



**FIRST AMENDMENT TO AGREEMENT
BETWEEN THE CITY OF PEMBROKE PINES AND
REDFLEX TRAFFIC SYSTEMS, INC.**

THIS AGREEMENT ("Agreement"), dated this _____ day of _____, **2019**,
by and between:

THE CITY OF PEMBROKE PINES, a municipal corporation organized
and operating under the laws of the State of Florida, with an address of 601
City Center Way, Pembroke Pines, FL 33025, hereinafter referred to as
"CITY",

and

REDFLEX TRAFFIC SYSTEMS, INC., a foreign, for profit corporation
authorized to do business in the State of Florida, with a business address of
5651 W. Talavi Blvd., Suite #200, Glendale, AZ 85306, hereinafter referred
to as "CONTRACTOR". "CITY" and "CONTRACTOR" may hereafter be
collectively referred to as the "Parties".

WHEREAS, on **February 28, 2017**, the CITY and CONTRACTOR entered into the
Original Agreement ("Original Agreement") for an initial **three (3) year** period commencing on **July
24, 2017** and expiring on **July 23, 2020**; and,

WHEREAS, the Original Agreement authorized the renewal of the Agreement at the
expiration of the initial term for two (2) additional two (2) year terms evidenced by a written
amendment to the Original Agreement; and,

WHEREAS, to date the Parties have been satisfied with the performance and execution of
the Agreement and desire to amend the Original Agreement and renew the terms of their contractual
relationship as set forth herein; and,

WHEREAS, the Parties desire to amend the Original Agreement to include certain provisions
required by statutory amendments imposed since the Parties entered into the Original Agreement;
and,

WHEREAS, the Parties further desire to execute the first **two (2) year renewal** option and
amend the Original Agreement, in accordance with the terms and conditions set forth herein.

W I T N E S S E T H

NOW, THEREFORE, for and in consideration of the sum of the mutual covenants and other
good and valuable consideration, the receipt of which are hereby acknowledged, the Parties hereto
agree as follows:



SECTION 1. The recitations set forth in the above "WHEREAS" clauses are true and correct and incorporated herein by this reference.

SECTION 2. **Section 4.9** is hereby repealed and replaced as follows:

4.9 All payments shall be governed by the Local Government Prompt Payment Act, as set forth in Part VII, Chapter 218, Florida Statutes.

SECTION 3. Article 17 entitled "**Miscellaneous**" is hereby amended by the addition of Section 17.16, as follows:

17.16 Scrutinized Companies. CONTRACTOR, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or is engaged in business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services if:

17.16.1 Any amount of, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

17.16.2 One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

17.16.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; or

17.16.2.2 Is engaged in business operations in Syria.

SECTION 4. The Original Agreement, is hereby renewed for the first **two (2) year** renewal period commencing on **July 24, 2020** and expiring on **July 23, 2022**.

SECTION 5. In the event of any conflict or ambiguity by and between the terms and provisions of this First Amendment, and the Original Agreement, the terms and provisions of this First Amendment shall control to the extent of any such conflict or ambiguity.

SECTION 6. The Parties agree that in all other respects the Original Agreement, as amended by this First Amendment, shall remain in full force and effect, except as specifically modified herein.

SECTION 7. Each Exhibit referred to in the Original Agreement, except as repealed herein, forms an essential part of this Agreement. The exhibits, if not physically attached, should be treated as part of this Agreement and are incorporated herein by reference.



IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

ATTEST:

CITY:

CITY OF PEMBROKE PINES

MARLENE D. GRAHAM,
CITY CLERK

BY: _____
CHARLES F. DODGE
CITY MANAGER

APPROVED AS TO FORM

OFFICE OF THE CITY ATTORNEY

CONTRACTOR:

WITNESSES

REDFLEX TRAFFIC SYSTEMS, INC.

BY: [Signature]

Print Name

Print Name: Lewis Miller

Title: SVP Global Operations

Print Name

STATE OF Colorado)
) ss:

COUNTY OF Denver)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Lewis Miller as _____ of REDFLEX TRAFFIC SYSTEMS, INC., an organization authorized to conduct business in the State of Florida, and acknowledged execution of the foregoing Agreement as the proper official of REDFLEX TRAFFIC SYSTEMS, INC., for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this Sep 11th day of September, 2019.



[Signature]
NOTARY PUBLIC

Notary Public / Sophia Paché
(Name of Notary Typed, Printed or Stamped)

Notary exp: Aug 13, 2023



AGREEMENT

THIS IS AN AGREEMENT, dated the 28th day of February, 2017, by and between:

THE CITY OF PEMBROKE PINES, a municipal corporation of the State of Florida with a business address of 10100 Pines Boulevard, Pembroke Pines, Florida 33026 hereinafter referred to as "CITY" or "Customer",

and

REDFLEX TRAFFIC SYSTEMS, INC., a company authorized to do business in the State of Florida, with a business address of **5651 WEST TALAVI BOULEVARD, SUITE 200, GLENDALE, AZ 85306**, hereinafter referred to as "CONTRACTOR" or "Redflex". The CITY and the CONTRACTOR shall each hereafter be referred to as a "Party" or collectively as the "Parties."

WITNESSETH:

In consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONTRACTOR agree as follows:

ARTICLE 1 PREAMBLE

In order to establish the background, context and form of reference for this Agreement, and to generally express the objectives and intentions of the respective parties herein, the following statements, representations, and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow, and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 1.1. On **May 16, 2016**, the CITY advertised its notice to Proposers of the CITY's desire to hire a firm to **provide a red light traffic signal camera enforcement system** as more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof, for the said RFP entitled:



RFP # AD-16-02

RED LIGHT TRAFFIC SIGNAL CAMERA ENFORCEMENT SYSTEM

- 1.2. On **July 19, 2016**, the responses submitted by various Proposers were opened at the offices of the City Clerk.
- 1.3. On **November 2, 2016**, the CITY awarded the project to CONTRACTOR and authorized the proper CITY officials to negotiate and enter into an agreement with CONTRACTOR to render the services more particularly described herein below.
- 1.4. Negotiations pertaining to the services to be performed by the CONTRACTOR were undertaken and this Agreement incorporates the results of such negotiation.
- 1.5. **Definitions.**
 - 1.5.1 The "Act" means The Mark Wandall Traffic Safety Act, Fla. Stat. §316.0083 , as amended from time to time.
 - 1.5.2 "Approvals" means the approvals granted by the relevant Governmental Authorities having authority or jurisdiction over the construction and installation specifications for the Designated Intersection(s).
 - 1.5.3 "Authorized Employee" means a sworn law enforcement officer ("LEO"); Traffic Infraction Enforcement Officer ("TIEO"), or any other City employee who is authorized by law to issue a traffic citation for a violation of Fla. Stat. §§ 316.074(1) or 316.075(1)(c) or who performs any duties related to the City's red light camera program, including but not limited to the duties and qualifications set forth in Florida Statutes, Title XXIII, Motor Vehicles, as may be amended from time to time. Throughout the entire Agreement between the City and Redflex and all exhibits and amendments thereto, any and all references to "Authorized Employee", "Traffic Infraction Enforcement Officer", "TIEO", "officer", or "LEO" shall be interchangeable.
 - 1.5.4 "City Ordinance" means Chapter 73 of the City's Code of Ordinances, as may be amended from time to time.
 - 1.5.5 "Confidential or Private Information" means, with respect to any Party to this Agreement, any information, matter or thing of a secret, confidential or private nature, whether or not so labeled, which is connected with such Party's business or methods of operation or concerning any of such Party's suppliers, licensors, licensees, or others with whom such Party has a business relationship, and which has current or potential value to such Party or the unauthorized disclosure of which could be detrimental to such Party, including but not limited to:



- a. 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 Party obtains or has obtained from its clients, or at which such Party sells or has sold its services; and
 - b. 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 in Fla. Stat. §§ 688.002 and 812.081.
 - c. Notwithstanding the foregoing, Confidential Information will not include information that: (i) is a public record, and not otherwise exempt, pursuant to Florida law; (ii) was generally available to the public or otherwise part of the public domain at the time of its disclosure, (iii) 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, (iv) was subsequently lawfully disclosed to the disclosing Party by a person other than a Party hereto, (v) was required by a court of competent jurisdiction to be disclosed, or (vi) was required by applicable state law to be disclosed.
- 1.5.6 "Designated Intersection" means the Intersections designated by the City for installation of equipment for the purposes of enforcing the Act as more specifically defined in the RFP that is part of this Agreement.
- 1.5.7 "Drawings" means current "as-built" electronic engineering drawings for the Designated Intersections, as provided by the Broward County traffic engineer or other Governmental Authority.
- 1.5.8 "Effective Date" means the date on which this Agreement has been duly signed by both Parties.
- 1.5.9 "Electronic Signature" means the legally binding signature permitted pursuant to Fla. Stat. §§ 668.004 and 318.14, which is the method through which the Authorized Employee indicates his or her decision to issue a Notice of Violation, Uniform Traffic Citation, Notice of Hearing, Final Administrative order, or any other correspondence using the Contractor System. Redflex's use of the electronic signatures of Authorized Employees



is not permitted unless expressly directed and authorized by the City's Authorized Employee.

- 1.5.10 "Enforcement Documentation" means the necessary and appropriate documentation related to the enforcement of violations of the Act, including but not limited to warning letters, Notices of Violation, a numbering sequence for use on all notices (in accordance with applicable state statutes), instructions to accompany each issued Notice of Violation or Uniform Traffic Citation, chain of custody records, vehicle registration information, and technical support documentation.
- 1.5.11 "Equipment" means any and all cameras, sensors, equipment, components, products, software and other tangible and intangible property relating to the Contractor System, including but not limited to all camera systems, housings, sensor arrays, servers and poles.
- 1.5.12 "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.
- 1.5.13 "Infraction" means any violation of Fla. Stat. §§ 316.074(1) or 316.075(1)(c), as determined by the City's Authorized Employees.
- 1.5.14 "Infractions Data" means the video, photographs, images and other data collected by the Redflex Software System, which data shall be made available to the Authorized Employees within the Redflex Software System to review for the purpose of the Authorized Employee determining if probable cause exists that an Infraction occurred.
- 1.5.15 "Installation Date" means the date on which Contractor completes the construction and installation of at least one (1) Designated Intersection in accordance with the terms of this Agreement so that such Designated Intersection is operational for the purposes of functioning with the Program.
- 1.5.16 "Intellectual Property" means, with respect to any Party, 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), 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 Party, consistent with the definition of such terms in Florida Statutes.



- 1.5.17 "Operational Period" means the period of time during the term of the Agreement, commencing on the Installation Date, during which the Program is functional in order to permit the Authorized Employees to identify Infractions and issue of Notices of Violation and Uniform Traffic Citations pursuant to the Act, using the Redflex Software System.
- 1.5.18 "Program" means the implementation, administration and servicing of a red light traffic signal camera enforcement program in the City of Pembroke Pines, including (a) Contractor's installation and maintenance of equipment (hardware and software); customer service; technical support; and support for violation hearings; and (b) City's monitoring, identification and enforcement of violations of the Act, which is facilitated in part by the use of certain equipment, applications and back office processes of Contractor, including but not limited to cameras, hardware, and software which collectively are capable of capturing Infractions Data. All Program activity conducted by Contractor and City is done in compliance with any and all federal, state, administrative, and local government requirements.
- 1.5.19 "City's Project Manager" means the project manager appointed by the City in accordance with this Agreement, who shall be responsible, on behalf of City, for overseeing the installation at the Designated Intersections and the implementation of the Program, and which manager shall have the power and authority to make management decisions relating to the City's obligations pursuant to this Agreement, including but not limited to change order authorizations, subject to any limitations set forth in the City's Charter or Ordinance or by the City Commission.
- 1.5.20 "Proprietary Property" means, with respect to any Person, any written or tangible property owned or used by such Person in connection with such Person's business, whether 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.
- 1.5.21 "Contractor Marks" means all trademarks registered in the name of Contractor or any of its affiliates, such other trademarks as are used by Contractor or any of its affiliates on or in relation to Program at any time during the Term this Agreement, service marks, trade names, logos, brands



and other marks owned by Contractor, and all modifications or adaptations of any of the foregoing.

- 1.5.22 "Contractor Project Manager" means the project manager appointed by Contractor in accordance with this Agreement, which project manager shall initially be named by the Contractor within 14 days of the execution of this Agreement or such person as Contractor shall designate by providing written notice thereof to the City from time to time, who shall be responsible for overseeing the construction and installation of the Designated Intersections and the implementation the Program, and who shall have the power and authority to make management decisions relating to Contractor's obligations pursuant to this Agreement, including but not limited to change order authorizations.
- 1.5.23 "Redflex Software System" or "Contractor System" means, collectively, the Program equipment provided by Contractor 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.
- 1.5.24 "Queue" means Program data within the Redflex Software System which is awaiting review and processing by the City's Authorized Employees.
- 1.5.25 "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.
- 1.5.26 "Warning Period" means the period of thirty (30) days prior to commencing enforcement of the Act, during which the City's Authorized Employees will issue warning letters, rather than Notices of Violation, to the registered owners of vehicles that are determined to have committed an Infraction. The Warning Period will run concurrently with the public awareness strategy.

ARTICLE 2

SERVICES AND RESPONSIBILITIES

- 2.1 CONTRACTOR hereby agrees to perform the services for the implementation of **the Red Light Traffic Signal Camera Enforcement System**, as more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof, ("Program") in accordance with the Scope of Services outlined in the specifications, **"AD-16-02"** attached hereto and made a part hereof as **Exhibit "A"** and CONTRACTOR's response thereto, attached hereto and made a part hereof as **Exhibit "B"**. CONTRACTOR agrees to do everything required by this Agreement, the Sealed Response Package, Addenda to this Agreement, Exhibits to this Agreement, and Commission award complete with proposal form, together known



as the "Contract Documents". Exhibits C, D, E, and F to this Agreement are intended to supplement Exhibits A and B and to complete the integration of the agreement between the City and the Contractor. Where there is a conflict in the Contract Documents, Exhibits C, D, E, and F shall prevail.

- 2.2 CONTRACTOR shall furnish all services, labor, equipment, and materials necessary and as may be required in the performance of this Agreement, except as otherwise specifically provided for herein, and all work performed under this Agreement shall be done in a professional manner.
- 2.3 CONTRACTOR shall supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. CONTRACTOR shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. CONTRACTOR shall at all times have a competent field supervisor on the job site to enforce these policies and procedures at the CONTRACTOR'S expense.
- 2.4 CONTRACTOR shall schedule regular meetings with the CITY representatives at least once a month to discuss the progress of the work and maintenance of the Red Light Traffic Signal Camera Enforcement System, as more specifically described in Exhibit A. Such meetings shall be documented with audio recordings, meeting minutes, or both.
- 2.5 CONTRACTOR hereby represents to CITY, with full knowledge that CITY is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience and manpower to perform the services to be provided by CONTRACTOR pursuant to the terms of this Agreement and the Contract Documents.
- 2.6 CONTRACTOR hereby represents to CITY that CONTRACTOR is properly licensed by the applicable federal, state, and local agencies to provide the services under this Agreement. CONTRACTOR agrees to maintain such licenses during the term of this Agreement. If CONTRACTOR's license is revoked, suspended, or terminated for any reason by any governmental agency, CONTRACTOR shall notify the CITY immediately. Further, CONTRACTOR hereby represents that its equipment is fully compliant with State of Florida design criteria and is certified as required by the Florida Department of Transportation, and that all equipment shall remain in compliance throughout the term of this Agreement. The CITY shall have the right to immediately terminate this Agreement if the CONTRACTOR fails to maintain any of the licenses or compliances specified herein.



