



**AGREEMENT BETWEEN REDSPEED MARYLAND, LLC
AND THE TOWN OF BLADENSBURG, MARYLAND FOR A
TRAFFIC CONTROL SIGNAL MONITORING SYSTEM**

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**AGREEMENT BETWEEN REDSPEED MARYLAND, LLC
AND THE TOWN OF BLADENSBURG FOR
A TRAFFIC CONTROL SIGNAL
MONITORING SYSTEM**

This Traffic Control Monitoring System Agreement (hereinafter referred to as this “Agreement”) is effective on the _____ day of _____, 20__ (“**Effective Date**”) by and between RedSpeed Maryland, LLC, located at 5921 Moravia Park Drive, Unit D-2, Baltimore, Maryland 21206 (“RedSpeed”), and the TOWN OF BLADENSBURG, a Maryland municipal corporation (hereinafter referred to as the “Municipality”) located at 4229 Edmonston Road, Bladensburg, MD 20710 (individually, a “Party”, and collectively, the “Parties”).

RECITALS

WHEREAS, on or about December 20, 2023, the Municipality issued a Request for Qualifications FY 2024-004 a traffic control signal camera enforcement (“RFQ”) with a due date of January 19, 2024, at 3:00 P.M. EST;

WHEREAS, RedSpeed submitted to the Municipality a timely proposal in response to the RFQ;

WHEREAS, the Municipality awarded to RedSpeed a contract for the provision of a traffic control signal monitoring enforcement system (“**System**”), subject to the terms of this Agreement;

WHEREAS, RedSpeed is in the business of providing traffic signal control monitoring systems, and the collection of any citations issued pursuant thereto;

WHEREAS, the Municipality desires to engage the services of RedSpeed to provide traffic control signal cameras; and technicians to identify and enforce violations of the traffic control signals, specifically red light violations, within designated intersections of the Municipality; and related equipment, hardware, and software for the System (“**Services**”);

WHEREAS, RedSpeed shall employ engineers and other professional consultants, who possess technical training or knowledge, to provide the Services indicated in this Agreement or which may be provided by RedSpeed and that in rendering such Services RedSpeed is also providing data processing equipment and related services; and

WHEREAS, on _____ of _____, 20__, THE COUNCIL OF THE TOWN OF BLADENSBURG, as the legislative body of the Municipality, adopted Ordinance No. _____, approving the use of traffic control signal monitoring systems within the Municipality, which authorizes the execution of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the above recitals which are incorporated herein by reference and made a substantive part hereof, and for other valuable consideration received, the receipt and sufficiency of which are hereby acknowledged, the Municipality and RedSpeed agree as follows:



1. **Recitals.** All recitals set forth above shall be deemed a substantive part of this Agreement.

2. **Services Provided.**

A. Traffic Control Signal Monitoring System:

RedSpeed shall provide a Traffic Control Signal Monitoring system and program to the Municipality by providing installation, maintenance, and violation processing services at Designated Intersections as set forth in Exhibit "B" attached hereto and incorporated herein, after preparing certain licenses and permits and supporting documentation for the Municipality to review, authorize, execute, and submit to the appropriate Maryland, County, and/or Town office and/or department to obtain any required consent from any other government with jurisdiction.

Costs for removal of Equipment from Designated Intersection Approaches under utility or road construction or utility or road improvement, when the utility or road construction or utility or road improvement are not under the control of the Municipality, shall be borne by RedSpeed.

B. Reduction of Sites for Placement of Systems:

Notwithstanding any other provision of this Agreement, if the Town determines that it is in the public interest to remove a site or sites from System, it may do so with 60 days' notice to RedSpeed.

C. Technology Assessments and Updates:

RedSpeed shall conduct annual technology assessments of all Equipment. If during its assessment, RedSpeed identifies any substantive improvements that reasonably could be made to the Equipment to effectuate the purpose of this Agreement, which RedSpeed shall determine in good faith, RedSpeed shall apply those updates to the Equipment.

3. **Term.** The term of this Agreement shall commence as of the Effective Date and shall continue for a period of three (3) years after the Installation Date ("**Initial Term**"). This Agreement may be extended for two (2) additional one-year periods upon mutual agreement of the parties following the expiration of the Initial Term. A price increase may be considered upon written request from RedSpeed at least ninety (90) days prior to the beginning of any of the additional one-year periods that have been exercised.

4. **Compensation.** RedSpeed shall be compensated for its Services provided to the Municipality under this Agreement as set forth in Exhibit "C".

5. **Termination.**

a. Either Party shall have the right to terminate this Agreement, without cause, with at least sixty (60) days written notice to the other Party. Provided, however,



notwithstanding the foregoing to the contrary, if the Municipality terminates this Agreement without cause prior to the Installation Date of a mutually agreed Designated Intersection camera, or within one year of the Installation Date of that camera, for convenience or when a new Underperforming Camera location cannot be agreed, the Municipality shall reimburse RedSpeed in an amount equal to the cost of the direct labor costs and direct material costs (but not including equipment cost and salvageable material costs) solely associated with the installation of cameras at the Designated Intersections, which have been installed prior to termination (the “Cost” and/or “Costs”), and which shall not exceed Thirty Thousand Dollars (\$30,000.00) per Designated Intersection. RedSpeed shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. RedSpeed shall promptly provide an itemization, with supporting invoices and labor expense documentation, to the Municipality of the amount of the Cost and/or Costs.

If the Municipality wishes to remove a red light camera after one (1) year from going live, RedSpeed shall remove the camera at no expense to the Municipality.

