

Add info #18

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MEMORANDUM Transportation & Development – TE13-063

DATE: FEBRUARY 26, 2013

TO: MAYOR & COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
 PAT MCDERMOTT, ASSISTANT CITY MANAGER
 R. J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR
 DANIEL W. COOK, TRANSPORTATION MANAGER

FROM: MIKE MAH, CITY TRANSPORTATION ENGINEER *MM*

SUBJECT: TEST OF LONGER YELLOW INTERVALS AT TRAFFIC SIGNALS

As was discussed at the February 25th Council Study Session, the City initiated a study several years ago to increase the length of the yellow interval at eight intersections along Alma School.

The last time we reported to Council on this matter was March 2010. At that time, the conclusion was that the Ray Road and Alma School intersection had a large 49% reduction in crashes in one year after we lengthened the yellow; however, we could not duplicate this result after we broadened the study to seven other intersections along Alma School Road. The seven intersections in the broader study had resulted in an identical 49 accidents both one year "before" and one year "after" the conversion.

We now have three years' worth of data "before" and "after" we lengthened the yellow interval. The latest results continue to show no significant difference in crashes "before" and "after" the lengthening of the yellow interval at seven of the eight intersections, but there continues to be a significant reduction at Ray Road and Alma School. At five of the intersections with three years of data, the average crash reduction is 21% but the change is not statistically significant at each of the five intersections. The 21% reduction is also less than the 37% reduction in citywide crashes between the years 2005 and 2010 as referenced in the Police Department's memo. At two of the intersections (Alma School/Warner and Alma School/Fire Station #2), we were only able to use one year of data because these intersections were reconstructed in 2007. In this case, there was an increase in crashes, but again, they were not statistically significant.

At the intersection of Ray and Alma School, the crash reduction was 47%, which is greater than the citywide average. This trend continues today to be significantly lower than it was three years ago. (To avoid skewing the results, it is noted that the study period did not include the time when this intersection was under construction.) We had surmised back in March 2010, that perhaps the reduction in crash rate may be due to reduced traffic volumes, reduced economic activity, or heightened police enforcement, but we are unable to fully explain the improvement at this lone intersection. Because of the intersection reconstruction earlier this year, it is no longer meaningful to continue a comparison study at this intersection as the base conditions have changed dramatically.

Based on the collection of three years of data following the lengthening of the yellow interval, we are preparing to close out this study. Our conclusion is that the one-half second increase in the yellow interval beyond the norm did not reduce accidents at signalized intersections. This norm – established by the Institute of Transportation Engineers (ITE) and referenced in the Federal Manual of Uniform Traffic Control Devices (MUTCD) – is an industry standard used by most municipalities in the valley and in the U.S.

Attachment

Study Results

Traffic Signal (Longer yellow intervals implemented Nov 2008)		Total Accidents		% Change	Statistically Significant ?
		36 Months BEFORE	36 Months AFTER		
Alma School Rd	Walmart	20	17	-15%	N
Alma School Rd	Knox Rd	35	23	-34%	N
Alma School Rd	Motorola	6	5	-17%	N
Alma School Rd	Galveston St	19	7	-63%	N
Alma School Rd	Erie St	12	15	25%	N
			Average Change =	-21%	

Traffic Signal (Longer yellow intervals implemented Nov 2008)		Total Accidents		% Change	Statistically Significant ?
		12 Months BEFORE	12 Months AFTER		
Alma School Rd	Warner Rd *	25	29	16%	N
Alma School Rd	Fire Station #2 *	0	2	-	N

* only one year of data is used because this intersection was reconstructed Feb to Oct 2007.

Traffic Signal (Longer yellow interval implemented June 2007)		Total Accidents		% Change	Statistically Significant ?
		36 Months BEFORE	36 Months AFTER		
Alma School Rd	Ray	172	91	-47%	Y

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MEMORANDUM

Police Department Memo 2013-016

DATE: FEBRUARY 26, 2013

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER RD
SHERRY KIYLER, POLICE CHIEF ^{JK}
DAVID NEUMAN, ASSISTANT POLICE CHIEF

FROM: GREGG JACQUIN, COMMANDER

SUBJECT: PHOTO ENFORCEMENT CONTRACT RENEWAL PD7-918-2382

In February of 2007 the Chandler City Council awarded agreement PD7-918-2382 to Redflex Traffic Systems for Photo Enforcement. This agreement was awarded with a three-year term with provisions to extend for two additional three-year terms. The police department is recommending that the agreement be extended for the last three-year term.

The current program with Redflex provides for both red light and speed on green enforcement utilizing twelve (12) intersections with a total of twenty-four (24) approaches. Fourteen (14) of the approaches are red light enforcement and ten (10) are speed enforcement. When looking at some comparative analysis we reviewed accidents for the city as a whole and then accidents in the same time period for the photo enforced intersections. From 2005 through 2010 the City experienced an overall reduction in accidents of 36.8%. When you examine just the twelve photo enforced intersections during that same time period we experienced a reduction in accidents of 53.2%. Subsequently, in 2011 the City experienced an overall increase in accidents for the first time since 2005. However, in 2011 we continued to see another decrease in the accidents at the photo enforced intersections of 5.6%. Given partial data at this point for 2012, it appears overall accidents in the City may be down in 2012 from 2011 levels. For the same time period accidents in the photo enforced intersections may show a slight decrease or leveling out.

The overall revenues compared with the expenses of the program, including court and police costs, make this a nearly revenue neutral program. Starting in 2007 through part of fiscal year 2012/13 the overall net cost of the program has a deficit of \$104,455. In the fiscal years since 2006/07 the program has made a nominal amount some years, and likewise, lost a nominal amount of money. This pattern has been fairly consistent since the start of the photo

enforcement program. Cost of the current contract extension is estimated at \$950,000, which is based on the three previous fiscal year expenses. This amount is the amount paid to Redflex for actionable activations, which remains the basis for the contract.

In terms of incidents, which is the total number of detections of all types at the twelve photo enforced intersections, the number of activations have remained consistent throughout the years. The overall average for all types of initial activations at all twelve intersections for 2007 through 2012 is approximately 26,390 per year. Specifically, questions were raised about the intersection at Arizona Avenue and Ray Road, one of the higher volume intersections for activations, as it relates to the southbound speed approach and the speed limit change. Activations in 2010 for speed on green in the southbound direction fell to 3256, the lowest level between 2007 and present, which was the year the speed limit was raised from 35 to 40 mph. By way of comparison, in 2011 and 2012 we have experienced 4249 and 4578 speed activations respectively.

