

**MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE**

**RESOLUTION NO. 2021 -08**

**A RESOLUTION APPROVING A SERVICE AGREEMENT BETWEEN THE TOWN OF PERRYVILLE AND REDSPEED FOR USE OF A PHOTO SPEED MONITORING SYSTEM IN SCHOOL ZONES.**

**WHEREAS**, Maryland law allows municipalities to use photo speed monitoring systems in school zones and to issue citations or warnings to vehicle owners who speed in excess of 12 miles above the speed limit based on the images recorded by cameras; and

**WHEREAS**, by Ordinance No 2021-12, effective on January 24, 2022, the Mayor and Commissioners authorized the use of photo speed monitoring systems within school zones in the Town of Perryville ("Town"); and

**WHEREAS**, RedSpeed Maryland LLC, a Maryland Limited Liability Company ("RedSpeed") is willing and able to provide an automated photo speed monitoring system to detect and record speed violations within a school zone or zones in the Town, at service locations designated by the Town's Chief of Police; and


**WHEREAS**, the Town desires to enter into a Service Agreement with RedSpeed to provide automated photo speeding violation detection, imaging, and citation services for the Town on substantially the terms and conditions set forth in the Service Agreement by and between the Town and RedSpeed, a copy of which is attached to this Resolution and made a part of it by reference; Now, therefore,

**BE IT RESOLVED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE** that the Town shall enter into a Service Agreement for RedSpeed, to provide and maintain an automated photo speed monitoring system in school zones in the Town. The Town Administrator is authorized to approve the specific terms and conditions of an agreement between the Town and RedSpeed (which terms and conditions shall be substantially as set forth in the Service Agreement attached to this Resolution) and to execute a Service Agreement with RedSpeed and all other necessary documents and authorizations for the installation and use of an automated school zone photo monitoring system to enforce speeding laws in school zones in the Town, in compliance with all applicable provisions of the Maryland Vehicle Law.

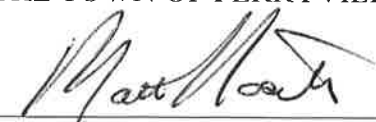
**AND BE IT FURTHER RESOLVED**, that this Resolution shall take effect upon the effective date of Ordinance 2021-12.

READ AND PASSED THIS 4<sup>th</sup> day of January, 2022.

ATTEST:

  
Jackie Sample, Town Clerk

MAYOR AND COMMISSIONERS OF  
THE TOWN OF PERRYVILLE

  
Matt Roath, Mayor



**AGREEMENT BETWEEN REDSPEED MARYLAND LLC  
AND THE TOWN OF PERRYVILLE FOR  
SPEED MONITORING SYSTEM**

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**AGREEMENT BETWEEN REDSPEED MARYLAND LLC  
AND THE TOWN OF PERRYVILLE FOR  
SPEED MONITORING SYSTEM**

This Speed Monitoring System Agreement (hereinafter referred to as this "Agreement") is made as of this 12<sup>th</sup> day of January, 2022 by and between RedSpeed Maryland LLC located at 301 High Street, Unit 1346, Cambridge, Maryland 21613 ("RedSpeed"), and the Town of Perryville, a Maryland municipal corporation (hereinafter referred to as the "Municipality"), RedSpeed and Municipality each being a "Party" and collectively being "Parties".

**RECITALS**

WHEREAS, RedSpeed is in the business of providing a speed monitoring system and the collection of any citations issued pursuant thereto and RedSpeed is familiar with and operates in compliance with Maryland laws relating to such activities;

WHEREAS, the Municipality desires to engage the services of RedSpeed to provide equipment, fixed speed cameras and hardware and related software and/or Mobile Speed Vans with speed camera, hardware and software and technicians (collectively "speed monitoring system") to identify and enforce violations of the posted speed limit within designated areas of the Municipality;

WHEREAS, RedSpeed shall employ engineers and other professional consultants who require 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 providing data processing equipment and related services;

