

AGREEMENT BETWEEN THE CITY OF SAN MATEO
AND REDFLEX TRAFFIC SYSTEMS, INC. FOR
AUTOMATED RED LIGHT PHOTO ENFORCEMENT CAMERAS

This Agreement (this "Agreement") is made as of this 27 day of May, 2004 by and between Redflex Traffic Systems, Inc., a Delaware corporation with offices at 6047 Bristol Parkway, 1st Floor, Culver City, California 90230 ("Redflex"), and The City of San Mateo, a municipal corporation, with offices at 330 W. 20th Avenue, San Mateo, CA. 94403 (the "Customer").

RECITALS

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

WHEREAS, the Customer desires to engage the services of Redflex to provide certain equipment, processes and back office services so that authorized police 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 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 police officer or other legally authorized police representative.
 - 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.

ORIGINAL

- 1.4. “Confidential 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 as defined by §3426.1(d) of the California Civil Code (the “Uniform Trade Secrets Act”) and cases interpreting the scope of the Uniform Trade Secrets Act.
- 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. “Enforced Approach” means a direction 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) digital, rear shot multiple image color camera and at least one (1) digital face camera has been installed

by Redflex for the purposes of facilitating Redlight Photo Enforcement by the Customer.

- 1.8. “Enforcement Documentation” means the necessary and appropriate documentation related to the Redlight Photo Enforcement Program, including but not limited to warning letters, citation notices (using the specifications of the Judicial Council and the San Mateo Police Department), 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 .
- 1.9. “Equipment” means any and all cameras, sensors, equipment, components, products, software and other tangible and intangible property relating to the Redflex System, including but not limited to all camera systems, housings and poles.
- 1.10. “Fine” means a monetary sum assessed for Citation, including but not limited to bail forfeitures, but excluding suspended fines.
- 1.11. “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.
- 1.12. “Installation Date” 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.
- 1.13. “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.
- 1.14. “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) digital, rear shot multiple image color camera and at least one (1) digital face camera has been installed

by Redflex for the purposes of facilitating Redlight Photo Enforcement by the Customer.

- 1.15. “Operational Period” means the period of time during the Term, commencing on the Installation Date, during which the Redlight Photo Enforcement Program is functional in order to permit the identification and prosecution of Violations at the Designated Intersection Approaches by a sworn police officer of the Customer and the issuance of Citations for such approved Violations using the Redflex System.
- 1.16. “Person” means a natural individual, company, Governmental Authority, partnership, firm, corporation, legal entity or other business association.
- 1.17. “Police Project Manager” means the project manager appointed by the Customer in accordance with this Agreement, which manager shall initially be the Traffic Lieutenant, or such person as the Customer shall designate by providing written notice thereof to Redflex from time to time, which manager shall be a sworn police officer or other legally authorized police representative 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.
- 1.18. “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 Violation has occurred.
- 1.19. “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.
- 1.20. “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 Redlight Photo 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.

- 1.21. "Redflex Project Manager" means the project manager appointed by Redflex in accordance with this Agreement, which project manager shall initially be Aaron Rosenberg 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 Redlight Photo 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.
- 1.22. "Redflex 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.
- 1.23. "Redlight Photo 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 and/or their drivers.
- 1.24. "Redlight Violation Criteria" means the standards and criteria by which Potential Violations will be evaluated by sworn police 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.
- 1.25. "SmartCam™ System" means the proprietary digital speed and redlight photo enforcement system of Redflex relating to the Redlight Photo Enforcement Program.
- 1.26. "SmartOps™ System" means the proprietary back-office processes of Redflex relating to the Redlight Photo Enforcement Program.
- 1.27. "SmartScene™ System" means the proprietary digital video camera unit, hardware and software required for providing supplemental violation data.
- 1.28. "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.