Our experience with photo enforcement, along with the redesign of major intersections, traffic calming, technology and traditional enforcement methods support the continued use of the program as a public safety tool.

18-1027

AMENDMENT NUMBER ONE,
TO AGREEMENT BETWEEN THE CITY OF CHANDLER
AND
REDFLEX TRAFFIC SYSTEMS, INC.
FOR PHOTO ENFORCEMENT SERVICE
AGREEMENT NO. PD7-918-2382

This Amendment #One to that certain Agreement Between the City Of Chandler (CITY) and Redflex Traffic Systems, Inc. (CONTRACTOR) for Photo Enforcement Service dated March, 7, 2007 ("Agreement") is entered into this 18 day of March 2010.

WHEREAS, the parties agree to extend the Agreement for one year;

WHEREAS, since the time that the parties entered into the Agreement, the Arizona State Legislature has adopted requirements regarding immigration that apply to this Agreement.

NOW THEREFORE, the parties agree as follows:

1. Section 5 of this Agreement is deleted and amended to read: "**5. Term:** This contract is extended for one additional term of one year beginning on March 7, 2010, and ending on March 6, 2011. City reserves the right, by mutual agreement, to extend the contract one additional term."
2. Section 2, Exhibit A, Scope of Work, Section 1.1 is amended to read: "The City of Chandler intends to utilize a maximum of 12 photo enforcement intersections, the location of which will be selected by CITY. Each intersection may have from 1 to 4 approaches monitored. The City anticipates an average of two approaches per intersection. Each approach may have speed enforcement, red light enforcement or both."
3. Section 2, Exhibit A, Scope of Work, Section 2.1 is amended to read: "The Contractor shall provide all necessary material and equipment, i.e. poles, loops, cameras, and data recording systems needed to identify and photograph vehicles violating Arizona Red Signal Light and speed statutes at twelve (12) intersections designated by the City."
4. Attached "Contractor Immigration Warranty" documents shall be incorporated as Exhibit B to the Agreement. **Section 2.4. Compliance with Applicable Laws** of agreement is amended to add the following language:
 - 2.4.1 Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").
 - 2.4.2 A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.
 - 2.4.3 The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is

complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.

2.4.4 The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verification.

2.4.5 The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

2.4.6 In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the offeror does not have scrutinized business operations in Iran.

2.4.7 In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the offeror does not have scrutinized business operations in Sudan.

5. All other terms and conditions of the above referenced Agreement shall remain unchanged and in full force and effect. All terms and conditions in the original Agreement not specifically amended herein shall be incorporated by reference in its entirety and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this 18 day of March, 2010.

CITY OF CHANDLER:

By: [Signature]

Mayor

CONTRACTOR:

By: [Signature]

Title: President and CEO

APPROVED AS TO FORM:

[Signature]
City Attorney

ATTEST:

[Signature]
City Clerk

ATTEST: (If corporation)

[Signature]
Secretary

WITNESS: (If individual or Partnership)

[SEAL]



EXHIBIT B

**Contractor Immigration Warranty
To Be Completed by Contractor Prior to Execution of Contract**

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Number: PD7-918-2382		
Name (as listed in the contract): Redflex Traffic Systems, Inc, a Delaware Corp.		
Street Name and Number: 23751 N. 23rd Ave. Ste 150		
City: Phoenix	State: AZ	Zip Code: 85085-1854

I hereby attest that:

1. The contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this contract;
2. All subcontractors performing work under this contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees.

Signature of Contractor (Employer) or Authorized Designee:

Karen Finley

Printed Name: Karen Finley

Title: President and CEO

Date (month/day/year): 3/18/10

AMENDMENT NUMBER TWO,
TO AGREEMENT BETWEEN THE CITY OF CHANDLER
AND
REDFLEX TRAFFIC SYSTEMS, INC.
FOR PHOTO ENFORCEMENT SERVICE
AGREEMENT NO. PD7-918-2382

Whereas, the City Council of the City of Chandler authorized the City of Chandler (hereinafter referred to as "CITY") and Redflex Traffic Systems, Inc. a Delaware Corporation, (hereinafter referred to as "CONTRACTOR") to enter into an Agreement for photo enforcement (hereinafter referred to as "AGREEMENT") executed on March 7, 2007; and

Whereas, the AGREEMENT provided for the commencement of the contract upon execution and continuation of the AGREEMENT for three (3) years from completion of the installation of CONTRACTOR'S system at the sixth (6th) intersection unless sooner terminated in accordance with the provisions of the AGREEMENT; and

Whereas, the AGREEMENT further provided that CITY reserved the right, by mutual agreement, to extend the Contract for up to two (2) additional terms of three (3) years each for a total of nine (9) years; and

Whereas, Amendment Number One to the AGREEMENT, executed March 18, 2010, amended the Term of the AGREEMENT to extend for one additional term of one year beginning on March 7, 2010, and ending on March 6, 2011, and further provided that CITY reserved the right, by mutual agreement, to extend the contract one additional term; and

Whereas CITY and CONTRACTOR have determined that it would be in the best interest of CITY and CONTRACTOR to go back to the original understanding as to the Term of the AGREEMENT; and

NOW THEREFORE, the parties agree as follows:

1. Section 5 of the AGREEMENT as amended is hereby deleted and amended to read:

"5. Term: This contract is extended to reinstate the parties to the same position had the AGREEMENT been extended as provided for in the AGREEMENT. The one year period from March 7, 2010 through March 6, 2011 shall be the first year of the second three year term of the AGREEMENT. The second term of the AGREEMENT is from March 7, 2010 to March 6, 2013. CITY reserves the right, by mutual agreement to extend the AGREEMENT one additional three year term as provided for in the AGREEMENT."

2. All other terms and conditions of the AGREEMENT shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this 15 day of February, 2011.

CITY OF CHANDLER:

By: Jay Lubnow
Mayor

CONTRACTOR, Inc.,

By: Karen Finley
Title: CEO

APPROVED AS TO FORM:
[Signature]
City Attorney

ATTEST: (If corporation)

[Signature]
Secretary

ATTEST:
[Signature]
City Clerk

WITNESS: (If individual Or Partnership)

[SEAL]



CITY OF CHANDLER SERVICES AGREEMENT
NAME OF CONTRACT Photo Enforcement (red light and speed)

CONTRACT NO.: PD7-918-2382

THIS AGREEMENT is made and entered into this 7 day of March, 2007, by and between the CITY of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Reflex Traffic Systems, Inc a Delaware Corporation, hereinafter referred to as "CONTRACTOR".

