



CITY COUNCIL MEETING

Ted Terry – Mayor

YT Bell

Andrea Cervone

Jamie Carroll

Awet Eyasu

Ahmed Hassan

Mario Williams

Robin I. Gomez– City Manager

AGENDA

Thursday, August 8, 2019 7:00PM

A. CALL TO ORDER

B. ROLL CALL/ PLEDGE OF ALLEGIANCE

C. ADMINISTRATIVE BUSINESS/ PRESENTATION

C1) Approve Minutes: Council Meeting 7-2-19 and Executive Session 7-30-19

C2) Introduce Clarkston New Hires: Detective Miller

C3) 25 Year Service Presentation – James Steedle

C4) 20 Year Service Presentation – Corey Ford

C5) 10 Year Service Presentation – Criss Hudson

D. REPORTS:

1) Planning & Zoning Report

2) City Manager's Report

3) City Attorney's Report

4) Council Remarks

5) Mayor's Report

E. PUBLIC COMMENTS

Any member of the public may address the Council, during the time allotted for public comment. Each attendee will be allowed 3 minutes for comments at the discretion of the Presiding Officer. The public comment period will be limited to 40 minutes and it is not a time for dialogue. If your public comment contains a series of questions, please submit those to the City Clerk in writing. This will facilitate follow-up by the council or staff. The City Council desires to allow an opportunity for public comment; however, the business of the City must proceed in an orderly, timely manner.

F. CONSENT AGENDA

F1) Reschedule the November 5, 2019 Council Meeting and December 31, 2019 Work Session

F2) Amend Ordinance to allow for Increased Insurance Company annual license fee due to increased population base

G. OLD BUSINESS

H. NEW BUSINESS

H1) Approve the Redspeed Services Agreement

H2) Adopt revision to Chapter 18 (Traffic) to create Section 18-7 'Automated Traffic Enforcement Safety System' for the Purpose of Authorizing the Use of Automated Traffic Enforcement Safety Device in School Zones

H. EXECUTIVE SESSION TO DISCUSS A LEGAL MATTER

Executive Sessions are not open to the Public.

J. ADJOURNMENT:

MINUTES
CLARKSTON CITY COUNCIL

Tuesday, July 2, 2019

Officials Present

Mayor: Ted Terry
Council: YT Bell, Jamie Carroll, Andrea Cervone, Awet Eyasu,
Ahmed Hassan, Mario Williams
City Manager: Robin I. Gomez
City Clerk: Tracy Ashby
City Attorney: Stephen Quinn

A. CALL TO ORDER

Mayor Terry called the meeting to order at 7:00pm.

B. ROLL CALL/ PLEDGE OF ALLEGIANCE

Present: YT Bell, Awet Eyasu, Ahmed Hassan, Andrea Cervone, Jamie Carroll
Absent: Mario Williams

Amend Agenda: Awet Eyasu made a motion to amend the agenda to adopt Resolution to for the DeKalb County Land Bank. Jamie Carroll seconded the motion. A vote was called and the motion carried (5, 0).

C. ADMINISTRATIVE BUSINESS/ PRESENTATION

C1) Approve Minutes: 6-25-19 Special Call Meetings 10 am and 6:30pm, and Council Meeting 6-4-19

Jamie Carroll made a motion to approve the minutes. YT Bell seconded the motion. A vote was called and the motion carried (5, 0).

C2) Introduce Clarkston New Hires: OFC Brand, OFC Torres, Court Clerk Amanda Stargent and Public Works-Fatayi Hassan

The City Manager introduced and welcomed new hires OFC Brand , OFC Torres and Fatayi Hassan.

D. REPORTS:

1) Planning & Zoning Report

No Report

2) City Manager's Report

Mr. Gomez provided the current financial report through June 30, 2019. He discussed the current progress with the construction projects. He encouraged residents to attend the upcoming July 4th event and the August 6th National Night out, with both being held at Milam Park.

3) City Attorney's Report

No Report

4) Council Remarks

Andrea Cervone discussed the upcoming July 4th which includes an Open Mic event. She reported on the city's partnership with Grandmamma's House for a program on July 10 on how to appeal property tax assessments. Senior Game Night will be July 18. The Alif Institute is holding a free Arabic language workshop on July 20. She provided details on a grant application to assist with energy efficient retrofit program.

Jamie Carroll reported on a scheduled event at Kathmandu on July 10th for operating a childcare in residences.

Awet Eyasu reported on his attendance of Refugee Day and the Rhoniga celebrations. He discussed his GMA training classes attended at the June annual convention.

YT Bell discussed the status of the Clarkston Complete Count committee and she encouraged interested residents to sign up. She encouraged attendance of the multicultural mental health event scheduled for July 13.

5) Mayor's Report
No Report

E. PUBLIC COMMENTS

Any member of the public may address the Council, during the time allotted for public comment. Each attendee will be allowed 3 minutes for comments at the discretion of the Presiding Officer. The public comment period will be limited to 40 minutes and it is not a time for dialogue. If your public comment contains a series of questions, please submit those to the City Clerk in writing. This will facilitate follow-up by the council or staff. The City Council desires to allow an opportunity for public comment; however, the business of the City must proceed in an orderly, timely manner.

Debby Gathman discussed her code citation for selling eggs.

Susan Hood urged the council to direct staff to use the RFP process for the zoning rewrite.

Pat Davis Morris thanked the City in their cooperation with their neighborhood block party.

John Cargile thanked the Mayor for his positive comments in a recent interview. He encouraged transparency and honesty in the zoning rewrite process.

Mayor Terry closed the public comments and reminded the public hearing sign in will conclude in approximately 10 minutes. Anyone interested in speaking should sign up on the forms.

F. OLD BUSINESS

F1) PUBLIC HEARING: Consider a variance application request from Tad Braswell, Oak Hall Companies, LLC to vary from Section 703 NR-3 High Density Neighborhood Residential District (f) Bulk and area regulations to reduce the minimum lot size of 5,000 sq. ft. to 3,000 sq. ft. and to reduce the minimum lot width of 50 feet to 40 feet. If granted the applicant will develop 37 parcels on the properties located at 3809, 3835, 3861, and 3827 East Avenue, Clarkston, GA 30021.

The Planning and Development Director provided information on the application for variance. The application was presented at the Planning & Zoning Meeting on May 21 and then the Council Meeting June 4th when it was deferred. Ms. Qawiy stated the staff recommended approval of the variance request with the conditions:

1. The minimum lot widths of all 36 lots shall be 40 feet with;
 - a. 1 lot shall be a minimum of 3200 square feet
 - b. 11 lots shall have a minimum lot size of 3300 square feet
 - c. 6 lots shall have a minimum lot size of 3400 square feet
 - d. 8 lots shall have a minimum lot size of 3500 square feet
 - e. 4 lots have a minimum lot size of 3700 square feet
 - f. The 6 lots that abut the Snapfinger Creek Tributary shall have a minimum lot size of 5,000 square feet.
2. The developer is limited to build 36 homes on the proposed 4.5+/- acres.
3. The developer shall adhere to the 24 conditions as approved at the May 7, 2019 City Council meeting for the parcels located at 3861/3827/3865/3809 East Avenue.
4. The developer is required to submit a final plat for approval to staff and DeKalb County for recording before applying for any permits.

Mayor Terry stated the public hearing time would be for 14 minutes allotted for each side.

The applicant Ted Braswell spoke on the need for the requested variance and the proposed project

Mayor Terry opened the public hearing.

Public Hearing

Speakers in Support:

Hazel Poe (current property owner) spoke in support of the variance request.

Doug Dillard (Dillard Sellars Attorneys at Law) spoke in support of the variance request.

Connie Stafford spoke in support of the variance request.

