described in the foregoing Section 1 of this Exhibit E, any deductibles or self-insured retentions must be declared to and approved by the Customer and any changes to such deductibles or self-insured retentions during the Term must be approved in advance in writing by the Customer.
3. With respect to the Commercial General Liability Insurance the following additional provisions shall apply:
- a) The Customer Parties shall be named as additional insureds with respect to the Commercial General Liability insurance, and such coverage shall contain no special limitations on the scope of protection afforded to such additional insureds.
 - b) The insurance coverage procured by Redflex and described above shall be the primary insurance with respect to the Customer Parties in connection with this Agreement, and any insurance or self-insurance maintained by any of the Customer Parties shall be in excess, and not in contribution to, such insurance.
 - c) Any failure to comply with the reporting provisions of the various insurance policies described above shall not affect the coverage provided to the Customer 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.
4. With respect to the insurance described in the foregoing Section of this Exhibit E, 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 Customer and shall take all necessary actions to correct such cancellation in coverage limits, and shall provide written notice to the Customer 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 Customer shall have the right, but not the obligation and exercisable in its sole discretion, to either (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 Customer for such insurance. If the premium costs advanced by the Customer for such insurance exceed any amounts due to Redflex pursuant to this Agreement, Redflex shall promptly remit such excess amount to the Customer upon receipt of written notice thereof.

5. 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 Customer prior to Redflex commencing any work pursuant to the terms of this Agreement.

10. **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:

10.1. Notices to Redflex:

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

10.2. Notices to the Customer:

City of Belmont
One Twin Pines Lane
Belmont, CA 94002
Attention: City Manager, and Chief of Police
Facsimile: (650) 595-7429

11. **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 in accordance with this Section 10, 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 the parties may mutually agree to submit to binding or nonbinding arbitration or mediation.

12. **Miscellaneous.**

12.1. **Assignment.** Neither party may assign all or any portion of this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed; provided, however, The Customer hereby acknowledges and agrees that the execution (as outlined in Exhibit F), delivery and performance of Redflex's rights pursuant to this Agreement shall require a significant investment by Redflex, and that in order to finance such investment, Redflex may be required to enter into certain agreements or arrangements ("Financing Transactions") with equipment lessors, banks, financial institutions or other similar persons or entities (each, a "Financial Institution" and collectively, "Financial Institutions"). The Customer hereby agrees that Redflex shall have the right to assign, pledge, hypothecate or otherwise transfer ("Transfer") its rights, or any of them, under this Agreement to any Financial Institution in connection with any Financing Transaction between Redflex and any such Financial Institution, subject to the Customer's prior written approval, which approval shall not be unreasonably withheld or delayed. The Customer further acknowledges and agrees that in the event that Redflex provides written notice to the Customer that it intends to Transfer all or any of Redflex's rights pursuant to this Agreement, and in the event that the Customer fails to provide such approval or fails to object to such Transfer within forty-five (45) business days after its receipt of such notice from Redflex, for the purposes of this Agreement, the Customer shall be deemed to have consented to and approved such Transfer by Redflex. Notwithstanding the above, this Agreement shall inure to the benefit of, and be binding upon, the parties hereto, and their respective successors or assigns.

12.2. **RELATIONSHIP BETWEEN REDFLEX AND THE CUSTOMER.**

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 (except as specifically provided herein).

- 12.3. 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.
- 12.4. 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.
- 12.5. 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.
- 12.6. 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.
- 12.7. 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.
- 12.8. 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.
- 12.9. 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. Any one of such counterparts shall be sufficient for the purpose of proving the existence and terms of this Agreement, and no party shall be required to produce an original or all of such counterparts in making such proof.
- 12.10. 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.
- 12.11. 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.