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR:

1.1. **Contract Administrator.** CONTRACTOR shall act under the authority and approval of the Police Chief /designee (Contract Administrator), to provide the services required by this Agreement.

1.2. **Key Staff.** This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.

1.3. **Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.

2. SCOPE OF WORK: CONTRACTOR shall provide Photo enforcement (red light and speed) services all as more specifically set forth in the Scope of Work, labeled Exhibit A, attached hereto and made a part hereof by reference and as set forth in the Specifications and details included therein.

2.1. **Non-Discrimination.** The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable CITY, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.

2.2. **Licenses.** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.

2.3. **Advertising, Publishing and Promotion of Contract.** The CONTRACTOR shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the CITY.

2.4. **Compliance With Applicable Laws.** CONTRACTOR shall comply with all applicable Federal, state and local laws.

3. ACCEPTANCE AND DOCUMENTATION: Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.

3.1. **Records.** The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.

cc 3-5-07

3.2. **Audit.** At any time during the term of this Contract and five (5) years thereafter, the CONTRACTOR'S or any SUBCONTRACTOR'S books and records shall be subject to audit by the CITY to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the CONTRACTOR shall produce a legible copy of any or all such records.

4. **PRICE:** CITY shall pay to CONTRACTOR \$19.00 per Actionable Activation for the completion of all the work and services described herein, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as set forth herein.

4.1. **Taxes.** CONTRACTOR shall be solely responsible for any and all tax obligations, which may result out of the CONTRACTOR'S performance of this Agreement. The CITY shall have no obligation to pay any amounts for taxes, of any type, incurred by the CONTRACTOR.

4.2. **Tax Credits or Exemptions.** When equipment, materials or supplies generally taxable to CONTRACTOR are eligible for a tax exemption due to the nature of the work, CONTRACTOR shall assist the CITY in applying for and obtaining such tax credits and exemptions which shall be paid or credited to the CITY.

4.3. **Payment.** Payment to the Contractor for service provided shall be made for all Actionable Activations occurring the previous 30 days. An Actionable Activation is an activation where the images of the driver and license plate are identifiable for court purposes and the driver's gender/age matches the registered owner's or the nomination protocol for rental or business owned vehicles has produced a person who's gender/age matches the image. All instances where the gender/age of the registered owner and the driver appear to match will be considered actionable even if this is later shown to be false. The City will not be responsible for payment to the Contractor for any image, which is determined by the Contract Administrator to not be an Actionable Activation. The CITY will pay the contractor monthly within 30 days of the end of the month. Payment will be based on the number of Actionable Activations as determined by the Contract Administrator. Payment per Actionable Activation will be the only compensation the Contractor will receive from the CITY for services provided under this contract. There is no guarantee regarding the actual number of Actionable Activations. The Contractor will be responsible for all expenses relating to providing service under this contract including but not limited to photo enforcement systems, system installation, system maintenance, system operation, supplies, labor, overhead, printing, programming, mailing, and process service. CITY will reimburse CONTRACTOR the amount collected from defendant for process service.

4.4. **Prompt Payment Discount.** A prompt payment discount will be applied to all invoices paid by CITY within 30 days.

5. **TERM:** This contract will commence on the date of contract signing and continue for three (3) years from completion of the installation of Contractor's system at the sixth (6th) intersection unless sooner terminated in accordance with the provisions herein. CITY reserves the right, by mutual agreement, to extend the Contract for up to two (2) additional terms of three (3) years each.

6. USE OF THIS CONTRACT:

6.1. **Cooperative Use of Contract.** In addition to the CITY of Chandler and with approval of the CONTRACTOR, this Contract may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at www.maricopa.gov/materials and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

7. CITY'S CONTRACTUAL REMEDIES:

7.1. **Right to Assurance.** If the CITY in good faith has reason to believe that the CONTRACTOR does

not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that the CONTRACTOR give a written assurance of intent to perform. Failure by the CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at the CITY's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.

7.2. Stop Work Order. The CITY may, at any time, by written order to the CONTRACTOR, require the CONTRACTOR to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the CITY after the order is delivered to the CONTRACTOR. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the CONTRACTOR shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

7.2.1 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the CONTRACTOR shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

7.3. Non-exclusive Remedies. The rights and the remedies of the CITY under this Contract are not exclusive.

7.4. Nonconforming Tender. Services and materials supplied under this Contract shall fully comply with Contract requirements and specifications. Services or materials that do not fully comply constitute a breach of contract.

7.5. Right of Offset. The CITY shall be entitled to offset against any sums due CONTRACTOR, any expenses or costs incurred by the CITY, or damages assessed by the CITY concerning the CONTRACTOR'S non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by CITY.

8. TERMINATION:

8.1. Termination for Convenience. CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and SUBCONTRACTORS to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the **Management Services Director** shall determine the percentage of work performed for each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.

8.2. Termination for Cause. CITY may, upon written notice, terminate this Agreement for CONTRACTOR'S failure to comply with the terms of this Agreement.

8.3. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, CITY may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.

8.4. Gratuities. CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by CONTRACTOR or a representative of

CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by CONTRACTOR.

8.5. **Suspension or Debarment.** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a SUBCONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If CONTRACTOR becomes suspended or debarred, CONTRACTOR shall immediately notify CITY.

8.6. **Continuation of Performance Through Termination.** The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

8.7. **No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

9. **FORCE MAJEURE:** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

10. **ALTERNATE DISPUTE RESOLUTION:** Notwithstanding anything to the contrary provided elsewhere in the Contract documents, the alternate dispute resolution (ADR) process provided herein shall be the exclusive means for resolution of claims or disputes and other matters in question between the City and the CONTRACTOR arising out of, or relating to the Contract documents, interpretation of the Contract, or the performance of or the breach by any party thereto, including but not limited to, original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to contracts containing this ADR provision.

10.1. **Notice.** CONTRACTOR shall submit written notice of any claim or dispute to the Contract Administrator within thirty (30) days of the occurrence, event or disputed response from CITY for immediate resolution pursuant to these provisions. Each claim or dispute shall be submitted and resolved as it occurs and not postponed until the end of the Contract nor lumped together with other pending claims.

10.2. **Forfeiture.** Failure to submit a notice of any claim, dispute, or other issue within such thirty (30) days shall constitute CONTRACTOR'S forfeiture of its right to dispute the issue, raise the claim or make the request and shall also constitute CONTRACTOR'S agreement and acceptance of the CITY'S position.

