

Add info # 28

MAY 10 2007

# RU2 Systems, Inc.

4840 E Jasmine St., Suite 102, Mesa, AZ 85205 [P] 480-982-2107 [F] 4809-982-5237 Toll Free 866-982-2107

May 8, 2007

Mr. Mike Mandt  
City of Chandler  
249 East Chicago Street  
Chandler, AZ 85225

Re: RFP TE7-680-2463, Speed Display Signs

## Letter of Protest

Dear Mr. Mandt:

Thank you for your prompt delivery of the bid tabulation. Upon careful review of the bid tabulation and our bid as offered, RU2 Systems finds itself obligated to lodge a Letter of Protest on the following grounds;

Based on your provided tabulation the award decision was primarily based upon three components (in order presented);

- 1) Warranty
- 2) Display Clarity
- 3) Price

We believe that a comprehensive revaluation of the facts is in order.

**Warranty:** Information Display Company's warranty is 2 years on the entire product, 8 years on the sign's LED's in contrast to RU2's 2 year radar warranty / 5 year warranty on the entire display, not just the 11 cent LED's. Additionally, it appears no value has been attributed to local support, that RU2's plant is a mere 12 miles away, that should the City service, parts, training or any other support we are a 20 minute drive or a phone call away. IDC's plant is in Portland, Oregon. IDC maintains neither stock nor factory trained technicians in the Valley. Also, the fact that the City was willing to purchase additional units to prevent down time was noble but in our case unnecessary, as we maintain stock on the shelf for immediate (and local) delivery.

**Display Clarity:** RU2 participated in the field trial held over the weekend of April 27<sup>th</sup> with two of four other bidders, MPH Industries and Fluoresco. We believe that Fluoresco, an electrical contractor, was representing 3M, the City's current supplier. Neither K&K nor IDC were present. At no time has our product been given the opportunity for a "shoulder to shoulder" comparison with the IDC product, something RU2 strongly encourages. Until that happens, the claim that "IDC had clearest display" is groundless. We are still trying to rationalize why 3M's product, which the City has several of, was included in the field trial and IDC was exempt.



Sustaining  
Member

**Price:** The Technical Specification of the bid states under the Display section:

"User programmable maximum speed at which the display shall go blank, flash the maximum speed or display a warning such as "slow down".

Maximum speed blanking and flashing digit violator alerts are standard features on RU2 signs. The inclusion of the "SLOW DOWN" violator alert in the specification speaks to an RU2 option that is unique to our product and, in our effort to be 100% compliant, was included in our bid. Had we ignored this request or listed it as an option our resulting total bid would have been \$281,600.98, \$13,926.17 lower than IDC's. As IDC does not offer this feature, standard or otherwise, I suggest that the feature was not critical to the City's decision making process and should have been called out as an option in the bid specification.

**Relief Requested:**

Ultimately, all we respectfully request for is a level playing field. In this we ask for three things;

- 1) A comparative evaluation of the warranties as they are written, not interpreted,
- 2) A 48 hour field trial specifically comparing the IDC VSC-1820 against our RU2 Fast-375, witnessed and evaluated by all interested parties and,
- 3) A re-evaluation of the financial impact of this purchase based on our price, without the "SLOW DOWN" violator alert and, reflecting the inherent value of the supplier being a locally based manufacturer.

Thank you for this opportunity and we remain ready to serve the best interests of the City.

Respectfully,



Kenneth C. Brown  
V.P. / Sales & Marketing Manager  
RU2 Systems, Inc.  
4840 E. Jasmine Street  
Suite 102  
Mesa, AZ 85205

(P) 480-982-2107

Attachments:

Bid Tally  
Original Commercial Proposal submitted 4/23/200  
Bid Response; pertinent pages only



Sustaining  
Member

Tabulation  
RFP TE7-680-2463  
Speed Display  
Signs

Kand K systems			Fluoresco			RU2		
	Unit	Extended		Unit	Extended		Unit	Extended
Speed Display AC	57	\$ 3,180.00	Speed Display AC	57	\$ 4,330.00	Speed Display AC	57	\$ 3,834.15
Speed Display Solar	5	\$ 4,180.00	Speed Display Solar	5	\$ 6,530.00	Speed Display Solar	5	\$ 5,693.38
Installation	62	\$ 500.73	Installation AC	57	\$ 495.00	Installation solar	5	\$ 425.00
Sub Total		\$ 233,205.26	Installation Solar	5	\$ 2,980.00	Installation existing meter	46	\$ 600.00
Tax			Sub Total		\$ 322,575.00	Installation new meter	11	\$ 875.00
Total		\$ 233,205.26	Tax		\$ 16,354.55	Sub Total		\$ 286,363.45
		No tax included	Total		\$ 338,929.55	Tax		\$ 23,195.44
		line 3 math error				Total		\$ 309,558.89
MPH Industries								
	Unit	Extended		Unit	Extended		Unit	Extended
Speed Display AC	57	\$ 2,510.00	Speed Display AC	57	\$ 3,816.00	Speed Display AC	57	\$ 3,816.00
Speed Display Solar	5	\$ 3,875.00	Speed Display Solar	5	\$ 4,366.00	Speed Display Solar	5	\$ 4,366.00
Installation AC	57	\$ 950.00	Installation	62	\$ 691.00	Installation	62	\$ 42,842.00
Installation Solar	5	\$ 1,860.00	Sub Total		\$ 9,300.00	Sub Total		\$ 282,184.00
Sub Total		\$ 225,895.00	Use Tax on signs		\$ 13,403.15	Use Tax on signs		\$ 13,403.15
Tax		\$ 12,670.71	Total		\$ 238,565.71	Total		\$ 295,587.15
Total		\$ 238,565.71						
Add For Poles		10675						
		\$ 249,240.71						
Ranking								
	IDC	RU2	Fluoresco	MPH	Notes:			
Mike Mandt	1	2	3	4	IDC had longest warranty 2years + 8 years on LEDs			
Matt Christensen	1	2	4	3	IDC had clearest display			
Steve Henrey	1	2	4	3	IDC price reasonable 3rd our of 5			
Mike Mah	1	2	3	4				
Marty Johnson	1	2	3	4				

**OFFER SECTION**

(Including all information required to be submitted with Offer)

**1. OFFEROR**

Firm Name: RU2 Systems, Inc.