- b.** Either Party shall have the right to terminate this Agreement immediately by written notice to the other if: (i) Maryland State law is amended to prohibit or substantially change the operation of the System; (ii) a court of competent jurisdiction determines the results from the Control Signal Monitoring System are inadmissible in evidence or that the System, or systems substantially similar to the Municipality’s System, are invalid; or (iii) the other Party commits any Material Breach of any of the provisions of this Agreement, which breach is not remedied within sixty (60) calendar days after written notice from the non-breaching Party setting forth in reasonable detail the alleged breach. A “**Material Breach**” shall mean a breach (including an anticipatory breach) that has a serious adverse effect on a core benefit which the non-breaching Party reasonably expected under the Agreement or would otherwise derive from the Agreement.
- c.** The termination of this Agreement shall not relieve either Party of any liability that accrued prior to such termination, unless otherwise provided herein.
- d.** Upon termination, the Municipality shall immediately cease using the Services and System provided pursuant to this Agreement and also immediately stop using any other Intellectual Property of RedSpeed, deliver to RedSpeed any and all Proprietary Property of RedSpeed provided to the Municipality pursuant to this Agreement, and promptly approve payment of any and all uncontested fees, charges, and amounts due to RedSpeed for services performed prior to the termination.



- e. RedSpeed shall remove any and all Equipment, hardware, and software it installed in connection with its performance of its obligations under this Agreement and shall restore the Fixed Speed Sites and Designated Intersections to substantially the same condition they were in prior to this Agreement within thirty (30) days of the termination of this Agreement.
- f. The Parties acknowledge that the following paragraphs shall survive termination of this Agreement to give effect to the provisions hereof:
 - i. Reservation of Rights, Representations, and Warranties of RedSpeed;
 - ii. Representations and Warranties of the Municipality;
 - iii. Limited Warranties;
 - iv. Confidentiality;
 - v. Indemnification;
 - vi. Dispute Resolution;
 - vii. Assignment;
 - viii. Applicable Law;
 - ix. Injunctive Relief; and
 - x. Jurisdiction and Venue.
- g. The Parties recognize and acknowledge that the Traffic Control Monitoring System contemplated herein may be subject to legal challenge and/or judicial review. If such legal challenge is successful and the program is found invalid, either Party may elect to terminate this Agreement. If a court of competent jurisdiction determines that the program, or a program substantially similar to the Municipality's program, is invalid the Parties will consult with one another to determine whether any appellate relief is available, and if so, whether pursuing such relief is in the best interests of the Parties. The final determination as to whether appellate relief is sought from a higher tribunal shall be within the sole discretion of the Municipality.



6. **License.**

- a. Subject to the terms and conditions of this Agreement, RedSpeed hereby grants to the Municipality, upon the terms and conditions herein specified, a non-exclusive, non-transferable license during the Term of this Agreement to: (i) solely within the Municipality, access and use of the System for the sole purposes of reviewing Potential Violations and authorizing the issuance of Citations; and (ii) use the name RedSpeed, with the approval by RedSpeed, on or in marketing, public awareness or education, or other publications or materials relating to the Traffic Signal Monitoring System.
- b. The Municipality hereby acknowledges and agrees that RedSpeed is the sole and exclusive owner of the System, the name RedSpeed, the RedSpeed Marks, and any and all Intellectual Property arising from or relating to the System.
- c. The Municipality hereby covenants and agrees that it shall not make any modifications to the Traffic Control Signal Monitoring System provided by RedSpeed; alter, remove, or tamper with any RedSpeed Marks, or any other Intellectual Property; use any RedSpeed Marks or other Intellectual Property in connection without first obtaining the prior written consent of RedSpeed; or perform any type of reverse engineering to the System.
- d. RedSpeed shall have the right to take whatever action it deems necessary or desirable to remedy or prevent the infringement of any Intellectual Property of RedSpeed, including without limitation the filing of applications to register as trademarks in any jurisdiction any of the RedSpeed Marks, the filing of patent applications for any of the Intellectual Property of RedSpeed, and making any other applications or filings with appropriate Governmental Authorities. The Municipality shall not take any action to utilize its own name or make any registrations or filings with respect to any of the RedSpeed Marks or the Intellectual Property of RedSpeed without the prior written consent of RedSpeed.

7. **Limited Warranty.** EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, REDSPEED MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE REDSPEED SYSTEM, OR ANY RELATED EQUIPMENT OR WITH RESPECT TO THE RESULTS OF THE MUNICIPALITY'S USE OF ANY OF THE FOREGOING. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, REDSPEED DOES NOT WARRANT THAT ANY OF THE DESIGNATED SITE INTERSECTION EQUIPMENT OR THE SYSTEM WILL ALWAYS BE OPERATIONAL, OR THAT THE OPERATION OR USE THEREOF WILL BE UNINTERRUPTED. THE MUNICIPALITY HEREBY ACKNOWLEDGES THAT THE SYSTEM MAY MALFUNCTION FROM TIME TO TIME, AND SUBJECT TO THE TERMS OF THIS AGREEMENT, REDSPEED SHALL



DILIGENTLY ATTEMPT TO CORRECT ANY SUCH MALFUNCTION IN A TIMELY MANNER.

8. RedSpeed Representations and Warranties.

- a. RedSpeed hereby warrants and represents that it has all right, power, and authority to execute and deliver this Agreement and perform its obligations hereunder.
- b. RedSpeed hereby warrants and represents that any and all Services provided by RedSpeed pursuant to this Agreement shall be performed in a professional and workmanlike manner and, with respect to the installation, operation, and testing of the System, in compliance with applicable law and in compliance with all specifications provided to RedSpeed.
- c. RedSpeed hereby warrants and represents that any and all equipment provided by RedSpeed is owned by RedSpeed subject to any bank liens.
- d. RedSpeed hereby warrants and represents that it develops, installs, maintains, and operates the System at the direction of the Municipality and in accordance with Maryland State law and the Municipality's ordinances.

9. Municipality Representations.

- a. The Municipality hereby warrants and represents that it has all right, power, and authority to execute and deliver this Agreement and perform its obligations hereunder (i.e. the adoption of a Resolution or an ordinance to enter into this Agreement).
- b. The Municipality hereby warrants and represents that any and all services provided by the Municipality pursuant to this Agreement shall be performed in a professional and workmanlike manner.
- c. The Parties agree and understand that the Municipality is the sole and exclusive operator of the equipment provided by RedSpeed to the Municipality pursuant to this Agreement.
- d. The Municipality hereby warrants and represents that the Municipality directs RedSpeed to develop, install, maintain, and operate the System, and related equipment in accordance with Maryland State law and the Municipality's ordinances. It is the responsibility of the Municipality to ensure that all related operations are in accordance with Maryland State law and the Municipality's ordinances.