WHEREAS, the Municipality and RedSpeed desire to enter into this Agreement for the implementation of a speed monitoring system and collection of citations for violations thereto, for certain areas or Fixed Speed Sites within the Municipality pursuant to this Agreement; and

WHEREAS, on January 4, 2022, the Board of Commissioners of Perryville, as the legislative body of the Municipality, passed Ordinance No. 2021-12 approving the use of Speed Monitoring Systems within the Municipality; and

WHEREAS, on January 4, 2022, the Board of Commissioners of Perryville, as the legislative body of the Municipality, passed Resolution No. 2021-08 authorizing 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.** RedSpeed shall provide a speed monitoring system and program to the Municipality by:



- a. Maintenance and violation processing services as set forth in Exhibit "A"; and
- b. The Municipality may from time to time request changes to the services required to be performed or the addition of products or services to those required pursuant to the terms of this Agreement by providing written notice thereof to RedSpeed. Upon RedSpeed's receipt of the requested change, RedSpeed shall deliver a written statement describing the effect, if any, the proposed changes would have on the pricing of this Agreement. Following the Municipality's receipt of the new pricing, the Parties shall negotiate to implement the proposed changes, the time, manner and amount of payment or price increases or decreases, as the case may be, and any other matters relating to the proposed changes. If the Municipality and RedSpeed fail to reach an agreement with respect to any of the proposed changes it shall not be deemed to be a breach or termination of this Agreement.

3. **Term.** The term of this Agreement shall commence as of the date hereof and shall continue for a period of five (5) years after the installation date ("Installation Date). Unless RedSpeed or Municipality elects not to renew, this Agreement will automatically renew for two (2) additional consecutive and automatic two (2) year periods following the expiration of the initial five (5) year term. If either the Municipality or RedSpeed elects not to renew, it must notify the other party in writing of its intention not to renew this Agreement at least ninety (90) days prior to the expiration of initial term or the renewal term, in which event this Agreement shall terminate on the expiration of such initial term or renewal term. Notwithstanding this Paragraph 3, this Agreement may be terminated as provided in Paragraph 5.

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

5. **Termination.**

- a. Either Party shall have the right to terminate this Agreement, without cause, with Sixty (60) days written notice to the other Party. Provided, however, notwithstanding the foregoing to the contrary, if Municipality terminates this Agreement without cause prior to the Installation Date, 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 a fixed speed camera or cameras at the Fixed Speed Sites which have been installed prior to termination (the "Cost" and/or "Costs"), and which shall not exceed Thirty Thousand Dollars (\$30,000.00) per Fixed Speed Site. 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.
- b. Either Party shall have the right to terminate this Agreement immediately by written notice to the other if: (i) State law is amended to prohibit or substantially change the operation of a Speed Monitoring System, as defined in Md. Code Ann., Transp. § 21-809, as amended; (ii) a court of competent jurisdiction determines the results from RedSpeed's speed monitoring systems to be inadmissible in evidence or that



the compensation provision set forth in Exhibit “B” to this Agreement is void or unenforceable; 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 their reasons for the alleged breach.

- c. i. Except as provided in Section 5(c)(ii) of this Agreement, the termination of this Agreement shall not relieve either Party of any liability that accrued prior to such termination.

The Municipality shall immediately cease using the Speed Monitoring 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 fees, charges and amounts due to RedSpeed for services performed prior to the termination.

RedSpeed shall remove any and all Equipment, hardware and software RedSpeed installed in connection with RedSpeed’s performance of its obligations under this Agreement and shall restore the Fixed Speed Sites to substantially the same condition they were in prior to this Agreement.

- ii. If a court of competent jurisdiction determines that the compensation provisions set forth in Exhibit “B” to this Agreement are void or unenforceable, the Municipality shall have no further obligation to RedSpeed.