Contact Name: Kenneth Brown

Principal Address: PO Box 4468  
Apache Junction, AZ 85278

Phone: (480) 982-2107

Local Address: 4840 E. Jasmine Street  
Suite 102  
Mesa, AZ 85205

Phone: (480) 982-2107

Fax: (480) 982-5237

E-Mail: kbrown@ru2systems.com

Type of Organization: S Corporation

Tax ID #: 80-0017092

License #: Arizona: 11-034102-P; Work Zone Services, Inc., (installation, ROC194588)

Exceptions to RFP:- None -

2. Disclosure of Debarment information: N/A

3. Prices:

Item	Description	Qty	Unit Price	Extended Price
1)	Speed Display (AC power)	57	\$ 3,834.15 _____	\$ 218,546.55
2)	Speed Display (Solar power)	5	\$ 5,693.38 _____	\$ 28,466.90
3)	Installation: solar powered	5	\$ 425.00 _____	\$ 2,125.00
4)	Installation: existing meter	46	\$ 600.00 _____	\$ 27,600.00
5)	Installation: new meter	11	\$ 875.00 _____	\$ 9,625.00

Less "Slow Down" VA +  
Associated taxes:  
\$281,600.98

Sub-Total \_\_\_\_\_ \$ 286,363.45  
Tax - % 8.1 \_\_\_\_\_ \$ 23,195.44  
Total \_\_\_\_\_ \$ 309,558.89

4. Prompt Payment Terms: 2% 10, Net 30, Delivery

5. Options and Alternatives:

Item	Description	Qty	Unit Price	Extended Price
1)	VA - Red & Blue LED Lights	0	\$ 450.00 _____	\$
2)	VA Discount: Buy Both	0	\$ -100.00 _____	\$
3)	Pelco Install Pole Kit – 14' *	0	\$ 500.00 _____	\$

\*Install additional, approx. \$500

---

4)	Data Collection: Site License (req. 1)	1	\$ 500.00 _____	\$
5)	Data Collection: Drop Down Box	0	\$ 550.00 _____	\$
6)	Data Collection: IP Enabled*	0	\$ _____	\$

\* Wired/wireless Communication scenarios available and open to discussion.

---

6. Maintenance Locations: 4840 E. Jasmine Street, Suite 102, Mesa AZ 85205

7. Manufacturer's Representative: Factory Direct

8. Training Offer: RU2 offers the City of Chandler unlimited field and factory training, travel and accommodations included, for a period of two years at no additional charge.

9. Recycled Materials Preference requested (attach supporting documents).

10. Suppliers and Subcontractors:

a. Work Zone Services, Inc., (installation, ROC194588)

2533 W Holly Street  
Phoenix, AZ 85009  
602-431-0911 / Jeff Johnson  
[www.trafficade.com](http://www.trafficade.com)

b. Trafficade Signs & Sales, Inc., (retro-reflective signage)

1922 N. 25<sup>th</sup> Drive  
Phoenix, AZ 85009  
602-272-3776 / Carlos Osterman  
[www.trafficadesales.com](http://www.trafficadesales.com)

c. Avanti Circuits (printed circuit boards)

17650 N. 25<sup>th</sup> Avenue  
Phoenix, AZ 85023  
602-866-7227 / Crystal Freeman  
[www.avanticircuits.com](http://www.avanticircuits.com)

d. AZ Precision Sheet Metal (sheet metal components)

1700 N. 22<sup>nd</sup> Avenue  
Phoenix, AZ 85009  
602-455-9575 / Randy Colson

e. APMI (weldments)

164 S. Hamilton Place  
Gilbert, AZ 85233  
480-668-0024 / Greg Bickel

f. Precision Powder Coat (powder coat finish)

1616 S. Edward  
Tempe, AZ 85281  
480-894-5224 / Paul

11. Product Offered (See Information & Instructions 4.5.17)

Mfg.: RU2 Systems, Inc.

Model: Fast-350 Radar Speed Sign w/ Fast-375 "YOUR SPEED" sign overlay and red LED "SLOW DOWN" violator alert

WARRANTY: RU2 warrants their **LED Displays for Five (5) Years** excepting batteries if applicable, which are warranted for One (1) year. The radar device is warranted for Two (2) years. On-site labor is not included. However, parts are repaired within five business days of receipt, and include ground-shipping expenses. Warranty does not include physical damage from misuse or vandalism.

LED/Flip Disk: LED technology

# of LEDs: 4 per pixel / 280 LEDs per display (characters)

Power: 12 VDC or 100-240 VAC input; 1½ amps peak power consumption (incl. radar device)

Light Output: 591 nm (amber), 22,400 total lumens at full intensity

12. Completion time (See Information & Instructions 4.5.18)

Upon receipt of order and installation plan from City, delivery and installation can commence 10 days ARO and be completed in 4 weeks.

13. REFERENCES (Must be provided):

Provide names, addresses and telephone numbers of government agencies/business' to which you have provided similar goods or equipment.

**A. Entity: City of Livermore**

Address: 1052 S. Livermore Avenue, Livermore, CA 94550

Contact: Carlo Sendaydiego, Project Manager

Phone: (925) 960-4517; email: [ctsendaydiego@ci.livermore.ca.us](mailto:ctsendaydiego@ci.livermore.ca.us)

Goods or Services supplied and when provided:

FAST-350	Ship Date:	8/20/2004	Qty. 2	- "SLOW DOWN" VA, Solar - 80W
FAST-350	Ship Date:	5/27/2005	Qty. 2	- "SLOW DOWN" VA, Solar - 80W
FAST-350	Ship Date:	7/5/2005	Qty. 2	- "SLOW DOWN" VA, Solar - 80W
FAST-350	Ship Date:	6/23/2006	Qty. 4	- "SLOW DOWN" VA, Solar - 80W
FAST-350	Ship Date:	3/6/2007	Qty. 3	- "SLOW DOWN" VA, Solar - 80W
FAST-350	Ship Date:	3/27/2007	Qty. 3	- "SLOW DOWN" VA, Solar - 80W

**B. Entity: City of Broomfield**

Address: 3001 W 124th Avenue, Broomfield, CO 80020

Contact: John Bonds

Phone: (303) 464-5673; email [jbonds@broomfield.org](mailto:jbonds@broomfield.org)

Goods or Services supplied and when provided:

FAST-350	Ship Date:	11/20/2003	Qty. 2	- "SLOW DOWN" & Red/Blue VAs, Solar - 80W
FAST-350	Ship Date:	12/8/2005	Qty. 6	- "SLOW DOWN" & Red/Blue VAs, Solar - 80W
FAST-350	Ship Date:	6/14/2006	Qty. 4	- "SLOW DOWN" & Red/Blue VAs, Solar - 80W
FAST-350	Ship Date:	1/11/2007	Qty. 2	- "SLOW DOWN" & Red/Blue VAs, Solar - 80W

