

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

This Agreement (this "Agreement") is made by and between Redflex Traffic Systems, Inc. with offices at 15020 North 74th Street, Scottsdale, Arizona 85260 ("Redflex"), and the City of Culver City, a municipal corporation, with offices at 9770 Culver Boulevard, Culver City, California 90232 (the "Customer").

RECITALS

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

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

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

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

AGREEMENT

1. **DEFINITIONS.** In this Agreement, the words and phrases below shall have the following meanings:
 - 1.1. "**Authorized Officer**" means the Police Project Manager or such other individual(s) as the Customer shall designate to review Potential Violations and to authorize the Issuance of Citations in respect thereto, and in any event, a sworn peace officer or a qualified employee of the Police Department.
 - 1.2. "**Authorized Violation**" means each Potential Violation in the Violation Data for which authorization to issue a citation in the form of an Electronic Signature is given by the Authorized Officer by using the Redflex System.
 - 1.3. "**Citation**" means the notice of a Violation, which is mailed or otherwise delivered by Redflex to the violator on the appropriate Enforcement Documentation in respect of each Authorized Violation.
 - 1.4. "**Confidential or Private Information**" means, with respect to any Person, any information, matter or thing of a secret, confidential or private nature, whether or not so labeled, which is connected with such Person's business or methods of operation or concerning any of such Person's suppliers, licensors, licensees, customers or others with whom such Person has a business relationship, and which has current or potential value to such Person or the unauthorized

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

- 1.4.1. Matters of a business nature, including but not limited to information relating to development plans, costs, finances, marketing plans, data, procedures, business opportunities, marketing methods, plans and strategies, the costs of construction, installation, materials or components, the prices such Person obtains or has obtained from its clients or customers, or at which such Person sells or has sold its services; and
- 1.4.2. Matters of a technical nature, including but not limited to product information, trade secrets, know-how, formulae, innovations, inventions, devices, discoveries, techniques, formats, processes, methods, specifications, designs, patterns, schematics, data, access or security codes, compilations of information, test results and research and development projects. For purposes of this Agreement, the term "trade secrets" shall mean the broadest and most inclusive interpretation of trade secrets.
- 1.4.3. Notwithstanding the foregoing, Confidential Information will not include information that: (i) was generally available to the public or otherwise part of the public domain at the time of its disclosure, (ii) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission by any party hereto in breach of this Agreement, (iii) was subsequently lawfully disclosed to the disclosing party by a person other than a party hereto, (iv) was required by a court of competent jurisdiction to be described, or (v) was required by applicable state law to be described.
- 1.5. **"Designated Intersection Approaches"** means the Intersection Approaches set forth on Exhibit "A" attached hereto, and such additional Intersection Approaches as Redflex and the Customer shall mutually agree, in writing, from time to time.
- 1.6. **"Electronic Signature"** means the method through which the Authorized Officer indicates his or her approval of the issuance of a Citation in respect of a Potential Violation using the Redflex System.
- 1.7. **"Enforcement Documentation"** means the necessary and appropriate documentation related to the Photo Red Light Enforcement Program, including but not limited to warning letters, citation notices (using the specifications of the Judicial Council and the City, a numbering sequence for use on all citation notices (in accordance with applicable court rules), instructions to accompany each issued Citation (including in such instructions a description of basic court procedures, payment options and information regarding the viewing of images and data collected by the Redflex System), chain of custody records, criteria regarding operational policies for processing Citations (including with respect to coordinating with the Department of Motor Vehicles), and technical support documentation for applicable court and judicial officers .
- 1.8. **"Equipment"** means any and all cameras, sensors, equipment, components, products, software and other tangible and intangible property relating to the Redflex Photo Red Light System(s), including but not limited to all camera systems, housings, radar units, severs and poles.