10. Confidentiality. Subject to applicable law, during the term of this Agreement and for a period of two (2) years thereafter, neither Party shall disclose to any third person, or use for itself



in any way for pecuniary gain, any Confidential Information obtained from the other Party during the course of the negotiations for this Agreement or during the Term of this Agreement.

Upon termination of this Agreement, each Party shall return to the other all tangible Confidential Information of such Party within sixty (60) days of the termination.

Neither Party shall disclose to any third party any Confidential Information obtained from the other Party without the other Party's express written consent, except as required by law. Exceptions are limited to the disclosing Party's employees who are reasonably required to have the Confidential Information, agents, representatives, attorneys, and other professional advisors that have a need to know such Confidential Information.

11. Indemnification, Insurance, and Liability.

- a. Subject to and without waiving common law and other governmental immunities and the provisions of §5-301 *et seq.* and §5-507, Local Government Tort Claims Act, Courts and Judicial Proceedings Article, Annotated Code of Maryland, the Municipality hereby agrees to defend, indemnify, and hold harmless RedSpeed and its affiliates, shareholders, or other interest holders, managers, officers, directors, employees, agents, representatives and successors, permitted assignees, and all persons acting by, through, under, or in concert with them (including but not limited to the suppliers of equipment and installers), or any of them (the "RedSpeed Parties"), and to protect, save, and keep the RedSpeed Parties harmless from, and to pay on behalf of or reimburse the RedSpeed Parties as and when incurred for, any and all Losses, which may be imposed on or incurred by RedSpeed or equipment provided and/or installed by RedSpeed arising out of or in any way related to:
 - i. any material representation, inaccuracy, or breach of any covenant, warranty, or representation of the Municipality contained in this Agreement;
 - ii. the negligent or willful acts or omissions of the Municipality, its employees, contractors, or agents, which result in bodily injury to any natural person (including third parties) or any damage to any real or tangible personal property (including the personal property of third parties);
 - iii. any third-party claim, action, or demand not caused by RedSpeed's failure to perform its obligations under this Agreement or by the negligent act or omission of the RedSpeed Parties, or concerning any matter related to any incumbent or prior vendor providing goods and services to Municipality; and/or
 - iv. any claim, action, or demand challenging the manner in which the Municipality uses the System, or any portion thereof, for the issuance, prosecution, and collection of the Citations; or the accuracy of the results of



the Municipality's use of the System, or any portion thereof, including the accuracy of the Citations.

- b.** RedSpeed hereby agrees to defend, indemnify, and hold harmless the Municipality and its officials, managers, officers, directors, employees, agents, representatives, and successors, permitted assignees and each of their affiliates, and all persons acting by, through, under, or in concert with them, or any of them (collectively, the "Municipality Parties"), and to protect, save, and keep harmless the Municipality Parties from, and to pay on behalf of or reimburse the Municipality Parties as and when incurred for, any and all liabilities, obligations, losses, damages, penalties, demands, claims, actions, suits, judgments, settlements, costs, expenses, and disbursements (including reasonable attorneys' fees and court costs) of whatever kind and nature, which may be imposed on or incurred by any Municipality Party arising out of or related to:

 - i. any material misrepresentation, inaccuracy, or breach of any covenant, warranty or representation of RedSpeed contained in this Agreement;
 - ii. the negligent or willful acts or omissions of RedSpeed, its employees, contractors, or agents, which result in death or bodily injury to any natural person (including third parties) or any damage to any real or tangible personal property (including the personal property of third parties), except to the extent caused by the negligent or willful acts or omissions of the Municipality Parties;
 - iii. any third-party claim, action, or demand not caused by the Municipality's failure to perform its obligations under this Agreement; or
 - iv. any claim, action, or demand challenging System accuracy and calibration, hardware or software functions (not resulting from Municipality misuse of the System and its outputs or deliverables).
- c.** Notwithstanding anything to the contrary in this Agreement, neither Party shall be liable to the other, by reason of any representation or express or implied warranty, condition, or other term or any duty at common or civil law, for any lost profits or indirect, incidental, or consequential damages, however caused.
- e.** In the event any claim, action, or demand in respect of which any Party hereto seeks indemnification from the other, the Party seeking indemnification shall give written notice to the Party from whom indemnification is being sought of such Claim within seven (7) days after the Indemnified Party first becomes aware of the Claim. The Party from whom indemnifications is being sought shall have the right to choose counsel to defend such Claim (subject to approval of such counsel by the other Party, which approval shall not be unreasonably withheld, conditioned, or delayed), and to control and settle such Claim. The Party from whom indemnification is being sought shall have the right to participate in the defense.



f. RedSpeed will purchase from insurance companies authorized to do business in Maryland and maintain during the entire term of this Agreement, comprehensive general liability insurance, automobile liability insurance, and Workers' compensation insurance with limits of not less than those set forth below. On each policy, RedSpeed will name the Municipality as an additional insured, with the exception of the Workers compensation insurance, and will provide an additional insured endorsement.

i. Comprehensive General Liability Insurance:

- (1) Personal injury liability insurance with a combined limit of \$2,000,000 each occurrence/aggregate; and
- (2) Property damage liability insurance with combined limits of \$2,000,000 each occurrence/aggregate.

All insurance shall include completed operations and contractual liability coverage. The Municipality will not be liable for any damages during installation.

ii. Automobile Liability Coverage: Automobile fleet insurance \$2,000,000 for each occurrence/ aggregate; property damage - \$500,000 for each occurrence/aggregate.)

iii. Workers' Compensation Insurance: RedSpeed shall comply with the requirements and benefits established by the State of Maryland for the provision of Workers' Compensation insurance. RedSpeed shall provide Workers' compensation insurance meeting the statutory limits for Maryland and Employers' Liability limits of \$500,000. All corporations are required to provide Workers' Compensation Certificates of Insurance.

RedSpeed covenants to maintain insurance, in these amounts, which will insure all activities undertaken by RedSpeed on behalf of the Municipality under this Agreement. Copies of the certificates of insurance and additional insured endorsements for all required coverage shall be furnished to the Municipality following the execution of this contract and prior to commencement of any Services. The Municipality shall receive 30 days prior notice of any reduction or elimination of the insurance coverage required herein.

