

SERVICE AGREEMENT NO. 2178

School Zone Flasher System

THIS **School Zone Flasher System Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Paradigm Traffic Systems, Inc ("Contractor"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Contractor has bid to provide School Zone Flasher System in response to Request for Bid/Proposal No. 2178 ("RFB/RFP"), which RFB/RFP includes the required scope of work and all specifications and which RFB/RFP and the Contractor's bid or proposal response, as applicable, are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Contractor agree as follows:

- 1. Scope.** Contractor will provide School Zone Flasher System ("Services") in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety, and in accordance with Exhibit 2.
- 2. Term.** This Agreement is for five years, with performance commencing upon the date of issuance of a notice to proceed from the Contract Administrator or the Contracts and Procurement Department. The parties may mutually extend the term of this Agreement for up to zero additional zero-year periods ("Option Period(s)"), provided, the parties do so by written amendment prior to the expiration of the original term or the then-current Option Period. The City's extension authorization must be executed by the City Manager or designee.
- 3. Compensation and Payment.** This Agreement is for an amount not to exceed \$313,500.00, subject to approved extensions and changes. Payment will be made for Services completed and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. Contractor shall invoice no more frequently than once per month. All pricing must be in accordance with the attached Bid/Pricing Schedule, as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety. Any amount not expended during the initial term or any option period may, at the City's discretion, be allocated for use in the next option period.

Invoices will be mailed to the following address with a copy provided to the Contract Administrator:

City of Corpus Christi
Attn: Accounts Payable
P.O. Box 9277
Corpus Christi, Texas 78469-9277

- 4. Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

Name: Tony Salinas Jr
Department: Street
Phone: 361-826-1610
Email: TonyS@cctexas.com

5. Insurance; Bonds.

(A) Before performance can begin under this Agreement, the Contractor must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

(B) In the event that a payment bond, a performance bond, or both, are required of the Contractor to be provided to the City under this Agreement before performance can commence, the terms, conditions, and amounts required in the bonds and appropriate surety information are as included in the RFB/RFP or as may be added to Attachment C, and such content is incorporated here in this Agreement by reference as if each bond's terms, conditions, and amounts were fully set out here in its entirety.

- 6. Purchase Release Order.** For multiple-release purchases of Services to be provided by the Contractor over a period of time, the City will exercise its right to specify time, place and quantity of Services to be delivered in the following manner: any City department or division may send to Contractor a purchase release order signed by an authorized agent of the department or division. The purchase release order must refer to this Agreement, and Services will not be rendered until the Contractor receives the signed purchase release order.

- 7. Inspection and Acceptance.** City may inspect all Services and products supplied before acceptance. Any Services or products that are provided but not

accepted by the City must be corrected or re-worked immediately at no charge to the City. If immediate correction or re-working at no charge cannot be made by the Contractor, a replacement service may be procured by the City on the open market and any costs incurred, including additional costs over the item's bid/proposal price, must be paid by the Contractor within 30 days of receipt of City's invoice.

8. Warranty.

(A) The Contractor warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Contractor warrants that it has clear title to the products and that the products are free of liens or encumbrances.

(B) In addition, the products purchased under this Agreement shall be warranted by the Contractor or, if indicated in Attachment D by the manufacturer, for the period stated in Attachment D. Attachment D is attached to this Agreement and is incorporated by reference into this Agreement as if fully set out here in its entirety.

(C) Contractor warrants that all Services will be performed in accordance with the standard of care used by similarly situated contractors performing similar services.

9. Quality/Quantity Adjustments. Any Service quantities indicated on the Bid/Pricing Schedule are estimates only and do not obligate the City to order or accept more than the City's actual requirements nor do the estimates restrict the City from ordering less than its actual needs during the term of the Agreement and including any Option Period. Substitutions and deviations from the City's product requirements or specifications are prohibited without the prior written approval of the Contract Administrator.