**C. Entity: City of Thornton**

Address: 9500 Civic Center Drive, Thornton, CO 80229

Contact: George Stanley; Traffic Operations Supervisor

Phone: (720) 977-6477; email [streetsdept@cityofthornton.net](mailto:streetsdept@cityofthornton.net)

Goods or Services supplied and when provided:

FAST-350	Ship Date:	12/10/2004	Qty. 2	- Red/Blues VA
FAST-350	Ship Date:	3/11/2005	Qty. 12	- "SLOW DOWN" & Red/Blue VAs
FAST-350	Ship Date:	1/1/2006	Qty. 1	- "SLOW DOWN" & Red/Blue VAs
FAST-350	Ship Date:	8/9/2006	Qty. 8	- "SLOW DOWN" & Red/Blue VAs
FAST-350	Ship Date:	12/12/2006	Qty. 2	- "SLOW DOWN" & Red/Blue VAs
FAST-350	Ship Date:	2/16/2007	Qty. 2	- "SLOW DOWN" & Red/Blue Vas

14. Receipt of Addenda:  
Offeror acknowledges receipt of the following Solicitation Addendum(s):

<u>Addendum No.</u>	<u>Date</u>
---------------------	-------------

<u>Addendum #1; Bid No. TE7-680-2463</u>	<u>April 9, 2007</u>
<u>Addendum #2 - Speed Display signs</u>	<u>April 10, 2007</u>

15. Other Information Requested (see Evaluation Criteria).
16. Intent to be bound by Offer:



# RU2 Systems, Inc.

Radars Speed Display Signs Manufacturing & Sale

PO Box 4468 Apache Junction AZ 85278 [P] 480-982-2107 [F] 480-982-5237

**Quote To:**

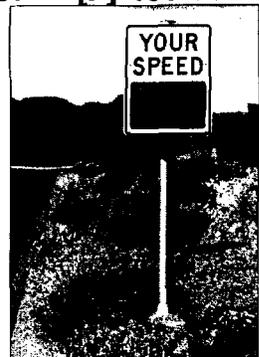
City of Chandler  
Marty Johnson  
975 E. Armstrong Way  
Mail Stop 910  
Chandler, AZ 85249  
USA

Fax: Pgs: 3  
marty.johnson@chandleraz.gov

## SALES QUOTE

Quote # KCBQ2923  
Date 04/23/07  
Quote Expires 07/06/07

If you have any questions or find this proposal non-responsive in any way please do not hesitate to call us toll free at 866-982-2107.



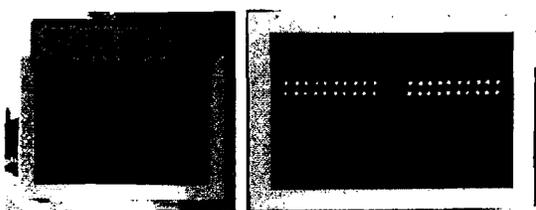
Line	Qty	Description	Unit Price	Ext. Price
------	-----	-------------	------------	------------

1	62	The RU2 Fast 375 is a permanent or semi-permanent mounted radar speed sign featuring two 18" full matrix characters. This unit is ideal for primary and larger secondary streets, any longer line-of-sight venue and visually cluttered areas where speeding is a problem. Among major advantages of using this unit in place of speed bumps is the elimination of liability caused by speed bumps due to damage to vehicles. Additionally, emergency vehicles are not slowed down on their way to a call. MUTCD conforming sign surround measures 41" x 54". Includes pole mounting brackets.	\$3,695.00	\$229,090.00
---	----	--	------------	--------------

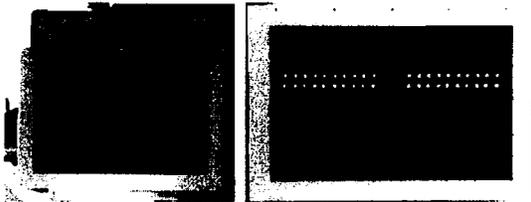
Standard package includes: 1) minimum show speed, 2) maximum show speed (blanking), 3) flashing digit violator alert, 4) automatic intensity adjustment to ambient light and 5) single cycle 24 hour ON/OFF clock.

Input: 90 - 240 VAC or solar option below.

2	62	Violator Alert - Red LED "SLOW DOWN" 18" The display is equipped with a flashing "SLOW DOWN" message made of high intensity red LED's. The VA is activated by a vehicle exceeding a speed selected (in 1 MPH/KPH increments) by the operator. Once a reading from the radar registers above the selected speed, the violation lights are activated. The violator will see the flashing "SLOW DOWN" message on the display with no speed displayed. If the violator slows, the flashing message will stop and their speed is displayed again. If slowing continues until a speed is reached that is less than the set-point, the display will continue to show the speed being registered. If the violator maintains a speed higher than the setting for a time, the flashing message will come back on. If the violator increases speed while above the violation setting the message will come back on immediately. Available on models 350, 800, 950 & 1000.	\$450.00	\$27,900.00
---	----	--	----------	-------------



Line	Qty	Description	Unit Price	Ext. Price
3	5	Solar Power 115 Watt for Fast-275/350/360 Includes 115 Watt solar panel, panel mount, one (1) group 27 AGM battery, solar charge controller and, battery containment with mounting hardware.  Total wattage subject to minor adjustment based upon market availability at manufacturer's discretion.	\$2,010.00	\$10,050.00
4		Equipment Pre-SubTotal		\$267,040.00
5		7.5% Discount		-\$20,028.00
6	0	Local Delivery	\$0.00	\$0.00
7		Equipment SubTotal		\$247,012.00
8		INSTALLATION		
9	5	Installation: Solar powered signs on existing poles.	\$425.00	\$2,125.00
10	46	Installation: 55 direct wired signs on existing poles w/ meters.	\$600.00	\$27,600.00
11	11	Installation: 55 direct wired signs on existing poles req. new meters.	\$875.00	\$9,625.00
12		Installation SubTotal		\$39,350.00
13		SubTotal		\$286,362.00
14		<<< OPTIONS >>>		
15	0	Violator Alert - Red & Blue LED Light Bars 18" The display is equipped with red and blue horizontal bars of high intensity LED's which alternate as they pulse. These are activated by a vehicle that exceeds the speed selected by the operator. The digital controller performs a test and scores the vehicle being monitored. Once a reading from the radar registers above the selected speed, the violation lights are activated. The violator will see flashing red and blue lights on the display with no speed displayed. This event initiates the scoring routine. If the violator slows, the flashing lights will stop and their speed is displayed again. If slowing continues until a speed is reached that is less than the set-point, the display will continue to show the speed being registered. If the violator maintains a speed higher than the setting for a time, the flashing lights will come back on. If the violator increases speed while above the violation setting the flashing lights will come back on immediately. Available on models 350, 800, 950 & 1000.	\$450.00	\$0.00