- d. The Parties acknowledge that the following paragraphs shall survive termination of this Agreement in order to give effect to the provisions hereof:

- i. Reservation of Rights, Representations and Warranties of RedSpeed;
- ii. Representations and Warranties of Municipality;
- iii. Limited Warranties;
- iv. Confidentiality;
- v. Indemnification;
- vi. Dispute Resolution;
- vii. Assignment;
- viii. Applicable Law;
- ix. Injunctive Relief; and





x. Jurisdiction and Venue.

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: (i) solely within the Municipality, to access and use the RedSpeed Speed Monitoring System for the sole purpose of reviewing Potential Violations and authorizing the issuance of Citations pursuant to the terms of the Violations Processing Agreement that the parties intend to enter into; and (ii) to 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 Speed Monitoring System.
- b. The Municipality hereby acknowledges and agrees that, as between the Municipality and RedSpeed, RedSpeed is the sole and exclusive owner of the Speed Monitoring System provided by RedSpeed, the name RedSpeed, the mark 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 Speed 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 RedSpeed Speed Monitoring 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 applications to register as trademarks in any jurisdiction any of the RedSpeed Marks, the filing of patent application 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. **Disclaimer of Warranties.** 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 Speed Monitoring 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 Fixed Speed Site equipment or the Speed Monitoring System will operate in the way the Municipality selects for use, or that the operation or use thereof will be uninterrupted. The Municipality hereby acknowledges that the RedSpeed photo speed monitoring 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. **Representations.**

**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, in compliance with Maryland law and, with respect to the installation and testing of the RedSpeed Speed Monitoring System, subject to applicable law, in compliance with all specifications provided to RedSpeed.
- c. RedSpeed hereby warrants and represents that any and all equipment, including all intellectual property associated with such equipment, provided by RedSpeed is owned by or licensed to RedSpeed subject to any bank liens.

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 passage of 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 Municipality hereby warrants and represents to fully utilize to the extent practicable the Mobile Speed Van at all times permissible under Md. Code Ann., Transp. § 21-809, as amended. 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.

10. **Confidentiality.** Subject to applicable law, including the Maryland Public Information Act, 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.

Neither Party shall disclose to any third party any Confidential Information obtained from the other Party without the other Party's express written consent. 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 and Liability.**

- a. Without waiving any immunities to which Municipality is entitled by law, and subject to the provisions and limitations of the Maryland Local Government Tort Claims Act, the limits of available insurance coverage, and available appropriations, Municipality hereby agrees to defend and 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 against, and to protect, save and keep them harmless from, and to pay on behalf of or reimburse them as and when incurred for, any and all Losses which may be imposed on or incurred by any RedSpeed or equipment provided and/or installer 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 willful misconduct 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), except to the extent caused by the willful misconduct of any RedSpeed Party;
  - iii. any third party claim, action or demand not caused by RedSpeed's failure to perform its obligations under this Agreement; or
  - iv. any claim, action or demand challenging the Municipality's use of the Speed Monitoring System or any portion thereof, the validity of the results of the Municipality's use of the Speed Monitoring System or any portion thereof; validity of the Citations issued, prosecuted and collected as a result of the Municipality's use of the Speed Monitoring System provided by RedSpeed. Notwithstanding the foregoing, the provisions of this paragraph iv. does not apply to any claim, action or demand that arises or results from an assertion or determination that the speed enforcement system provided by RedSpeed does not comply with Maryland law.
- b. RedSpeed hereby agrees to defend and indemnify and hold harmless the Municipality's 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") against, 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 an covenant, warranty or representation of RedSpeed contained in this Agreement;
  - ii. the willful misconduct of RedSpeed, its employees 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 willful misconduct of the Municipality;
  - 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 that arises or results from an assertion or determination that the speed enforcement system provided by RedSpeed does not comply with Maryland law.
- 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; indirect, incidental, or consequential damages, however caused.
- d. 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 the Party from whom indemnification is being sought written notice of such Claim promptly after the Indemnified Party first becomes aware. 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 indemnifications is being sought shall have the right to participate in the defense at its sole expense.