10. Non-Appropriation. The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.

11. Independent Contractor. Contractor will perform the work required by this Agreement as an independent contractor and will furnish such Services in its own manner and method, and under no circumstances or conditions will any agent, servant or employee of the Contractor be considered an employee of the City.

- 12. Subcontractors.** Contractor may use subcontractors in connection with the work performed under this Agreement. When using subcontractors, however, the Contractor must obtain prior written approval from the Contract Administrator unless the subcontractors were named in the bid or proposal or in an Attachment to this Agreement, as applicable. In using subcontractors, the Contractor is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Contractor. All requirements set forth as part of this Agreement, including the necessity of providing a COI in advance to the City, are applicable to all subcontractors and their employees to the same extent as if the Contractor and its employees had performed the work. The City may, at the City's sole discretion, choose not to accept Services performed by a subcontractor that was not approved in accordance with this paragraph.
- 13. Amendments.** This Agreement may be amended or modified only in writing executed by authorized representatives of both parties.
- 14. Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
- 15. Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other applicable taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
- 16. Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

IF TO CITY:

City of Corpus Christi
Attn: Tony Salinas Jr
Title: Traffic Signal Superintendent
Address: 2525 Hygeia St, Corpus Christi, TX 78415
Phone: 361-826-1610
Fax: 361-826-1627

IF TO CONTRACTOR:

Paradigm Traffic Systems, Inc
Attn: Ryan Zenzen
Title: Vice President of Operations
Address: 2201 E Division Street, Arlington, TX
Phone: 817-831-9406
Fax: 817-831-9407

17. CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS (“INDEMNITEES”) FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS, AND CAUSES OF ACTION OF WHATEVER NATURE, CHARACTER, OR DESCRIPTION ON ACCOUNT OF PERSONAL INJURIES, PROPERTY LOSS, OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS’ FEES AND EXPERT WITNESS FEES, WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH A BREACH OF THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT BY THE CONTRACTOR OR RESULTS FROM THE NEGLIGENT ACT, OMISSION, MISCONDUCT, OR FAULT OF THE CONTRACTOR OR ITS EMPLOYEES OR AGENTS. CONTRACTOR MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING OR RESULTING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF CONTRACTOR UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

18. Termination.

(A) The City Manager may terminate this Agreement for Contractor's failure to comply with any of the terms of this Agreement. The Contract Administrator must give the Contractor written notice of the breach and set out a reasonable opportunity to cure. If the Contractor has not cured within the cure period, the City Manager may terminate this Agreement immediately thereafter.

(B) Alternatively, the City Manager may terminate this Agreement for convenience upon 30 days advance written notice to the Contractor. The City Manager may also terminate this Agreement upon 24 hours written notice to the Contractor for failure to pay or provide proof of payment of taxes as set out in this Agreement.

19. Owner's Manual and Preventative Maintenance. Contractor agrees to provide a copy of the owner's manual and/or preventative maintenance guidelines or instructions if available for any equipment purchased by the City pursuant to this Agreement. Contractor must provide such documentation upon delivery of such equipment and prior to receipt of the final payment by the City.

- 20. Assignment.** No assignment of this Agreement by the Contractor, or of any right or interest contained herein, is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement, and the City Manager's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.
- 21. Severability.** Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.
- 22. Order of Precedence.** In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:
- A. this Agreement (excluding attachments and exhibits);
 - B. its attachments;
 - C. the bid solicitation document including any addenda (Exhibit 1); then,
 - D. the Contractor's bid response (Exhibit 2).
- 23. Certificate of Interested Parties.** Contractor agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement if required by said statute.
- 24. Governing Law.** Contractor agrees to comply with all federal, Texas, and City laws in the performance of this Agreement. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.
- 25. Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