Provision of any insurance required herein does not relieve RedSpeed of any of the responsibilities or obligations assumed by RedSpeed in the contract awarded, or for which RedSpeed may be liable by law or otherwise. Provision of such insurance is not intended in any way to waive the Municipality's immunities or any damage limits applicable to municipal government as provided by law.

RedSpeed shall also furnish to the Municipality a Certificate of Insurance and additional insured endorsement in like amounts for any approved sub-contractor prior to commencement of Services.



Coverage will be primary and noncontributory with any other insurance and self-insurance.

12. Dispute Resolution. Upon the occurrence of any dispute or disagreement between the Parties hereto arising out of or in connection with any terms or provision of this Agreement, the subject matter hereof, or the interpretation or enforcement hereof (the “Dispute”), the Parties shall engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either Party, each of the Parties will appoint a designated officer whose task it shall be to meet for the purpose of attempting to resolve such Dispute. The designated officers shall meet as often as the Parties shall deem to be reasonably necessary to discuss the Dispute. If the Parties are unable to resolve the Dispute within ninety (90) calendar days, the Dispute will be resolved through legal proceedings.

13. Notices. Any notices to be given hereunder shall be in writing, and shall be deemed to have been given (a) upon delivery, if delivered by hand; (b) three (3) days after being mailed first class, certified mail, return receipt requested, postage and registry fees prepaid; or (c) one (1) business day after being delivered to a reputable overnight courier service, excluding the U.S. Postal Service, prepaid, marked for the next day delivery, if the courier service obtains a signature acknowledging receipt, in each case addressed or sent to such Party as follows:

a. Notices to RedSpeed:

RedSpeed USA LLC
Attn: Robert Liberman, Manager
5921 Moravia Park Drive,
Unit D-2
Baltimore, Maryland 21206

With a copy to:

Miles & Stockbridge P.C.
Attn: Jeremy Scholtes
30 W. Patrick Street, Suite 600
Frederick, MD 21701

b. Notices to the Municipality:

The Town Council of Bladensburg
Bladensburg Town Hall
4229 Edmonston Road
Bladensburg, Maryland 20710

14. Relationship between RedSpeed and the Municipality. Nothing in this Agreement shall create, or be deemed to create, a partnership, joint venture, or the relationship of principal and agent or employer and employee between the Parties. The relationship between the Parties shall be that of independent contractors, and nothing contained in this Agreement shall create the relationship of principal and agent or otherwise permit either Party to incur any debts or liabilities



or obligations on behalf of the other Party (except as specifically provided herein). Further, it shall also not create a revenue sharing agreement between parties, but instead a payment for services rendered agreement, as set forth in paragraph 4 above and Exhibit “C” attached hereto and incorporated herein.

The Municipality will not be responsible for any cost or expenses of operation of any kind associated with RedSpeed's provision of Services pursuant to this Agreement, except as set out herein. RedSpeed shall be entitled to no fees, bonuses, contingent payments, or any other amount in connection with the Work except as set out herein. The Parties hereto further agree that the Municipality shall have no obligation to reimburse, pay directly, or otherwise satisfy any expenses of RedSpeed in connection with the performance of the obligations under this Agreement except as set out herein.

It is expressly understood and acknowledged by the Parties hereto that the contract price payable hereunder shall be paid in the gross amount, without reduction for any Federal or State withholding or other payroll taxes, or any other governmental taxes or charges. The Parties hereto further recognize that RedSpeed, as an independent contractor of the Municipality, is responsible for directly assuming and remitting any applicable Federal or State withholding taxes, estimated tax payments, Social Security payments, unemployment compensation payments, and any other fees, taxes, and expenses whatsoever. In the event that RedSpeed is deemed not to be an independent contractor by any local, state, or federal governmental agency, RedSpeed agrees to indemnify and hold harmless the Municipality for any and all fees, costs, and expenses, including, but not limited to, attorneys fees incurred thereby. The Municipality is a non-taxable entity.

15. Assignment. Neither Party may assign all or any portion of this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed. Provided, however, that the Municipality hereby acknowledges and agrees that delivery and performance of RedSpeed's obligations pursuant to this Agreement shall require a significant investment by RedSpeed, and that to finance such investment, RedSpeed may be required to enter into certain agreements or arrangements including, but not limited to, acknowledgments and/or consents with equipment lessors, banks, financial institutions, or other similar persons or entities. The Municipality hereby agrees that RedSpeed shall have the right to assign, pledge, hypothecate, or otherwise transfer its rights to the Equipment but not the service provided under this Agreement, to any of the aforesaid financial institutions without the Municipality's prior written approval. The Municipality further acknowledges and agrees that in the event that RedSpeed provides any such acknowledgment or consent to the Municipality for execution and in the event that the Municipality fails to execute and deliver such acknowledgment or consent back to RedSpeed within ten (10) calendar days after its receipt of such request from RedSpeed to execute such acknowledgment or consent, the Municipality shall be deemed to have consented to and approved such acknowledgment or consent, and RedSpeed is granted a limited power of attorney, coupled with an interest, to execute the acknowledgment and/or consent on behalf of the Municipality and deliver such document to its financial institution.

16. Injunctive Relief; Specific Performance. The Parties hereby agree and acknowledge that a breach of license, restricted use, or confidentiality of this Agreement would result in severe and irreparable injury to the other Party, which injury could not be adequately compensated by an award of money damages. Thus, the Parties agree and acknowledge that they shall be entitled to



injunctive relief in the event of any breach of any material term, condition, or provision of this Agreement, or to join or prevent such a breach, including without limitation, an action for specific performance hereof.

17. Audit. Each Party shall have the right to audit the books and records of the other Party hereto solely for the purpose of verifying the payments, if any, payable pursuant to this Agreement. Any such audit shall be conducted upon not less than three (3) business days prior notice and at mutually convenient times and during the normal business hours. In the event any such audit establishes any underpayment of any payment made pursuant to this Agreement, the amount of the shortfall shall be promptly paid. In the event any such audit establishes any overpayment of any payment made pursuant to this Agreement, the amount of the excess shall be promptly reimbursed. Each Party shall solely pay the expenses for any audit they request.