- 1.9. **“Fine”** means a monetary sum assessed for Citation, including but not limited to bail forfeitures, but excluding suspended fines.
- 1.10. **“Governmental Authority”** means any domestic or foreign government, governmental authority, court, tribunal, agency or other regulatory, administrative or judicial agency, commission or organization, and any subdivision, branch or department of any of the foregoing.
- 1.11. **“Installation Date of the Photo Red Light Program”** means the date on which Redflex completes the construction and installation of at least one (1) Intersection Approach in accordance with the terms of this Agreement so that such Intersection Approach is operational for the purposes of functioning with the Redlight Photo Enforcement Program.
- 1.12. **“Intellectual Property”** means, with respect to any Person, any and all now known or hereafter known tangible and intangible (a) rights associated with works of authorship throughout the world, including but not limited to copyrights, moral rights and mask-works, (b) trademark and trade name rights and similar rights, (c) trade secrets rights, (d) patents, designs, algorithms and other industrial property rights, (e) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated), whether arising by operation of law, contract, license, or otherwise, and (f) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing), of such Person.
- 1.13. **“Intersection Approach”** means a conduit of travel with up to four (4) contiguous lanes from the curb (e.g., northbound, southbound, eastbound or westbound) on which at least one (1) system has been installed by Redflex for the purposes of facilitating Redlight Photo Enforcement by the Customer.
- 1.14. **“Operational Period”** means the period of time during the Term, commencing on the Installation Date, during which the Photo Red Light Enforcement Program is functional in order to permit the identification and prosecution of Violations at the Designated Intersection Approaches by a sworn peace officer or qualified employee of the Customer and the issuance of Citations for such approved Violations using the Redflex System.
- 1.15. **“Person”** means a natural individual, company, Governmental Authority, partnership, firm, corporation, legal entity or other business association.
- 1.16. **“Police Project Manager”** means the project manager appointed by the Customer in accordance with this Agreement, which shall be a sworn peace officer or qualified employee 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 this Agreement, the Customer’s charter or other organizational documents of the Customer or by the Customer’s city council.
- 1.17. **“Potential Violation”** means, with respect to any motor vehicle passing through a Designated Intersection Approach, the data collected by the Redflex

System with respect to such motor vehicle, which data shall be processed by the Redflex System for the purposes of allowing the Authorized Officer to review such data and determine whether a Red Light Violation has occurred.

- 1.18. **“Proprietary Property”** means, with respect to any Person, any written or tangible property owned or used by such Person in connection with such Person’s business, whether or not such property is copyrightable or also qualifies as Confidential Information, including without limitation products, samples, equipment, files, lists, books, notebooks, records, documents, memoranda, reports, patterns, schematics, compilations, designs, drawings, data, test results, contracts, agreements, literature, correspondence, spread sheets, computer programs and software, computer print outs, other written and graphic records and the like, whether originals, copies, duplicates or summaries thereof, affecting or relating to the business of such Person, financial statements, budgets, projections and invoices.
- 1.19. **“Redflex Marks”** means all trademarks registered in the name of Redflex or any of its affiliates, such other trademarks as are used by Redflex or any of its affiliates on or in relation to Photo Red Light Enforcement at any time during the Term this Agreement, service marks, trade names, logos, brands and other marks owned by Redflex, and all modifications or adaptations of any of the foregoing.
- 1.20. **“Redflex Project Manager”** means the project manager appointed by Redflex in accordance with this Agreement, which project manager shall initially be Bob Hickman or such person as Redflex shall designate by providing written notice thereof to the Customer from time to time, who shall be responsible for overseeing the construction and installation of the Designated Intersection Approaches and the implementation the Photo Red Light Enforcement Program, and who shall have the power and authority to make management decisions relating to Redflex’s obligations pursuant to this Agreement, including, but not limited to, change-order authorizations.
- 1.21. **“Redflex Photo Red Light System”** means, collectively, the SmartCam™ System, the SmartOps™ System, the Redlight Photo Enforcement Program, and all of the other equipment, applications, back office processes and digital red light traffic enforcement cameras, sensors, components, products, software and other tangible and intangible property relating thereto.
- 1.22. **“Photo Red Light Enforcement Program”** means the process by which the monitoring, identification and enforcement of Violations is facilitated by the use of certain equipment, applications and back office processes of Redflex, including, but not limited to, cameras, flashes, central processing units, signal controller interfaces and detectors (whether loop, radar or video loop) which, collectively, are capable of measuring Violations and recording such Violation data in the form of photographic images of motor vehicles.
- 1.23. **“Photo Redlight Violation Criteria”** means the standards and criteria by which Potential Violations will be evaluated by sworn peace officers of the Customer, which standards and criteria shall include, but are not limited to, the duration of time that a traffic light must remain red prior to a Violation being deemed to have occurred, and the location(s) in an intersection which a motor vehicle must pass during a red light signal prior to being deemed to have

committed a Violation, all of which shall be in compliance with all applicable laws, rules and regulations of Governmental Authorities.