- 12.12. 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.
- 12.13. 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.
- 12.14. 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. However, nothing contained in this Agreement shall preclude the Customer from entering into an agreement with another authorized governmental agency, also using Redflex as their automated red light photo enforcement vendor, for management of the Customer's system.
- 12.15. INJUNCTIVE RELIEF; SPECIFIC PERFORMANCE. The parties hereby agree and acknowledge that a breach of Sections 4.1 (License), 4.3 (Restricted Use) or 7 (Confidentiality) of this Agreement would result in severe and irreparable injury to the other party, which injury could not be adequately compensated by an award of money damages, and the parties therefore agree and acknowledge that they shall be entitled to injunctive relief in the event of any breach of any material term, condition or provision of this Agreement, or to enjoin or prevent such a breach, including without limitation an action for specific performance hereof.
- 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 courts located in the County of San Mateo and both parties specifically agree to be bound by the jurisdiction and venue thereof.
- 12.18. MASTER SERVICE AGREEMENT. During the term of this agreement if Redflex offers a Master Service Agreement, pooled pricing, Governmental Purchase Alliance or similar multi-entity contract programs for any customer within San Mateo County, Redflex agrees to allow Customer to convert this agreement to said agreement under the terms and conditions so offered.

(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 first set forth above.

“Customer”

CITY OF BELMONT

By: 
Name: Jack Crist
Title: City Manager

“Redflex”

REDFLEX TRAFFIC SYSTEMS, INC.,

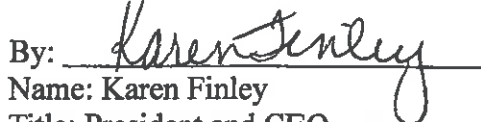
By: 
Name: Karen Finley
Title: President and CEO

EXHIBIT "A"
Designated Intersection Approaches

The contract is for the implementation of up to five (5) intersections. Identification of enforced intersection will be based on mutual agreement between Redflex and the City as warranted by community safety and traffic needs.

EXHIBIT "B"
Construction and Installation Obligations

Timeframe for Installation: Fixed Photo Red Light System

Redflex will have each specified intersection installed and activated in phases in accordance with an implementation plan to be mutually agreed to by Redflex Traffic Systems and the Municipality.

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 specified intersection within forty-five (45) to sixty (60) days subsequent to formal project kick-off. The Municipality 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 client with timely completion of the photo enforcement project Redflex Traffic Systems 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 customer 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 Customer 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; and
 - 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 Customer a public awareness strategy for the Customer's consideration and approval, which strategy shall include media and educational materials for the Customer's approval or amendment (the "Awareness Strategy");
 - 1.7. Develop the Redlight Violation Criteria in consultation with the Customer;
 - 1.8. Develop the Enforcement Documentation for approval by the Customer, which approval shall not be unreasonably withheld;

- 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 Customer);
 - 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. Redflex shall install all cameras in modular housings to minimize the impact on the streetscape. The Customer shall approve all plans and equipment, including camera housings and control boxes prior to installation ;
 - 1.12. Install and test the functionality of the Designated Intersection Approaches with the Redflex System and establish fully operational Violation processing capability with the Redflex System;
 - 1.13. Implement the use of the Redflex System at each of the Designated Intersection Approaches;
 - 1.14. Deliver the Materials to the Customer; and
 - 1.15. Issue citation notices for Authorized Violations;
 - 1.16. Redflex shall provide training (i) for up to fifteen (15) personnel of the Customer, including but not limited to the persons who Customer shall appoint as Authorized Officers and other persons involved in the administration of the Redlight Photo Enforcement Program, (ii) for at least sixteen (16) hours in the aggregate, (iii) regarding the operation of the Redflex System and the Redlight Photo Enforcement Program, which training shall include training with respect to the Redflex System and its operations, strategies for presenting Violations Data in court and judicial proceedings and a review of the Enforcement Documentation;
 - 1.17. Interact with court and judicial personnel to address issues regarding the implementation of the Redflex 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 Customer and juvenile court personnel; and
 - 1.18. Provide reasonable public relations resources and media materials to the Customer in the event that the Customer elects to conduct a public launch of the Redlight Photo Enforcement Program.
 - 1.19. Citation processing and citation re-issuance
2. **CUSTOMER OBLIGATIONS.** The Customer shall do or cause to be done each of the following (in each case, unless otherwise stated below, at Customer'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 Intersection Approaches or the implementation of the Redlight 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 Customer; and
- 2.1.5. Assist Redflex in seeking the Approvals
- 2.1.6. Provide reasonable access to the Customer's properties and facilities in order to permit Redflex to install and test the functionality of the Designated Intersection Approaches and the Redlight Photo Enforcement Program;
- 2.1.7. Provide reasonable access to the personnel of the Customer 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 Customer 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. Assist Redflex in developing the Redlight Violation Criteria; 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 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 city Traffic Engineering 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 Customer
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 & PRICING