Line	Qty	Description	Unit Price	Ext. Price
16	0	Violator Alert Discount: Buy both SLOW and Red/Blues Discount	-\$100.00	\$0.00
17	0	Pelco 4-1/2" Pole Installation Kit* Includes 14', 4-1/2" dia. aluminum pole, base, collar, cap and break-away bolt set for pad installation. *Requires additional freight.	\$415.00	\$0.00
			<b>SubTotal</b>	<b>\$286,362.00</b>
			<b>Sales Tax</b>	<b>\$23,052.14</b>
			<b>Total</b>	<b>\$309,414.14</b>

WARRANTY: RU2 warrants their LED Displays for Five (5) Years excepting batteries if applicable, which are warranted for One (1) year. The radar device is warranted for Two (2) years. On-site labor is not included. However, parts are repaired within five business days of receipt, and include ground-shipping expenses. Warranty does not include physical damage from misuse or vandalism.

- A. Shipping, crating and applicable sales tax are not included in the above pricing unless specifically listed.
- B. Shipping quotes do not include liftgate or any additional services that may be required at destination.
- C. Sign to be shipped approx. 30 days after receipt of purchase order.
- D. Terms: 2% 10, Net 30



Sustaining  
Member



[www.ru2systems.com](http://www.ru2systems.com)

FEIN: 80-0017092

Add info #28

MAY 10 2007



**Chandler • Arizona**  
*Where Values Make The Difference*

**MEMORANDUM Management Services Department – Council Memo No. PG7-008**

**DATE:** May 10, 2007

**TO:** Mayor and Council

**CC:** W. Mark Pentz, City Manager *WMP*  
Rich Dlugas, Assistant City Manager *RD*  
Michael House, City Attorney *MH*  
O.D. Burr, Acting Management Services Director *ODB*

**FROM:** Robert Combs, CPPB, Purchasing Manager *RCombs*

**SUBJECT:** Vendor Protest and Response; RFP TE7-680-2463, Speed Display Signs

**BACKGROUND:** On March 26, 2007, staff issued the above Request for Proposal (RFP) for Speed Display Signs. A letter of protest was received from RU2 Systems, Inc., one of five respondents to the City's RFP. RU2 protested the award proposed for May 10, 2007, citing issues regarding warranty, display clarity and price, and requesting further evaluation as specific relief.

**DISCUSSION:** On April 9, staff responded with a reply (see attached letter and exhibits) refuting the issues raised by RU2 Systems, Inc. Regarding warranty, staff demonstrated that the warranty offered by the recommended vendor, Information Display Company (IDC), was superior to that offered by RU2 Systems, Inc. The IDC warranty offered provisions for batteries, vandalism and on-site labor that RU2 did not.

Regarding display clarity, RU2 expressed concerns that IDC's display was not evaluated side-by-side with RU2's product. In fact, IDC's product was evaluated at the same time and place as all others. Staff believes RU2 did not recognize that while IDC personnel were not present, the product was present and was evaluated in the same manner as all other offerings.

Regarding price, RU2 offered an option that was not a firm requirement of the City specifications. RU2 failed to note the inclusion of a capability to flash "slow down" on the display was an extra cost option and did not offer an alternative price excluding this option.

While RU2 offers an excellent product, the evaluation committee consisting of a police commander, a police lieutenant, the City traffic engineer, a traffic studies manager and a procurement officer rated it second overall. IDC clearly offers a superior product at a greater value.

Staff recommends award to IDC as proposed in the Council Memo of May 10, 2007.

**FINANCIAL IMPLICATIONS:** The recommended award to IDC for \$295,587.15 is \$13, 971.74 less than the offering from RU2 at \$309,558.89. Further implications would be the cost of reissuing a new RFP and conducted another evaluation. Additionally, the installation of the speed displays is a requirement linked to the operation of the recently awarded photo red light and speed on green traffic enforcement enhancement. To delay or reject the proposed award could impact the intended public safety improvements of the photo red light and speed on green systems.

**COUNCIL OPTIONS:**

1. Follow staff recommendation and award RFP TE7-680-2463 to IDC as proposed in the May 10, 2007 City Council Agenda.
2. Reject all proposal responses and instruct staff to reissue a new Request for Proposal. This option will adversely impact revenues from the photo red light and speed on green public safety initiatives by delaying installation of the required speed displays for eight to ten weeks.

CC: Sherry Kiyler, Police Chief  
Matt Christensen, Police Commander  
Mike Mah, City Traffic Engineer  
Sandra McGee, Assistant City Attorney  
Robert Descheemaker, Purchasing Supervisor  
Mike Mandt, Procurement Officer



**Chandler • Arizona**  
*Where Values Make The Difference*

To: Kenneth C. Brown  
RU2 Systems, Inc.

From: Robert Combs, CPPB  
City of Chandler

Subject: Protest of RFP TE7-680-2463, Display Signs

Date: May 9, 2007

Dear Mr. Brown:

Thank you for your letter of May 8, 2007, protesting the recommended award of speed display signs to Information Display Company (hereinafter IDC). Regretfully, I must deny your protest and respectfully offer justification below on the germane issues.

*Warranty*

Attached as Exhibits A and B to this letter are the pages from the Responses to the Request. Exhibit A is the Warranty that was set forth in IDC's Response. Exhibit B is the Warranty that was set forth in your Response. As you will see by an examination of the Warranties, the Warranty IDC offered is superior to the Warranty that RU2 offered to provide. RU2 excepted batteries. IDC did not. On-site labor is not included in the Warranty offered by RU2. There is no such exclusion in the Warranty offered by IDC. The Warranty offered by RU2 does not include physical damage from misuse of vandalism. This is not excluded by IDC's Warranty. In addition IDC's Warranty provides that the manufacturer at no charge, shall provide replacement components for in-warranty repairs when provided in exchange for the part being replaced. RU2's Warranty does not provide this.