- 2.7 CONTRACTOR shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to CONTRACTOR, its employees, agents or subcontractors, if any, with respect to the work and services described herein. A violation of any federal, state, or local law or regulation may be cause for breach, allowing the CITY to terminate this Agreement.

ARTICLE 3

TERM AND TERMINATION

- 3.1 The Initial Term of the Agreement shall begin on the Effective Date (the date on which this Agreement has been duly signed by both Parties) and shall continue for three (3) years following the Installation Date (the date on which Contractor completes the construction and installation of at least one (1) Designated Intersection).
- 3.2 This Agreement may be renewed for two (2) additional two (2) year terms at the option of the City, evidenced by a written Amendment to this Agreement, approved by the CONTRACTOR and the City Commission of the City extending the term thereof.
- 3.3 *Termination Rights:* Pursuant to language in solicitation, see Exhibit A, Section 8.3; **and**
- 3.4 *Program Suspension Rights:* Pursuant to language in solicitation, see Exhibit A, Section 8.3, **restated herein:**

8.3 Term, Termination, and Program Suspension

The City is seeking a contract with a term of 3 years, with two (2) renewals of two (2) years at the option of the City. The following termination rights will be part of the Agreement between the City and the Successful Proposer:

A. Termination for Cause: Either party shall have the right to terminate this Agreement by written notice to the other if, during the term of this Agreement or any renewals thereof, (i) state or federal statutes are amended, or regulations adopted by agencies with jurisdiction, to prohibit the operation of photo red light enforcement systems regardless of the effective date of such statutory changes, to make it impracticable in the sole and exclusive determination of the City to operate the red light enforcement program, to reduce the City's share of the



revenues, to add provisions that directly increase the City's costs for the Program, or to impose any restrictions on the City's revenues and uses of such, during the term of this Agreement; (ii) any court or administrative tribunal having jurisdiction over City rules or declares that the City's red light enforcement program, or the program set forth in the State Law, is inconsistent with state or federal law, is invalid or void, (iii) any court or administrative tribunal having jurisdiction over City rules, or declares, that results from the Vendor System of photo red light enforcement are inadmissible in evidence due to a defect in the manner in which such results were obtained or processed or is ruled inadmissible (in which case, Vendor shall have the opportunity to cure such defect, as provided below), or otherwise renders a decision that makes it impracticable in the sole and exclusive determination of the City to operate the red light enforcement program; (iv) a determination by a court of competent jurisdiction or other applicable dispute resolution forum that Vendor has infringed upon a third party's patent, trademark, copyright, trade secret or other intellectual property; (v) the other party commits any material breach of any of the provisions of this Agreement; (vi) Vendor's non-payment of revenues to City as required by this Agreement. In the event of a termination due to this Section, City shall be relieved of any further obligations to Vendor other than as specified herein. With the exception of a termination pursuant to subsections A(i) and A(ii) above, either party shall have the right to remedy the cause for termination within forty-five (45) calendar days (or within such other time period as the City and Vendor 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. During a single term or a renewal term of the contract, the vendor shall only have the right to cure one default, upon any second or additional default, the City shall have the right to terminate the Agreement immediately, without vendor having the opportunity to cure. The City's decision not to terminate the Agreement upon a second or additional default shall not constitute a waiver of the City's right to terminate the Agreement pursuant to this paragraph. The rights to terminate this Agreement set forth herein 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.

B. Program Suspension: In the event of an adverse decision by a local City magistrate, traffic court hearing officer, judge, or appellate court, and notwithstanding further appeals or appellate rights, in lieu of termination pursuant to Section 8.3(A)(i) or (ii), the City may elect to suspend its Red Light Traffic Signal Enforcement Program while it determines whether modifications may be made to remedy the effects of such adverse decision and whether such



modifications are possible without increasing costs to the City. In such event, the period of time of the City's suspension of the Program shall not operate as a deferral of the term of the Program and the term of this Agreement shall not be extended by the time of the suspension. In addition, the City will not be obligated to pay any fees or payments to CONTRACTOR during such time of the suspension. The times of the suspension is not a deferral of payment and the time period of the suspension shall be excluded from the compensation calculations in Section 4.5. Further, any revenue received by the City during the suspension shall be retained by the City and not be used in the compensation calculations in Section 4.5 of this Agreement.

C. Upon termination of this Agreement: The termination of this Agreement shall not relieve either party of any liability that accrued prior to such termination. Vendor shall (i) immediately cease to generate further events to be reviewed by City, but shall continue to provide assistance to process events in the pipeline unless such termination is pursuant to Paragraph A(i) or A(ii) above; and, (ii) take no action that will increase the amounts owed to Vendor and will take reasonable actions to mitigate the City's liabilities under the Agreement; (iii) promptly deliver to the City any and all Proprietary Property of the City provided to Vendor pursuant to this Agreement, (iv) promptly deliver to the City a final report to the City regarding the collection of data and the issuance of Notices of Violation in such format and for such periods as the City may reasonably request, and which final report Vendor shall update or supplement from time to time when and if additional data or information becomes available, (v) provide City all data pertaining to outstanding Civil Fee payments due and owing to City and potential payments due to Vendor, (vi) provide City with its proposed schedule for the removal of the Vendor's equipment, at no cost to the City, from the City and once such schedule is approved by City Vendor shall remove such pursuant to the schedule; provided that schedule shall result in removal of all Vendor's equipment in the City within sixty (60) days of the effective date of termination; and (vii) provide such assistance as the City may reasonably request from time to time in connection with prosecuting and enforcing Notices of Violation issued prior to the termination of this Agreement.

D. The City shall: (i) Except for pending enforcement cases, immediately cease using the Photo Red Light Enforcement Program, accessing the Vendor System and using any other Intellectual Property of Vendor; and, (ii) promptly deliver to Vendor any and all Proprietary Property of Vendor provided to the City pursuant to this Agreement, other than such equipment installed by Vendor along the roadways for the enforcement program. Unless the City and Vendor 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, Vendor shall remove any and all Equipment or other materials of Vendor installed in connection with Vendor's performance of its obligations under this Agreement, at no cost to City, including but not limited to housings, poles and camera systems, and Vendor shall restore the Designated Intersections to substantially the same condition such Designated Intersections were in immediately prior to this Agreement, except for foundation removal, which shall be left flush with grade and no exposed rebar, steel or other hazards, at no cost to City pursuant to the schedule agreed upon by the parties in Paragraph C(vi) above. Upon termination pursuant to this Section, Vendor shall be paid only for payments earned by Vendor through the effective date of the termination; provided that in the event termination is by City pursuant to Paragraph A(v) above, City shall have the right to offset amounts not paid by Vendor against amounts due to Vendor.