10.3. **CITY Response.** The Contract Administrator will provide to CONTRACTOR a written response to any claim, request for clarification or dispute on or before thirty (30) days from receipt of CONTRACTOR'S written claim.

10.4. **Appeal.** If CONTRACTOR disagrees with the response of the Contract Administrator, within fifteen days of the date of the response by the Contract Administrator, CONTRACTOR shall file with the Contract Administrator, written notice of appeal. The Contract Administrator shall provide copies of all relevant information concerning the Contract and claim or dispute to the Assistant Management Services Director who will determine the appeal. The Assistant Management Services Director may request additional information from either party, may hold an informal informational hearing or may make the determination

based on the information provided. The Assistant Management Services Director shall make a final determination of the appeal and provide written notice to CONTRACTOR within sixty (60) days from the date of CONTRACTOR'S written notice of appeal.

10.5. Arbitration. If CONTRACTOR is not satisfied with the determination of the Assistant Management Services Director, the following binding arbitration procedure shall serve as the exclusive method to resolve all unresolved disputes. If CONTRACTOR chooses not to accept the decision of the Assistant Management Services Director, CONTRACTOR shall notify the Contract Administrator in writing within ten (10) business days of receipt of the Assistant Management Services Director's decision of a request for arbitration. The CONTRACTOR shall post a cash bond with the Arbitrator in the amount of \$5,000, or a greater amount as determined by the Arbitrator, that will defray the cost of the arbitration as set forth in paragraph M, Fees and Costs, and proceeds from said bond shall be allocated in accordance with said paragraph by the Arbitrator.

- A. **Arbitration Panel:** The Arbitration Panel shall consist of the arbitrators selected by the parties involved in the dispute, (i.e., CITY will select one arbitrator, CONTRACTOR will select one arbitrator, and any other CONTRACTOR who has a contract with the CITY which contains this ADR provision and is a party to the same dispute will also select an arbitrator), and the foregoing arbitrators shall select a neutral Arbitrator who will hear the matter and make a final determination, as set forth herein.
- B. **Expedited Hearing:** The parties have structured this procedure with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this ADR process. To that end, any party can petition the Arbitrator to set an expedited hearing if circumstances justify it. The Arbitrator shall contact the parties and schedule the arbitration at the earliest possible date. In any event, the hearing of any dispute not expedited will commence as soon as practical, but in no event later than sixty (60) days after notification of request for arbitration having been submitted. This deadline can be extended only with the consent of all the parties to the dispute, or by decision of the Arbitrator upon a showing of emergency circumstances.
- C. **Procedure:** The Arbitrator shall conduct the hearing that will resolve disputes in a prompt, cost efficient manner giving due regard to the rights of all parties. Each party shall supply to the Arbitrator a written pre-hearing statement, which shall contain a brief statement of the nature of the claim or defense, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness who will be called to testify, and an estimate as to the length of time that will be required for the arbitration hearing. The Arbitrator shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with the deadlines provided herein, and the parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of privileged materials or information. The Arbitrator, upon proper application, shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary, or sensitive materials or information from public disclosure or other misuse. Any party may make application to the Maricopa County Superior Court to have a protective order entered as may be appropriate to conform to such orders of the Arbitrator.
- D. **Hearing Days:** To effectuate the parties' goals, the hearing once commenced, will proceed from business day to business day until concluded, absent a showing of emergency circumstances.
- E. **Award:** The Arbitrator shall within ten (10) days from the conclusion of any hearing issue its award. The award shall include an allocation of fees and costs pursuant to the Binding Arbitration Procedure paragraph herein. Any award providing for deferred payment shall include interest at the rate of ten (10%) percent per annum. The award is to be rendered in accordance with the Contract and the laws of the State of Arizona.
- F. **Scope of Award:** The Arbitrator shall be without authority to award punitive damages, and any such punitive damage award shall be void. The Arbitrator shall also be without authority to issue an award against any individual party in excess of \$500,000, exclusive of interest, arbitration fees, costs, and attorney's fees. If an award is made against any individual party in excess of \$50,000, exclusive of

interest, arbitration fees, costs and attorneys' fees, it must be supported by written findings of fact, conclusions of law and statement as to how damages were calculated.

- G. **Jurisdiction:** The Arbitrator shall not be bound for jurisdictional purposes by the amount asserted in any party's claim, but shall conduct a preliminary hearing into the question of jurisdiction upon application of any party at the earliest convenient time, but not later than the commencement of the arbitration hearing.
 - H. **Entry of Judgment:** Any party can make application to the Maricopa County Superior Court for confirmation of any award and for entry of judgment on it.
 - I. **Severance and Joinder:** To reduce the possibility of inconsistent adjudications, the Arbitrator, may at the request of any party, join and/or sever parties, and/or claims arising under other contracts containing this ADR provision, and the Arbitrator may, on his own authority, join or sever parties and/or claims subject to this ADR process as they deem necessary for a just resolution of the dispute, consistent with the parties' goal of the prompt and efficient resolution of disputes. Nothing herein shall create the right by any party to assert claims against another party not recognized under the substantive law applicable to the dispute. The Arbitrator is not authorized to join to the proceeding parties not in privity with the CITY.
 - J. **Appeal:** Any party may appeal errors of law by the Arbitrator if, but only if, the errors arise in an award in excess of \$100,000; the exercise by the Arbitrator of any powers contrary to or inconsistent with the Contract; or any of the grounds provided in A.R.S. 12-1512. Appeals shall be to the Maricopa County Superior Court within fifteen (15) days of entry of the award. The standard of review in such cases shall be that applicable to the consideration of a motion for judgment notwithstanding the verdict, and the Maricopa County Superior Court shall have the authority to confirm, vacate, modify or remand an award appealed under this section.
 - K. **Uniform Arbitration Act:** Except as otherwise provided herein, binding arbitration pursued under this provision shall be governed by the Uniform Arbitration Act as enacted in Arizona in A.R.S. 12-1501, et. seq.
 - L. **Fees and Costs:** Each party shall bear its own fees and costs in connection with any informal hearing before the Assistant Management Services Director. All fees and costs associated with any arbitration before the Arbitrator, including without limitation, the Arbitrator's fees, the prevailing party's attorneys' fees, expert witness fees and costs, will be paid by the nonprevailing party, except as provided for herein. The determination of prevailing and nonprevailing parties, and the appropriate allocation of fees and costs, will be included in the award by the Arbitrator.
 - M. **Equitable Litigation:** Notwithstanding any other provision of ADR to the contrary, any party may petition the Maricopa County Superior Court for interim equitable relief as necessary to preserve the status quo and prevent immediate and irreparable harm to a party or to ongoing work pending resolution of a dispute pursuant to ADR provided for herein. No court may order any permanent injunctive relief except as may be necessary to enforce an order or award entered by the Arbitrator. The fees and costs incurred in connection with any such equitable proceeding shall be determined and assessed in ADR.
11. **INDEMNIFICATION:** To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees individually and collectively; from and against all losses, claims, suits, actions, payments and judgments, demands, expenses, damages, including consequential damages and loss of productivity, attorney's fees, defense costs, or actions of any kind and nature relating to, arising out of, or alleged to have resulted from CONTRACTOR'S work or services. CONTRACTOR'S duty to defend, hold harmless and indemnify the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees shall arise in connection with any claim or amounts arising or recovered under Worker Compensation Laws, damage, loss or expenses relating to, arising out of or alleged to have