Speakers in Opposition:

Lisa Williams spoke in opposition of the variance request.

Ann McCormack spoke in opposition of the variance request.

Dean Moore spoke in opposition of the variance request.

Laura Hopkins spoke in opposition of the variance request.

Mayor Terry closed the public hearing.

Jamie Carroll made a motion to approve the application for a variance with the staff recommended conditions. Councilman Carroll stated in resident expressed concerns regarding the tree canopy, the variance will allow for more preservation of existing trees. YT Bell seconded the motion. Councilwoman Bell stated that the adopted LCI study called for a variety of housing options at different price points. Councilman Eyasu requested comments be held until the completion of the motion.

Discussion.

Awet Eyasu requested the council use facts to make determinations and requested they maintain the NR1, 10,000 square foot lot size to eliminate creating a precedent for future developments.

Additional discussion on the potential greenspace on the project.

A vote was called and the motion carried (3- YES: Jamie Carroll, Andrea Cervone, YT Bell, 1- NO: Awet Eyasu, 1 ABSTAIN: Ahmed Hassan).

G. NEW BUSINESS

G1) Approve 2019 Millage Rate

a) Presentation

The City manager provide a presentation on the proposed 2019 Millage rate.

b) Public Hearing to take comment on the proposed 2019 millage rate

Mayor Terry opened the public hearing.

Dean Moore addressed questions on new developments and their impact on the current tax digest.

No other comments.

Mayor Terry closed the public hearing.

c) Adopt 2019 Millage Rate by ordinance

Ahmed Hassan made a motion to approve the 2019 millage rate as 15.89. YT bell seconded the motion. A Vote was called and the motion carried (5, 0).

G2) Appoint members for the Historical Preservation Commission

Mayor Terry invited Pat Davis Morris and Dean Moore, applicants in attendance, to spoke on their interest to serve on the Historic Preservation Commission.

Discussion: The Commission shall consist of three (3) members, two (2) appointed by the City Council and one (1) appointed by the Mayor. All members shall be residents of Clarkston. Members shall serve three (3) year terms. Members may not serve more than two (2) consecutive terms. Initial appointments shall be: one (1) member for one (1) year to be appointed by the Mayor; one (1) member for two (2) years, appointed by the City Council; and one (1) member for three (3) years, appointed by City Council.

Mayor Terry stated his nominee will be Ashton Walker (one year term). He further stated a poll by the Council nominated Pat Davis Morris (3 year term) and Debra Johnson (2 year term).

Awet Eyasu made a motion to appoint Ashton Walker (Mayor Nominee -one year term), Debra Johnson (2 year term) and Pat Davis Morris (3 year term). Andrea Cervone seconded the motion. Awet Eyasu asked to nominate Dean Moore as a backup in the event a position comes open. A vote was called and the motion carried (5, 0).

G3) Application for a Temporary Alcohol License One Day Special Event

The City Manager advised this event will be held on August 15 at the Clarkston Community Center.

YT Bell made a motion to approve the Temporary Alcohol License One Day Special Event with a maximum of four pourers. Andrea Cervone seconded the motion. A vote was called and the motion carried (4-YES Jamie Carroll, Andrea Cervone, YT Bell, Awet Eyasu, 1-ABSTAIN: Ahmed Hassan).

G4) Adopt Resolution of the City Of Clarkston Related to the DeKalb County Transit Master Plan

The City Manager stated that the resolution would be updated to add language under #3 “The City of Clarkston requests that the cities within DeKalb County have a formal role in determining the project priorities of the transit master plan to include a Clarkston Arterial Rapid Transit (ART) component.”

Jamie Carroll made a motion to adopt the Resolution of the City Of Clarkston Related to the DeKalb County Transit Master Plan with the amendment that on Section 3, they include that we recommend they include a City of Clarkston Arterial Rapid Transit (ART) component. YT Bell seconded the motion. A vote was called and the motion carried (5, 0).

G5) Adopt Resolution to Support DeKalb County Land Bank

Mr. Gomez stated the Council had approved an IGA with DeKalb in April 2017 and he detailed the interim interactions and the purpose of the Land bank. Discussion on the process for adoption by the Land Bank agreement with Lithonia and DeKalb County.

Jamie Carroll made a motion to adopt the resolution to Support DeKalb County Land Bank. Awet Eyasu seconded the motion. A vote was called and the motion carried (5, 0).

H. ADJOURNMENT:

Awet Eyasu made a motion to adjourn the Council Meeting. YT Bell seconded the motion. A vote was called and the motion carried (5, 0).

Meeting adjourned

MINUTES

CLARKSTON CITY COUNCIL

Tuesday July 30, 2019 -7:00pm

Officials Present

Mayor:	Ted Terry
Council:	YT Bell, Awet Eyasu, Ahmed Hassan, Jamie Carroll, Andrea Cervone
City Manager:	Robin I. Gomez
City Clerk:	Tracy Ashby
City Attorney:	Stephen Quinn

Mayor Terry called the Work Session to order at 7:10pm.

Ahmed Hassan made a motion to amend the agenda to add an Executive Session to discuss a Legal matter. Awet Eyasu seconded the motion. A vote was called and the motion carried (5, 0).

Work Session

H. EXECUTIVE SESSION

Executive Session to discuss a Legal Issue

Jamie Carroll made a motion to go into executive session to discuss a legal issue. Ahmed Hassan seconded the motion. A vote was called and the motion carried (5, 0).

E. ADJOURNMENT:

Jamie Carroll made a motion to close the executive session and to adjourn the meeting. Andrea Cervone seconded the motion. A vote was called and the motion carried (5, 0). Meeting adjourned.

CITY OF CLARKSTON
CLARKSTON CITY COUNCIL MEETING

ITEM NO: F1
CONSENT AGENDA

HEARING TYPE:
Council Meeting

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Resolution

MEETING DATE: August 8, 2019

SUBJECT: Reschedule the November 5 Council Meeting and the December 31 Work Session.

DEPARTMENT: Administration

PUBLIC HEARING: YES NO

ATTACHEMENT: YES NO
Pages:

INFORMATION CONTACT: Robin I. Gomez
PHONE NUMBER: 404-296-6489

PURPOSE: For the Council to approve rescheduling the November 5, 2019 Council Meeting to Thursday November 7th to accommodate the November 5th Municipal Election and for the City Council to consider rescheduling the Tuesday, December 31 Work Session to Monday, December 30th.

NEED/ IMPACT: The November Council Meeting currently falls on the same day as the City of Clarkston Municipal General Election. Holding both the Election and the Council Meeting on the same day may present scheduling conflicts for Elected Officials and citizens who may wish to participate in both of these civic opportunities. Additionally, some administrative staff have work responsibilities to both the Municipal Election and the Council meeting which would present a challenge. Moving the November Council Meeting will allow Officials, citizens and staff to perform respective responsibilities without conflict or limitation.

The December Work Session falls currently falls on Tuesday, December 31, New Year's Eve. Elected Officials, Residents and Staff may have scheduling conflicts that would prevent participation in the work Session. Moving the December work session to Monday, December 30th would alleviate any scheduling conflicts.

RECOMMENDATIONS: Staff recommends that the Council approve rescheduling the November 5th Council Meeting to Thursday, November 7th and to reschedule the Tuesday, December 31 work session to Monday, December 30th.

CITY OF CLARKSTON
CLARKSTON CITY COUNCIL MEETING

ITEM NO: F2
CONSENT AGENDA

HEARING TYPE:
Council Meeting

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Ordinance

MEETING DATE: August 8, 2019

SUBJECT: Adopt an Ordinance to amend Chapter 11 of the City Code to Adjust the Annual License Fee Amount to be Paid by Insurance Companies

DEPARTMENT: Administration

PUBLIC HEARING: YES NO

ATTACHMENT: YES NO
Pages: 1

INFORMATION CONTACT: Robin Gomez
PHONE NUMBER: 404-296-6489 ext. 411

PURPOSE: To consider adopting the attached Ordinance Amending Chapter 11 of the Code to adjust the annual license fee amount to be paid by insurance companies.