### *Display Clarity*

In your comments regarding display clarity, you stated that neither K&K nor IDC were present. This is inaccurate. K&K was non-responsive and was not invited to participate in the demonstration. IDC, however, did present their display along with your product and all of the other responsive vendors. The field trial held on April 27, 2007, included a side-by-side comparison of the equipment provided by MPH Industries, Flouresco, Information Display Company (IDC) and RU2. There is no basis in fact for your assertion that IDC's equipment was not present on April 27. There were 5 evaluators who were present and reviewed all of the Respondents' equipment, except for K&K that was excluded because its product was not acceptable. The displays were evaluated by five City employees in a day test and by the City's Traffic Engineer in a test during hours of darkness. IDC's display was ranked first by four of five evaluators and ranked second by the fifth evaluator. RU2's display was ranked second by four of five evaluators and first by one evaluator.

### *Price*

The City requested, "User programmable maximum speed at which the display shall go blank, flash the maximum speed or display a warning such as "slow down"". See Exhibit C which is Exhibit A to the Request for Proposals, the Technical Specifications, Speed Display Signs. The request for a "slow down" feature was an "either or" requirement. This was deliberate on the part of the City to ensure maximum competition knowing (to the best of our knowledge) that only two manufacturers offer this feature. By making the display requirement open to more alternatives in terms of the specification, the City improved the chances for more participation and competition among Responders. On the price page you submitted with your protest letter, there is some unclear hand-written verbiage that was not part of your Response regarding a lower price without the "slow down" option. This notation does not exist in your original bid. The City must evaluate the bids as submitted. It was an incorrect assumption on the part of RU2 to believe that the "slow down" feature held any more weight than the other 'either/or' features --- flashing the maximum speed or going blank.

Based on the criteria established in the Request for Proposals, the City's selection of IDC was the correct one and represents the best value for the City's investment in public safety. Based on the discussion above regarding the three basis for RU2's Protest, City staff will recommend that the City Council deny your protest, follows staff's recommendation and award the contract for speed display signs to IDC.

If you have further questions, please direct them to me instead of the procurement officer.

Sincerely,

A handwritten signature in cursive script that reads "Robert Combs".

Robert Combs, CPPB  
Purchasing Manager  
City of Chandler

Cc: Sandra McGee, Assistant City Attorney  
Rich Dlugas, Assistant City Manager  
O.D. Burr, Acting Management Services Director  
Robert Descheemaker, Purchasing Supervisor  
Evaluation Committee Members  
Information Display Company

## EXHIBIT A

- External input to switch between two violation alert speed thresholds
- Optional GPS time signal receiver to synchronize display clocks to global standard time

### 8.0 REMOTE COMMUNICATION (available July 2007)

- 8.1 The following display functions shall be controllable remotely from a central office location using cellular modem and web browser components:
- 8.1.1 Violation alert settings shall be settable by time of day
  - 8.1.2 Operating times of the display shall be settable by time of day
  - 8.1.3 Data collection shall be enabled remotely by time of day
- 8.2 The display shall be capable of controlling a flashing beacon which shall be controllable from a central office location by time of day
- 8.3 Software for remote control of the displays shall be operable on the Microsoft Windows operating system
- 8.3.1 All communication to signs shall be confirmed via return communication
  - 8.3.2 Time clocks of all signs shall be remotely settable
  - 8.3.3 Vehicle speed data shall be downloadable

### 9.0 WARRANTY

- 9.1 The manufacturer's warranty for the display board shall be at least two years from the time of purchase.
- 9.2 The manufacturer's warranty on the LEDs comprising the display segments shall be at least 8 years from the time of purchase.
- 9.3 All sign components shall be easily replaceable in the field and shall not require special tools outside those normally found in the industry.
- 9.4 The manufacturer at no charge shall provide replacement components for in-warranty repairs when provided in exchange for the part being replaced. Outbound shipping costs for warranty replacement parts shall be paid by the manufacturer.

**EXHIBIT B**

c. Avanti Circuits (printed circuit boards)

17650 N. 25<sup>th</sup> Avenue  
Phoenix, AZ 85023  
602-866-7227 / Crystal Freeman  
[www.avanticircuits.com](http://www.avanticircuits.com)

d. AZ Precision Sheet Metal (sheet metal components)

1700 N. 22<sup>nd</sup> Avenue  
Phoenix, AZ 85009  
602-455-9575 / Randy Colson

e. APMI (weldments)

164 S. Hamilton Place  
Gilbert, AZ 85233  
480-668-0024 / Greg Bickel

f. Precision Powder Coat (powder coat finish)

1616 S. Edward  
Tempe, AZ 85281  
480-894-5224 / Paul

11. Product Offered (See Information & Instructions 4.5.17)

Mfg.: RU2 Systems, Inc.

Model: Fast-350 Radar Speed Sign w/ Fast-375 "YOUR SPEED" sign overlay and red LED "SLOW DOWN" violator alert

WARRANTY: RU2 warrants their **LED Displays for Five (5) Years** excepting batteries if applicable, which are warranted for One (1) year. The radar device is warranted for Two (2) years. On-site labor is not included. However, parts are repaired within five business days of receipt, and include ground-shipping expenses. Warranty does not include physical damage from misuse or vandalism.

LED/Flip Disk: LED technology

# of LEDs: 4 per pixel / 280 LEDs per display (characters)

Power: 12 VDC or 100-240 VAC input; 1½ amps peak power consumption (incl. radar device)

Light Output: 591 nm (amber), 22,400 total lumens at full intensity

12. Completion time (See Information & Instructions 4.5.18)

Upon receipt of order and installation plan from City, delivery and installation can commence 10 days ARO and be completed in 4 weeks.

13. REFERENCES (Must be provided):

Provide names, addresses and telephone numbers of government agencies/business' to which you have provided similar goods or equipment.

EXHIBIT C

**Exhibit A  
TECHNICAL SPECIFICATIONS  
SPEED DISPLAY SIGNS**

All dimensions are considered nominal. Please list actual dimension or compliance to requirement in column on right.

Overall Size	48"H X 36"W	
Character Size	18" High	
Design	Designed to resemble a speed limit sign with high intensity reflective material, including a black border and "Your Speed" displayed above actual speed.	
Display	User programmable maximum speed at which the display shall go blank, flash the maximum speed or display a warning such as "slow down".	
Mounting	Include mounting hardware to mount to existing City street light poles	
Power Requirements	AC power (estimated 57 signs) Solar Power (estimated 5 signs)	
Dimming	Auto Dimming for low light (night) conditions	
Reporting	Provide data collection reporting capabilities in offer section	
Installation	Provide installation to existing street light poles as directed by the City.	