CONTRACTOR

Signature: Ryan Zenzen

Printed Name: Ryan Zenzen

Title: Vice President of Operations

Date: 08/27/19 Type text here

CITY OF CORPUS CHRISTI

Kim Baker
Director of Contracts and Procurement

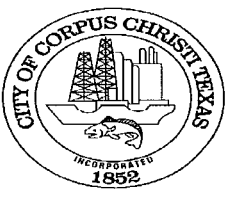
Date: _____

Attached and Incorporated by Reference:

- Attachment A: Scope of Work
- Attachment B: Bid/Pricing Schedule
- Attachment C: Insurance and Bond Requirements
- Attachment D: Warranty Requirements

Incorporated by Reference Only:

- Exhibit 1: RFB/RFP No. 2178
- Exhibit 2: Contractor's Bid/Proposal Response



ATTACHMENT A: SCOPE OF WORK

1.1 General Requirements/Background Information

- A. The Contractor will supply School Zone flasher system to 180 locations. Out of 180, the Contractor will supply 140 powered by AC source and 40 powered by DC source.
- B. The Contractor system must be fully compatible with the existing equipment.
- C. The Contractor system must comply with the Texas Department of Transportation Specification TO-7010, Networked School Zone Flasher systems.
- D. The Contractor shall be responsible for labor, material, equipment and transportation necessary to perform the turnkey installation and software setup.
- E. The Contractor shall finish the project within 3 months from the date of notice to proceed issue.

1.2 Hardware and Software - Supply and Installation

- A. The Contractor shall supply and install a School Zone Flasher System with associated Board, Harness for AC and Solar power source, baseplate, timer switch, cellular modem and software.
- B. The Contractor shall provide cloud-based software that allows to view, monitor and control school beacon flashers from any internet connected devices.
- C. The new system must have capability to maintain school zone flasher clock citywide, broadcast yearly schedule to each location, make schedule adjustment for early school release such as weather related issues, emergencies etc. and capability to monitor voltage and solar charge at each location, alerts when problem arise.
- D. The software shall generate reports include, but not limited to school beacon event logs, school beacon schedule report, beacon issue report, beacon AC voltage, beacon status, lamp status, monitor battery voltage and a comprehensive beacon health report.
- E. The Contractor shall not charge extra for additional software login. The Contractor will allow unlimited login to the City staff.
- F. The Contractor shall provide software updates without any extra cost to the City.
- G. The Contractor shall provide 4G or latest cellular communication services for connectivity between software and hardware.

1.3 Data

- A. During the term of the Contract, the Contractor shall not share and/or sell data collected with third parties without approval from the Contract Administrator.
- B. Upon completion of contract, the Contractor shall handover the data collected during the term of the Contract to the City staff or archive the data as per Federal, State and local requirement.

1.4 Site Control

- A. The Contractor shall barricade or place cones around the work area before commencing services. The Contractor shall safeguard the area while services are being performed. The Contractor shall try to minimize any interference to the public with the operations. The Contractor shall be responsible for assuring the safety of its employees, City employees and the public during performance.
- B. The Contractor shall not store material/parts on the site at the end of the workday.
- C. The Contractor must clean work site from debris or hazards after completion of work.

1.5 Training and Ongoing Support

- A. The Contractor shall provide classroom-based training. The training session shall include software training, how to program and operate the school flasher unit, and networking components of the school flasher system.
- B. The Contractor shall provide training manual to each training attendee.
- C. During the term of the Contract, the Contractor shall provide ongoing support services for the School zone flasher system without any cost to the City.

1.6 Testing and Acceptance

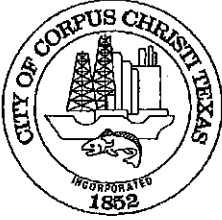
Upon completion of installation, the Contractor will be required to setup all components of the networked school flasher system to demonstrate compliance to the requirement for a test period of 30 days.

1.7 Documentation

The Contractor shall provide manual for installation, operation, software for central system, and all other components of the school flasher system. All manual must provide in a hard copy and in a pdf file to the Contract Administrator.