NEED/ IMPACT: The City of Clarkston requires insurance companies to pay an annual license fee for the privilege of engaging in the business of insurance within Clarkston.

O.C.G.A 33-8-8 outlines the fee schedule for the annual license fee on each insurance company doing business within the municipal corporate limits not to exceed the following schedule:

Population of Municipal Corporation Amount

Under 1,000 \$ 15.00
1,000 - 1,999 25.00
2,000 - 4,999 40.00
5,000 - 9,999 50.00
10,000 - 24,999 75.00
25,000 - 49,999 100.00
50,000 and over 150.00

The US Census Bureau population estimate for the City of Clarkston was 12,757. Due the City of Clarkston annexations in 2015 and 2016, our population growth now allows us to increase our annual license fee from \$50 to \$75.

RECOMMENDATIONS: Staff recommends the City Council adopt the attached Ordinance to amend Chapter 11 of the City Code to adjust the annual license fee amount to be paid by insurance companies to \$75.

ORDINANCE NO. 19-____

AN ORDINANCE BY THE CITY OF CLARKSTON TO AMEND CHAPTER 11 OF THE CITY CODE TO ADJUST THE ANNUAL LICENSE FEE AMOUNT TO BE PAID BY INSURANCE COMPANIES.

WHEREAS, the City currently imposes an annual license fee on insurance companies doing business in Clarkston pursuant to O.C.G.A. § 33-8-8; and

WHEREAS, State law sets the maximum annual fee that may be imposed by a municipality upon each insurance company location based on the population of the municipality; and

WHEREAS, the population of Clarkston is between 10,000 and 24,499 residents; and

WHEREAS, the City Council desires to impose an annual license fee of \$75.00 per location on insurance companies for the privilege of engaging in the business of insurance within the City of Clarkston.

NOW THEREFORE, BE IT ORDAINED BY the City Council of the City of Clarkston as follows:

SECTION 1. Subsection (5) of City Code § 11-51 is hereby deleted and replaced with the following text:

“(5) Insurance companies governed by O.C.G.A. § 33-8-8 shall pay an annual license fee in the amount of Seventy-Five Dollars (\$75.00) per location within the City.”

SECTION 2. This ordinance shall become effective immediately upon its adoption and signature by the Mayor.

SO ORDAINED, THIS ____ DAY OF _____, 2019.

CITY COUNCIL
CITY OF CLARKSTON, GEORGIA

Mayor Ted Terry

ATTEST:

Tracy Ashby, City Clerk

APPROVED AS TO FORM:



Stephen G. Quinn
City Attorney

CITY OF CLARKSTON

CLARKSTON CITY COUNCIL MEETING

ITEM NO: H1

HEARING TYPE:
Council Meeting

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Resolution

MEETING DATE: August 8, 2019

SUBJECT: Approve the Redspeed Services Agreement

DEPARTMENT: City Administration

PUBLIC HEARING: YES NO

ATTACHMENT: YES NO
Pages: 17

INFORMATION CONTACT: ROBIN I. GOMEZ,
PHONE NUMBER: 404-296-6489

PURPOSE:

RedSpeed School Zone Speed Safety Program

To approve the attached contract with Redspeed to provide for Automated Traffic Enforcement Safety Devices in City of Clarkston School Zones (Atlanta Area School for the Deaf).

NEED/ IMPACT:

Redspeed agrees to provide a turnkey solution for SPE Systems to Clarkston wherein all reasonably necessary elements required to implement and operate the solution are the responsibility of Redspeed.

Fee include all costs required and associated with SPE system installation, maintenance and ongoing field and back-office operations. Includes camera equipment, LPR Module, installation, maintenance, violation processing services, DMV records access, mailing of required documents, call center support for general program questions, public awareness program support, and access to web-based SPE System for Certified Peace Officer review. RedSpeed will collect 35% service fee for each paid violation.

RECOMMENDATIONS: Staff recommends City Council to approve the contract between Redspeed School Zone Speed Safety Program and the City of Clarkston.

PROFESSIONAL SERVICES AGREEMENT

August 1, 2019

This AGREEMENT (the “Agreement”) made this 1st day of August, 2019, (herein the “Commencement Date”), between RedSpeed Georgia, LLC, a Georgia Limited Liability Company (herein “REDSPEED”), with its principal place of business at 400 Eisenhower Lane North, Lombard, IL 60148, and the City of Clarkston (herein “CLARKSTON”), with principal offices at 1055 Rowland St, Clarkston, GA 30021.

WITNESSETH:

WHEREAS, REDSPEED has the exclusive knowledge, possession, and ownership of certain equipment, licenses, and processes referred to collectively as the “Speed Photo Enforcement System” (herein “SPE System”); and

WHEREAS, CLARKSTON desires to use the SPE System to monitor and enforce school zone speed, and may, in the future, desire to monitor and enforce red light violations or other traffic movements and to issue citations for traffic violations; and

WHEREAS, on or about May 8, 2018, the Governor of the State of Georgia signed 2017 6a. HB 978 into law, resulting in Section 40-14-18 of the Official Code of Georgia Annotated taking effect on July 1, 2018; and

WHEREAS, Section 40-14-18 of the Official Code of Georgia Annotated expressly authorizes a law enforcement agency to use traffic infraction detectors to enforce certain provisions of Section 40-14-8 of the Official Code of Georgia Annotated, subject to certain requirements; and

WHEREAS, CLARKSTON wishes to implement a Traffic Safety Camera Program (“TSCP”) and provide for the implementation and operation of such program by REDSPEED, as agent of CLARKSTON.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, REDSPEED and CLARKSTON agree that the Agreement shall be as provided herein:

TERMS AND CONDITIONS

1. DEFINITIONS:

As used in this Agreement, the following words and terms shall, unless the context otherwise requires, have the respective meanings provided below:

“**Motor Vehicle**” means any self-propelled vehicle not operated upon rails or guide-way, but not including any bicycle or electric personal assisted mobility device.

“Notice of Violation” means a citation or equivalent instrument issued by a competent state or local law enforcement agent or agency or by a court of competent jurisdiction relating to a violation documented or evidenced by SPE System or REDSPEED as an agent of such law enforcement agent, agency or court.

“Motor Vehicle Owner” means the person or entity identified by the Georgia Department of Motor Vehicles, or other state vehicle registration office, as the registered owner of a vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a motor vehicle lease or rental agreement.

“Recorded Images” means photographic, electronic, digital or video images of a Motor Vehicle recorded by a SPE System and establishing a time sequence of the Motor Vehicle entering the intersection or speed zone and its speed.

“RedCheck” means web-based violation processing system used by Certified Peace Officer.

“Speed Photo Enforcement System” (herein “SPE System”) means an electronic system that captures recorded images of Motor Vehicles speeding in designated school zone and consisting of, at a minimum one radar, IR panel, and up to seven (7) individual video cameras capable of monitoring up to seven (7) lanes of enforcement.

“Certified Peace Officer” means an employee of CLARKSTON’s who meets the qualifications of Section 40-14-1(1) of the Official Code of Georgia Annotated.

“Unamortized Costs” means the historical cost of a fixed asset less the total depreciation shown against that asset up to a specified date. Unamortized costs for this Agreement may include, but are not limited to, design/engineering plans, camera foundation construction and installation, restoration of camera location to its original condition and cost of equipment.