**PURCHASING ITEM  
FOR  
COUNCIL AGENDA**

**MEMO NO. TE07-236**

**1. Agenda Item Number:**

**28**

**2. Council Meeting Date:**

May 10, 2007

**TO: MAYOR & COUNCIL**

**3. Date Prepared:** April 30, 2007

**THROUGH: CITY MANAGER**

**4. Requesting Department:** Public Works

**5. SUBJECT:** Approve Agreement No. TE7-680-2463 for the purchase and installation of speed display signs with Information Display Company dba Speed Check in the amount of \$295,587.15 and transfer appropriation of \$295,588 from General Fund, Non-Departmental, Contingency (101.1290.0000.5911) to General Fund, Non-Departmental, Photo Red Light (101.1290.0000.5263).

**6. RECOMMENDATION:** Recommend approval of Agreement No. TE7-680-2463 for the purchase and installation of speed display signs with Information Display Company dba Speed Check in the amount of \$295,587.15 and transfer appropriation of \$295,588 from General Fund, Non-Departmental, Contingency (101.1290.0000.5911) to General Fund, Non-Departmental, Photo Red Light (101.1290.0000.5263).

**7. BACKGROUND/DISCUSSION:** On March 5, 2007, City Council approved an agreement for photo speed and red light enforcement. That approval was subject to staff purchasing speed display signs to be installed simultaneous with the start of the new photo enforcement program. This Purchasing Item is to request approval to purchase and install these speed display signs.

Nineteen of the speed display signs will be installed at all photo enforcement camera approaches within four weeks after receipt of the Purchase Order. The remaining 41 speed display signs will be installed on all other approaches to existing and proposed photo enforcement intersections and at the top-10 high accident locations within three months of the receipt of the Purchase Order. The existing red light camera locations will continue to operate as before (but under the new contract with Reflex), and will have speed display boards installed within the same 60 day period.

**8. EVALUATION PROCESS:** On March 26, 2007, staff issued a Request For Proposals (RFP) TE7-680-2463 for the purchase and installation of speed display signs. The City received five responses to the RFP. An evaluation committee included representatives from the Police department, Traffic Engineering and Purchasing. Based on the evaluation criteria set forth in the RFP, the evaluation committee is recommending Information Display Company dba Speed Check for award. This company has the clearest display, offered the best warranty, and has a competitive price. The requested amount includes a use tax of \$13,403.15, which will be paid directly to the State of Arizona.

**9. FINANCIAL IMPLICATIONS:** Funds for the requested purchase are available from General Fund, Non-Departmental, Photo Red Light (101.1290.0000.5263).

**10. PROPOSED MOTION:** Move to approve Agreement No. TE7-680-2463 for the purchase and installation of speed display signs with Information Display Company dba Speed Check in the amount of \$295,587.15 and transfer appropriation of \$295,588 from General Fund, Non-Departmental, Contingency (101.1290.0000.5911) to General Fund, Non-Departmental, Photo Red Light (101.1290.0000.5263).

**APPROVALS**

**11. Requesting Department**

Mike Mah, City Transportation Engineer

**12. Department Head**

Daniel W. Cook, Acting Public Works Director

**13. Buyer/Contract Admin.**

Mike Mandt

**14. City Manager**

W. Mark Pentz

**CITY OF CHANDLER PURCHASE CONTRACT  
SPEED DISPLAY SIGNS  
CONTRACT NO.: TE7-880-2463**

**ABO**

THIS AGREEMENT is made and entered into this 10th day of May, 2007, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Information Display Company dba Speed Check an Oregon Corporation, hereinafter referred to as "CONTRACTOR".

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

**1. CONTRACT ADMINISTRATION AND OPERATION:**

- 1.1. **Contract Administrator:** CONTRACTOR shall act under the authority and approval of the TRANSPORTATION ENGINEER /designee (Contract Administrator), to provide the goods and merchandise required by this Contract.
- 1.2. **Ordering Instructions:** Authorization for purchases under the terms and conditions of this contract will be made only upon issuance of a CITY Purchase Order, a Contract Release Order or use of a City Procurement Card.
- 1.3. **Ordering Process.** Upon award of a contract by the City, any designated department may procure the specific product, equipment or material awarded by the issuance of a Contract Purchase Order to the appropriate CONTRACTOR. Each Contract Purchase Order must cite the correct Chandler contract number.

**2. GOODS AND MERCHANDISE TO BE PROVIDED.** CONTRACTOR shall provide to CITY the goods and merchandise listed on Exhibit A, attached hereto and made a part hereof by reference, at the prices listed on Exhibit B, all as more specifically set forth in the Specifications and details included therein.

- 2.1. **Safety Standards.** All items supplied pursuant to this contract must comply with the current applicable occupational safety and health standards of the State of Arizona Industrial Commission, the National Electric Code, and the National Fire Protection Association Standards.
- 2.2. **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.
- 2.3. **Product Discontinuance (Categories):** In the event that a required product or model is discontinued by the manufacturer, CITY at its sole discretion may allow CONTRACTOR to provide a substitute for the discontinued item. CONTRACTOR shall request permission to substitute a new product or model and provide the following:

A formal announcement from the manufacturer that the product or model has been discontinued.

Documentation from the manufacturer that names the replacement product or model.

Documentation that provides clear and convincing evidence that the replacement will be compatible with all the functions or uses of the discontinued product or model.

Documentation confirming that the price for the replacement is the same as or less than the discontinued model.

If requested by CITY, CONTRACTOR shall provide a sample of the replacement product.

- 2.4. **Licenses.** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by CONTRACTOR as applicable to this contract.
- 2.5. **Contract Orders.** CONTRACTOR shall, in accordance with all terms and conditions of this Contract, fully perform and shall be obligated to comply with all contract orders received by CONTRACTOR prior to the expiration or termination hereof, unless otherwise directed in writing by the Contract Administrator, including, without limitation, all contract orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.
- 2.6. **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 Procurement Officer.
- 2.7. **Compliance With Applicable Laws.** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable license and permit requirements.
- 2.8. **Payment.** A separate invoice shall be issued for each shipment of goods or materials, and no payment will be issued prior to receipt of goods or materials and receipt of a correct invoice.
- 2.9. **Estimated Quantities.** The quantities shown on Exhibit B (the Price List) are estimates only, based upon available information. Payment shall be based on actual quantities and there is no guarantee that any certain quantity shall be required by CITY. CITY reserves the right to increase or decrease the quantities actually required.
- 2.10. **Current Models.** It is CITY's intent to procure materials of the latest technology. All materials bid must be in current production and parts must be available for a minimum of five (5) years from bid date.
- 2.11. **Current Products.** All products offered in response to this solicitation shall be in current and ongoing production; shall have been formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in this solicitation.
- 2.12. **New/Current Products.** All goods, equipment, materials, parts and other components supplied pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended.

