

STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

CERTIFICATION OF SERVICE BY MAIL  
(C.C.P. 1013a) OR CERTIFIED MAIL

I, Ying Wu, do hereby certify that I am a resident of or employed in the County of  
Sacramento, over 18 years of age, and not a party to the within action, and that I am employed at  
and my business address is:

Division of Labor Standards Enforcement  
Bureau of Field Enforcement  
2031 Howe Avenue Suite 100  
Sacramento, CA 95825

On October 18, 2013, I served the within: Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

City of Oakland  
250 Frank H. Ogawa Plaza Suite 3341  
Oakland, CA 94314

Redflex Traffic Systems, Inc.  
C/o National Registered Agents, Inc.  
2875 Michelle Drive, Suite 100  
Irvine, CA 92606

Redflex Traffic Systems, Inc.  
23751 N. 23rd Avenue  
Phoenix, AZ 85085

Scott Osborne  
Jackson Lewis  
1001 SW 5th Avenue, Suite 1205  
Portland, OR 97204

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid,  
and then depositing it in the United States mail in Sacramento by:

- ☒ Ordinary first class mail  
☒ Certified mail  
☐ Registered mail

*I certify under penalty of perjury that the foregoing is true and correct*

Executed on October 18, 2013, at Sacramento, County of Sacramento, California

  
SIGNATURE

STATE CASE NO.  
40-29297/552

PW 34 (Revised - 4/2002)

Labor Commissioner, State of California  
Department of Industrial Relations  
Division of Labor Standards Enforcement  
2031 Howe Avenue Suite 100  
Sacramento, CA 95825  
916-263-3305  
FAX: 916-263-2906



DATE:  
October 18, 2013

In Reply Refer to Case No:  
40-29297/552

### CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body City of Oakland	Work Performed in County of Alameda
PROJECT NAME Photo Red Light Enforcement Program (Oakland)	Project No. 0
Prime Contractor Redflex Traffic Systems, Inc., a Delaware Corporation	
Subcontractor	

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Violation of Labor Code Section 1771 and 1774 for failing to pay the prevailing wage pursuant to wage determination Ala-2007-1 to all workers employed on this project. Penalties assessed pursuant to Labor Code Section 1775 at \$25 per violation; Penalties assessed pursuant to Labor Code Section 1813 at \$25 per violation; Violation of Labor Code Section 1777.5 for failure to pay training fund contributions in accordance with the applicable wage determination.

The attached Audit Summary further itemizes the calculation of wages due and penalties under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$226,122.48

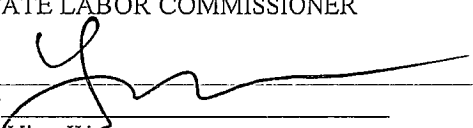
The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$18,225.00

The Division has determined that the amount of penalties assessed against Redflex Traffic Systems, Inc. under Labor Code section 1776 is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By

  
Ying Wu

Deputy Labor Commissioner

PW 33 (Revised - 3/2009)

### **Notice of Right to Obtain Review - Formal Hearing**

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

**To obtain a hearing, a written Request for Review must be transmitted to the following address:**

Labor Commissioner, State of California  
Civil Wage and Penalty Assessment Review Office  
2031 Howe Ave., Suite 100  
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written **Request for Review**.

**Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.**

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

### Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written **Request for Review** has already been made. Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Ying Wu  
at the following address: 2031 Howe Avenue Suite 100  
Sacramento, CA 95825

### Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion thereof that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

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Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability of liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the assessment or notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

Department of Industrial Relations  
Attention Cashiering Unit  
P.O. Box 420603  
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is **\$226,122.48**

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## Statutory Withholding Obligations

### 1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

**The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:**

Wages Due:	<u>\$226,122.48</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$18,225.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	<u>\$244,347.48</u>

### 2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

☒ If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$226,122.48</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$18,225.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	<u>\$244,347.48</u>

Distribution:

Awarding Body  
Surety(s) on Bond  
Prime Contractor  
Subcontractor

CODE	NO. CLASSIFICATION	Effective Date	HOURLY RATE	Contributions	TRAINING	Daily Overtime	HOLIDAY / SUNDAY
1	Inside Wireman	9/1/2006	42.230	18.970	0.500	104.440	104.440
2	No Increase						
3							
4							

Training Fund owed \$ 2,557.15  
 Total Wages \$ 223,565.33  
 1775 Penalty \$ 14,075.00  
 1813 Penalty \$ 4,150.00

Regular hours	Days Worked	Amount Earned	Amount Paid	Overtime Hours	Days Worked	Amount Earned	Amount Paid	Double time hours	Amount Earned	Amount Paid	Amount owed in total
24	3	\$ 1,468.80	\$ 401.28	10.15	3	\$ 1,060.07	\$ 245.83	1.2	\$ 125.33	\$ 38.06	\$ 1,969.02
Period: Mar 2008- Nov 2008											
476	60	\$ 29,131.20	\$ 8,648.72	40	20	\$ 4,177.60	\$ 1,052.16		\$ -	\$ -	\$ 23,607.92
Period: Dec 2008- July 09											
60	8	\$ 3,672.00	\$ 1,093.20	16	4	\$ 1,671.04	\$ 423.52		\$ -	\$ -	\$ 3,826.32
Period: 2009 to 2012											
32	4	\$ 1,958.40	\$ 709.44	16	4	\$ 1,671.04	\$ 518.24	0.95	\$ 99.22	\$ 40.48	\$ 2,460.50
Period: March 2008											
246	31	\$ 15,055.20	\$ 5,456.28	63	16	\$ 6,579.72	\$ 1,964.34		\$ -	\$ -	\$ 14,214.30
Period: Aug 2009 - Jan 2010											
3,643	456	\$ 222,951.60	\$ 80,801.74	474	119	\$ 49,504.56	\$ 14,779.32	6	\$ 626.64	\$ 241.08	\$ 177,260.66
Period: Aug 2009 - 2013											
6	1	\$ 367.20	\$ 140.58			\$ -	\$ -		\$ -	\$ -	\$ 226.62
Period: 2011 Feb											
		\$ -	\$ -			\$ -	\$ -		\$ -	\$ -	\$ -