“Violation” means a violation of Section 40-14-8 or Section 40-14-18 of the Official Code of Georgia Annotated or a violation of Clarkston’s Code of Ordinances, as may be amended from time to time.

2. REDSPEED AGREES TO PROVIDE:

The scope of work identified in “Exhibit A, Section 1”.

3. CLARKSTON AGREES TO PROVIDE:

The scope of work identified in “Exhibit A, Section 2”.

4. SERVICE FEES:

The service fee schedule identified in “Exhibit B”.

5. TERM AND TERMINATION:

This Agreement shall be effective on the Commencement Date. The term of this Agreement shall be for sixty (60) months beginning on the first day of the month following the first issued Notice of Violation (the "Start Date") and shall be automatically extended for up to five (5) additional one (1) year periods. However, CLARKSTON may terminate this Agreement at the expiration of any term by providing written notice of its intent not to extend the Agreement sixty (60) days prior to the expiration of the current term.

REDSPEED's services may be terminated:

- a. By mutual written consent of the parties.
- b. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement and the defaulting party fails to cure the default within thirty (30) days after receiving written notice. The terminating party must provide written notice to the other party of its intent to terminate and state with reasonable specificity the grounds for termination.
- c. For convenience, by either party in the event that state legislation or a decision by a court of competent jurisdiction prohibits the deployment of the SPE Systems that is the subject of this Agreement, but only following the exhaustion of any legal challenges that may occur challenging such state legislation or judicial determination. To the extent it becomes necessary, the Parties to this Agreement acknowledge that this agreement shall be tolled during the time it takes to determine legal challenges.
- d. For convenience of CLARKSTON. CLARKSTON reserves the right to terminate by giving written notice to REDSPEED sixty (60) days prior to the effective date of such termination. If CLARKSTON elects to terminate the agreement under this subsection during the first twelve (12) months of the initial contract term, CLARKSTON shall pay termination costs related to unamortized costs.

Upon termination of this Agreement, either for breach or because it has reached the end of its term or as a result of giving an early termination notice, the parties recognize that CLARKSTON will have to process traffic law violations that occur prior to the notice of termination of the Agreement and that REDSPEED must assist CLARKSTON in this regard. Accordingly, the parties shall take the following actions, and shall have the following obligations, which survive termination during the winddown period: CLARKSTON shall cease using the SPE System, shall return or allow REDSPEED to recover all provided equipment within a reasonable time not to exceed ninety (90) days, and shall not generate further images to be processed. Unless directed by CLARKSTON not to do so, REDSPEED shall continue to process all images taken by CLARKSTON before termination and provide all services associated with processing in accordance with this Agreement and shall be entitled to all Fees specified in the Agreement as if the Agreement were still in effect. REDSPEED shall provide CLARKSTON with all revenues owed to CLARKSTON accruing prior to the date of termination and REDSPEED shall be

entitled to its fees pursuant to this Agreement, from said accrued revenues provided to CLARKSTON.

6. 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 CLARKSTON hereby acknowledges and agrees that delivery and performance of REDSPEED's rights pursuant to this Agreement shall require a significant investment by REDSPEED, and that in order 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. CLARKSTON 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 CLARKSTON's prior written approval. CLARKSTON further acknowledges and agrees that in the event that REDSPEED provides any such acknowledgment or consent to CLARKSTON for execution, and in the event that CLARKSTON 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, CLARKSTON 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 CLARKSTON and deliver such document to its financial institution.

7. FEES AND PAYMENT:

CLARKSTON shall pay for all equipment, services and maintenance based on the fee schedule indicated in Exhibit B, Schedule 1 ("Fees").

8. COMMUNICATION OF INFORMATION:

REDSPEED agrees that all information obtained by REDSPEED through operation of the SPE System shall be made available to the CLARKSTON at any time during REDSPEED's normal working hours excluding trade secrets as defined by Georgia law and other information that is confidential pursuant to Georgia law or exempt from disclosure pursuant to Georgia law and not reasonably necessary for the prosecution of citations or the fulfillment of CLARKSTON's obligation under this Agreement. REDSPEED reserves the right to charge CLARKSTON for sizable information requests that will incur substantial resource allocation to compile.

9. CONFIDENTIAL INFORMATION:

No information given by REDSPEED to CLARKSTON will be of a confidential nature, unless specifically designated in writing as proprietary and confidential by REDSPEED and either confidential pursuant to Georgia law or exempt from disclosure pursuant to Georgia law. Nothing in this paragraph shall be construed contrary to the terms and provisions of any Georgia law governing public records or similar laws, insofar as they

may be applicable. REDSPEED shall not use any information acquired by this program with respect to any violations or CLARKSTON's law enforcement activities for any purpose other than the program encompassed by this Agreement.

10. OWNERSHIP OF SYSTEM:

It is understood by CLARKSTON that the SPE System being installed by REDSPEED is, and shall remain, the sole property of REDSPEED, unless separately procured from REDSPEED through a lease or purchase transaction. The SPE Systems are provided to CLARKSTON only under the terms and for the term of this Agreement.

11. RECORDS AND AUDIT:

REDSPEED shall maintain during the term of the Agreement all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this Agreement. REDSPEED agrees to make available to CLARKSTON's Internal Auditor, during normal business hours and in Fitzgerald, Georgia all books of account, reports and records relating to this Agreement for the duration of the Agreement and retain them for a minimum period of three (3) years beyond the last day of the Agreement term or such other period required by the Georgia public records law and Georgia public records retention schedules, whichever is longer.

12. INDEMNIFICATION AND INSURANCE:

REDSPEED shall comply with all laws, ordinances and regulations governing the use of photo enforcement systems applicable to this Agreement and shall comply with the maintenance procedures and manufacturer recommendations for operation of SPE System equipment which affect this Agreement, and shall indemnify and save harmless the CLARKSTON against claims arising from the violations of the maintenance procedures and manufacturer recommendations for operation of the equipment as a result of the gross negligence, recklessness, or willful or intentional misconduct of REDSPEED, its officers and directors, agents, attorneys, and employees, but excluding any employees or agents of CLARKSTON.

REDSPEED agrees to protect, defend, indemnify, and hold harmless CLARKSTON and CLARKSTON's officers, employees, and agents from and against any and all losses, penalties, damages, settlements, fines, claims, costs, charges for other expenses, or liabilities of every and any kind including any award of attorney fees and any award of costs in connection with or arising from any gross negligence, intentional or reckless act or omission by REDSPEED or any of REDSPEED's officers, employees, agents, contractors, or subcontractors in performing the work agreed to or performed by REDSPEED under the terms of this Agreement. Without limiting the foregoing, any and all claims, suits or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, violations of any decree of any court in connection with or arising from any gross negligence, intentional or reckless act or omission by REDSPEED shall be included in this indemnity.

REDSPEED shall maintain the following minimum scope and limits of insurance:

- a. Commercial General Liability Insurance including coverage for bodily injury, property damage, premises and operations, products/completed operations, personal and advertising injury, and contractual liability with a combined single limit of \$1,000,000 per occurrence. Such insurance shall name CLARKSTON and CLARKSTON's officers, employees, volunteers and elected officials as additional insured for liability arising from REDSPEED's operation.
- b. Workers' Compensation, as required by applicable state law, and Employers Liability Insurance with limits of not less than \$500,000 each accident. REDSPEED shall always maintain Workers' Compensation insurance coverage in the amounts required by law, but shall not be required to provide such coverage for any actual or statutory employee of CLARKSTON.
- c. Comprehensive Business Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by REDSPEED with a minimum \$1,000,000 per occurrence combined single limit bodily injury and property damage.

REDSPEED shall require any subcontractors doing work under this Agreement to provide and maintain the same insurance, which insurance shall also name CLARKSTON and CLARKSTON's officers, employees and elected officials as additional insureds.