resulted from any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of CONTRACTOR, anyone directly or indirectly employed by them or anyone for whose acts CONTRACTOR may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the City of Chandler. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

12. INSURANCE:

12.1. Insurance Representations and Requirements:

- A. CONTRACTOR, at its own expense, shall purchase and maintain insurance of the types and amounts required in this section, with companies possessing a current A.M. Best, Inc. rating of B++6, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY.
- B. Policies written on a "Claims made" basis are not acceptable without written permission from the City's Risk Manager.
- C. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of CITY, constitute a material breach of this Agreement and may result in termination of this contract.
- D. If any of the insurance policies are not renewed prior to expiration, payments to the CONTRACTOR may be withheld until these requirements have been met, or at the option of the City, the City may pay the Renewal Premium and withhold such payments from any monies due the CONTRACTOR.
- E. All insurance policies, except Workers' Compensation required by this Agreement, and self-insured retention or deductible portions, shall name, to the fullest extent permitted by law for claims arising out of the performance of this contract, the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- F. CONTRACTOR'S insurance shall be primary insurance over any insurance available to the CITY and as to any claims resulting from this contract, it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
- G. The insurance policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against CITY, its agents, representatives, officers, directors, officials and employees for any claims arising out of CONTRACTOR'S acts, errors, mistakes, omissions, work or service.
- H. The insurance policies may provide coverage, which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall be assumed by and be for the account of, and at the sole risk of CONTRACTOR. CONTRACTOR shall be solely responsible for the deductible and/or self-insured retention. The amounts of any self-insured retentions shall be noted on the Certificate of Insurance. CITY, at its option, may require CONTRACTOR to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit. Self-insured retentions (SIR) in excess of \$25,000 will only be accepted with the permission of the Management Services Director/Designee.

- I. All policies and certificates shall contain an endorsement providing that the coverage afforded under such policies shall not be reduced, canceled or allowed to expire until at least thirty (30) days prior written notice has been given to CITY.
- J. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the CONTRACTOR with reasonable promptness in accordance with the CONTRACTOR'S information and belief.
- K. In the event that claims in excess of the insured amounts provided herein, are filed by reason of any operations under this contract, the amount of excess of such claims, or any portion thereof, may be withheld from payment due or to become due the CONTRACTOR until such time as the CONTRACTOR shall furnish such additional security covering such claims as may be determined by the CITY.

12.2. Proof of Insurance – Certificates of Insurance

- A. Prior to commencing work or services under this Agreement, CONTRACTOR shall furnish to CITY Certificates of Insurance, issued by CONTRACTOR'S insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Risk Management Division approval of such Certificates.
- B. If a policy does expire during the life of this Agreement, a renewal certificate must be sent to the City of Chandler five (5) days prior to the expiration date.
- C. All Certificates of Insurance shall identify the policies in effect on behalf of CONTRACTOR, their policy period(s), and limits of liability. Each Certificate shall include the job site and project number and title. Coverage shown on the Certificate of Insurance must coincide with the requirements in the text of the contract documents. Information required to be on the certificate of Insurance may be typed on the reverse of the Certificate and countersigned by an authorized representative of the insurance company.
- D. REQUIRED CITY reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. CITY shall not be obligated, however, to review same or to advise CONTRACTOR of any deficiencies in such policies and endorsements, and such receipt shall not relieve CONTRACTOR from, or be deemed a waiver of CITY'S right to insist on, strict fulfillment of CONTRACTOR'S obligations under this Agreement.

12.3. Coverage

- A. Such insurance shall protect CONTRACTOR from claims set forth below which may arise out of or result from the operations of CONTRACTOR under this Contract and for which CONTRACTOR may be legally liable, whether such operations be by the CONTRACTOR or by a SUBCONTRACTOR by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Coverage under the policy will be at least as broad as Insurance Services Office, Inc., policy form CG00011093 or equivalent thereof, including but not limited to severability of interest and waiver of subrogation clauses.
- B. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- C. Claims for damages because of bodily injury, occupational sickness or disease, or death of the CONTRACTOR'S employees;
- D. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the CONTRACTOR'S employees;

- E. Claims for damages insured by usual personal injury liability coverage;
- F. Claims for damages, other than to Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- G. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; Coverage will be at least as broad as Insurance Service Office, Inc., coverage Code "1" "any auto" policy form CA00011293 or equivalent thereof.
- H. Claims for bodily injury or property damage arising out of completed operations;
- I. Claims involving contractual liability insurance applicable to the CONTRACTOR'S obligations under the Indemnification Agreement;
- J. Claims for injury or damages in connection with one's professional services;
- K. Claims involving construction projects while they are in progress. Such insurance shall include coverage for loading and off loading hazards. If any hazardous material, as defined by any local, state or federal authorities are to be transported, MCS 90 endorsement shall be included.

12.4. Commercial General Liability - Minimum Coverage Limits.

The Commercial General Liability insurance required herein shall be written for not less than \$500,000 limits of liability or ten percent (10%) of the Contract Price, whichever coverage is greater. Any combination between general liability and excess general liability alone amounting to a minimum of \$1,000,000 per occurrence (or 10% per occurrence) and an aggregate of \$2,000,000 (or 20% whichever is greater) in coverage will be acceptable. The Commercial General Liability additional insured endorsement shall be as broad as the Insurance Services, Inc's (ISO) Additional Insured, Form B, CG 20101001, and shall include coverage for CONTRACTOR'S operations and products, and completed operations.