- 1.24. **"SmartCam™ System"** means the proprietary digital redlight photo enforcement system of Redflex relating to the Photo Red Light Enforcement Program.
 - 1.25. **"SmartOps™ System"** means the proprietary back-office processes of Redflex relating to the Photo Red Light Enforcement Program.
 - 1.26. **"SmartScene™ System"** means the proprietary digital video camera unit, hardware and software required for providing supplemental violation data.
 - 1.27. **"Traffic Signal Controller Boxes"** means the signal controller interface and detector, including but not limited to the radar or video loop, as the case may be.
 - 1.28. **"Violation"** means any traffic violation contrary to the terms of the California Vehicle Code (the "Vehicle Code") set forth in section 21453 et al.
 - 1.29. **"Violations Data"** means the images and other Violations data gathered by the Redflex System at the Designated Intersection Approaches.
 - 1.30. **"Warning Period"** means the period of thirty (30) days after the Installation Date of the first intersection approach.
2. **TERM.** The term of this Agreement shall commence on the date it is signed on behalf of Customer and shall continue for a period of seven (7) full calendar years. The Customer shall have the right, but not the obligation, to extend the term of this Agreement for up to three (3) additional consecutive calendar-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 Photo Red Light Enforcement Program to the Customer, in each case in accordance with the terms and provisions set forth in this Agreement.
- 3.1. **INSTALLATION.** With respect to the construction and installation of (1) the Designated Intersection Approaches and the installation of the Redflex System at such Designated Intersection Approaches, the Customer and Redflex shall have the respective rights and obligations set forth on Exhibit "B" attached hereto.
 - 3.2. **MAINTENANCE.** With respect to the maintenance of the Redflex System at the Designated Intersection Approaches the Customer and Redflex shall have the respective rights and obligations set forth on Exhibit "C" attached hereto.
 - 3.3. **VIOLATION PROCESSING.** During the Operational Period, Violations shall be processed as follows:
 - 3.3.1. All Violations Data shall be stored on the Redflex System;
 - 3.3.2. The Redflex System shall process Violations Data gathered from the Designated Intersection Approaches into a format capable of review by the Authorized Officer via the Redflex System;

- 3.3.3. The Redflex System shall be accessible by the Authorized Officer through a virtual private network in encrypted format by use of a confidential password on any computer equipped with a high-speed internet connection and a web browser;
- 3.3.4. Redflex shall provide the Authorized Officer with access to the Redflex System for the purposes of reviewing the pre-processed Violations Data within seven (7) days of the gathering of the Violation Data from the applicable Designated Intersection Approaches
- 3.3.5. The Customer shall cause the Authorized Officer to review the Violations Data and to determine whether a citation shall be issued with respect to each Potential Violation captured within such Violation Data, and transmit each such determination in the form of an Electronic Signature to Redflex using the software or other applications or procedures provided by Redflex on the Redflex System for such purpose, and REDFLEX HEREBY ACKNOWLEDGES AND AGREES THAT THE DECISION TO ISSUE A CITATION SHALL BE THE SOLE, UNILATERAL AND EXCLUSIVE DECISION OF THE AUTHORIZED OFFICER AND SHALL BE MADE IN SUCH AUTHORIZED OFFICER'S SOLE DISCRETION (A "CITATION DECISION"), AND IN NO EVENT SHALL REDFLEX HAVE THE ABILITY OR AUTHORIZATION TO MAKE A CITATION DECISION;
- 3.3.6. With respect to each Authorized Violation, Redflex shall print and mail a Citation within six (6) days after Redflex's receipt of such authorization; provided, however, during the Warning Period, warning violation notices shall be issued in respect of all Authorized Violations;
- 3.3.7. Redflex shall provide a toll-free telephone number for the purposes of answering citizen inquiries
- 3.3.8. Redflex shall permit the Authorized Officer to generate monthly reports using the Redflex Standard Report System.
- 3.3.9. Upon Redflex's receipt of a written request from the Customer and in addition to the Standard Reports, Redflex shall provide, without cost to the Customer, reports regarding the processing and issuance of Citations, the maintenance and downtime records of the Designated Intersection Approaches and the functionality of the Redflex System with respect thereto to the Customer in such format and for such periods as the Customer may reasonably request; provided, however, Redflex shall not be obligated to provide in excess of six (6) such reports in any given twelve (12) month period without cost to the Customer;
- 3.3.10. Upon the Customer's receipt of a written request from Redflex, the Customer shall provide, without cost to Redflex, reports regarding the prosecution of Citations and the collection of fines, fees and other monies in respect thereof in such format and for such periods as Redflex may reasonably request; provided, however, the Customer shall not be obligated to provide in excess of six (6) such reports in any given twelve (12) month period without cost to Redflex;

3.3.11. During the six (6) month period following the Installation Date and/or upon Redflex's receipt of a written request from the Customer at least fourteen (14) calendar days in advance of court proceeding, Redflex shall provide expert witnesses for use by the Customer in prosecuting Violations; provided, however, the Customer shall use reasonable best efforts to seek judicial notice in lieu of requiring Redflex to provide such expert witnesses; and

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

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