Certificates showing REDSPEED is carrying the above described insurance, and evidencing the additional insured status specified above, shall be furnished to CLARKSTON within thirty (30) calendar days after the date on which this Agreement is made. Such certificates shall show that CLARKSTON shall be notified at least thirty (30) days in advance of all cancellations of such insurance policies. REDSPEED shall forthwith obtain substitute insurance in the event of a cancellation.

Inasmuch as CLARKSTON is a body politic and corporate, the laws from which CLARKSTON derives its powers, insofar as the same law regulates the objects for which, or manner in which, or the concerns under which, CLARKSTON may enter into this Agreement, shall be controlling and shall be incorporated by reference into this Agreement. CLARKSTON shall be responsible for vehicle insurance coverage on any vehicles driven by CLARKSTON employees. Coverage will include liability and collision damage.

REDSPEED will require all its subcontractors to provide the aforementioned coverage as well as any other coverage that REDSPEED may consider necessary, and any deficiency in the coverage or policy limits of said subcontractors shall be the sole responsibility of REDSPEED.

13. STATE LAW TO APPLY:

This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia. The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Dekalb County, Georgia and that all litigation between them in the federal courts shall take place in the State of Georgia.

14. DISPUTE RESOLUTION:

All disputes arising out of or in connection with the Agreement shall be attempted to be settled through good-faith efforts between senior management of both Parties. Following thirty (30) days of unsuccessful negotiation, a dispute may be submitted to professionally-assisted mediation. Before a demand for mediation may be filed by either Party, the management of both Parties shall have met at least two times in face-to-face meetings in an effort to resolve any dispute or controversy through normal business management practices. Any mediator so designated must be acceptable to each Party. The mediation will be conducted as specified by the mediator and agreed upon by the Parties. The Parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute. The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either Party in any later proceeding relating to the dispute. Each Party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the Parties.

Failing resolution through negotiation or mediation, any remaining dispute shall be submitted to binding arbitration in accordance with the Arbitration Rules for Professional Accounting and Related Services Disputes of the American Arbitration Association (“AAA Rules”) before a single arbitrator. The place of arbitration will be mutually agreed upon within fourteen (14) days of a decision to seek arbitration. Limited discovery will be permitted in connection with the arbitration upon agreement of the Parties and only upon a showing of substantial need by the Party seeking discovery.

The arbitrator will have no power to award damages inconsistent with the Agreement; or punitive damages or any other damages not measured by the prevailing Party’s actual damages, and the Parties expressly waive their right to obtain such damages in arbitration or in any other proceeding. All aspects of the arbitration will be confidential. Neither the Parties nor the arbitrator may disclose the existence, content or results of the arbitration, except as necessary to comply with legal or regulatory requirements.

15. AMENDMENTS TO THE AGREEMENT:

CLARKSTON may from time to time consider it in its best interest to change, modify or extend term, conditions or covenants of this Agreement or require changes in the scope of the Services to be performed by REDSPEED, or request REDSPEED to perform additional services regardless of and without invalidating the process that was used to procure the services enumerated under this Agreement. Any such change, addition, deletion, extension or modification, including any increase or decrease in the amount of REDSPEED’s compensation, which are mutually agreed upon by and between CLARKSTON and REDSPEED, shall be incorporated in written amendments (herein called “Amendments”) to this Agreement that are duly executed by both parties. Such Amendments shall not invalidate the procurement process or this Agreement nor relieve or release REDSPEED or CLARKSTON of any of its obligations under this Agreement unless stated therein.

16. EFFECT OF AMENDMENT(S) ON AGREEMENT:

Except as expressly amended or modified by the terms of an Amendment, all terms of the Agreement shall remain in full force and effect. Unless a different meaning is specified in an Amendment, all capitalized terms used herein shall have the meaning described in the Agreement. In the event of a conflict between the terms of the Amendment and this Agreement, the Amendment shall prevail and control.

17. LEGAL CONSTRUCTION AND REQUIREMENTS:

In case any one or more of the provisions contained in this Agreement shall for any reason, by a court of competent jurisdiction, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

18. NO AGENCY:

Except as specifically provided otherwise herein, REDSPEED is an independent contractor under this Agreement and acts as an agent of CLARKSTON. Personal services shall be provided by employees of REDSPEED who shall be subject to supervision by REDSPEED, and not as officers, employees or agents of the CLARKSTON. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of REDSPEED.

19. FORCE MAJEURE:

CLARKSTON and REDSPEED will be excused from the performance of their respective obligations under this Agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, rioting, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance provided that:

the non-performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;

the excuse of performance is of no greater scope and no longer duration than is required by the Force Majeure;

no obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and,

the non-performing party uses its best efforts to remedy its inability to perform.

Notwithstanding the above, performance shall not be excused under this Section for a period in excess of two (2) months, provided that in extenuating circumstances, CLARKSTON may excuse performance for a longer term. Economic hardship of REDSPEED will not constitute Force Majeure. The term of the Agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

20. PERMITS, FEES, AND LICENSES:

REDSPEED shall, at its own expense, obtain all necessary permits and pay all licenses and fees required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried out under this Agreement.

21. NON-DISCRIMINATION:

There shall be no discrimination as to race, sex, color, creed, age, sexual orientation, disability, marital status, or national origin in the operations conducted under this Agreement.

22. SUBCONTRACTORS:

REDSPEED must be capable of performing all the services contained within this Agreement. If REDSPEED uses a subcontractor in the performance of these services, REDSPEED shall submit complete information on any/all proposed subcontractors. The same qualifications requirements, and all other terms and conditions of the Agreement shall also apply to the subcontractor. CLARKSTON reserves the right to approve or disapprove of any subcontractor proposed.

REDSPEED shall ensure that all of REDSPEED's subcontractors perform in accordance with the terms and conditions of this Agreement. REDSPEED shall be fully responsible for all of REDSPEED's subcontractors' performance, and liable for any of REDSPEED's subcontractors' non-performance and all of REDSPEED's subcontractors' negligent, intentional or reckless acts and omissions. REDSPEED shall defend, counsel being subject to CLARKSTON's approval or disapproval, and indemnify and hold harmless CLARKSTON and CLARKSTON's officers, employees, and agents from and against any claim, lawsuit, third party action, settlement, or judgment, including any award of attorney fees and any award of costs, by or in favor of any of REDSPEED's subcontractors for payment for work performed for CLARKSTON by any of such subcontractors, and from and against any claim, lawsuit, third party action, settlement, or judgment, including any award of attorney fees and any award of costs, occasioned by or arising out of any negligent, intentional or reckless act or omission by any of REDSPEED's subcontractors.

23. ENTIRE AGREEMENT:

The provisions of this Agreement, including the recitals, comprise all of the terms, conditions, agreements, and representations of the parties with respect to the subject matter hereof. All representations and promises made by any party to another, whether in writing or orally, concerning the subject matter of this Agreement, are merged into this

Amendment. Except as amended by an Amendment, the terms of the Agreement shall continue in full force and effect.

24. NOTICES:

Any notice or demand which under the terms of this Agreement or under any statute must or may be given or made by REDSPEED or CLARKSTON shall be in writing and shall be given or made by personal service, first class mail, overnight delivery, or by certified or registered mail to the parties at the following respective addresses:

City of Clarkston
City Hall
1055 Rowland St.
Clarkston, GA 30021

RedSpeed Georgia, LLC
400 Eisenhower Lane North
Lombard, Illinois 60148
Attn: Robert Liberman, Manager

25. EXCLUSIVITY:

CLARKSTON agrees that upon execution of this Agreement, CLARKSTON may not utilize another vendor, other than REDSPEED, for the same or similar services as contemplated herein, within the jurisdiction of the CLARKSTON without prior written consent from REDSPEED.