12.5. General Liability - Minimum Coverage Limits

The General Liability insurance required herein, including, Comprehensive Form, Premises-Operations, Explosion and Collapse, Underground Hazard, Products/Completed Operations, Contractual Insurance, Broad Form Property Damage, Independent CONTRACTORS, and Personal Injury shall be written for Bodily Injury and Property Damage Combined shall be written for not less than \$1,000,000 or 10% of the contract cost and with a \$2,000,000 aggregate.

12.6. Automobile Liability

CONTRACTOR shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any owned, hired, and non-owned vehicles assigned to or used in performance of the CONTRACTOR'S work. Coverage shall be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof).

Worker's Compensation and Employer's Liability

CONTRACTOR shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over CONTRACTOR'S employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$1,000,000 for each accident, \$ 1,000,000 disease coverage for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, CONTRACTOR will require the SUBCONTRACTOR to provide Workers' Compensation and Employer's Liability to at least the same extent as required of CONTRACTOR.

13. NOTICES: All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY	In the case of the CONTRACTOR
Contract Administrator: Police Commander	Firm Name: Redflex Traffic Systems, Inc.
Contact: Matt Christensen	Contact: Karen Finley President/CEO
Mailing Address: Mail Stop 303W PO Box 4008	Address: 15020 N 74 th Street
Physical Address: 251 North Desert Breeze Blvd West	City, State, Zip: Scottsdale, AZ 85260
City, State, Zip: Chandler, AZ 85044	Phone: 480-607-0705
Phone: 480-782-4840	FAX: 480-607-0752
FAX: 480-782-4880	

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. CONFLICT OF INTEREST:

14.1. **No Kickback.** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to the CITY.

14.2. **Kickback Termination.** CITY may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the CITY is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a CONTRACTOR to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from CITY is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).

14.3. **No Conflict:** CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

15. GENERAL TERMS:

15.1. **Entire Agreement.** This Agreement, including Exhibits A and B attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.

15.2. **Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

15.3. **Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.

15.4. **Amendments.** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the CONTRACTOR are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on such changes.

15.5. **Independent CONTRACTOR.** The CONTRACTOR under this Contract is an independent CONTRACTOR. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

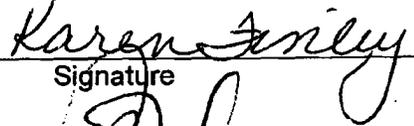
15.6. **No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

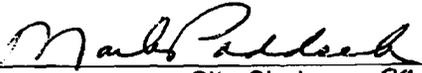
15.7. **Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this 7 day of March 2007.

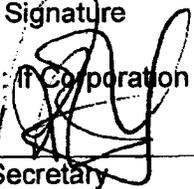
FOR THE CITY OF CHANDLER

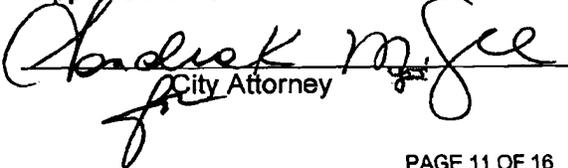
MAYOR

FOR THE CONTRACTOR
By: 
Signature

ATTEST:

City Clerk



ATTEST: if Corporation

Secretary

Approved as to form:

City Attorney

SEAL

Exhibit A
Scope of Work
For
Photo Enforcement (red light and speed)

1 Background

- 1.1 The City of Chandler intends to utilize a minimum of 12 photo enforcement intersections, the location of which to be selected by the City. Each intersection may have from 1 to 4 approaches monitored. The City anticipates an average of two approaches per intersection. Each approach may have speed enforcement, red light enforcement or both. The long-term goal of the program is to reduce the number of traffic accidents in Chandler.
- 1.2 The Contractor shall provide a "turn key" operation with all equipment, training, and all related services.
- 1.3 The Photo Enforcement Program will begin as a Public Works project and upon completion of installation will become a Police Department project. Appropriate input and support will come from the City Prosecutor and Municipal Court.

2 Enforcement Camera Systems

- 2.1 The Contractor shall provide all necessary material and equipment, i.e. poles, loops, cameras, and data recording systems needed to identify and photograph vehicles violating Arizona Red Signal Light and speed statutes at twelve (12) intersections designated by the City. Additional locations up to 25 locations may be added by mutual agreement between the City and the Contractor.
- 2.2 The Contractor shall provide and install poles, and secure enclosures for photo enforcement cameras. Installation shall be subject to the approval of the City of Chandler Traffic Engineering Department in accordance with all current professional standards as set forth by Traffic Engineering. The Contractor shall make efforts to install and locate poles and enclosures to minimize the visual impacts to the adjacent properties.
- 2.3 The Contractor shall provide cameras in the enclosures capable of photographing violator vehicles from both the front and rear.
- 2.4 Contractor shall supply a system and equipment that meets the following criteria:
 - 2.4.1 The ability to operate during both daylight and nighttime.
 - 2.4.2 The ability to provide photographs which, clearly identify the driver, vehicle and license plate.
 - 2.4.3 Capable of setting different tolerances for speed and red light violations which will insure that the system does not activate on violations below the tolerances set by the City. The contractor shall adjust tolerances during the term of the contract as directed by City. Capable of providing digital images.
 - 2.4.4 Capable of electronically transferring information between the Police Department, Municipal Court, and Contractor to allow for timely issuance of initial complaints, second copies of the summons and complaint and a copy of the summons and complaint to be delivered to the process server.
 - 2.4.5 Each camera shall have sufficient computer and associated equipment to record, document and track data for record keeping and court purposes.
- 2.5 The Contractor shall maintain and service the enforcement cameras on a daily basis as necessary to maintain operation of the system.
- 2.6 The Contractor shall coordinate all system installations with the City of Chandler Traffic Engineering Department. Prior to installation, the Contractor shall submit engineering drawings to the City. Installations must conform to all local, state, and federal guidelines. The City will incur the cost of electricity required to run the system. All of the photo enforcement equipment must be wholly separate from the traffic signal system, with the exception of two wires leading out from the City's traffic controller indicating the onset of the red light. The photo enforcement system cannot use existing conduits utilized by the traffic signal nor use any of the detection equipment used to operate the traffic

signal.