ARTICLE 4

COMPENSATION AND METHOD OF PAYMENT

- 4.1 The CITY hereby agrees to compensate CONTRACTOR for all services performed by CONTRACTOR pursuant to the provisions of this Agreement.
- 4.2 MONTHLY FEE: Pursuant to Exhibit B, CONTRACTOR'S response:
- 1-4 Lanes = \$3,475.00 per approach
5+ Lanes = \$3,950.00 per approach
- 4.3 Contractor shall guarantee to repair or replace any inoperable equipment within 72 hours of detection by the Proposer or notification by the City. Absent a force majeure incident (such as a hurricane), any delay beyond the 72 hours will require a rebate or reduction in payment by the City for the period of time the camera is inoperable beyond the 72 hours.
- 4.4 Notwithstanding the above monthly fee per Designated Intersection Approach, it is expressly understood and agreed that the operation of the Program pursuant to this Agreement will be cost neutral to the Customer, as described in this Agreement. In the event revenue from the Program is not sufficient to compensate Redflex at the rates specified in Section 4.2 as described above, Redflex shall continue to operate the Program in its entirety, with no reduction in service to the Customer due to the reduced revenue to Redflex. Revenue from the Program means the amount the Customer receives as a result of the payment of fines pursuant to a Notice of



Violation or Uniform Traffic Citation, after portions of the fines are remitted to the State of Florida in the amounts required under Florida law, for all operational Designated Intersection Approaches. If the revenues from the Program, as defined herein, do not equal or exceed the fixed monthly fee for all operational Designated Intersection Approaches, the Customer is only obligated to pay Redflex only that revenue amount and not the full amount of such fixed monthly fees.

However, cumulative monthly deficit amounts may be recovered by Reflex in subsequent months from revenues collected in excess of the fixed monthly rate, but shall be forever waived by Redflex at the end of the Agreement term including any renewals pursuant to Section 3.2 of this Agreement. The Customer's cost neutrality is assured to the Customer. The Customer will not be required to pay Redflex more than revenue from the Program as defined herein, except as may be provided in the Termination provisions of this Agreement.

- 4.5 Price Protection. During the term of the Agreement, if Redflex offers better pricing to another government entity in Florida for substantially the same or a smaller quantity of Services upon similar terms to this Agreement ("Better Pricing"), then the price under this Agreement shall be immediately reduced to the better price. Customer may require Redflex to certify on an annual basis that Better Pricing (as defined above) does not exist.
- 4.6 Maximum Indebtedness. The maximum indebtedness of the Customer under this Agreement shall be \$3,475.00 per approach per month for intersections with 1-4 lanes and \$3,950.00 per approach per month for intersections with 5 or more lanes. The indebtedness of the Customer is to be paid from and not to exceed the revenues collected by the Customer, as provided herein and is to be revenue generating or cost neutral to the Customer as described herein.
- 4.7 Due to the cost neutrality provisions cited herein, Redflex will begin billing the City for services after the City starts receiving revenue, to wit: after the 30-day warning period has concluded and sixty (60) days after the City begins issuing enforceable Notices of Violation; however, the billing shall include all services provided from the date that Redflex begins issuing enforceable Notices of Violation. Redflex will invoice the City for services provided through and including the date of expiration or termination of this Agreement and the City shall pay for such services using revenues received from the Program while operated under this Agreement regardless of whether the City receives such revenues following expiration or termination of this Agreement, subject to the provisions of Section 4.4, *supra*.



- 4.8 The CITY shall within thirty (30) days, from the date the Finance Director receives a proper Application for Payment, pay the CONTRACTOR the amount approved by the City or his or her assignees.
- 4.9 All payments shall be governed by the Florida Prompt Payment Act, as set forth in Part VII, Chapter 218, Florida Statutes.

ARTICLE 5

CHANGES IN SCOPE OF WORK

- 5.1 CITY or CONTRACTOR may request changes that would increase, decrease, or otherwise modify the Scope of Services, as described in **Exhibit "A,"** to be provided under this Agreement as described in Article 2 of this Agreement. These changes will affect the monthly compensation accordingly. Such changes or additional services must be in accordance with the provisions of the Code of Ordinances of the CITY, and must be contained in a written amendment, executed by the parties hereto, with the same formality, equality and dignity herewith prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work.
- 5.2 In no event will the CONTRACTOR be compensated for any work which has not been described in a separate written agreement executed by the parties hereto.

ARTICLE 6

INDEMNIFICATION

- 6.1 Per language in solicitation, see Exhibit A, Sections 9 and 10.

ARTICLE 7

INSURANCE

- 7.1 Per language in solicitation, see Exhibit A, Sections 9 and 10.

ARTICLE 8

NON-DISCRIMINATION & EQUAL OPPORTUNITY EMPLOYMENT

- 8.1 During the performance of the Agreement, neither CONTRACTOR nor its subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if



qualified. CONTRACTOR will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. CONTRACTOR further agrees that he/she/it will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

ARTICLE 9

INDEPENDENT CONTRACTOR

- 9.1 This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONTRACTOR is an independent contractor under this Agreement and not the CITY's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONTRACTOR's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of CONTRACTOR, which policies of CONTRACTOR shall not conflict with CITY, State, H.U.D., or United States policies, rules or regulations relating to the use of CONTRACTOR's Funds provided for herein. The CONTRACTOR agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the CITY and the CITY will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.



ARTICLE 10
UNCONTROLLABLE FORCES

- 10.1 Neither CITY nor CONTRACTOR shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, and sabotage; provided that CONTRACTOR is obligated to perform pursuant to an emergency recovery plan, as agreed to by the parties and provided for in Exhibit B.
- 10.2 Neither party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

ARTICLE 11
VENUE

- 11.1 This Agreement shall be governed by the laws of the State of Florida as now and hereafter in force. The venue for actions arising out of this agreement shall be in Broward County, Florida.

ARTICLE 12
SIGNATORY AUTHORITY

- 12.1 CONTRACTOR shall provide CITY with copies of requisite documentation evidencing that the signatory for CONTRACTOR has the authority to enter into this Agreement.



ARTICLE 13
MERGER; AMENDMENT

- 13.1 This Agreement constitutes the entire Agreement between CONTRACTOR and CITY, and negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented or amended only by a written document executed by both CONTRACTOR and CITY with the same formality and equal dignity herewith.

ARTICLE 14
DEFAULT OF CONTRACT & REMEDIES

- 14.1 **Damages.** CITY reserves the right to recover any ascertainable actual damages incurred as a result of the failure of CONTRACTOR to perform in accordance with the requirements of this Agreement, or for losses sustained by CITY resultant from CONTRACTOR's failure to perform in accordance with the requirements of this Agreement. Notwithstanding anything herein to the contrary, the CONTRACTOR shall not be responsible for the gross negligence or willful misconduct of the City or any of its officers or employees in connection with this Agreement.
- 14.1.1 **Correction of Work.** If, in the judgment of CITY, work provided by CONTRACTOR does not conform to the requirements of this Agreement, or if the work exhibits poor workmanship, CITY reserves the right to require that CONTRACTOR correct all deficiencies in the work to bring the work into conformance without additional cost to CITY, and / or replace any personnel who fail to perform in accordance with the requirements of this Agreement. CITY shall be the sole judge of non-conformance and the quality of workmanship.
- 14.2 **Default of Contract.** The occurrence of any one or more of the following events shall constitute a default and breach of this Agreement by CONTRACTOR:
- 14.2.1 The abandonment of the services and/or equipment by CONTRACTOR for a period of more than seven (7) business days.
- 14.2.2 The abandonment, unnecessary delay, refusal of, or failure to comply with any of the terms of this Agreement or neglect, or refusal to comply with the instructions of the City Manager, or designee, relative thereto.