IN WITNESS THEREOF, the parties have duly executed this Agreement on the day and year first written above.


City of Clarkston, Georgia

_____, ____/____/____
By: Mayor Ted Terry

Attest:

_____, ____/____/____
By: City Clerk Tracy Ashby

Approved as to Form:


By: Stephen G. Quinn, City Attorney

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RedSpeed Georgia, LLC

By: _____, ____/____/____

Robert Liberman

Manager

Exhibit A
SECTION 1.

REDSPEED SCOPE OF WORK

1. REDSPEED agrees to provide a turnkey solution for SPE Systems to CLARKSTON wherein all reasonably necessary elements required to implement and operate the solution are the responsibility of REDSPEED, except for those items identified in Section 2 titled "CLARKSTON Scope of Work". REDSPEED and CLARKSTON understand and agree that new or previously unforeseen requirements may, from time to time, be identified and that the parties shall negotiate in good faith to assign to the proper party the responsibility and cost for such items. In general, if work is to be performed by CLARKSTON, unless otherwise specified, CLARKSTON shall not charge REDSPEED for the cost. All other in-scope work, external to CLARKSTON, is the responsibility of REDSPEED.
2. REDSPEED agrees to make every effort to adhere to the Project Time Line agreed upon between the parties and based on the Best and Final Offer.
3. REDSPEED will install SPE Systems at several intersections, school zone areas or grade crossing approaches to be agreed upon between REDSPEED and CLARKSTON after completion of site analyses. In addition to any initial locations, the parties may agree from time to time to add to the quantities and locations where SPE Systems are installed and maintained.
4. REDSPEED will operate each SPE System on a 24-hour basis, barring downtime for maintenance and normal servicing activities.
5. REDSPEED agrees to provide a secure website (www.SpeedViolations.com) accessible to recipients who have received Notices of Violation by means of a Notice #, which will allow violation image and video viewing.
6. REDSPEED shall provide technician site visits to each SPE System 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.
7. REDSPEED shall use best efforts to endeavor to repair a non-functional SPE System within forty-eight (48) business hours of determination of a malfunction.
8. REDSPEED shall use best efforts to endeavor to repair the SPE System within one (1) business day from the time of the outage. Outages of CLARKSTON internet connections or infrastructure are excluded from this service level.
9. REDSPEED will establish a demand deposit account bearing the title, "RedSpeed Georgia LLC as agent for CLARKSTON at CIBC Bank." All funds collected on behalf of CLARKSTON, excluding REDSPEED's monthly fees and any fees associated with electronic processing of violations, will be deposited in this account and transferred by wire on or about the 15th calendar day of the month to CLARKSTON's primary deposit bank.

CLARKSTON will identify the account to receive funds wired from First Midwest Bank. CLARKSTON shall sign a W-9 and blocked account agreement, to be completed by CLARKSTON, to ensure CLARKSTON's financial interest in said bank account is preserved.

10. REDSPEED will design, fabricate, install, obtain permits, and maintain one speed warning sign for each monitored approach.
11. REDSPEED or subcontractors will be responsible for any costs associated with building, construction, electrical, street use, and/or pole attachment permits.
12. REDSPEED shall assign a project manager who will be the liaison between CLARKSTON and REDSPEED and will be responsible for project activities such as development of a project plan and tracking of deliverables. CLARKSTON shall reserve the right to request a new project manager.
13. REDSPEED shall provide CLARKSTON with RedCheck, an automated web-based citation processing system that includes image processing, color printing and mailing of a Notice of Violation per chargeable event. Each Notice of Violation shall be delivered by first class mail to the Motor Vehicle Owner within the statutory period. Mailings to Motor Vehicle Owners responding to Notices of Violation identifying drivers in affidavits of non-liability or by rental car companies are also included.
14. REDSPEED shall provide the Certified Peace Officer with access to RedCheck, for the purposes of reviewing Violations Data within five (5) days of the gathering of the Registered Vehicle Owner Information.
15. The decision to issue Notice of Violation shall be the sole, unilateral and exclusive decision of the Certified Peace Officer consistent with State Law.
16. RedCheck shall apply an electronic signature to a Notice of Violation when authorized to do so by an approving Certified Peace Officer.
17. REDSPEED shall obtain in-state vehicle registration information necessary to issue citations if it is named as CLARKSTON's agent.
18. REDSPEED shall seek records from out-of-state vehicle registration databases and apply records found by RedCheck to issue citations for CLARKSTON.
19. If CLARKSTON is unable to or does not desire to integrate REDSPEED data into its adjudication system, REDSPEED shall provide an on-line adjudication processing module, which will enable the adjudication function to review cases, related images, correspondence, and other related information required to adjudicate the disputed Notice of Violation.
20. REDSPEED shall provide to CLARKSTON access to RedCheck system, which provides CLARKSTON with ability to run and print all standard system reports.

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21. If required by CLARKSTON, REDSPEED shall, at REDSPEED's expense, provide and train CLARKSTON with a local expert witness able to testify in administrative proceedings and in court on matters relating to the accuracy, technical operations, and effectiveness of the SPE System until judicial notice is taken.
22. In those instances where damage to an SPE System is caused by negligence on the part of CLARKSTON or its authorized agent(s), REDSPEED will provide CLARKSTON 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 for the pre-approved repair cost. REDSPEED shall bear the cost to replace or repair equipment damaged in all other circumstances.
23. REDSPEED shall provide a toll-free, CLARKSTON-specific help line to help CLARKSTON resolve any problems encountered regarding its SPE System and/or citation processing. The help line shall function during normal business hours. Call Center hours for violators is Monday-Friday 9:00 AM to 5 PM EST.
24. REDSPEED shall provide Motor Vehicle Owners with the ability to view Recorded Images of Violations involving their motor vehicles online. This online viewing system shall include a link to the REDSPEED payment website(s).
25. REDSPEED is authorized to charge, collect and retain fees associated with the electronic processing. Such fees shall not exceed \$25.00 per violation. Such fee is paid by the violator. CLARKSTON will not receive any of said fees. CLARKSTON assumes no liability, responsibility, or control for said fee sought by REDSPEED.
26. REDSPEED shall provide CLARKSTON with a warning period consistent with state law.

SECTION 2.
CLARKSTON'S SCOPE OF WORK

26. Within seven (7) business days of execution of the Agreement, CLARKSTON shall provide REDSPEED with the name and contact information for a project manager with authority to coordinate CLARKSTON responsibilities under the Agreement.
27. Within seven (7) business days of the Agreement, CLARKSTON shall provide REDSPEED with the name and contact information for an Appeals Coordinator or staff responsible for oversight of all related program requirements.
28. Within seven (7) business days of execution of the Agreement, CLARKSTON shall provide REDSPEED with the name(s), contact information, and electronic signature(s) of all Certified Peace Officers authorized by CLARKSTON to approve and issue Notices of Violation.
29. CLARKSTON shall establish a method by which a Motor Vehicle Owner who has received a Notice of Violation may review the images and video evidencing the Violation at www.SpeedViolation.com free of charge. This may be at a publicly available terminal at CLARKSTON's facility or by appointment with CLARKSTON.
30. REDSPEED will relocate an SPE System at no cost to a new enforcement location once it has been mutually agreed upon between REDSPEED and CLARKSTON.
31. CLARKSTON shall endeavor to approve or reject REDSPEED submitted plans within seven (7) business days of receipt. REDSPEED and CLARKSTON will endeavor to approve the plans in a timely manner.
32. CLARKSTON will endeavor to issue all needed permits to REDSPEED and its subcontractors in an expedited fashion for plan approval.
33. If use of private property right of way is needed, CLARKSTON shall assist REDSPEED in acquiring permission to build in existing utility easements as necessary. Any additional cost for private property right of way lease/rental costs shall be borne by REDSPEED. REDSPEED reserves the right to not install on private property if the costs are unreasonable.
34. CLARKSTON may allow REDSPEED to build needed infrastructure in existing CLARKSTON owned easement as necessary and only after required permits have been approved.
35. CLARKSTON's Certified Peace Officer(s) shall process each potential violation in accordance with State Law and/or Clarkston's Ordinances within five (5) days (excluding Saturday, Sunday and CLARKSTON observed holidays) of its appearance in the Law Enforcement Review Queue, using RedCheck to determine which Violations will be issued as Notices of Violation.