18. Force Majeure. Neither Party will be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Said causes may include but are not limited to, acts of God, or the public enemy, terrorism, significant fires, floods, earthquakes, pandemics, epidemics, quarantine restrictions, strikes, freight embargoes, or Governmental Authorities approval delays which are not caused by any act or omission by RedSpeed, and unusually severe weather. The Party whose performance is affected agrees to notify the other promptly of the existence and nature of any delay.

19. Performance Standards.

a. System Accuracy and Reliability:

Accuracy: The system must accurately detect red light violations with a minimum accuracy rate of 95%.

Reliability: The system should maintain operational uptime of at least 95%, excluding scheduled maintenance, construction, and unforeseen events outside of RedSpeed's control, as defined in Paragraph 18.

b. Violation Verification and Data Integrity:

Verification Process: All captured violations must be verified by authorized personnel before issuing citations.

Data Integrity: The system must ensure the integrity and security of all collected data, including photographic and video evidence, at commercially reasonable standards.

c. System Maintenance and Support:

Regular Maintenance: Scheduled maintenance should be conducted regularly to ensure optimal performance, with minimal impact on system availability, at commercially reasonable standards.



Technical Support: Provide prompt technical support to address system failures or malfunctions, with a response time of no more than ~~48~~24 hours from the time of reporting.

Commented [LF1]: Suellen, 48 hours is already better than industry standard, and 24 hours is too quick of a turnaround to respond to address issues that may arise.

d. Reporting and Documentation:

Regular Reporting: Provide monthly reports on system performance, including the number of violations captured, system uptime, and any maintenance activities.

Documentation: Maintain comprehensive documentation of all system configurations, updates, and maintenance activities.

e. Upgrade and Improvement:

Continuous Improvement: The system should be reviewed annually for potential commercially reasonable upgrades or improvements to enhance performance and effectiveness.

f. Transparency:

The Town will provide information access to the public about how the system operates, its intended purpose, and its effectiveness in improving road safety.

g. Performance Review and Evaluation:

Annual Review: Conduct an annual performance review to evaluate the system's effectiveness in reducing red light violations and improving traffic safety.

h. These Performance Standards shall be measured over a span of one (1) year periods. To the extent RedSpeed is unable to meet the Performance Standards due to circumstances outside of RedSpeed's control, including, but not limited to, force majeure instances (as defined in Paragraph 18) or third-party actions, exclusive of actions by RedSpeed's subcontractor, RedSpeed shall not be held liable or considered to be in breach of this Agreement.

20. Miscellaneous.

a. Definitions.

In this Agreement, the words and phrases below shall have the following meanings:

i. **“Authorized Officer”** means the designated employee from the Police Department of the Municipality, the Traffic Control Administrator, or such other individual(s) as the Municipality shall designate to review Potential Violations and to authorize the Issuance of Citations.



- ii. **“Authorized Violation”** means each Potential Violation in the Violation Data for which authorization to issue a citation in the form of an Electronic Signature is given by the Authorized Officer by using RedSpeed.
- iii. **“Cause,”** as used at Paragraph 5(a) of this Agreement, means the Material Breach by RedSpeed or its employees or agents, of any of the provisions hereof on RedSpeed’s part to be kept, maintained, or performed.
- iv. **“Citation”** means the notice of Violation, which is mailed or otherwise delivered by RedSpeed to the violator on the appropriate Enforcement Documentation in respect of each Authorized Violation.
- vi. **“Confidential or Private Information”** means, with respect to any Person, any information, matter or thing of a secret, confidential or private nature, whether or not so labeled, which is connected with such Person’s business or methods of operation or concerning any of such Person’s suppliers, licensors, licensees, Municipalities or other with whom such Person has business relationship, and which has current or potential value to such Person or the unauthorized disclosure of which could be detrimental to such Person, including but not limited to:

Matters of a business nature, including but not limited to information relating to development plans, costs, finances, marketing plans, data, procedures, business opportunities, marketing methods, plans and strategies, the costs of construction, installation, materials, or components, the prices such Person obtains or has obtained from its clients or Municipalities, or at which such Person sells or has sold its services; and

Matters of a technical nature, including but not limited to product information, trade secrets, know-how, formulae, innovations, inventions, equipment, discoveries, techniques, formats, processes, methods, specifications, designs, patterns, schematics, data, access or security codes, compilations of information, test results and research and development projects. For purposes of this Agreement, the term “trade secrets” shall mean the broadest and most inclusive interpretation of trade secrets.

- vi. **“Designated Intersection”** means the intersections as set forth in Exhibit “B” attached hereto, and such additional sites as RedSpeed and the Municipality shall mutually agree from time to time.
- vii. **“Enforcement Documentation”** means the necessary and appropriate documentation related to the Automated Traffic Law Enforcement System, including, but not limited to, (1) Citation notices using the specifications required by the Maryland Transportation Article and local law, as each may be amended, for Violations of the Automated Traffic Law Enforcement System; (2) a numbering sequence for use on all Citation notices (in accordance with applicable court rules); (3) instructions to accompany each



issued Citation; (4) chain of custody records; (5) criteria regarding operational policies for processing Citations (including with respect to coordinating with the Department of Motor Vehicles); and (6) technical support documentation for applicable court and judicial officers.