- 1.29. "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.
- 1.30. "Violations Data" means the images and other Violations data gathered by the Redflex System at the Designated Intersection Approaches.
- 1.31. "Warning Period" means the period of thirty (30) days after the Installation Date.
2. **TERM**. The term of this Agreement shall commence as of the date hereof and shall continue for a period of five (5) 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 up to two (2) additional consecutive one (1) year periods following the expiration of the Initial Term (each, a "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 or the Renewal Term, as the case may be.
3. **SERVICES**. Redflex shall provide the Redlight Photo Enforcement Program to the Customer with respect to the Designated Intersection Approaches, in each case in accordance with the terms and provisions set forth in this Agreement.
- 3.1. **INSTALLATION**. With respect to the construction of 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 Approach;

- 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 five (5) 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. If information is available, the Customer will utilize commercial best efforts to track the collection of Fines assessed on each Citation and complete and accurate records shall be maintained by the Customer with respect each such Citation;
- 3.3.8. Redflex shall provide a toll-free telephone number to the Customer so that the Customer and Redflex can respond to citizen inquiries, responding to complaints and scheduling appointments during which recipients of Citations may view the applicable Violations Data, and Redflex shall provide necessary personnel for such purpose. If deemed necessary, Redflex shall also provide a portable work station (laptops) for the purpose of citizen review of the citation incident(s) and additional work stations will be provided based on customer need;
- 3.3.9. Redflex shall permit the Authorized Officer to generate monthly reports using the Redflex Standard Report System.
- 3.3.10. 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. Additionally, Redflex shall provide, at no cost to the Customer, quarterly speed and volume reports;

- 3.3.11. 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;
- 3.3.12. During the three (3) month period following the Installation Date and 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
- 3.3.13. During the three (3) month period following the Installation Date, Redflex shall provide such training to police 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 San Mateo, 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 San Mateo) that Redflex is providing services to the Customer in connection with Redlight Photo 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 Redlight Photo 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, decompile 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. INFRINGEMENT 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. REDFLEX WARRANTS THAT THE REDFLEX SYSTEM WILL OPERATE IN THE MANNER PRESCRIBED AS RED LIGHT PHOTO ENFORCEMENT SYSTEM, INCLUDING THE ABILITY TO ACCURATELY CAPTURE VIOLATION IMAGES AND 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. Either party shall have the right to terminate this Agreement immediately by written notice to the other if (i) Redflex is unable to recover the costs it incurred in connection with the installation of the intersection monitoring equipment; or (ii) state statutes are amended to prohibit or substantially change the operation of red light photo enforcement systems; (iii) any court having jurisdiction over City rules, or California or federal statute declares, that results from the Redflex System of red light photo enforcement are inadmissible in evidence; or (iv) the other party commits any material breach of any of the provisions of this Agreement which breach is not remedied 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-breaching party setting forth in reasonable detail the events which caused the breach,
- 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. Customer and Vendor agree that the agreement herein is conditioned upon the County and or Superior Court's establishing or otherwise creating a system or software application which segregates automated red light violations from red light violations ticketed by traffic patrol officers. The segregation or separation of automated red light violations from violations cited by traffic or other officers is a material term of this agreement. Violations captured by both automated Redflex systems and traffic patrol officers shall not be designated as automated systems violations unless the citation is contested and the court relies upon automated systems evidence.
 - 6.4. The Customer may terminate this Agreement without cause at any time by giving ten days' written notice of termination to Redflex. Customer agrees to reimburse the Redflex for all out-of-pocket and direct costs associated with the installation and management of the City's program, including, but not limited to (1) construction services, (2) software configuration and (3) hardware depreciation, not to exceed \$100,000 per intersection approach. All direct costs and capital expenditures will be amortized over 60 months. The Customer will be responsible for all un-amortized costs at the time of termination. For example, if the Customer terminates this agreement for convenience at month 30, the Customer will be responsible for 50% of the direct cost. Redflex agrees to provide an installation cost summary for each system or intersection installation.
 - 6.5. Cost Neutrality After an initial twelve (12) month period, if the total compensation paid to Redflex pursuant to this agreement exceeds that portion of Fines received by Customer for Citations issued during the same twelve (12) month period, then Redflex agrees to absorb, eliminate, or reimburse Customer for the excess expense thereby covering the cost for system operation so that the Customer achieves cost neutrality in accordance with the representation that the system(s) shall pay for themselves. This cost neutrality provision shall be applied for each twelve (12) month period for which the agreement is in effect in order to ensure cost neutrality throughout the Term of this agreement
 - 6.6. PROCEDURES UPON TERMINATION. The termination of this Agreement shall not relive 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:
 - 6.6.1. Redflex shall (i) immediately cease to provide services, including but not limited to work in connection with the construction or installation of Intersection Approaches and services in connection

with the Redlight Photo 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.

6.6.2. The Customer shall (i) immediately cease using the Redlight Photo 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.