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36. CLARKSTON workstation computer monitors for citation review and approval should provide a minimum resolution of 1280 x 1024.
37. CLARKSTON shall provide signatures of all authorized users who will review events and approve citations on forms provided by REDSPEED.
38. CLARKSTON shall handle inbound and outbound phone calls and correspondence from defendants who have questions about disputes, and other issues relating to citation adjudication. CLARKSTON may refer citizens with questions regarding REDSPEED or SPE System technology and processes to websites and/or toll-free telephone numbers provided by REDSPEED for that purpose.
39. If remote access to a REDSPEED SPE System is blocked by CLARKSTON's network security infrastructure, CLARKSTON's Technology Consultant shall coordinate with REDSPEED to facilitate appropriate communications while maintaining required security measures.

Exhibit B

SCHEDULE 1
SERVICE FEE SCHEDULE

CLARKSTON agrees to pay REDSPEED the Fee(s) as itemized below:

1. Description of Pricing

Fee includes all costs required and associated with SPE system installation, maintenance and ongoing field and back-office operations. Includes camera equipment, LPR Module, installation, maintenance, violation processing services, DMV records access, mailing of required documents, lockbox and credit card processing services, call center support for general program questions, public awareness program support, and access to web-based SPE System for Certified Peace Officer review:

35% service fee for each paid violation.

CITY OF CLARKSTON

ITEM NO: H2

CLARKSTON CITY COUNCIL MEETING

HEARING TYPE:
Council Meeting

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Ordinance

MEETING DATE: August 9, 2019

SUBJECT: To consider adopting a revision to Chapter 18 (Traffic) to create Section 18-7 'Automated Traffic Enforcement Safety System' for the Purpose of Authorizing the Use of Automated Traffic Enforcement Safety Device in School Zones

DEPARTMENT: Administration

PUBLIC HEARING: YES NO

ATTACHEMENT: YES NO
Pages:

INFORMATION CONTACT: Robin I. Gomez
PHONE NUMBER: 404-296-6489

PURPOSE:

To provide a provision that will allow the installation of Automated Traffic Enforcement Safety Device in Clarkston School Zones

NEED/ IMPACT:

The City Council considers the safety of children and the proper adherence to posted speed limits in school zones, essential to preventing accidents and injuries.

In 2018 (House Bill 978), the Georgia General Assembly enacted laws regulate drivers operating a vehicle in excess of the posted limit within a designated School Zone, including reporting of violations and enforcement. The attached ordinance enact and regulate the automated traffic enforcement safety device operations in Clarkston School Zones.

RECOMMENDATIONS: Staff recommends that the Mayor and Council adopt a revision to Chapter 18 (Traffic) to create Section 18-7 'Automated Traffic Enforcement Safety System' for the Purpose of Authorizing the Use of Automated Traffic Enforcement Safety Device in School Zones

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 18 OF THE CODE OF ORDINANCES FOR THE CITY OF CLARKSTON RELATING TO TRAFFIC BY ADDING A NEW ARTICLE ENTITLED "AUTOMATED TRAFFIC ENFORCEMENT SAFETY SYSTEM" FOR THE PURPOSE OF AUTHORIZING THE USE OF AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICES IN SCHOOL ZONES WITHIN THE CITY; TO PROVIDE FOR RULES OF OPERATION, ADMINISTRATION AND ENFORCEMENT; TO PROVIDE DEFINITIONS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; AND FOR OTHER PURPOSES.

WHEREAS, The City of Clarkston, Georgia ("the City") is a municipal corporation of the State of Georgia; authorized by the Georgia Constitution and Section 1.03(w) to adopt ordinances for the protection and promotion of the public safety, health and welfare of its residents and

WHEREAS, the City desires to promote the health, safety, and general welfare of the public by preventing motor vehicle-related fatalities, injuries, and property damage within the City limits; and

WHEREAS, in 2018, the Georgia General Assembly enacted laws relating to the duties of a driver operating a vehicle in excess of the posted limit within a designated School Zone, including reporting of violations and enforcement, as necessary; and

WHEREAS, the Mayor and City Council finds that the number of serious traffic accidents and accident-related fatalities in Georgia have increased significantly in recent years; and

WHEREAS, driving in excess of the posted speed limit and disregarding traffic-control devices within existing School Zones is a contributing factor of said accidents, deaths, and injuries; and

WHEREAS, pursuant to the Official Code of Georgia Annotated, Article 8 of Chapter 14 of Title 40, the City is authorized to establish and enact an automated traffic enforcement safety device program in School Zones, which are defined by Article 1 of Chapter 14 of Title 40 of the Official Code of Georgia Annotated at Section 40-14-1.1(5) to mean the area within 1,000 feet of the boundary of any public or private elementary or secondary school; and Code Section 40-14-8(b) relating to when case may be made and civil penalty assessed if the violation occurs in properly marked School Zones one hour before, during, and one hour after the normal hours of school operation or programs for care and supervision of students before school, after school or during vacation periods as provided for under Article 3 of Chapter 2 of Title 20 Code Section 20-2-65, in properly marked School Zones and when such violations are in excess of ten miles per hour over the speed limit; and

WHEREAS, this ordinance does not conflict with the Georgia Uniform Rules of the Road regarding the operation of a motor vehicle in excess of the posted limit within a designated School Zone; and

WHEREAS, there are currently Schools and School Zones where school-related activity occurs within the corporate limits of the City;

WHEREAS, studies show that Automated Traffic Enforcement Safety Devices significantly reduce the number of speeding violations and crashes, and provides for traffic calming; and

WHEREAS, traditional enforcement requires police officers to follow and stop a violator in order to cite the violator; and

WHEREAS, Automated Traffic Enforcement Safety Devices provide safe and consistent enforcement at a reasonable cost, while allowing police officers to focus on other enforcement efforts; and

WHEREAS, the City wishes to utilize its existing code enforcement system to implement and administer the local administrative hearing process for contesting an automatic traffic violation; and

WHEREAS, the Council deems it to be in the best interest of the public safety, health, and welfare of the residents of the City to amend Chapter 18 of the Code of the City of Clarkston by adding a new Article V entitled "Automated Traffic Enforcement Safety Systems" for the purpose of authorizing the use of Automated Traffic Enforcement Safety Devices in School Zones within the City.

NOW, THEREFORE BE IT ORDAINED AND ENACTED by the Mayor and City Council of the City of Clarkston, Georgia as follows:

Section 1. Recitals Adopted: The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. The Code of Ordinances of the City of Clarkston, Georgia, is hereby amended to add new Article V to Chapter 18, to read as set forth below:

“ARTICLE V
AUTOMATED TRAFFIC
ENFORCEMENT SAFETY SYSTEM

§ 18-51 (1) Definitions.