- viii. **“Equipment”** means any and all cameras, sensors, equipment, components, products, software, and other tangible and intangible property relating to the Traffic Signal Control Monitoring System, including, but not limited to, all camera systems, housings, radar units, and poles.
- ix. **“Event”** A potential Violation captured by the System.
- x. **“Fine”** means monetary sums assessed for Citations.
- xi. **“Governmental Authority”** means any domestic or foreign government, governmental authority, court, tribunal, agency, or other regulatory, administrative, or judicial agency, commission, or organization, and any subdivision, branch, or department of any of the foregoing.
- xii. **“Installation Date”** means the date on which RedSpeed completes the construction and installation of at least one (1) Designated Intersection in accordance with the terms of this Agreement so that such Designated Intersection is operational for the purposes of functioning with the Traffic Control Signal Monitoring System.
- xiii. **“Intellectual Property”** means, with respect to any Person, any and all now known or hereafter known tangible and intangible: (a) rights associated with works of authorship throughout the world, including but not limited to copyrights; (b) trademark and trade name rights and similar rights; (c) trade secrets rights; (d) patents, designs, algorithms, and other property rights; (e) all other intellectual and property rights (of every kind and nature however designated), whether arising by operation of law, contract, license, or otherwise; and (f) all registrations, initial applications, renewals, extensions, continuations, divisions, or reissues hereof now or hereafter in force.
- xiv. **“Intersection”** means a conduit of travel (e.g., northbound, southbound, eastbound, or westbound) on which at least one (1) Traffic Control Signal Monitoring System has been installed by RedSpeed for the purpose of facilitating the Traffic Control Signal Monitoring System by the Municipality
- xv. **“Operational Period”** means the period of time during the Term, commencing on the Installation Date, during which the Traffic Control Signal Monitoring are functional to permit the identification and prosecution of Violations at the Designated Intersection Approaches, the issuance of Citations for such approved Violations using the System.



- xvii. **“Operator of the Equipment”** means the Municipality, which is the sole and exclusive operator of the Equipment provided by RedSpeed.
- xviii. **“Person”** means natural individual, company, Governmental Authority, partnership, firm, corporation, legal entity, or other business association.
- xviii. **“Potential Violation”** means, with respect to any motor vehicle passing through a Designated Intersection, the data collected by the System for the purpose of allowing the Authorized Officer to review such data and determine whether a Violation has occurred.
- xix. **“Proprietary Property”** means, with respect to any Person, any written or tangible property owned or used by such Person in connection with such Person’s business, whether or not such property is copyrightable or also qualifies as Confidential Information, including without limitation products, samples, equipment, files, lists, books, notebooks, records, documents, memoranda, reports, patterns, schematics, compilations, designs, drawings, data, test results, contracts, agreements, literature, correspondence, spread sheets, computer programs and software, computer print outs, other written and graphic records, and the like, whether originals, copies, duplicates, or summaries thereof, affecting or relating to the business of such Person, financial statements, budgets, projections, and invoices.
- xxi. **“RedSpeed Marks”** means all trademarks registered in the name of RedSpeed or any of its affiliates, such other trademarks as are used by RedSpeed or any of its affiliates on or in relation to its System at any time during the Term if this Agreement, service marks, trade names, logos, brands, and other marks owned by RedSpeed, and all modifications or adaptations of any of the foregoing.
- xxiii. **“Traffic Control Signal Monitoring System”** means, collectively, all of the other equipment, applications, back office processes, and digital red light traffic enforcement cameras, sensors, components, and products, software, and other tangible and intangible property relating to and including, but not limited to, the process by which the monitoring, identification, and enforcement of Violations is facilitated by the use of certain equipment, applications, and back office processes of RedSpeed, including, but not limited to, cameras, flashes, central processing units, signal controller interfaces, and detectors (whether loop, radar or video loop) which, collectively, are capable of measuring Violations and recording such Violation data in the form of photographic images of motor vehicles for automated traffic law enforcement.
- xxiii. **“Violation”** means a traffic control violation as defined by Md. Code Ann., Transp. § 21-202.1.



xxiii. **“Violation Criteria”** means the standards and criteria by which Potential Violations will be evaluated by the Authorized Officer and/or sworn police officers of the Municipality, which standards and criteria shall include, but are not limited to, failing to adhere to the traffic control in violation of Md. Code Ann., Transp. § 21-202.1.

xxiv. **“Violations Data”** means the images and other Violations data gathered by the Traffic Control Signal Monitoring System at the Designated Intersections.

xxv. **“Violations Evidence Package”** means one (1) unit of assembled Violations Data related to a singly evident Violation within the Violation Criteria.

xxvi. **“Warning Period”** means thirty (30) days after the System is activated. During the Warning Period, only warning notices are to be sent by the Municipality and not Citations.

- b. **Entire Agreement.** This Agreement represents the entire agreement between the Parties concerning the substance of this Agreement, and there are no other agreements (other than invoices and purchase orders), whether written or oral, which affect its terms. This Agreement may be amended only by a subsequent written agreement signed by both Parties.
- c. **Construction.** Except as expressly otherwise provided in this Agreement, this Agreement shall be construed as having been fully and completely negotiated and neither the Agreement nor any provision thereof shall be construed more strictly against either Party.
- d. **Severability.** If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or part, this Agreement shall continue to be valid as to the other provisions thereof and the remainder of the affected provision.
- e. **Waiver.** Any waiver by either Party of a breach of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.
- f. **Headings.** The headings of the sections contained in this Agreement are included herein for reference purposes only, solely for the convenience of the parties hereto, and shall not in any way be deemed to affect the meaning, interpretation, or applicability of this Agreement or any term, condition, or provision hereof.
- g. **Execution and Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute only one (1) instrument. Any one (1) of such counterparts shall be sufficient for the purpose of proving the existence and terms of this Agreement, and no Party shall be required to produce an original or



all of such counterparts in making such proof. The Parties may sign in writing or by electronic signature. An electronic signature will have the same effect as an original signature.