Commencing on the expiration of the Warning Period for each Designated Intersection Approach, Customer shall be obligated to pay Redflex a fixed fee of \$5,870 per month for each Designated Intersection Approach ("Fixed Fee") as full remuneration for performing all of the services contemplated in this Agreement.

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 All Urban Consumers, San Francisco-Oakland-San Jose, CA area.
3. Customer agrees to pay Redflex within thirty (30) days after the invoice is received. A monthly late fee of 1.5% is payable for amounts remaining unpaid 60 days from date of invoice..

Exhibit "E"

Additional Rights and Obligations

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

1. Redflex shall assist the Customer 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 Redlight Photo Enforcement Program (actual print and production costs are the sole responsibility of the Customer).
2. Redflex shall be solely responsible for installing such Signage. The 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 Customer Manager shall mutually agree.
4. The Customer shall not access the Redflex System or use the Redlight Photo Enforcement Program in any manner other than prescribe by law and which restricts or inhibits any other Person from using the Redflex 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 Customer 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 System, or (iii) any materials or information not intentionally made available by Redflex to the Customer by means of hacking, password mining or any other method whatsoever, nor shall the Customer cause any other Person to do any of the foregoing.
5. The Customer shall maintain the confidentiality of any username, password or other process or device for accessing the Redflex System or using the Redlight Photo Enforcement Program.
6. Each of Redflex and the Customer 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 Customer shall obey any and all such rules and regulations.
7. The Customer shall promptly reimburse Redflex for the cost of repairing or replacing any portion of the Redflex System, or any property or equipment related thereto, damaged directly or indirectly by the Customer, or any of its employees, contractors or agents.
8. Customer agrees to enforce right-hand turn violations.

9. Redflex agrees to provide a laptop computer per Customer's specifications for use in administering the program. The cost of the laptop shall not exceed \$1,000 (one thousand dollars).

Exhibit F

FORM OF ACKNOWLEDGMENT AND CONSENT

This Acknowledgement and Consent, dated as of February 12, 2008, is entered into by and between the City of Belmont (the "City") and Redflex Traffic Systems, Inc., ("Redflex"), with reference to the Agreement between the City of Belmont and Redflex Traffic Systems, inc. for Photo red light enforcement program, dated as of November 6, 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.


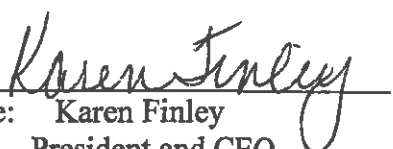
2. Pursuant to the Harris-Redflex Credit Agreement, Redflex has granted Harris a security interest in all of Redflex's personal property as collateral for the payment and performance of Redflex's obligations to the Bank under the Harris-Redflex Credit Agreement. Such security interest applies to and 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>CITY OF BELMONT, a Municipal Corporation</p> <p>By: </p> <p>Name: JACK CRIST</p> <p>Title: CITY MANAGER</p>	<p>Redflex:</p> <p>REFLEX TRAFFIC SYSTEMS, INC., a Delaware Corporation</p> <p>By: </p> <p>Name: Karen Finley</p> <p>Title: President and CEO</p>
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RESOLUTION AUTHORIZING AMMENDMENTS TO THE CONTRACT WITH REDFLEX TRAFFIC SYSTEMS FOR AUTOMATED RED LIGHT PHOTO ENFORCMENT SYSTEMS