**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, and in the event that either Party concludes in good faith that an amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then the Parties shall make good faith efforts to mutually agree to submit to binding or nonbinding arbitration or mediation. If the Parties are not able to mutually agree, a dispute shall be resolved by a court of competent jurisdiction in Cecil County, Maryland.



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 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  
400 Eisenhower Lane North  
Lombard, IL 60148

b. **Notices to the Municipality:**

Town of Perryville

Address:

515 Broad Street  
PO Box 773  
Perryville, MD 21903

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 payment for services rendered, as set forth in paragraph 4 above.

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 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. 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 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) business 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 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 business days prior notice, at mutually convenient times and during the normal business hours. In the event any such audit establishes any underpayment of any payment payable by the Audited Party pursuant to this Agreement, the Audited Party shall promptly pay the amount of the shortfall. In the event any such audit establishes any overpayment by the Audited Party, refund of the amount of the excess shall be promptly paid. 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, 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. 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 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 the RedSpeed.
- iii. **“Cause,”** as used at Paragraph 5(a) of this Agreement, means the material breach by RedSpeed, 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.
- v. **“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. **“Enforcement Documentation”** means the necessary and appropriate documentation related to the Speed Monitoring System, including but not limited to Citation notices using the specifications required by Md. Code Ann., Transp. § 21-809 and by local law, as each may be amended, instructions to accompany each issued Citation, chain of custody records, criteria regarding operational policies for processing Citations (including with respect to coordinating with the Department of Motor Vehicles), and technical support documentation for applicable court and judicial officers.



- vii. **“Equipment”** means any and all fixed speed cameras and/or Mobile Speed Vans, sensors, equipment, components, products, software and other tangible and intangible property relating to the Speed Monitoring System(s), including but not limited to all Speed Monitoring System(s), housings, radar units, and poles.
- viii. **“Fine”** means monetary sums assessed for Citation.
- ix. **“Fixed Speed Site”** means the sites as set forth in Exhibit A attached hereto, and such additional sites as RedSpeed and the Municipality shall mutually agree from time to time.
- x. **“Governmental Authority”** means the Court having venue.
- xi. **“Installation Date”** means the date on which RedSpeed completes the construction and installation of at least one (1) Fixed Speed Site or Mobile Speed Van in accordance with the terms of this Agreement so that such Fixed Speed Site or Mobile Speed Van is operational for the purposes of functioning with the Speed Monitoring System Program.
- xii. **“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.
- xiii. **“Mobile Speed Van”** means the Mobile Speed Van and all cameras, hardware and software incident to the use thereof.
- xiv. **“Operational Period”** means the period of time during the Term, commencing on the Installation Date, during which the Speed Monitoring System is functional in order to permit the identification and prosecution of Violations at the Fixed Speed Site(s) and the issuance of Citations for such approved Violations using the Speed Monitoring System.
- xv. **“Operator of the Equipment”** means the Municipality, which is the sole and exclusive operator of the equipment provided by RedSpeed.
- xvi. **“Person”** means natural individual, company, Governmental Authority, partnership, firm, corporation, legal entity or other business association.
- xvii. **“Potential Violation”** means, with respect to any motor vehicle passing through a Fixed Speed Site and/or a Mobile Vehicle Van, the data collected by the Speed Monitoring System with respect to such motor vehicle, which





data shall be processed by the Speed Monitoring System for the purposes of allowing the Authorized Officer to review such data and determine whether a posted speed violation has occurred.

- xviii. **“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.
- xix. **“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 Speed Monitoring 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.
- xx. **“Speed Monitoring System”** means, collectively, all of the other equipment, applications, back office processes and fixed speed cameras and/or Mobile Speed Van, sensors, components, and products, software and other tangible and intangible property relating 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 fixed speed cameras and/or Mobile Speed Van, 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 Speed Monitoring System enforcement.
- xxi. **“Violation”** means a speed law violation as defined by Md. Code Ann., Transp. § 21-809, as amended.
- xxii. **“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 exceeding the posted speed limit in violation of Md. Code Ann., Transp. § 21-809, as amended.
- xxiii. **“Violations Data”** means the images and other Violations data gathered by the Speed Monitoring System at the Fixed Speed Site(s) and/or Mobile Speed Van.