- h. Binding Effect.** This Agreement shall inure to the benefit of and be binding upon all of the Parties hereto and their respective executors, administrators, successors, and permitted assigns.
- i. Compliance with Laws.** Nothing contained in this Agreement shall be construed to require the commission of any act contrary to law, and whenever there is a conflict between any term, condition, or provision of this Agreement and any present or future statute, law, ordinance, or regulation contrary to which the Parties have no legal right to contract, the latter shall prevail, but in such event the term, condition, or provision of this Agreement affected shall be curtailed and limited only to the extent necessary to bring it within the requirement of the law, provided that such construction is consistent with the intent of the Parties as expressed in this Agreement.
- j. Remedies Cumulative.** Each and all of the several rights and remedies provided for in this Agreement shall be construed as being cumulative, and no one of them shall be deemed to be exclusive of the others or of any right or remedy allowed by law or equity, and pursuit of any one remedy shall not be deemed to be an election of such remedy, or a waiver of any other remedy.
- k. Applicable Law.** This Agreement shall be governed by and construed in all respects solely in accordance with the laws of the State of Maryland, regardless of its conflicts of laws' provisions, including, but not limited to Md. Code Ann., Transp. § 21-809, as amended, governing the use of speed monitoring systems in the State of Maryland. In the event of a conflict between the provisions of this Agreement and applicable State law, the applicable State law shall be deemed to control.
- l. Jurisdiction and Venue.** Any dispute arising out of or in connection with this Agreement shall be submitted to the exclusive jurisdiction and venue of the Courts of Prince George's County, Maryland, and both Parties specifically agree to be bound by the jurisdiction and venue thereof.
- m. Third Party Beneficiary.** This Agreement is entered into solely for the benefit of the Municipality and the Consultant. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement.



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

“Municipality”

THE TOWN OF BLADENSBURG, MARYLAND

By: _____(SEAL)

Name: _____, President/Mayor

“RedSpeed”

REDSPEED MARYLAND, LLC

By: _____(SEAL)

Name: Robert Liberman, Manager



EXHIBIT "A"

Fixed Speed Sites: Maintenance and Violation Processing Services

[RESERVED]



EXHIBIT “B”

Designated Intersections: Maintenance and Violation Processing Services for Traffic Control Signal Monitoring System

1. Designated Intersections

RedSpeed and the Municipality will mutually agree upon the identification of the Designated Intersections, which agreement will be based on community safety and traffic needs as warranted. The Designated Intersections shall be set forth on a supplement to this Exhibit “B”. RedSpeed shall assist the Municipality in the gathering of statistical data for use in the Designated Intersection selection, permitting, and follow-up reports.

2. Construction and Installation of Designated Intersections

2.1 RedSpeed will have Designated Intersections installed at its expense and activated in accordance with an implementation plan to be mutually agreed to by RedSpeed and the Municipality.

2.2 RedSpeed will use reasonable commercial efforts to install the system in accordance with the schedule set forth in the implementation plan that will be formalized upon project commencement.

2.3 RedSpeed will use reasonable commercial efforts to install and activate the first specified Designated Installation within the first ninety (90) days after the schedule has been agreed upon. The Municipality agrees that the estimated timeframe for installation and activation is not guaranteed.

2.4 RedSpeed recommends red light camera installation sites for the Municipality to approve or reject for permit processing. The Municipality shall assist with providing timely approval of permits for the Municipality-approved proposed installations requested by RedSpeed. The Municipality will forward such permit requests to the appropriate Municipal reviewing authority, and such authority shall make every effort to review, approve, and forward the same within five (5) business days of receipt. RedSpeed will also attempt to review and correct, if necessary, any requested changes from the Municipality within two (2) business days of receipt. RedSpeed shall acquire any required County and State permits at its expense.

2.5 RedSpeed will install cable and power conduits at its sole expense, and all necessary electrical services to the Designated Intersection Approaches will be the sole responsibility and expense of RedSpeed.

2.6 RedSpeed will be able to utilize existing internet connections at the Municipality’s Police Department and other locations where RedCheck™ (back-office processing software) will be installed and used. RedSpeed will be responsible for installation and maintenance of a high-speed internet connection at each Designated Intersection Approach.



2.7 Further, RedSpeed shall provide training for up to thirty (30) personnel of the Municipality, including, but not limited, to the persons who the Municipality shall appoint as Authorized Officers and other persons involved in the administration of the Traffic Control Signal Monitoring System. Training shall include training with respect to the RedSpeed Traffic Control Signal Monitoring System and its operations, presenting Violations Data in court and judicial proceedings, and a review of the Enforcement Documentation.

3. Maintenance of the Designated Intersections

3.1 RedSpeed shall own, repair, and maintain the System.

3.2 The Municipality shall use its best efforts to safely operate, protect and preserve the System during the term of this Agreement, including, but not limited to, restricting movement of and access to the System by anyone other than the Municipality and RedSpeed personnel.

In those instances where damage to the System is caused by negligence on the part of the Municipality or its authorized agent(s), RedSpeed will provide an estimate of the cost of repair. Upon authorization to proceed with the repairs or replacement, RedSpeed shall replace or repair any damaged equipment and invoice the Municipality for the pre-approved repair cost. RedSpeed shall bear the cost to replace or repair equipment damaged in all other circumstances. As used herein “negligence on the part of the Municipality or its authorized agents” shall include, but is not limited to, failure of the Municipality to adequately secure the System, which results in damage to the System.

3.3 RedSpeed shall provide a help line to help the Municipality resolve any problems encountered regarding its System and/or Citation processing. The help line shall function during normal business hours.

3.4 RedSpeed normally shall provide technician site visits to each Designated Intersection once per month to perform preventive maintenance checks consisting of camera enclosure lens cleaning; camera, strobe, and controller enclosure cleaning; inspection of exposed wires; and general system inspection and maintenance.

3.5 RedSpeed shall repair a non-functional Designated Intersections within one (1) business day of notification by the Municipality.

4. Violations Evidence Data Processing Services

4.1 All Violations Evidence Data shall be stored on the RedSpeed Traffic Control Signal Monitoring System.

4.2 RedSpeed shall process the Violation Evidence Data gathered from the Designated Intersection(s) into a format capable of review by the Authorized Officer.

4.3 The Municipality shall cause the Authorized Officer to review the Violations Evidence Data and to determine whether a Citation shall be issued with respect to each Potential Violation captured within such Violation Evidence Data and transmit each such determination using the



software or other applications or procedures provided by RedSpeed on the RedSpeed Traffic Control Signal Monitoring System within seven (7) days of the gathering of the Violations Evidence Data from the applicable Designated Intersections.

4.4 RedSpeed hereby acknowledges and agrees that the decision to issue a Citation shall be the sole, unilateral, and exclusive decision of the Authorized Officer and shall be made in such Authorized Officer's sole discretion (a "Citation Decision"), and in no event shall RedSpeed have the ability or authorization to make a Citation Decision.