WHEREAS, on February 12, 2008 the City Council passed Resolution 9975 authorizing and directing the City Manager to enter into an Exclusive Agreement between the City of Belmont and Redflex Traffic Systems, Inc. for Photo Red Light Enforcement Program; and,

WHEREAS, Redflex Traffic Systems installed systems on Westbound Ralston Avenue at El Camino and Westbound Ralston Avenue at Old County Rd and those systems were activated and a 30-day warning period began on April 27, 2010; and,

WHEREAS, staff conducted a review of the contract documents during the warning period and working with Redflex Traffic Systems, wrote amendments improving the administration of the systems; and,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Belmont authorizes the amendments to the Exclusive Agreement between the City of Belmont and Redflex Traffic Systems, Inc. for Photo Red Light Enforcement Program, as outlined in Attachment B, approval subject to non-substantive edits as agreed to by the parties.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on May 25, 2010 by the following vote:

AYES, COUNCILMEMBERS: Lieberman, Feierbach, Braunstein, Wozniak

NOES, COUNCILMEMBERS: Warden

ABSTAIN, COUNCILMEMBERS: None

ABSENT, COUNCILMEMBERS: None


Deputy CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont

Attachment E

**THIRD AMENDMENT TO THE EXCLUSIVE AGREEMENT
BETWEEN
THE CITY OF BELMONT
AND
REDFLEX TRAFFIC SYSTEMS INC.
FOR
PHOTO RED LIGHT ENFORCEMENT PROGRAM**

This Third Amendment to the Exclusive Agreement Between the City of Belmont and Redflex Traffic Systems for Photo Red Light Enforcement Program ("Third Amendment") is made and entered into by and between the City of Belmont, a municipal corporation (hereinafter "City" or "Customer"), and Redflex Traffic Systems Inc. (hereinafter "Redflex").

RECITALS

The City and Redflex entered into a service agreement entitled Exclusive Agreement Between the City of Belmont and Redflex Traffic Systems for Photo Red Light Enforcement Program ("Agreement") for automated enforcement system services on February 12, 2008 for a fixed fee of \$5,870 per month for each Designated Intersection Approach by which the Redflex agreed to perform services more particularly described in the Agreement. The City and Redflex amended the Agreement on or about June 17, 2010 and again on or about March 9, 2011. The parties now wish to amend the Agreement a third time as set forth below.

AGREEMENT

The City and Redflex mutually agree as follows.

1. Notwithstanding Exhibit D "Compensation and Pricing" to the Agreement, for each Designated Intersection Approach Customer shall pay Redflex a fixed fee of \$4696.00 per month after the Initial Term as full remuneration for performing all of the services contemplated in this Agreement.
2. The parties agree to extend the Term of the Agreement for an additional two years after the Initial Term. Redflex agrees to waive the requirement under Agreement Section 2 that the City provide 30 days prior written notice to extend the Agreement.
3. This Third Amendment hereby incorporates by reference all terms and conditions set forth in the Agreement, unless specifically modified by this Third Amendment. All other provisions of the Agreement, including Exhibits attached thereto and previous amendments, not modified herein remain in full force and effect.
4. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the Consultant and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the City and Redflex do hereby agree to the full performance of the terms set forth herein.

CITY OF BELMONT

By: _____
Greg Scoles, City Manager

Date: _____

APPROVED AS TO FORM

Scott M. Rennie, City Attorney

FUNDING VERIFIED

Thomas Fil, Finance Director

REFLEX TRAFFIC SYSTEMS INC

By: _____

(print name) (print title)

Date: _____

By: _____

(print name) (print title)

Date: _____