- xxiv. **“Violation Evidence Package”** means one unit of assembled Violations Data related to a singly evident Violation within the Violation Criteria.
- xxv. **“Warning Period”** means thirty (30) days after the Speed Monitoring System is activated. During the Warning Period, only warning notices are to be sent by Municipality and not Citations.
- b. **Entire Agreement.** This Agreement represents the entire Agreement between the Parties, 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 instrument. Any one 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.
- h. **Binding Effect.** This Agreement shall incur 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, 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, and except for those provisions governing conflicts or choice of laws. 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 State Courts located in Cecil County, Maryland, and both Parties specifically agree to be bound by the jurisdiction and venue thereof.



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

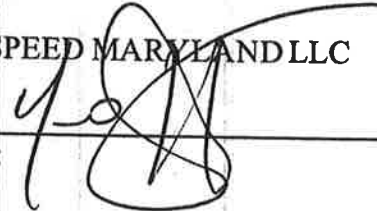
“Municipality”


TOWN OF PERRYVILLE

By:  (SEAL)  
Name: Matt Roath, Mayor

“RedSpeed”

REDSPEED MARYLAND LLC

By:  (SEAL)  
Name:

  
WITNESS



## EXHIBIT "A"

### Maintenance and Violation Processing Services

#### 1. Fixed Speed Sites

RedSpeed and the Municipality will mutually agree upon the Identification of the Fixed Speed Sites which agreement will be based on community safety and traffic needs as warranted. The Fixed Speed Sites shall be set forth on a supplement to this Exhibit A. RedSpeed shall assist Municipality in the gathering of statistical data for use in the Fixed Speed Site selection, permitting and follow-up reports.

#### 2. Construction and Installation of Fixed Speed Sites

2.1. RedSpeed will have Fixed Speed Site installed 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 Fixed Speed Site within the first ninety (90) days. The Municipality agrees that the estimated timeframe for installation and activation is not guaranteed.

2.4. The Municipality will assist with providing timely approval of permits requested by RedSpeed. The Municipality will forward such permit requests to the appropriate Municipality reviewing authority, and such authority shall make every effort to review the same within fifteen (15) business days of receipt. RedSpeed will also attempt to review and correct, if necessary, any requested changes within two (2) business days of receipt. RedSpeed shall assist the Municipality in acquiring any required County and State permits, when so requested by the Municipality.

2.5. RedSpeed will install cable and power conduits at its sole expense, and all necessary electrical services to the Fixed Speed Sites 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 Fixed Speed Site approach.





### 3. Maintenance of Fixed Speed Systems and/or Mobile Speed Vans

3.1. RedSpeed shall own, repair and maintain the Speed Monitoring System including both fixed and mobile equipment. In the case of Mobile Speed Van, RedSpeed will be responsible for servicing the van at regular intervals, maintaining valid State registration and insurance on the van, naming the Town as an additional insured on such insurance and providing documentation to the Town of such, while the Municipality will be responsible for gas and secure parking during non-operational hours.

3.2. RedSpeed shall certify the accuracy of fixed speed systems and/or Mobile Speed Van on an annual basis with a third party independent certification company at no expense to the Municipality and shall furnish said certificates to the Municipality upon receipt from the third party.

3.3. If the Municipality is being provided with a Mobile Speed Van hereunder, the Municipality agrees to provide a properly licensed operator for the Mobile Speed Van, have the operator deploy the Van, calibrate the cameras and related equipment before issuing Citations and at the end of the day, where necessary, facilitate uploading violations for processing to RedSpeed.

3.4. In those instances where damage to a Speed Monitoring System or sensors 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 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 Municipality to adequately secure the Speed Monitoring System which includes by definition the Mobile Speed Van during non-operational hours which results in damage to the Speed Monitoring System including the Mobile Speed Van.

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

3.6. RedSpeed normally shall provide technician site visits to each Fixed Speed Site 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.