- 2.13. Packing and Shipping.** The CONTRACTOR shall be responsible for industry standard packing, which conforms to requirements of carrier's tariffs and Interstate Commerce Commission (ICC) regulations. Containers must be clearly marked as to lot number, destination, address and purchase order number.
- 3. Warranties:**
- 3.1. Liens:** CONTRACTOR warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.
- 3.2. Quality:** Unless otherwise modified elsewhere in these terms and conditions, CONTRACTOR warrants that, for one year after acceptance by CITY of the materials, they shall be:
- 3.2.1.** Of a quality to pass without objection in the trade under the Contract description;
  - 3.2.2.** Fit for the intended purposes for which the materials are used;
  - 3.2.3.** Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
  - 3.2.4.** Adequately contained, packaged and marked as the Contract may require; and
  - 3.2.5.** Conform to the written promises or affirmations of fact made by CONTRACTOR.
- 3.3. Fitness:** CONTRACTOR warrants that any material supplied to CITY shall fully conform to all requirements of the Contract and all representations of CONTRACTOR, and shall be fit for all purposes and uses required by the Contract.
- 3.4. Inspection/Testing:** The warranties set forth in Section 3 herein are not affected by inspection or testing of or payment for the materials by CITY.
- 3.5. Warranty (Equipment).** All equipment supplied under this Contract shall be fully guaranteed by CONTRACTOR for a minimum period of two years from the date of acceptance by CITY. Additionally, the LEDs supplied under this Contract shall be fully guaranteed by CONTRACTOR for a minimum period of eight years from the date of acceptance by CITY. Any defects of design, workmanship, or materials, that would result in non-compliance with the Contract specifications shall be fully corrected by CONTRACTOR (including parts and labor) without cost to CITY. The written warranty shall be included with the delivered products to the using Department.
- 4. ACCEPTANCE AND DOCUMENTATION:** All goods are subject to final inspection and acceptance by CITY. Material failing to meet the requirements of this Contract will be held at CONTRACTOR's risk and may be returned to CONTRACTOR. If so returned, the cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses are the responsibility of CONTRACTOR. CITY may elect to do any or all of the following: Waive the non-conformance; stop the work immediately; or bring the material into compliance. Defective Products. All defective products shall be replaced and exchanged by CONTRACTOR. The cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses shall be paid by the CONTRACTOR. All replacement products must be received by CITY within seven (7) days of initial notification
- 4.1. Records.** The CONTRACTOR shall 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.

- 4.2. Audit.** At any time during the term of this Contract and five (5) years thereafter, CONTRACTOR's books and records shall be subject to audit by CITY to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, CONTRACTOR shall produce a legible copy of any or all such records.
- 4.3. Delivery/Installation.** Delivery and installation shall be made within sixty (60) calendar days after receipt of a Contract Purchase Order (ARO). Contractor will phase delivery and installation with eight units delivered and installed 14 days ARO and eight additional units delivered and installed each week.
- 5. PRICE:** CITY shall pay to CONTRACTOR an amount not to exceed Two hundred and eighty two thousand one hundred and eighty four dollars (\$282,184) 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 in Exhibit B, attached hereto and made a part hereof by reference.
- 5.1. Pricing:** Prices stated include all freight, insurance, warranty costs, and any other applicable costs.
- 5.2. Payment:** A separate invoice shall be issued for each shipment of goods or merchandise, and no payment will be issued prior to receipt of material and a correct invoice. All billing invoices shall include delivery time, purchase order number, and contractual payment terms. Items are to be identified by the name, model number, contract number, line item number, and serial number if applicable. Payment. CONTRACTOR shall submit to the issuing department, after completion of the task or combination of tasks listed by the issuing departments task order, a statement of charges for the work completed under that task order, in conformance with the pricing schedule of this contract, the issuing department shall process the claim for prompt payment in accordance with the standard operating procedures of CITY.
- 5.3. Delivery:** All prices are F.O.B. Destination and include all delivery and unloading at the specified destinations. CONTRACTOR shall retain title and control of all goods until they are delivered and accepted by CITY. All risk of transportation and all related charges shall be the responsibility of CONTRACTOR. All claims for visible or concealed damage shall be filed by CONTRACTOR. CITY will notify CONTRACTOR promptly of any damaged goods and shall assist CONTRACTOR in arranging for inspection.
- 5.4. Risk of Loss:** CONTRACTOR shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with CONTRACTOR regardless of receipt.
- 5.5. TAXES:** CONTRACTOR shall be solely responsible for any and all tax obligations, which may result out of CONTRACTOR'S performance of this Contract. CITY shall have no obligation to pay any amounts for taxes, of any type, incurred by CONTRACTOR.
- 5.6. 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 CITY in applying for and obtaining such tax credits and exemptions which shall be paid or credited to CITY.

- 5.7. **IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless said form is not required by law.
- 5.8. **Price Adjustment (Annual).** All prices offered herein shall be firm against any increase for one (1) year from the effective date of the Contract. Prior to commencement of subsequent renewal terms, CITY will entertain a fully documented request for price adjustment. The requested increase shall be based upon a cost increase to CONTRACTOR that was clearly unpredictable at the time the Contract was executed directly correlated to the price of the product concerned.
- 5.9. **Acceptance by CITY.** CITY reserves the right to accept or reject the request for a price increase. If CITY approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.
- 5.10. **Price Reduction.** CONTRACTOR shall offer CITY a price reduction for its products concurrent with a published price reduction made to other customers.

**6. TERM:**

- 6.1. The term of the Contract is one year through May 31, 2008, but may be extended by mutual agreement of the parties for up to four (4) additional successive terms of one year each.

**7. USE OF THIS CONTRACT:**

- 7.1. The Contract is for the sole convenience of the City of Chandler. CITY reserves the rights to obtain like goods and materials from another source to secure significant cost savings or when timely delivery cannot be met by CONTRACTOR.
- 7.2. CONTRACTOR is aware that there may be more than one CONTRACTOR who has been awarded a Contract to provide this type of goods and materials. CITY reserves the right and will issue Purchase Orders for goods and materials based on ability of CONTRACTOR to meet CITY's schedule and/or price.
- 7.3. **Emergency Purchases:** CITY reserves the right to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.
- 7.4. **Cooperative Use of Contract.** In addition to the City of Chandler and with approval of the contracted 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](http://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.