For the purposes of this article, the following terms, phrases and their derivatives shall have the meanings given herein:

- A. “Agent” means a person or entity who is authorized by a law enforcement agency or governing body to administer the procedures contained here and (i) provides services to such law enforcement agency or governing body; (ii) operates, maintains, leases, or licenses a video recording device; or (iii) is authorized by such law enforcement agency or governing body to review and assemble the recorded images captured by the automated traffic enforcement safety device for review by a peace officer.
- B. "Automated Traffic Enforcement Safety Device" means a speed detection device that:(A) Is capable of producing photographically recorded still or video images, or both, of the rear of a motor vehicle or of the rear of a motor vehicle being towed by another vehicle, including an image of such vehicle's rear license plate; (B) Is capable of monitoring the speed of a vehicle as photographically recorded pursuant to subparagraph (A) of this paragraph; and (C) Indicates on each photographically recorded still or video image produced the date, time, location, and speed of a photographically recorded vehicle traveling at a speed above the posted speed limit within a marked School Zone.
- C. “Owner” means the registrant of a motor vehicle, except that such term shall not include a motor vehicle rental company when a motor vehicle registered by such company is being operated by another person under a rental agreement with such company;
- D. "School zone" means the area within 1,000 feet of the boundary of any public or private elementary or secondary school.
- E. “Recorded Images” means still or video images recorded by an automated traffic enforcement safety device..

§ 18-52 Authorized. Speed camera enforcement, using Automated Traffic Enforcement Safety Devices are hereby authorized within School Zones during such hours and in accordance with Georgia law and/or Code Section 40-14-8.

§ 18-53 Administration.

- A. The Clarkston Police Department, or Agent on behalf of the Department, operating an Automated Traffic Enforcement Safety Device provided for under this Article, shall maintain a log for the automated traffic enforcement safety device attesting to the performance of such device's self-test at least once every 30 days and the results of such self-test pertaining to the accuracy of the Automated Traffic Enforcement Safety Device. Such log shall be admissible in any civil enforcement proceeding

for a violation issued pursuant to O.C.G.A. §40-14-18. The Department or Agent on behalf of the Department, operating an Automated Traffic Enforcement Safety Device shall perform an independent calibration test on the automated traffic enforcement safety device at least once every 12 months. The results of such calibration test shall be admissible in any court proceeding for a violation issued pursuant to Code Section 40-14-18."

- B. Prior to the placement of a device within a School Zone, each school within whose School Zone such Automated Traffic Enforcement Safety Device is to be placed shall first apply for and secure a permit from the Georgia Department of Transportation for the use of such Automated Traffic Enforcement Safety Device. Such permit shall be awarded based upon need. The Department of Transportation shall promulgate rules and regulations for the implementation of this paragraph.
- C. If an Automated Traffic Enforcement Safety Device is moved to or placed in a location where an Automated Traffic Enforcement Safety Device had not previously been moved to or placed in, no citation shall be issued for a violation recorded by that Automated Traffic Enforcement Safety Device until:
 - (1) The City shall erect signs warning of the use of a stationary speed detection device within the approaching School Zone. Such signs shall be at least 24 by 30 inches in area, shall be visible plainly from every lane of traffic, shall be viewable in all traffic conditions, and shall not be placed in such a manner that the view of such sign is subject to being obstructed by any other vehicle on such highway. Such signs shall be placed within 500 feet prior to the warning sign announcing the reduction of the speed limit for the school speed zone. There shall be a rebuttable presumption that such signs are properly installed pursuant to this subsection at the time of any alleged violation under this article; and
 - (2) That no citation shall be issued for the first 30 days after the first Automated Traffic Enforcement Safety Device is introduced within a School Zone, but rather, a civil warning shall be issued for disregard or disobedience of the speed limit within the School Zone during such 30 day period.
- D. When a speeding violation is detected by an Automated Traffic Enforcement Safety Device pursuant to this Article, the Clarkston Police Department, or an agent working on behalf of such Department shall send by first class mail addressed to the owner of the motor vehicle within thirty (30) days after obtaining the name and address of the owner of the motor vehicle but no later than sixty (60) days after the date of the alleged violation:
 - 1. A citation for the alleged violation, which shall include the date and time of the violation, the location of the infraction, the maximum speed at which such motor vehicle was traveling in photographically recorded images, the maximum speed applicable within such School Zone, the civil warning or the amount of the civil monetary penalty imposed, and the date by which a civil monetary penalty shall be paid;
 - 2. An image taken from the photographically recorded images showing the vehicle involved in the infraction;

3. A website address where photographically recorded images showing the vehicle involved in the infraction and a duplicate of the information provided for in this paragraph may be viewed;
 4. A copy of a certificate sworn to or affirmed by a certified peace officer employed by the Clarkston Police Department stating that, based upon inspection of photographically recorded images, the owner's motor vehicle was operated in disregard or disobedience of the speed limit in the marked School Zone and that such disregard or disobedience was not otherwise authorized by law;
 5. A statement of the inference provided by Georgia law and of the means specified therein by which such inference may be rebutted for such violations;
 6. Information advising the owner of the motor vehicle of the manner in which liability as alleged in the citation may be contested through an administrative hearing; and
 7. A warning that the failure to pay the civil monetary penalty or to contest liability in a timely manner as provided for in section 18-54 of this Code section shall waive any right to contest liability.
- E. Proof that a motor vehicle was operated in disregard or disobedience of the speed limit of the marked School Zone shall be evidenced by photographically recorded images. A copy of a certificate sworn to or affirmed by a certified peace officer employed the Clarkston Police Department and stating that, based upon inspection of photographically recorded images, a motor vehicle was operated in disregard or disobedience of the speed limit in the marked School Zone and that such disregard or disobedience was not otherwise authorized by law shall be prima-facie evidence of the facts contained therein.
- F. Liability shall be determined based upon a preponderance of the evidence. Prima-facie evidence that the vehicle described in the citation issued pursuant to this article was operated in violation of the speed limit of the School Zone, together with proof that the defendant was, at the time of such violation, the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:
1. Testifies under oath in open court or submits to the court a sworn notarized statement that he or she was not the operator of the vehicle at the time of the alleged violation; or
 2. Presents to the court a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation.
- G. A violation for which a civil warning or a civil monetary penalty is imposed pursuant to this Article shall not be considered a moving traffic violation for the purpose of points assessment under Official Code of Georgia Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil warning or civil monetary penalty pursuant to this Article shall not be deemed a conviction and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall it be used for any insurance purposes in the provision of motor vehicle insurance coverage.

H. The Clarkston Municipal Court shall have jurisdiction over cases arising under this Article.

§ 18-54 Designation of Administrative Hearing Officer.

In accordance with the provisions of Official Code of Georgia Annotated, Section 40-14-18, and as of the effective date of this ordinance, the City shall utilize its Code Enforcement Officer, or designee, to conduct an administrative hearing when timely requested by recipients of notice of violations pursuant to this Article. The administrative hearing officer may either dismiss the violation or refuse to do so, based on the evidence introduced at the hearing.

§ 18-55 Violations and penalties.

- A. Any person who shall violate any provision of this article shall be subject to the civil penalties set forth in Official Code of Georgia Annotated, Section 40-14-18(b)(1), as amended, including a fine in the amount of \$75 for a first violation and \$125.00 for a second or any subsequent violation, in addition to fees associated with the electronic processing of such civil monetary penalty which shall not exceed \$25.00.
- B. The City is hereby authorized to notify the Georgia Department of Revenue for all outstanding notice of violations which are eligible for reporting pursuant to Official Code of Georgia Annotated, Section 40-14-18.”

Section 3. Severability: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Council that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

Section 4. Conflict Provisions: All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 5. Effective Date and Summary: This Ordinance shall become effective upon the signature of the Mayor. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

City Council

City of Clarkston, Georgia

Mayor Ted Terry

Attest:

Tracy Ashby, City Clerk

Approved as to Form:

Stephen G. Quinn, City Attorney