- 14.2.3 An terminable event as provided in Attachment A, Section 8, caused in whole or in part by CONTRACTOR.
- 14.2.4 Other than those items supporting termination pursuant to Attachment A, Section 8, the failure by CONTRACTOR to observe or perform any of the terms, covenants, or conditions of this Agreement to be observed or performed by CONTRACTOR, where such failure shall continue for a period of seven (7) days after written notice thereof by CITY to CONTRACTOR; provided, however, that if the nature of CONTRACTOR's default is such that more than seven (7) days are reasonably required for its cure, then CONTRACTOR shall not be deemed to be in default if CONTRACTOR commences such cure within said seven (7) day period and thereafter diligently prosecutes such cure to completion.
- 14.2.5 The assignment and/or transfer of this Agreement or execution or attachment thereon by CONTRACTOR or any other party in a manner not expressly permitted hereunder.
- 14.2.6 The making by CONTRACTOR of any general assignment or general arrangement for the benefit of creditors, or the filing by or against CONTRACTOR of a petition to have CONTRACTOR adjudged a bankruptcy, or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against CONTRACTOR, the same is dismissed within sixty (60) days); or the appointment of a trustee or a receiver to take possession of substantially all of CONTRACTOR's assets, or for CONTRACTOR's interest in this Agreement, where possession is not restored to CONTRACTOR within thirty (30) days; for attachment, execution or other judicial seizure of substantially all of CONTRACTOR's assets, or for CONTRACTOR's interest in this Agreement, where such seizure is not discharged within thirty (30) days.
- 14.3 **Remedies in Default.** In case of default by CONTRACTOR other than a terminable event under Attachment A, Section 8, CITY shall notify CONTRACTOR, in writing, of such abandonment, delay, refusal, failure, neglect, or default and direct him to comply with all provisions of the Agreement. If the abandonment, delay, refusal, failure, neglect or default is not cured within seven (7) days of when notice was sent by CITY, CITY may declare a default of the Agreement and notify CONTRACTOR of such declaration of default and terminate the Agreement.



14.3.1 Upon such declaration of default, all payment obligations of the CONTRACTOR to the City and State shall be undertaken by the Surety.

14.3.2 If such Surety fails to perform, the CITY may procure the Services and the facilities necessary for the completion of the Agreement, and charge the cost of same, and any lost revenue to the City occasioned by the failure to perform to CONTRACTOR and/or the Surety together with the costs incident thereto to such default.

14.3.3 In the event CITY completes the Agreement at a lesser cost or received greater revenues than under this Agreement, if the same had been fulfilled by CONTRACTOR, CITY shall retain such differences. Should such cost to CITY be greater or revenue less, CONTRACTOR shall pay the amount of such excess to the CITY.

ARTICLE 15 **BANKRUPTCY**

15.1 It is agreed that if CONTRACTOR is adjudged bankrupt, either voluntarily or involuntarily, then this Agreement shall terminate effective on the date and at the time the bankruptcy petition is filed.

ARTICLE 16 **DISPUTE RESOLUTION**

16.1 **Arbitration.** In addition to any other remedy provided hereunder, CITY, at its option, may use arbitration to resolve any controversy or claim arising out of or relating to this Agreement if arbitration is elected by CITY. Any controversy or claim arising out of or relating to this Agreement, or breach thereof, may be settled by arbitration in accordance with the rules of the American Arbitration Association and judgment upon the award rendered by the arbitrators may be entered into by any court having jurisdiction thereof. In the event arbitration is elected by CITY, such controversy or claim shall be submitted to one arbitrator selected from the National Panel of The American Arbitration Association.

16.2 **Operations During Dispute.**

16.2.1 In the event that a dispute, if any, arises between CITY and CONTRACTOR relating to this Agreement, performance or compensation hereunder, CONTRACTOR shall continue to render service in full compliance with all



terms and conditions of this Agreement as interpreted by CITY regardless of such dispute.

16.2.2 CONTRACTOR expressly recognizes the paramount right and duty of CITY to provide for public safety, and further agrees, in consideration for the execution of this Agreement, that in the event of such a dispute, if any, it will not seek injunctive relief in any court, but will negotiate with CITY for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute, may present the matter to a court of competent jurisdiction in an appropriate suit therefore instituted by it or by CITY.

ARTICLE 17

MISCELLANEOUS

17.1 **Ownership of Documents.** Reports, surveys, studies, and other data provided in connection with this Agreement are and shall remain the property of CITY, whether or not the project for which they are made is completed.

17.2 **Legal Representation.** It is acknowledged that each party to this agreement had the opportunity to be represented by counsel in the preparation of this Agreement, and accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply herein due to the joint contributions of both parties.

17.3 **Public Records.** Contractor shall:

(a) Keep and maintain public records required by the CITY to perform the service.

(b) Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, Fla. Stat., or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract, destroy all copies of such confidential and exempt records remaining in its possession after the transferring the records in its possession to the CITY.

(d) Upon completion of the contract, transfer, at no cost, to the CITY all



public records in CONTRACTOR's possession. All records stored electronically by the CONTRACTOR must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

**CITY CLERK
10100 PINES BOULEVARD, 5th FLOOR
PEMBROKE PINES, FL 333026
(954) 450-1050
mgraham@ppines.com**

- 17.4 **Records.** CONTRACTOR shall keep such records and accounts and require any and all subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which CONTRACTOR expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by CITY and shall be kept for a period of ten (10) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by CITY of any fees or expenses based upon such entries.
- 17.5 **Assignments; Amendments.** This Agreement, and any interests herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of CITY, which is subject to approval by the CITY Commission. For purposes of this Agreement, any change of ownership of CONTRACTOR shall constitute an assignment which requires CITY approval. However, this Agreement shall run to the benefit of CITY and its successors and assigns.

It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.



- 17.6 **No Contingent Fees.** CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, CITY shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.
- 17.7 **Notice.** Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, CONTRACTOR and CITY designate the following as the respective places for giving of notice:

CITY Charles F. Dodge, City Manager
City of Pembroke Pines
10100 Pines Boulevard
Pembroke Pines, Florida 33025
Telephone No. (954) 431-4884
Facsimile No. (954) 437-1149

Copy To: Samuel S. Goren, City Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
Telephone No. (954) 771-4500
Facsimile No. (954) 771-4923

Contractor Michael R. Finn, President & CEO
Redflex Traffic Systems, Inc.
5651 West Talavi Boulevard, Suite 200
Glendale, AZ 85306
Telephone No. (623) 207-2000
Facsimile No. (623) 207-2050
E-Mail: mfinn@redflex.com



- 17.8 **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- 17.9 **Headings.** Headings herein are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.
- 17.10 **Exhibits.** Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.
- 17.11 **Severability.** If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.
- 17.12 **Entire Agreement and Conflicts:** This Agreement is intended by the parties hereto to be final expression of this Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made. In the event of a conflict between this Agreement, the RFP and the CONTRACTOR's Response, this Agreement shall govern, then the RFP, and then the CONTRACTOR's proposal.
- 17.13 **Waiver.** Failure of CITY to insist upon strict performance of any provision or condition of this Agreement, or to execute any right therein contained, shall not be constructed as a waiver or relinquishment for the future of any such provision, condition, or right, but the same shall remain in full force and effect.
- 17.14 **Attorney's Fees.** In the event that either party brings suit for enforcement of this Agreement, each party shall bear its own attorney's fees and court costs, except as otherwise provided under the indemnification provisions set forth herein above.
- 17.15 **Protection of City Property.** At all times during the performance of this Agreement, CONTRACTOR shall protect CITY's property from all damage whatsoever on account of the work being carried on under this Agreement.



IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day
and year first written above.

ATTEST:

CITY OF PEMBROKE PINES

A handwritten signature in cursive script, appearing to read "Marlene D. Graham".

MARLENE D. GRAHAM
CITY CLERK

2/28/17

By:

A handwritten signature in cursive script, appearing to read "Charles F. Dodge".