6.6.3. Unless the Customer and Redflex have agreed to enter into a new agreement relating to the Redlight Photo 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 including but not limited to pavement stripes and concrete flatwork including, but not limited to, curb, gutter and sidewalk refurbishment as required by City standards, if impacted by the Redflex system.

6.7. 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. **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 unless required to do so by state or federal public records laws. In the event Customer receives a request for public records related to confidential, trademark, or otherwise protected information, Customer shall immediately notify Vendor so that Vendor may take any and all measures necessary to prevent or limit the disclosure of information which is deemed confidential by Vendor. 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.

8. **Indemnification and Liability.**

8.1. **Indemnification by Redflex.** Subject to Section 8.2, Redflex hereby agrees to defend and indemnify the Customer councilpersons, 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, or (b) the negligence or willful misconduct of Redflex, its employees or agents which result in death or bodily injury to any natural person (including third parties) or any damage to any real or tangible personal property (including the personal property of third parties), except to the extent caused by the willful misconduct of any Customer Party and Redflex agrees to defend and indemnify the Customer and the above-mentioned categories of persons for the cost of defense and any and all legal liability based on any and all civil, criminal and administrative actions challenging the legality or constitutionality of the Automated Red Light

Enforcement Program or any action seeking to halt the red light enforcement program that are not caused by material breach, willful misconduct and material misrepresentation by the Customer.

- 8.2. Indemnification by Customer. Subject to Section 8.1, 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) 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 negligence or willful misconduct of any Redflex Party.
- 8.3. Indemnification Procedures. In the event any claim, action or demand (a "Claim") in respect of which any party hereto seeks indemnification from the other, the party seeking indemnification (the "Indemnified Party") shall give the party from whom indemnification is sought (the "Indemnifying Party") written notice of such Claim promptly after the Indemnified Party first becomes aware thereof; provided, however, that failure so to give such notice shall not preclude indemnification with respect to such Claim except to the extent of any additional or increased Losses or other actual prejudice directly caused by such failure. The Indemnified Party shall have the right to choose counsel to defend such Claim (subject to the approval of such counsel by the Indemnifying 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.
- 8.4. LIMITED LIABILITY. Notwithstanding anything to the contrary in this Agreement, neither party shall be liable to the other, by reason of any

representation or express or implied warranty, condition or other term or any duty at common or civil law, for any indirect, incidental, special, lost profits or consequential damages, however caused and on any theory of liability arising out of or relating to this Agreement.

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

9.1. Notices to Redflex:

Redflex Traffic Systems, Inc.
15020 North 74th Street
Scottsdale, AZ 85260
Attention: Ms. Karen Finley
Facsimile: (480) 607-0752

With a copy to:

Alschuler Grossman Stein & Kahan LLP
2049 Century Park East
39th Floor
Los Angeles, CA 90067
Attn: Steve Penden
Facsimile: (310) 552-6077

9.2. Notices to the Customer:

San Mateo Police Department
City of San Mateo
330 W. 20th Avenue
San Mateo, CA 94403
Attention: Chief of Police
Facsimile: (650) 522-7609

10. **DISPUTE RESOLUTION.** Upon the occurrence of any dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), the parties shall engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it shall be to meet for the purpose of attempting to resolve such Dispute. The designated officers shall meet as often as the parties shall deem to be reasonably necessary. Such officers will

discuss the Dispute. If the parties are unable to resolve the Dispute 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.

11. Costs and Attorneys Fees

Attorney fees in an amount not exceeding \$85 per hour per attorney, and in total amount not exceeding \$5000, shall be recoverable as costs (by the filing of a cost bill) by the prevailing party in any action or actions to enforce the provisions of this agreement. The above \$5000 limit is the total of attorneys fees recoverable whether in the trial court, appellate court, or otherwise, and regardless of the number of attorneys, trials, appeals, or actions. It is the intent of this agreement that neither party shall have to pay the other more than \$5000 for attorney's fees arising out of an action, or actions to enforce the provisions of this agreement.

12. Mediation

Should any dispute arise out of this Agreement, any party may request that it be submitted to mediation. The parties shall meet in mediation within 30 days of a request. The mediator shall be agreed to by the mediating parties; in the absence of an agreement, the parties shall each submit one name from mediators listed by either the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfolded" process.

13. Arbitration

After mediation above, and upon agreement of the parties, any dispute or claim arising out of or relating to this agreement may be settled by arbitration in accordance with the Construction Industry Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The costs of arbitration shall be borne equally by the parties.