**8. CITY'S CONTRACTUAL REMEDIES:**

- 8.1. Right to Assurance:** If CITY in good faith has reason to believe that CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that CONTRACTOR give a written assurance of intent to perform. Failure by CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at CITY's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2. Non-exclusive Remedies:** The rights and the remedies of CITY under this Contract are not exclusive.
- 8.3. Nonconforming Tender:** Goods, materials or merchandise supplied under this Contract shall fully comply with this Contract and the specifications included herein. The delivery of goods, materials or merchandise or any portion thereof that do not fully comply constitutes a breach of contract. On delivery of nonconforming goods, materials or merchandise, CITY may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
- 8.4. Right of Offset:** CITY shall be entitled to offset against any sums due to CONTRACTOR, any expenses or costs incurred by CITY, or damages assessed by CITY concerning CONTRACTOR's non-conforming performance or failure to perform the Contract, including costs and damages incurred by CITY.
- 9. TERMINATION:**
- 9.1. Termination for Convenience:** CITY reserves the right to terminate this Contract or any part thereof for its sole convenience with thirty (30) days written notice. CONTRACTOR shall receive payment for the goods and materials already shipped to CITY.
- 9.2. Termination for Cause:** CITY may, upon written notice, terminate this Contract for CONTRACTOR'S failure to comply with the terms of this Contract.
- 9.3. Termination for Misrepresentation.** CITY may, upon written notice, terminate this Contract for any attempt by CONTRACTOR to represent any goods or materials not specifically awarded as being under contract with the CITY of Chandler. Any such action is subject to the legal and contractual remedies available to CITY inclusive of, but not limited to, contract cancellation, suspension and/or debarment of CONTRACTOR.
- 9.4. Cancellation for Conflict of Interest:** Pursuant to A.R.S. § 38-511, CITY may cancel this Contract 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 CITY is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.
- 9.5. 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 the CONTRACTOR or a representative of the CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. 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 the CONTRACTOR.

- 9.6. Suspension or Debarment:** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that the 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 Sub-CONTRACTOR 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 the CONTRACTOR becomes suspended or debarred, the CONTRACTOR shall immediately notify CITY.
- 9.7. 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.
- 9.8. 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.
- 10. 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.
- 11. 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 CITY and CONTRACTOR arising out of, or relating to the Contract documents, interpretation of the Contract, or the performance 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.
- 11.1. 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 they occur and not postponed until the end of the Contract nor lumped together with other pending claims.
- 11.2. 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 CITY'S position.

- 11.3. 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.
- 11.4. 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.
- 11.5. 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 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 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 non-prevailing party, except as provided for herein. The determination of prevailing and non-prevailing 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.
- 12. 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.
- 13. NOTICES:** All notices or demands required to be given pursuant to the terms of this Contract 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 CITY**

Department: Traffic Engineering  
 Contact: Martin Johnson  
 Mailing Address: PO Box 4008 - MS  
910  
 Physical Address: 215 E. Buffalo St, Ste  
203  
 City, State, Zip Chandler AZ 85249  
 Phone: 480-782-3450  
 FAX: 480-782-3444

**In the case of the CONTRACTOR**

Firm Name: Information Display Co  
 Contact: GARY ODELL  
 Address: 10950 SW 5<sup>TH</sup>  
 City, State, Zip Ste 370, Beaverton, OR  
 Phone: 503-626-3017 97005  
 FAX: 503-626-3417

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. GENERAL TERMS:**

**14.1. Entire Agreement:** This Contract, 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 Contract may not be modified or amended except by a written document, signed by authorized representatives of each party.

**14.2. Arizona Law:** This Contract shall be governed and interpreted according to the laws of the State of Arizona.

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

**14.4. 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 CITY in writing or made unilaterally by the CONTRACTOR are violations of the Contract and of applicable law. 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 those changes.

**14.5. Conflict of Interest:**

**14.5.1 No Kickback:** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of City Council or any employee of 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 CITY.

**14.5.2 Kickback Termination:** CITY may cancel this Contract, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the

agreement on behalf of CITY'S departments or agencies is, at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a CONTRACTOR to any other party to the Contract with respect to the subject matter of the Contract. The cancellation shall be effective when written notice from CITY is received by all other parties to the Contract, unless the notice specifies a later time (A.R.S. §38-511).

**14.5.3 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.

**14.6. 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.

**14.7. 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.

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

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this  
day of 20

FOR THE CITY OF CHANDLER

FOR THE CONTRACTOR

\_\_\_\_\_  
MAYOR

By: *Amy Dell*  
Signature **PRESIDENT**

ATTEST:  
\_\_\_\_\_  
City Clerk

SEAL ATTEST: If Corporation  
*Amy Dell*  
Secretary

Approved as to form:  
\_\_\_\_\_  
City Attorney  
*[Signature]*

**Exhibit A  
TECHNICAL SPECIFICATIONS  
SPEED DISPLAY SIGNS**

<b>Product Offered</b>	<b>VSC 182F</b>
<b>Overall Size</b>	<b>48"H X 36"W</b>
<b>Character Size</b>	<b>18" High</b>
<b>Design</b>	Designed to resemble a speed limit sign with high intensity reflective material, including a black border and "Your Speed" displayed above actual speed.
<b>Display</b>	User programmable maximum speed at which the display shall go blank, flash the maximum speed
<b>Mounting</b>	Include mounting hardware to mount to existing City street light poles
<b>Power Requirements</b>	AC power (estimated 57 signs) Solar Power (estimated 5 signs)
<b>Dimming</b>	Auto Dimming for low light (night) conditions
<b>Reporting</b>	Provide data collection reporting capabilities in offer section
<b>Installation</b>	Provide installation to existing street light poles as directed by the City. Contractor will be responsible for final electrical connection and coordination with APS and SRP. Contractor will be allowed to use street light pole for mounting of solar panel. If solar panel cannot be mounted on existing street light pole, Contractor will be required to provide and install pole for solar panel.
<b>Continuous Operation</b>	Provide continuous operation 24 hours per day 7 days per week.

**EXHIBIT B  
Pricing**

	Qty	Unit Price	Extended Price
Speed Display (AC power)	57	\$3,816	\$217,512
Speed Display (Solar power)	5	\$4,386	\$21,830
Speed Display (Solar power)	62	\$691	\$42,842
<b>Total</b>			<b>\$282,184</b>