CHARLES F. DODGE
CITY MANAGER

APPROVED AS TO FORM

A handwritten signature in cursive script, appearing to read "Paul S. [unclear]".

OFFICE OF THE CITY ATTORNEY



CONTRACTOR

REDFLEX TRAFFIC SYSTEMS, INC.

Witnesses:

Karen Marion

Karen Marion

Printed Name

Kim Tomena

Kim Tomena

Printed Name

By:

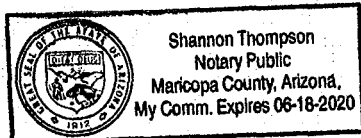
Michael Finn

Printed Name

STATE OF ARIZONA

COUNTY OF Maricopa

The foregoing instrument was acknowledged before me this 15th day of February 2017, by Michael Finn in his/her capacity as President / CEO of REDFLEX TRAFFIC SYSTEMS, INC.



[Signature]
NOTARY PUBLIC

Personally Known OR
Produced Identification

Type of Identification Produced



- **Exhibit A** – RFP # AD-16-02 / RED LIGHT TRAFFIC SIGNAL CAMERA ENFORCEMENT SYSTEM
- **Exhibit B** – Redflex response to RFP
- **Exhibit C** – Pembroke Pines, FL Business Rules – Redflex Traffic Systems
- **Exhibit D** - Construction and Installation Obligations
- **Exhibit E** - Violation Processing
- **Exhibit F** - Maintenance



EXHIBIT D

Construction and Installation Obligations

Timeframe for Installation: Photo Red Light Enforcement Program

Contractor will have each specified intersection installed and activated in phases in accordance with an implementation plan to be mutually agreed to by Contractor and City.

Contractor 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.

1. Contractor Obligations: Pursuant to Section 3.1 of the RFP (Exhibit A), Contractor shall do or cause to be done each of the following (in each case, unless otherwise stated below, at Contractor's sole cost and expense):

1.1 Appoint the Contractor Project Manager and a project implementation team consisting of between one (1) and four (4) people to assist the Contractor Project Manager. The Contractor Project Manager (or a reasonable alternate) shall be available to the City's Project Manager each day.

1.2 Request current "as-built" electronic engineering drawings for the Designated Intersections (the "Drawings") from the Broward County traffic engineer.

1.3 Develop and submit to the City for approval construction and installation specifications in reasonable detail for the Designated Intersection, including but not limited to specifications for all sensors, pavement loops, electrical connections, and traffic controller connections, as required.

1.4 Seek approval from the relevant Governmental Authorities having authority or jurisdiction over the construction and installation specifications for the Designated Intersection(s) (collectively, the "Approvals"), which will include compliance with City permit applications. Contractor will be responsible for any and all Approval costs charged by any Governmental Authorities.

1.5 Contractor will provide reasonable administrative assistance to the City in the development of a letter in support of a Traffic Infraction Detector at



intersection(s) requested. In addition, and if required, Contractor will provide reasonable assistance to the City with a traffic engineering study supporting the installation of a Traffic Infraction Detector at the location(s) requested by the City.

1.6 Seek rights from private property owners, as necessary for the placement of System Equipment at designated intersections where Governmental Authorities have jurisdiction over the designated intersection and adjacent rights of right of way, and which such Governmental Entity denies authority to Contractor for the installation of its equipment. In the event there is a cost associated with acquiring these rights other than permit or recording fees (which shall be the responsibility of the Contractor), the parties will address responsibility for such costs on a case-by-case basis and payment of any such costs shall be based on mutual agreement of the parties.

1.7 Contractor shall apply and become a Florida Department of Highway Safety and Motor Vehicles (DHSMV) approved E-Citation vendor. If Contractor is already an approved vendor, Contractor shall provide the City with a certified copy of the official DHSMV correspondence containing such approval.

1.8 Submit to the City a public awareness strategy for the City's consideration and approval, which strategy shall include media and educational materials for the City's approval or amendment according to the Contractor's proposal (the "Public Awareness Strategy"). The Contractor's responsibility for such a Public Awareness Strategy shall be as described in the Contractor's proposal submitted in response to the City's RFP.

1.9 Implement the Business Rules attached to the Agreement as Exhibit "C" as such may be amended from time to time, and generate enforcement documentation consistent with the requirements of the State Law, including but not limited to the form Notice of Violation, Uniform Traffic Citation, and Local Hearing Request. The City's business rules may be amended from time to time at the direction of the City Manager or his designee. Such amendments shall not require an amendment to this Agreement and shall not require City Commission Approval. With the exception of amendments required to comply with judicial decisions or changes in law, if an amendment requested by the City to the Business Rules increases any cost to the Contractor, the Contractor shall provide the City with an estimate of the additional costs and the City shall be responsible for such costs, if approved by the City to proceed with the amendment to the City's business rules. If an amendment is required to comply with a judicial decision or a change in law and such amendment increases any cost to the City



or the Contractor, the Contractor and City shall negotiate a reasonable allocation of the costs.

1.10 Complete the installation and testing of all necessary Equipment, including hardware and software, at the designated intersections (under the supervision of the City). The provision of all necessary communication, broadband and telephone services to the Designated Intersections will be the sole responsibility of the Contractor. The provision of all necessary electrical services to the Designated Intersections will be the sole responsibility of the Contractor. In the event that images of a quality suitable for the Authorized Employee to identify Infractions cannot be reasonably obtained without the use of flash units, Contractor shall provide and install such flash units.

1.11 Cause an electrical sub-contractor to complete all reasonably necessary electrical work at the designated intersections, 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.

1.12 Install and test the functionality of the designated intersections with the Contractor System and establish fully operational Violation processing capability with the Contractor System.

1.13 Implement the use of the Contractor System at each of the designated intersections.

1.14 Notice to Motorists. Pursuant to Fla. Stat. §316.0776, not less than thirty (30) days prior to the issuance of notices of violations from a newly installed camera at an approved intersection, Contractor will provide temporary sign notification at no cost to the City, approved by the City's Police Department and Engineer, for the purpose of providing notice to motorists of the activation date. Such signage used to notify the public must meet the specifications for uniform signals and devices adopted by the Department of Transportation pursuant to Fla. Stat. §316.0745. Signs will provide notice of the presence of cameras and the activation date. Additionally, Contractor shall coordinate public relations efforts with the City, including assisting the City with press releases and other public information items, the costs of which shall be Contractor's responsibility, as may be decided to be necessary by the parties, for each camera.

1.15 Intersection Signage. Pursuant to Fla. Stat. §316.0776, at each red light



camera intersection, Contractor shall post signage to notify the public that a traffic infraction device may be in use at that intersection and must specifically include notification of camera enforcement of violations concerning right turns. Such signage used to notify the public must meet the specifications for uniform signals and devices adopted by the Department of Transportation pursuant to Fla. Stat. §316.0745.

2. CITY OBLIGATIONS. The City shall do or cause to be done each of the following (in each case, unless otherwise stated below, at the City's sole expense):

2.1 Appoint the City's Project Manager.

2.2 Assist Contractor in obtaining the Drawings from the relevant Governmental Authorities.

2.3 Notify Contractor of any specific requirements relating to the construction and installation of any Intersection or the implementation of the Program.

2.4 Assist and cooperate with Contractor in seeking Approvals, including, but not limited to, executing all such documents as may be necessary or desirable to obtain the Approvals.

2.5 Provide reasonable access to the City's properties and facilities in order to permit Contractor to install and test the functionality of the Designated Intersections and the Photo Red Light Enforcement Program.

2.6 Provide reasonable access to the personnel of the City and reasonable information about the specific operational requirements of such personnel for the purposes of performing training.