- 2.7 Contractor shall insure that malfunctions in the enforcement camera system do not interfere with the continued operation of any traffic control systems.
- 2.8 Contractor may make installations, loop placements, and timing sequences only after prior approval of the Traffic Engineering Division, and with input from the Police Department.
- 2.9 The Contractor shall maintain, repair and service all of the enforcement camera system and related components. Contractor shall notify the City of all malfunctions in any system immediately upon their discovery.
- 2.10 The Contractor, at their expense, shall relocate equipment as necessary and as directed by City due to roadway construction.
- 2.11 When the contract term ends, the Contractor shall remove all equipment and return intersections, sidewalks, etc. to their original condition.

3 Complaint and Warning Processing

- 3.1 Contractor shall issue warnings based on criteria established by the Police Department. When issuing warnings, Contractor shall follow the same procedures for mailing as for a first notification of a complaint.
- 3.2 Contractor shall be available for contact from the Contract Administrator, a representative of Traffic Engineering, or a representative from Municipal Court to make contact with a representative of the Contractor during the City's normal business hours. The Contractor shall provide toll free telephone service for City staff and violators located within the 602, 623 and 480 area code.
- 3.3 The Contractor shall maintain all records and images in accordance with established law, and make them available as requested for court purposes.
- 3.4 City will send Contractor a copy of the notice of hearing. Upon receipt of the notice of hearing, the Contractor shall prepare a court packet and send it either electronically or in hard copy to the Contract Administrator within 10 days of receipt of the notice of hearing but no later than 12 hours prior to the court hearing date. Contractor shall include in the court packet the following:
 - 3.4.1 All images of the violator vehicle.
 - 3.4.2 All violation data.
 - 3.4.3 Certification that the system was operating properly prior to and after the violation.
- 3.5 Contractor shall issue all complaints and warnings within the time frames established by City.

4 Issuing of Complaints

- 4.1 The Contractor shall process all images and record all data related to individual violations.
- 4.2 The Contractor shall obtain registration information on violator vehicles from both in-state and out-of-state sources and driver's license information for the registered owner. The Contractor shall provide this information to the Police Department and the Municipal Court in a format compatible with the City's system. The Contractor shall match driver's license information to registered owner information.
- 4.3 The Contractor shall provide complaints to Contract Administrator within seven (7) calendar days of violation for in-state registrations. Contractor shall provide out of state registration complaints to the Contract Administrator within 14 calendar days of violation.
- 4.4 Contractor shall issue complaints only in cases where the photographs of the violator vehicle are clearly visible and identifiable, the vehicle plate is legible, and the driver is clearly depicted and registration information matches the vehicles depicted.
- 4.5 The Contractor shall forward the electronic file to the Contract Administrator for review. The Contract

Administrator will then forward acceptable complaints to the Municipal Court and notify the Contractor of accepted complaints. The Contractor shall mail accepted complaints on the same day notification is received from the Contract Administrator.

- 4.6 The Contractor shall match the gender and age of the driver of an imaged vehicle with that of the registered owner of that vehicle. The Contractor shall not issue when the gender or apparent age of the depicted driver and that of the registered owner conflict. In such cases, the Contractor shall mail a notice of violation to the registered owner, which contains violation date, time, location and a request for driver identification. The Contractor shall work with the Contract Administrator to draft the notice of violation.
- 4.6.1 In cases where the vehicle is not registered to an individual, the Contractor shall mail a notice of violation to the registered owner. The notice of violation shall contain violation date, time, location and a request for driver identification. The Contractor shall work with the Contract Administrator to draft the notice of violation.
- 4.6.2 In cases where the named defendant is found not to be the driver depicted in the photograph, the City shall develop a nomination process. Once an individual is identified as the driver and that information is transmitted to the Contractor, the Contractor shall issue a new complaint to the identified driver.
- 4.7 Mailing of accepted complaints.
 - 4.7.1 The Contractor shall send a copy of the summons, complaint and images of the violation by first class mail, postage pre-paid to the person to be served, together with two copies of a notice and acknowledgment of receipt of summons and complaint, and return envelope, postage prepaid, addressed to the Municipal Court. The Contractor shall include the fine amount designated by the Court in the mailed materials.
 - 4.7.2 Contractor shall schedule the initial appearance date and time as required by law, currently 30 days from date complaint is mailed and as directed by the Municipal Court. .
 - 4.7.3 If the named defendant fails to respond to the complaint by the court date, the City will advise the Contractor. The Contractor shall mail a second copy of the summons and complaint to the listed defendant on the same day notification is received from the City.
 - 4.7.4 If the named defendant fails to comply within the time frame listed in the second copy of the summons and complaint, the City will advise the Contractor. The Contractor shall issue a third copy of the summons and complaint and shall contract with a process server to serve complaints as directed by the City. Additional service, including process service, shall be provided by the Contractor in accordance with procedures established by the City.

5 Records Retention/Photo Images

- 5.1 The Contractor shall maintain a proper chain of evidence in accordance with established law, as well as the policy of the Chandler Police Department.
- 5.2 The Contractor shall retain all records and images associated with photo enforcement violations issued in a fireproof location.
- 5.3 Contractor shall retain all images and records for a period of time that meets both legal requirements and those of the City (a minimum of three (3) years). All images and records are the property of the City of Chandler.
- 5.4 The Contractor shall provide an audit trail.
- 5.5 The Contractor shall produce an audit trail of all unusable and unactionable images which shall include, but not be limited to:
 - 5.5.1 The total number of unusable/unactionable images.
 - 5.5.2 Location code.
 - 5.5.3 Date of the image.

- 5.6 Images of violators shall include at a minimum, the following information:
 - 5.6.1 Time of violation in hours, minutes, seconds.
 - 5.6.2 Day, month, year of the violation.
 - 5.6.3 Speed of the vehicle depicted.
 - 5.6.4 Location coding.
 - 5.6.5 Direction of travel (if non-stationary cameras).
 - 5.6.6 Signal Phase (picture of signal). The color of the traffic signals should be visible in the image.
- 5.7 The Contractor shall make all files available for Contract Administrator for inspection on-line.

Information Management Systems

- 6.1 The Contractor shall input data and provide data in a format compatible with the Police Department and the Municipal Court computer systems to allow for the transfer of electronic information between the Contractor and Police Department, the Contractor and the Municipal Court, and the Police Department and Municipal Court. Contractor shall pay fees associated with the electronic data transfer.
- 6.2 Contractor must obtain the prior approval of the information management representatives of the Police Department, the Municipal Court, Traffic Engineering Division and Information Technology Division for all software applications.