14. Litigation

CONSULTANT shall testify at CITY'S request if litigation is brought against CITY in connection with CONSULTANT'S services under this agreement. Unless the action is brought by CONSULTANT, or is based upon CONSULTANT'S wrongdoing, CITY shall compensate CONSULTANT for preparation for testimony, testimony, and travel at CONSULTANT'S standard hourly rates at the time of actual testimony.

15. Miscellaneous.

- 15.1. **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.

15.2. 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).

15.3. AUDIT RIGHTS. Each of parties hereto shall have the right to audit to audit the books and records of the other party hereto (the "Audited Party") solely for the purpose of verifying the payments, if any, payable pursuant to this Agreement. Any such audit shall be conducted upon not less than forty-eight (48) hours' prior notice to the Audited Party, at mutually convenient times and during the Audited Party's normal business hours. Except as otherwise provided in this Agreement, the cost of any such audit shall be borne by the non-Audited Party. In the event any such audit establishes any underpayment of any payment payable by the Audited Party to the non-Audited Party pursuant to this Agreement, the Audited Party shall promptly pay the amount of the shortfall, and in the event that any such audit establishes that the Audited Party has underpaid any payment by more than twenty five percent (25%) of the amount of actually owing, the cost of such audit shall be borne by the Audited Party. In the event any such audit establishes any overpayment by the Audited Party of any payment made pursuant to this Agreement, non-Audited Party shall promptly refund to the Audited Party the amount of the excess.

- 15.4. FORCE MAJEURE. Neither party will be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or Governmental Authorities approval delays which are not caused by any act or omission by Redflex, and unusually severe weather. The party whose performance is affected agrees to notify the other promptly of the existence and nature of any delay.
- 15.5. FEE FOREFEITURE: In order to further protect the Customer, should Redflex become insolvent, file for bankruptcy or otherwise discontinue business operations as set out in this agreement, the Customer shall withhold the preceding monthly fee(s) or any other monies, which are invoiced in arrears. This provision is intended to protect the Customer with respect to the removal costs of intersection related hardware and should not exceed the monthly fees due and does not relieve the Customer of paying monies owed and exceeding the actual cost of said hardware removal.
- 15.6. 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.
- 15.7. 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.
- 15.8. 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.
- 15.9. 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.
- 15.10. 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.
- 15.11. 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.


- 15.12. 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.
- 15.13. 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.
- 15.14. 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.
- 15.15. 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.
- 15.16. 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.
- 15.17. 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.
- 15.18. 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.
- 15.19. 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, California and both parties specifically agree to be bound by the jurisdiction and venue thereof.

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

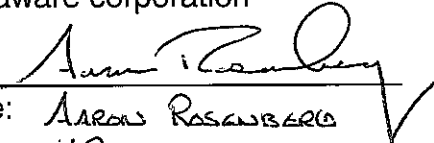
"Customer"

CITY OF SAN MATEO

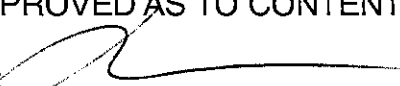
By: 
City Manager, ARNE CROCE

"Redflex"

REDFLEX TRAFFIC SYSTEMS, INC.,
a Delaware corporation

By: 
Name: AARON ROSENBERG
Title: V.P.

APPROVED AS TO CONTENT:

By: 
City Attorney, SHAWN MASON

ATTEST:

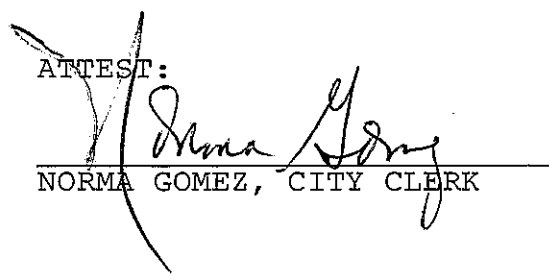

NORMA GOMEZ, CITY CLERK

EXHIBIT "A"
Designated Intersection Approaches

The contract is for the implementation of up to 10 intersections and 20 systems. Identification of enforced intersection will be based on mutual agreement between Redflex and the City as warranted by community safety and traffic needs.

Project origination and implementation efforts will commence upon the Customers sole discretion and upon formal notification from the Customer.

EXHIBIT "B"

Construction and Installation Obligations

Timeframe for Installation

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 the first 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.