2.7 Develop the Red Light Violation Criteria consistent with the State Law.

2.8 If feasible, and only after all necessary approvals have been obtained from utilities and other governmental entities with jurisdiction, City shall allow Contractor to access power from existing power sources at no cost to City and shall allow or facilitate access to traffic signal phase connections to a pull box, pole base, or controller cabinet nearest to each Camera System within the City's jurisdiction. Contractor acknowledges that access to power and signal cabinets may require approval from Florida Power and Light, Florida Department of Transportation or Broward County Traffic Engineering Division, as necessary.



2.9 City shall provide its own Internet connection to operate the Contractor System to allow for the Authorized Employee to review and process Recorded Images, issue Notices of Violation and issue Uniform Traffic Citations, and provide copies of the Uniform Traffic Citations to the court.

2.10 Contractor shall provide the Police Department with an iPad for citation review and approval which shall be returned to Contractor in the event the Agreement is terminated.

2.11 For optimal data throughput, Police Department / Adjudication workstations should be connected to a high-speed Internet connection with bandwidth of T-1 or greater. Contractor will coordinate directly with the City's Information Technology (IT) Department on installation and implementation of the computerized aspects of the program.

2.12 In the event that remote access to the Contractor System is blocked by City's network security infrastructure, the City's IT Department and the counterparts at the Contractor shall coordinate to facilitate appropriate communications access while maintaining required security measures.

2.13 City shall provide a computer terminal at a public location where persons receiving Notices of Violation may review the recorded images of the violation.



EXHIBIT E

Violation Processing

1. Contractor shall process violations pursuant to Section 3.2 of the RFP (Exhibit A).
2. Any and all Infraction Data captured by the Redflex Software System shall be stored on the System and immediately accessible to City and its Authorized Employees.
3. The Contractor System shall process any and all Infractions Data gathered from the Designated Intersections into a format capable of review by the Authorized Employees through the Contractor System.
4. Contractor shall act as City's agent for the limited purpose of collecting Infractions Data for the Authorized Employees to review and for the Authorized Employees to determine if probable cause exists that an Infraction has occurred. Contractor shall provide the City with access to any and all Infraction Data captured by the Contractor System and automatically uploaded into the Contractor System. NOTWITHSTANDING ANY OTHER PROVISION IN THE AGREEMENT, CONTRACTOR SHALL NOT HAVE ANY AUTHORITY OR DISCRETION TO SELECT WHICH RECORDED IMAGES ARE ACCESSED AND REVIEWED BY THE AUTHORIZED EMPLOYEES. ANY AND ALL WORK CONTRACTOR PERFORMS IN THIS REGARD SHALL BE AT THE EXPRESS DIRECTION AND CONTROL OF THE CITY.
5. The Contractor System shall be accessible by the Authorized Employee 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.
6. Contractor shall provide storage capabilities for the City to store Infractions Data for Infractions identified for prosecution for a period of time of not less than five (5) years after final disposition of a case. In the event that a lawsuit is filed, the five-year time period specified herein shall be extended until the full and final completion of the litigation, including any and all appeals.

NOTICE OF VIOLATION ("NOV") PROCESSING

1. Contractor shall process Infractions Data pursuant to the Business Rules (Exhibit "C") within five (5) days of the gathering of the Infraction Data from the Designated Intersection. Contractor shall review the Infractions Data to clearly identify the registration of the vehicle captured and enter all relevant Florida Department of Highway Safety and Motor Vehicle ("DMV") information into the



Contractor System. The identification and entering of DMV information is based on the criteria in the Business Rules (Exhibit C). Contractor shall act as an agent for the City for the purpose of obtaining such DMV information. The City shall provide Contractor with any Approvals required to facilitate DMV access.

2. Contractor will provide all of the Infractions Data to the City for determination by an Authorized Employee whether to issue a Notice of Violation. Other than reviewing processing the Infractions Data to clearly identify the registration of the vehicle captured and then entering all relevant DMV information into the Contractor System, no Contractor employee shall review any of the Infractions Data for the purpose of determining whether an Infraction occurred.
3. The Authorized Employee(s) shall review the Infractions Data and unilaterally decide whether a Notice of Violation shall be issued with respect to each potential Infraction captured within such Infractions Data. The Authorized Employee shall make such determination within five (5) days of the Infractions Data being made available in the Police Review Queue of the Contractor System.
4. In the event that the Authorized Employee finds that probable cause existed and that an Infraction occurred, the Authorized Employee shall issue a Notice of Violation and order the Contractor to send the Notice of Violation in the form of an Electronic Signature and electronic directive transmitted to the Contractor using the software or other applications or procedures provided by the Contractor on the Contractor System for such purpose. While performing the foregoing, the Authorized Employee shall certify that he or she has reviewed photographic or electronic images and video relating to an alleged violation of F.S. §§ 316.047(1) or 316.075(1)(c)(1), has determined that such evidence shows an Infraction, and is issuing a Notice of Violation to the Registered Owner involved in the Infraction in accordance with F.S. § 316.0083. CONTRACTOR ACKNOWLEDGES AND AGREES THAT THE DECISION WHETHER TO ISSUE A NOTICE OF VIOLATION SHALL BE THE SOLE, UNILATERAL AND EXCLUSIVE DECISION OF THE AUTHORIZED EMPLOYEE AND SHALL BE MADE IN SUCH AUTHORIZED EMPLOYEE'S SOLE DISCRETION, AND IN NO EVENT SHALL REDFLEX HAVE THE ABILITY OR AUTHORIZATION TO MAKE A NOTICE OF VIOLATION DECISION OR TO ALTER THE NOTICE OF DECISION AND DIRECTION FOR THE AUTHORIZED EMPLOYEE(S).
5. The Contractor shall perform the clerical task of printing and mailing the Notice of Violation within five (5) days after the Authorized Employee's decision to issue the Notice of Violation.
6. Notices of Violation shall be issued not later than thirty (30) days after the infraction occurred, or as otherwise provided by Florida law.



Uniform TRAFFIC Citation ("UTC") Processing

1. If the Contractor does not receive from the registered owner payment, notice of a nomination, or a request for hearing for a Notice of Violation within sixty (60) days after the Notice of Violation was issued to the registered owner of the motor vehicle involved in the Authorized Violation (the "Registered Owner"), then the Contractor shall notify the City in such a manner that the City can comply with the requirements under Florida law for issuance of a UTC. The Contractor shall also notify the City in the above manner if the Registered Owner asserts a defense or requests a hearing against the Notice of Violation.
2. If the City receives notice of non-response, as outlined above, then the Authorized Employee shall perform a second review of the Notice of Violation within five (5) days of the unpaid Notice of Violation being placed in the Uniform Traffic Citation Queue of the Contractor System and the Authorized Employee shall unilaterally decide whether a UTC shall be issued. If the Authorized Employee decides to issue a UTC, the Authorized Employee shall create a UTC in PDF form that is generated on the Contractor System and ensure that the PDF is then transmitted to the Contractor using the software or other applications or procedures provided by the Contractor on the Contractor System for printing and mailing purposes. The Contractor shall then perform the clerical task of printing and mailing the UTC via certified mail within 5 days of issuance of the UTC by the Authorized Employee.
3. An electronic version of the UTC will be transmitted to the Authorized Employee for review and transfer to the Broward County Court in the format and method agreed to by the Clerk of Court in accordance with F.S. § 316.650. REDFLEX HEREBY ACKNOWLEDGES AND AGREES THAT THE DECISION TO ISSUE A UTC SHALL BE THE SOLE, UNILATERAL AND EXCLUSIVE DECISION OF THE AUTHORIZED EMPLOYEE AND IN NO EVENT SHALL REDFLEX HAVE THE ABILITY OR AUTHORIZATION TO MAKE A DECISION REGARDING WHETHER A UTC SHALL BE ISSUED.
4. Contractor shall provide a toll-free telephone number, at its sole expense, for the purposes of answering inquiries from persons receiving a Notice of Violation or UTC.