3.7. RedSpeed shall repair a non-functional Fixed Speed Site and/or Mobile Speed Van within seventy-two (72) business hours of determination of a malfunction.

### 4. Violations Evidence Data Processing Services

4.1. All Violations Evidence Data shall be stored on the RedSpeed Speed Monitoring System.

4.2. RedSpeed shall process the Violation Evidence Data gathered from the Fixed Speed Site(s) and/or the Mobile Speed Vans into a format capable of review by the Authorized Officer.



- 4.3. 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 Speed Monitoring System within seven (7) days of the gathering of the Violations Evidence Data from the applicable Fixed Speed Site(s) and/or the Mobile Speed Vans.
- 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 shall be obligated to execute all violations (Citations) 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 assuming that it is named as the Municipality's agent.
- 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. Subsequent notices may be delivered by First Class or other mail means.
- 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](http://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 Municipality's Municipal Court or Police.



4.16. RedSpeed shall provide an on-line court processing module, which will enable the court 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 System until judicial notice is taken.

4.18. The RedCheck™ system, which provides the Municipality with 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 at no cost to the Municipality.

## 5. Training of Municipal Staff

5.1. RedSpeed shall provide training for Municipality's personnel, including but not limited to the persons who Municipality shall appoint as Authorized Officers and other persons involved in the administration of the Speed Monitoring System. Training shall include training with respect to the RedSpeed Speed Monitoring System and its 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 one-time free warning period up to 30 days in length at the outset of the program.

## 6. Non-Productive Fixed Speed Cameras

If the Municipality and RedSpeed mutually agree that a fixed speed camera either is not economical and/or has not reached the desired safety goals in less than a year from going live, a new location will be mutually selected, and the camera will be moved at no Cost to the Municipality.

If no further location is agreed upon by the Municipality for the removed camera, the Municipality will inform Red Speed in writing, and the camera will be removed at Cost to the Municipality not to exceed \$30,000.00 to the Municipality, within thirty (30) calendar days after the receipt of the written notice. The billing for the camera will stop immediately upon receipt of the written notice. Provided however, that removal of equipment from Fixed Speed Site Fixed Speed Sites under construction or improvement which construction or improvement was not under the exclusive control of the Municipality, such Costs for removal or relocation shall be borne by RedSpeed.



If the Municipality wishes to remove a fixed speed camera after one year from going live, RedSpeed shall remove the camera at no expense to the Municipality.



## **EXHIBIT "B"**

### **Compensation**

There will be no charge to the Municipality 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 for each of the following services listed below, where applicable, even if there is no Citation issued:

#### **Option 1:**

##### **Pre-Citation Tasks & Services:**

- \$0.99 - Includes the following:
  - Capture and review of Violation Evidence Data.
  - Registered owner name/address retrieval.
  - Submittal of Violation Evidence Package for police approval.

##### **Post Citation Tasks and Services:**

- \$6.49 - Includes the following:
  - Printing and mailing of Citations approved by police.
  - Payment processing, including check and credit card processing at the lock box or online.
  - Support of adjudication in all court proceedings
- \$6.49 - Includes the following:
  - Digital Evidence Retention of all notices, recipient correspondence and court proceedings.
- \$0.99 - Includes the following:
  - ALL client services offered by RedSpeed, including municipality-specific toll-free number, call center hearing scheduling, live operator violation status and payment support services (one-time fee if client services are used, otherwise no charge).
- \$5.00 - Includes the following:
  - Flagging of unpaid Citations with MVA and removal of flags upon receipt of payment (fee charged only on flag release).

#### **Option 2:**





- ~~Flat fee per camera of \$X,XXX.00 paid monthly, determined based on estimated level of activity.~~

The Parties agree that all Citations shall be paid to a lock box which shall be set up and maintained by RedSpeed on behalf and in the name of the Municipality or paid electronically to an account which shall be set up and maintained by RedSpeed on behalf and in the name 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 there from the compensation due to RedSpeed as outlined above.