7 Reporting Requirements

- 7.1 The Contractor shall provide a system, which allows the Contract Administrator to run reports on the data listed below for the time period (eg. Month, quarter, year) specified by the Contract Administrator.
 - 7.1.1 Total number of photographs taken.
 - 7.1.2 Total number of usable images.
 - 7.1.3 Total number of unusable images.
 - 7.1.4 Total number of warnings issued.
 - 7.1.5 The number of complaints filed with the Municipal Court.
 - 7.1.6 The number of second notices issued.
 - 7.1.7 The number complaints pending service by personal service.

8 Support

- 8.1 The Contractor shall provide continuous technical and operational support and training to the City for Contractor's system and equipment. The Contractor shall provide all training to enforcement operators, Traffic Engineering personnel and other City personnel as specified by the Contract Administrator.
- 8.2 The Contractor shall provide an action plan for requested services within 24 hours of request.

9 Training

- 9.1 The Contractor shall provide training including, but not be limited to, providing appropriate City staff with an understanding of how the equipment works and the system operates. Training shall be sufficient to enable City staff to testify in court as to the technical aspects of the system. The Contractor shall provide expert witnesses for court purposes as requested by the Contract Administrator.
- 9.2 The City will provide adequate training facilities and scheduling for City employees.
- 9.3 The Contractor shall provide appropriate training records and forward them to the Contract

Administrator in a timely manner.

- 9.4 The Contractor shall provide training on systems operations, as well as the procedures that occur once a photograph is taken and a summons is issued.
- 9.5 Training outlines shall be prepared by the Contractor and submitted to the Contract Administrator for review and approval.

10 Community Awareness

- 10.1 The Contractor shall assist the City in community awareness efforts in cooperation with the Contract Administrator. The Contractor shall provide professional quality public relations assistance and materials.
- 10.2 The Contractor shall assist with a media relations campaign at the time of initial deployment of photo enforcement systems. All public awareness activities shall be coordinated through the City's public information office and the Contract Administrator.



**PURCHASING ITEM
FOR
COUNCIL AGENDA**

1. Agenda Item Number:

18

2. Council Meeting Date:
February 28, 2013

TO: MAYOR & COUNCIL

3. Date Prepared: January 28, 2013

THROUGH: CITY MANAGER

4. Requesting Department: Police

5. SUBJECT: Amendment No. 3 to Agreement PD7-918-2382 for Photo Enforcement with Redflex Traffic Systems, Inc., in an estimated amount of \$ 950,000.

6. RECOMMENDATION: Recommend approval of Amendment No. 3 to Agreement PD7-918-2382 for Photo Enforcement with Redflex Traffic Systems, Inc., in an estimated amount of \$ 950,000.

7. HISTORICAL BACKGROUND/DISCUSSION In 2001, the City implemented a photo red light program, which included enforcement at four intersections. The program was expanded to eight intersections soon after implementation. During 2005, the City conducted pilot speed enforcement at three of the intersections. Additional intersections were enhanced with speed enforcement capabilities in 2007. The City currently has twelve (12) equipped intersections, actively utilizing Redflex Traffic Systems, with twenty-four (24) various approaches. Fourteen (14) approaches are monitored for red light violations, and ten (10) are designated for speed limit enforcement.

Based on data collected from the current photo red light program and the speed enforcement program, City staff believes renewing the contract will continue to increase safety on the City streets. The recommended amendment to the agreement will continue to provide photo speed and photo red light enforcement at twelve (12) designated intersections.

8. EVALUATION PROCESS: In February of 2007, City Council awarded Agreement PD7-918-2382 for photo enforcement. The Agreement was awarded with a three-year term and provisions to extend for two additional three-year terms. Staff is recommending approval of Amendment 3 which would extend the agreement for the final 3 years through March 6, 2016.

9. FINANCIAL IMPLICATIONS: Funds for the requested service will come from General Fund, Non-Departmental, Photo Red Light (101.1290.0000.5263).

10. PROPOSED MOTION: Move to approve Amendment No. 3 to Agreement PD7-918-2382 for Photo Enforcement to Redflex Traffic Systems, Inc., in an estimated amount of \$ 950,000.

APPROVALS

11. Requesting Department
Gregg Jacquin, Police Commander

12. Department Head
Sherry Kiyler, Police Chief

13. Acting Procurement Manager
Mike Mandt, CPPB

14. City Manager
Rich Dlugas

AMENDMENT NUMBER THREE,
TO AGREEMENT BETWEEN THE CITY OF CHANDLER
AND
REFLEX TRAFFIC SYSTEMS, INC.
FOR PHOTO ENFORCEMENT SERVICE
AGREEMENT NO. PD7-918-2382

Whereas, the City Council of the City of Chandler authorized the City of Chandler (hereinafter referred to as "CITY") and Redflex Traffic Systems, Inc. a Delaware Corporation, (hereinafter referred to as "CONTRACTOR") to enter into an Agreement for photo enforcement (hereinafter referred to as "AGREEMENT") executed on March 7, 2007; and

Whereas, the AGREEMENT provided for the commencement of the contract upon execution and continuation of the AGREEMENT for three (3) years from completion of the installation of CONTRACTOR'S system at the sixth (6th) intersection unless sooner terminated in accordance with the provisions of the AGREEMENT; and

Whereas, the AGREEMENT further provided that CITY reserved the right, by mutual agreement, to extend the Contract for up to two (2) additional terms of three (3) years each for a total of nine (9) years; and

Whereas, Amendment Number One to the AGREEMENT, executed March 18, 2010, amended the Term of the AGREEMENT to extend for one additional term of one year beginning on March 7, 2010, and ending on March 6, 2011, and further provided that CITY reserved the right, by mutual agreement, to extend the contract one additional term; and

Whereas Amendment Number 2 of the AGREEMENT, executed February, 25, 2011, amended the Term of the AGREEMENT to extend for two years beginning on March 7, 2011 ending on March 6, 2013, and further provided that CITY reserved the right, by mutual agreement, to extend the contract one additional term or three years.

NOW THEREFORE, the parties agree as follows:

1. Section 5 of the AGREEMENT as amended is hereby deleted and amended to read: "5. Term: This AGREEMENT is extended for the final term of three years beginning March 7, 2013 ending March 6, 2016.
2. All other terms and conditions of the AGREEMENT shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this ___ day of _____, 2013.

CITY OF CHANDLER:

By: _____
Mayor

CONTRACTOR, Inc.,

By: Karen Finley
Title: CEO

APPROVED AS TO FORM:

City Attorney [Signature]

ATTEST:

City Clerk

ATTEST: (If corporation)

[Signature]
Secretary

WITNESS: (If individual Or Partnership)

[SEAL]