1.8 Trade In

The City will trade in 180 number of AP-22 Time switch, Make: RTC as in condition. The City will provide switches to the vendor at the end of the project completion. No warranty is given on those switches.



CITY OF CORPUS CHRISTI
Pricing Form
CONTRACTS AND PROCUREMENT DEPARTMENT

RFP No. 2178
School Zone Flashing System

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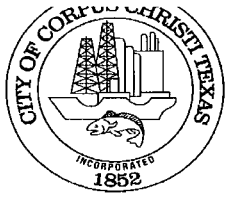
DATE: 6/17/19

Paradigm Traffic Systems, Inc.
PROPOSER


AUTHORIZED SIGNATURE

1. Refer to "Instructions to Proposers" and Contract Terms and Conditions before completing proposal.
2. Provide your best price for each item.
3. In submitting this proposal, Proposer certifies that:
 - a. the prices in this proposal have been arrived at independently, without consultation, communication, or agreement with any other Proposer or competitor, for the purpose of restricting competition with regard to prices;
 - b. Proposer is an Equal Opportunity Employer; and the Disclosure of Interest information on file with City's Contracts and Procurement office, pursuant to the Code of Ordinances, is current and true.
 - c. Proposer has incorporated any changes issue through Addenda to the RFP in this pricing.

Item	Description	Qty	UOM	Unit Price	Total Price
1	School Zone Clock System with associated Board and Harness for AC power source	140	EA	\$525.00	\$73,500.00 \$73,000.00 <i>27</i>
2	School Zone Clock System with associated Board and Harness for DC power source	40	EA	\$525.00	\$21,000.00
3	Software and Cloud Services	180	EA	No Charge	No Charge
4	Cellular Communication and Support	5	Year	\$42,000.00	\$210,000.00
5	Turnkey Installation	180	EA EA	\$250.00	\$45,000.00 <i>27</i>
6	Extended warranty (if applicable)	1	LS	N/A	N/A
7	Trade in current RTC AP-22 Time Switch	180	EA	(\$200.00)	(\$36,000.00)
	Total				\$313,500.00 \$313,000.00 <i>27</i>



ATTACHMENT C: INSURANCE REQUIREMENTS

I. CONTRACTOR'S LIABILITY INSURANCE

- A. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Contractor must furnish to the City's Risk Manager and Contract Administer one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **endorsement** is required on all applicable policies. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.	Bodily Injury and Property Damage Per occurrence - aggregate
COMMERCIAL GENERAL LIABILITY including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$1,000,000 Aggregate
WORKERS'S COMPENSATION (All States Endorsement if Company is not domiciled in Texas) Employers Liability	Statutory and complies with Part II of this Exhibit. \$500,000/\$500,000/\$500,000

- C. In the event of accidents of any kind related to this contract, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Contractor is not domiciled in the State of Texas.
- B. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
- C. Contractor shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi

Attn: Risk Manager

P.O. Box 9277

Corpus Christi, TX 78469-9277

- D. **Contractor agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;
 - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
 - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
 - Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any

time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.

- F. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this contract
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract

2019 Insurance Requirements

MIS Dept.

IT Hardware Installation

01/14/2019 sw Risk Management

BONDS

No bonds are required, therefore Section 5 Insurance; Bonds subsection 5(B) is null to this Service Agreement

ATTACHMENT D: WARRANTY REQUIREMENTS

The Contractor shall warrant software, hardware, materials and workmanship against defects arising from faulty material, faulty workmanship, Acts of God, negligence, accident knockdown, for a period of 5 years following the final acceptance of the work and shall replace and/or repair such defective materials without any cost to the City.

Any warranty repairs must be performed within 2 weeks at the manufacturer's facility or the manufacturer authorized service agency. Under warranty, the Contractor must pay shipping charges for equipment deliver to the Contractor authorized facility for repair and returned to City upon completion of repair.