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 on the condition that there are no direct connections within the controller cabinet; 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. 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;
 - 1.12. Implement the use of the Redflex System at each of the Designated Intersection Approaches;
 - 1.13. Deliver the Materials to the Customer; and
 - 1.14. Issue "warning letters" for Authorized Violations which occurred at each Designated Intersection Approach during the Warning Period; and
 - 1.15. During the Warning Period, 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;
 - 1.16. 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, the establishment of a court hearing schedule for adjudicating upon Citations, and coordination between Redflex, the Customer and juvenile court personnel; and
 - 1.17. 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.
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 Police 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. Provide the services of necessary personnel during the Warning Period;
- 2.1.9. 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;
- 2.1.10. Assist Redflex in developing the Redlight Violation Criteria; and
- 2.1.11. Seek approval of the Enforcement Documentation.

EXHIBIT "C"
Maintenance

1. All repair and maintenance of camera 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 electrical and telephone services to the Designated Intersection Approaches will be the sole responsibility of the Customer.
4. 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.
5. The Redflex Project Manager (or a reasonable alternate) shall be available to the Police Project Manager each day, on a reasonable best efforts basis.
6. Redflex shall inspect the Equipment and the functionality of the Redflex System at each of the Designated Intersection Approaches no less than once every two (2) business days, and Redflex shall respond to any material malfunction of any of the Redflex System within twenty four (24) hours after the Customer provides written notice thereof to Redflex (the "Malfunction Notice"). In the event that Redflex discovers any material malfunction or defect, or in the event that Redflex receives a Malfunction Notice, Redflex shall use its best efforts to cause such malfunction or defect to be repaired within forty-eight (48) hours, and in the event that such malfunction or defect has not been substantially repaired within forty eight (48) hours, Redflex shall notify the Police Project Manager.

EXHIBIT "D"
COMPENSATION & PRICING

Fixed Fee of \$6,030 Per Month Per Enforced Approach

Cost Recovery

The Customer and the vendor agree to implement each red light photo enforcement system utilizing a controlled and phased methodology. Initial implementation will include up to 2 systems that will be deployed in the City. These systems will be utilized to (1) evaluate the economic feasibility of wide scale program deployment and (2) to develop surplus revenue that may be, at the Customer's discretion be utilized to for sufficient cost recovery of additional systems. The initial systems will be subject to an introductory billing cycle that includes the acceptance, without penalty of invoiced payments for a period of 65 days past due not to exceed a total of three months.

At any point, upon mutual agreement between the City and the vendor, this phased methodology can include the implementation of additional systems and which are outlined in the terms of section 6.3 Cost Neutrality.

BUSINESS ASSUMPTIONS FOR ALL PRICING OPTIONS:

1. Redflex construction will be able to utilize existing conduit for installation where space is available. Where it is determined by both parties that additional conduit is necessary, cost and access for use of such additional conduit shall be equally shared by Redflex and the Customer. Any such additional conduit shall become the exclusive property of the Customer upon termination of this Agreement.
2. The Customer agrees to pay RTS within thirty (30) days after the invoice is received. A monthly late fee of 1.5% is payable for payments past due 60 days.
3. Prices do not include supply of power and supply of DSL, cable or other broadband services. The Customer shall be solely responsible for power and communication infrastructure.
4. Each year the pricing will increase by the CPI. CPI will be derived from the publication of the U.S. Department of Labor Consumer Price Index for U.S. City average. The index to be used is the 'West A'. (1,500,000 residents or more)

Exhibit "E"

Additional Rights and Obligations

1. Redflex and the Customer shall respectively have the additional rights and obligations set forth below:
2. 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 (actually print and production costs are the sole responsibility of the Customer).
3. The Customer 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, and the Customer hereby acknowledges and agrees that the Customer shall be solely responsible for installing such Signage.
4. The Customer shall be solely responsible for the installation of LED lights at enforced intersections.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.