4.5 The Municipality must execute all violations (Citations) before they are sent out on the Municipality's behalf.

4.6 RedSpeed shall apply an electronic signature to the Citation when authorized to do so by an approving law enforcement officer.

4.7 RedSpeed shall obtain in-state vehicle registration information necessary to issue Citations for the Municipality.

4.8 Where obtainable, RedSpeed shall provide out-of-state vehicle registration necessary to issue Citations for the Municipality.

4.9 RedSpeed will be responsible for printing and mailing of Citations at its sole expense. Each Citation shall be delivered by First Class mail; rental car companies are also included. For mail not delivered due to address problems, RedSpeed will mail the Citation again if the Municipality provides it with better information.

4.10 RedSpeed is responsible for mailing one delinquent notice for outstanding Citations issued to owners of motor vehicles bearing State of Maryland license plates and out-of-state plates.

4.11 RedSpeed will be responsible for processing all payments and will provide violators with ability to pay by check, money order, or credit card, both online and offline.

4.12 Collection of delinquent payments will be the sole responsibility and expense of the Municipality.

4.13 RedSpeed agrees to provide a secure web site (www.SpeedViolations.com) accessible to Citation recipients (defendants) by means of a Notice Number and a License Plate Number, which will allow violation image review and payment.

4.14 RedSpeed will be responsible for providing a Municipality-specific toll free number and multilingual customer support representatives.

4.15 RedSpeed shall handle inbound and outbound phone calls and correspondence from defendants who have questions about payments, disputes, and other issues relating to Citation adjudication. RedSpeed may refer citizens with questions outside of its area of experience to the District Court or Police.



4.16 RedSpeed shall provide an on-line court processing module, which will enable the court to review cases, related images, correspondence, and other related information required to adjudicate the disputed Citation. The system will also enable the Court staff to accept and account for payments.

4.17 If required by the court or prosecutor, RedSpeed shall provide the Municipality with, or train a local expert witness able to testify in Court on matters relating to the accuracy, technical operations, and effectiveness of the RedSpeed Automated Traffic Law Enforcement System until judicial notice is taken.

4.18 The RedCheck™ system, which provides the Municipality with the ability to run and print reports, shall include the following:

- Program Statistics Report
- Location Performance Summary Report
- Location Performance Detail Report

4.19 Additional reports can be developed upon request.

5. Training of Municipal Staff

5.1. RedSpeed shall provide training for the Municipality's personnel, including, but not limited to, the persons who the Municipality shall appoint as Authorized Officers and other persons involved in the administration of the System. Training shall include training with respect to the RedSpeed Traffic Control Signal Monitoring, and operations, presenting Violations Data in court proceedings, and a review of the Enforcement Documentation.

5.2. RedSpeed agrees to provide necessary training for persons designated by the Municipality and to assist the Municipality with development of public information and outreach campaign.

5.3. RedSpeed shall provide the Municipality with a one-time free warning period up to 30 days in length at the installation of each new Traffic Control Signal Monitoring System in each Designated Intersection.

6. Non-Productive, Municipally-Interrupted, or Decommissioned Designated Intersection Cameras

If the Municipality and RedSpeed mutually agree that a fixed red light camera either is not economical and/or has not reached the desired safety goals within one (1) year from going live (an "Underperforming Camera"), the Municipality and RedSpeed may mutually select a new location and RedSpeed may move the Underperforming Camera to the new, mutually agreed upon, location.

If a new location for the Underperforming Camera is not mutually agreed upon within thirty (30) calendar days of the determination that the camera is an Underperforming Camera (the "Final Decision"), RedSpeed shall provide the Final Decision to the Municipality in writing. Billing for the Underperforming Camera shall stop immediately upon delivery of the written Final Decision.



RedSpeed shall remove the Underperforming Camera and related equipment within thirty (30) calendar days after the Municipality receives the written Final Decision. Compensation for removal of an Underperforming Camera is detailed in paragraph 5 of the Agreement.



EXHIBIT “C”

Compensation

There will be no charge to the Municipality for activity of any single unit performing during the Warning Period, and RedSpeed shall not receive any compensation for any warning notices sent during the Warning Period.

At the conclusion of the Warning Period, and once the Citations are issued, RedSpeed shall be compensated for services performed as follows:

Violation Evidence Data fees shall be charged as follows:

1. Red Light Enforcement System:

- a. RED LIGHT CAMERA FEE. Thirty-three percent (33%) per month of the gross revenues collected from payment of System issued Citations.
- b. FLAG RELEASE FEE. \$2.99 per flag release issued by RedSpeed at request of the Municipality.

2. Cost Neutrality:

- a. Notwithstanding any other provisions of this Agreement to the contrary, if any invoice for compensation owed to RedSpeed by the Municipality exceeds the cash amount collected by the Municipality through the collection of Red Light Citations, the balance owed to RedSpeed shall be carried over and paid by the Municipality in the following or subsequent months.
- b. If at the end of the Municipality’s fiscal year spanning October 1 through September 30 of each year an unpaid balance owed to RedSpeed and related to RedSpeed’s red light enforcement services remains, the Municipality shall cover this balance with revenues received from RedSpeed’s speed monitoring enforcement. If any unpaid balance related to RedSpeed’s red light enforcement services remains thereafter, the amount shall be zeroed out by RedSpeed, and the Municipality shall commence the new fiscal year with a zero balance for RedSpeed’s red light enforcement services. Balances owed to RedSpeed shall not be withheld retroactively from previous months.
- c. Cost Neutrality is assured to the Municipality as the Municipality shall never be required to pay RedSpeed more than the amount of actual cash received.

The Parties agree that all Citations shall be paid to a lock box, which shall be set up and maintained by RedSpeed on behalf of the Municipality or paid electronically to an account which shall be set up and maintained by RedSpeed on behalf of the Municipality.



RedSpeed shall remit to the Municipality the balance of all payments it collects for the Municipality on a monthly basis within five (5) days from the end of the month collected, with the monies directly wired or transferred into the Municipality's designated bank account, after deducting therefrom the compensation due to RedSpeed as outlined above.