5. Pursuant to Section 3.3 of the RFP (Exhibit A), the Contractor shall permit the City and its Authorized Employees to use the Contractor Standard Report System to download and print reports to allow the City to have full oversight and continuous or periodic review of all actions taken within the Contractor System related to the Infraction Data uploaded into the Contractor System from the traffic infraction detector.
6. Upon Contractor's receipt of a written request from the City and in addition to the Standard Reports, Contractor shall provide, without cost to the City, reports regarding the processing and issuance of Notices of Violation, the maintenance and downtime records of the Designated Intersections and the functionality of the Contractor System with respect thereto to the City in such format and for such periods as the City may reasonably request, without cost to the City.
7. Subject to paragraph 23 below and upon Contractor's receipt of a written request from the City at least fourteen (14) calendar days in advance of a hearing, Contractor shall provide expert witnesses for use by the City, at no cost to the City.
8. Contractor shall assist the City with its interactions with the court and judicial personnel regarding the implementation of the Contractor System for hearings on Uniform Traffic Citations, the development of a subpoena processing timeline that will permit the offering of Infractions Data in hearings and judicial proceedings, and coordination between Contractor, the City and the applicable court.
9. Contractor shall assist the City with the implementation of the Contractor System for local hearings on Notices of Violation, the development of a hearing request processing timeline that will permit the offering of local hearings at City Hall, pursuant to the requirements of Fla. Stat. §316.0083. Such assistance shall include training the City's Local Hearing Officer(s) and Red Light Camera Clerk(s) on any and all processes and procedures needed to utilize the Contractor System as of the date of issuance of the first Notice of Violation to: schedule and reschedule local hearings; send correspondence related to local hearings; conduct local hearings; generate Orders arising from local hearings indicating the disposition of each case; and printing and mailing such orders to the Violators.



10. Contractor agrees to provide a secure website accessible to vehicle owners who have received Notices of Violation, which will allow Infractions Data image and video viewing. As part of the secure website, Contractor will provide a Frequently Asked Questions (F.A.Q.) page, which shall be approved by the City. Contractor will provide this secure website on a 24-hour basis, barring downtime for maintenance, normal servicing activities, or other unforeseen circumstances arising out of causes beyond the reasonable control of Contractor (e.g. acts of God, acts of a public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather etc.).
11. Contractor shall provide such training to City personnel as shall be reasonably necessary in order to allow such personnel to act as expert witnesses on behalf of the City with respect to the Program. However, if a specific case requires testimony on the technical aspects of the equipment, upon City's request Contractor shall provide the City with an expert in the hearing in that case at no cost to the City. Provision of hands-on training prior to the program becoming operational shall be required, and additional training after the program is operational as necessary or as required by the City. Contractor shall furnish written and electronic training materials.
12. Contractor shall prepare and provide to City a Notice of Violation form that complies with all requirements of the Act. Contractor shall also provide to City a form of affidavit for use by owners of motor vehicles who claim an exemption under Florida Statutes §316.0083 and shall make that affidavit available to owners through an internet location or upon telephone or written request by an owner who has received a Notice of Violation or Traffic Citation. Contractor agrees that the city shall have the right to review and approve the form Notice of Violation and affidavit prior to their use, and that in the event City determines additional information should be included in the forms prior to their use or after implementation, Contractor shall modify the forms at its sole expense, to comply with those requirements, subject only to space limitations on the notice paper. City shall provide a Traffic Citation form to Contractor with the understanding that some modifications may be necessary to enable use with Contractor's systems and to comply with State Law.
13. Pursuant to Section 3.4.3 of the RFP (Exhibit A), Contractor's System shall generate required documentation for any and all hearings, including pleadings necessary to ensure the admissibility of the documentation necessary to prove an Infraction in court or at local administrative hearings, as may be determined



by the presiding hearing officers and judges. Specifically, each separate infraction that is scheduled for hearing in traffic court requires that the City file a *Notice of Intent to Rely Upon Business Records* which is compliant with the Florida Evidence Code no later than seven (7) calendar days prior to the date of the scheduled hearing. The Contractor will be responsible for the preparation of these notices in a form acceptable to the City Attorney. The City Attorney must receive the prepared notice at least ten (10) business days prior to the scheduled hearing so that there is sufficient time for the City Attorney to review, sign and file the notice with the court seven (7) calendar days prior to the scheduled hearing.

14. Contractor is authorized as the City's agent to receive funds paid by red light camera violators. To facilitate this agency, Redflex will establish a demand deposit account bearing the title, "Redflex Traffic Systems, Inc. as agent for the City of Pembroke Pines" at Huntington National Bank. All funds received by Contractor on behalf of the City will be deposited in this account and transferred by wire as set forth in the Procedures for Processing Payments below to the City's primary deposit bank. The City will identify the account to collect funds wired from Huntington National Bank. If desired, City will sign a W-9 and account agreement, to be completed by the City, to ensure the City's financial interest in said Huntington National Bank account is preserved.

15. Procedures for Processing Payments.

- a. Contractor shall be responsible for processing payments of Civil Penalties paid pursuant to Notices of Violation and (only if authorized by the County Court and requested by the City) for Uniform Traffic Citations. Contractor shall provide payment means through mail, telephone and on-line processes. Contractor shall track all payments and handle all applied payments, unapplied payments, overpayments, refunds, adjustments, dismissals and reversals. Any payments made in person to the City will be taken by the City and applied through Contractor's System.
- b. Contractor's lockbox shall remit to the designated City account all payments received during a week no later than 5:00 p.m. Eastern Time on Tuesday of the following week. If such Tuesday is a legal holiday or a day upon which banking services are not available, Contractor's lockbox shall remit such payments on the next day that is not a legal holiday and that banking services are available.
- c. Contractor shall invoice the City for all applicable fees for services rendered by Contractor pursuant to this Agreement. Along with the invoice, Contractor shall provide information to the City, in a format



acceptable to the City, supporting the invoice amounts forwarded by Contractor to the City. In addition, City shall have access to Contractor's financial records evidencing payments for all paid Notices of Violation and for Uniform Traffic Citations (if possible) for Infractions at City's Designated Intersections, upon City's reasonable request.



EXHIBIT F

Maintenance

1. Pursuant to Section 3.5 of the RFP (Exhibit A), all maintenance of camera equipment, including video, sensors, computer and related equipment, shall be the responsibility of the Contractor. This shall include maintaining the casings of the cameras and all other equipment in reasonably clean and graffiti-free condition as well as provisions of electricity or other sources of power to the equipment at Contractor's expense.
2. Contractor shall repair or replace any inoperable equipment within 72 hours of detection by the Contractor or notification by the City. Absent a force majeure incident (such as a hurricane), any delay beyond the 72 hours will require a rebate or reduction in payment by the City for the period of time the camera is inoperable beyond the 72 hours.
3. Contractor must have the ability to immediately detect inoperable or malfunctioning equipment and must immediately notify the City of such.
4. Contractor must have a standard maintenance and inspection plan as required by Florida law and the Florida Department of Transportation, including but not limited to Fla. Stat. §316.07456. Contractor shall provide the City with a certified copy of documentation of the State approval of such maintenance and inspection plan.
5. Contractor shall not open the Traffic Signal Controller Boxes without a representative of the County Traffic Engineering department present.
6. Contractor shall not be responsible for downtime of any equipment caused by construction projects in the area that are beyond the control of the Contractor which shall be governed by Article 10 of the Agreement.