Insurance

1. During the Term, Redflex shall procure and maintain and 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:
2. Commercial General Liability Insurance. Commercial General Liability Insurance with coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage;
3. Commercial Automobile Liability Insurance. Commercial Automobile Liability Insurance with coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury or property damage, including but not limited to coverage for all automobiles owned by Redflex, hired by Redflex, and owned by third parties;
4. 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 One Million Dollars (\$1,000,000) per occurrence and in the aggregate.
5. Workers' Compensation and Employer's Liability Insurance. Workers' Compensation Insurance with coverage of not less than the limits required by the Labor Code of the State of California, Employer's Liability Insurance with coverage of not less than One Million Dollars (\$1,000,000) per occurrence.
6. With respect to the insurance described in the foregoing Section 8.1 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.
7. With respect to the Commercial General Liability Insurance described in Sections X and X of this Exhibit E, the following additional provisions shall apply:
8. The San Mateo Parties shall be covered as additional insureds with respect to any liability arising from any act or omission of any Redflex Parties on the premises upon which any such Redflex Parties may perform services pursuant to this Agreement, and such coverage shall contain no special limitations on the scope of protection afforded to such additional insureds.
9. The insurance coverage procured by Redflex and described above shall be the primary insurance with respect to the San Mateo Parties in connection with this Agreement, and any insurance or self-insurance maintained by any of the San Mateo Parties shall be in excess, and not in contribution to, such insurance.
10. Any failure to comply with the reporting provisions of the various insurance policies described above shall not affect the coverage provided to the San

Mateo Parties, and such insurance policies shall state the such insurance coverage shall apply separately with respect to each additional insured against whom any claim is made or suit is brought, except with respect to the limits set forth in such insurance policies.

11. With respect to the insurance described in the foregoing Section 8.1 of this Exhibit E, each such insurance policy shall be endorsed to state that the coverage provided thereby shall not be cancelled except after thirty (30) calendar days' prior written notice to the Customer. 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 advance 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.
12. 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.

Exhibit F
FORM OF ACKNOWLEDGMENT AND CONSENT

THIS ACKNOWLEDGMENT AND CONSENT is entered into by and between the City of _____ (the "City") and Redflex Traffic Systems, Inc. ("Redflex"), dated _____, _____, related to that certain Agreement dated _____, _____, by and between the City and Redflex (the "Agreement") which hereby acknowledges, consents and agrees to the following (the "Consent"):

1. Redflex has financed certain operations and equipment related to its business, including but not limited to camera systems, housing and poles (the "Equipment") through certain lenders (the "Lenders"). Redflex has granted to Lenders a security interest in the Equipment, related property including software and proceeds thereto as collateral for the performance when due of its obligations to Lenders. Redflex desires to assign all of its rights, but none of its liabilities or obligations under the Agreement (the "Assignment") to [Insert Name], as collateral agent for the Lenders (the "Collateral Agent"). Redflex will not, by virtue of the Assignment, be relieved of any liability or obligation under the Agreement or otherwise, and neither Collateral Agent nor Lenders are assuming any liabilities or obligations under the Agreement.— City hereby acknowledges notice of the Assignment and hereby consents thereto and to assignment to any similar subsequent financing party of Redflex, and further acknowledges that Collateral Agent or Lenders, and their respective successors and assigns, and any other subsequent future lender, may assign the rights received from Redflex.
2. Redflex hereby authorizes City upon Collateral Agent's written request to make any payments due to Redflex under the Agreement directly to Collateral Agent, c/o [Insert Address], or to whomever Collateral Agent may from time to time direct in writing.
3. City acknowledges that the attached Exhibit A is a true, correct and complete copy of the Agreement.
4. City agrees that City shall not assert against Collateral Agent and Lenders any right or claim of set off, recoupment, counterclaim or other defense in respect of amounts or obligations owed by Collateral Agent and Lenders to City against amounts or obligations that City owes to Collateral Agent and Lenders under the Agreement.
5. In accordance with Section 20 (f) of the Agreement, this Consent shall be deemed to be notice to City. In the event that City fails to provide such approval or object to this Consent within a reasonable time which shall include at least three weeks prior to the next City Council meeting;

including this City Council meeting; and three days following the meeting after its receipt of such notice from Redflex, for the purposes of this Agreement, the City shall be deemed to have consented to and approved this Consent.

IN WITNESS THEREOF, each of the undersigned have caused this Acknowledgment and Consent to be executed by their duly elected officers duly authorized as of the date first above written.

[APPLICABLE MUNICIPALITY] REDFLEX TRAFFIC SYSTEMS INC.

By: _____

Print Name: _____

Title: _____

Date: _____

Address: _____

By: *Aaron Rosenberg*

Print Name: ARON ROSENBERG

Title: V.P.

Date: 5-21-04

Address: 6047 BRISTOL PKWY

CULVER CITY CA. 90230