

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Matthew J. Fertal From: William E. Murray
Dept.: City Manager Dept.: Public Works
Subject: RECOMMENDATION TO EXTEND PHOTO ENFORCEMENT AGREEMENT
WITH REDFLEX TRAFFIC SYSTEMS, INC. FOR THREE (3) YEARS WITH TWO
(2) ONE-YEAR EXTENSIONS Date: July 24, 2012

OBJECTIVE

To request City Council authorization to extend the current photo enforcement agreement with Redflex Traffic Systems, Inc. for three (3) years with two (2) one-year extensions.

BACKGROUND

The City's Photo Enforcement Program, or red light camera system, was initiated in July of 1999. Over the years, with careful planning, the program has expanded to include eight (8) intersections. The program is self-funding, but more importantly, has proven to reduce accidents and save lives.

The most recent agreement with Redflex Traffic Systems, Inc. was executed on February 13, 2007. The contract was for a 3-year term, with two 1-year extensions. It was extended through August 13, 2012 by execution of the First Amendment to the agreement.

DISCUSSION

In order to keep this beneficial program in place, the Public Works Department is proposing a three (3) year extension. This proposed extension would also allow for two (2) one-year extensions, as did the original 2007 Agreement. The basic terms of the original agreement are unchanged.

FINANCIAL IMPACT

There is no impact to the General Fund. Historically, the photo enforcement program has been revenue neutral for the City.

RECOMMENDATION TO EXTEND PHOTO ENFORCEMENT AGREEMENT WITH REDFLEX TRAFFIC SYSTEMS, INC. FOR THREE (3) YEARS WITH TWO (2) ONE-YEAR EXTENSIONS

July 24, 2012


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RECOMMENDATION

It is recommended that the City Council:


- Approve the Second Amendment with Redflex Traffic Systems, Inc. extending the 2007 Agreement, including extensions, and the First Amendment by three (3) years with two (2) one-year extensions.
- Authorize the City Manager to execute the professional services agreement Second Amendment with Redflex Traffic Systems, Inc.


William E. Murray, P.E.
Public Works Director/City Engineer


By: Dan Candelaria, P.E., T.E.
City Traffic Engineer

Attachment: Second Amendment to the Agreement

Recommended for Approval


Matthew Fertal
City Manager

PROFESSIONAL SERVICES AGREEMENT

REDFLEX TRAFFIC SYSTEMS, INC.

THIS SECOND AMENDMENT TO THE AGREEMENT ("Second Amendment") is made to be effective as of the 14th day of August, 2012 ("Effective Date"), by and between the CITY OF GARDEN GROVE, a municipal corporation ("CITY") and Redflex Traffic Systems, Inc., a Delaware corporation ("SERVICE PROVIDER") or ("REDFLEX"), with offices at 5835A Uplander Way, Culver City, California 90230. The City and Redflex are collectively referred to as the "Parties".

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Second Amendment is entered into pursuant to Garden Grove City Council authorization.
2. CITY and SERVICE PROVIDER previously entered into an Agreement, dated February 13, 2007, and a First Amendment to the Agreement, effective February 13, 2012, (collectively, the "Agreement") for the provision of services by SERVICE PROVIDER through and until August 13, 2012, to furnish all equipment, licenses, applications and back office processor related to the SMARTCAM digital red light traffic enforcement cameras for monitoring enforcement of red-light running violations at up to 25 approaches within the City of Garden Grove.
3. CONTRACTOR is qualified by virtue of experience, training, education and expertise to accomplish these services, and CITY desires to continue to utilize SERVICE PROVIDER to furnish these services.
4. Accordingly, CITY and SERVICE PROVIDER mutually desire to amend and extend the term of the Agreement as provided in this Second Amendment.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Extension of Term of Agreement.** The term of the Agreement shall be extended for an additional period of three (3) years, commencing August 14, 2012 through and until August 13, 2015. Following the expiration of the original term as described above, the Agreement shall be automatically extended for two (2) additional one (1) year terms (from the date of execution), unless either party provides written notification of its intent not to

extend the Agreement sixty (60) days prior to the expiration of any such term.

- 2. **Replacement of Exhibit "A"**. As of the Effective Date, Exhibit "A" to the Agreement ("Compensation & Pricing") shall be replaced in its entirety with the attached, revised Exhibit "A", which is incorporated herein by reference.
- 3. **Replacement of Exhibit "C"**. As of the Effective Date, Exhibit "C" to the Agreement ("Scope of Services") shall be replaced in its entirety with the attached, revised Exhibit "C", which is incorporated herein by reference.
- 4. Except as expressly amended pursuant to this Second Amendment, all other provisions of the Agreement shall remain in full force and effect.

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

"CITY"

CITY OF GARDEN GROVE

Dated: _____, 2012

By: _____
City Manager

ATTEST

"SERVICE PROVIDER"

REFLEX TRAFFIC SYSTEMS, INC.

City Clerk

By: Karen Finley

Dated: _____, 2012

Name: KAREN FINLEY

Title: CEO

Dated: July 17, 2012

APPROVED AS TO FORM:



Garden Grove City Attorney

If SERVICE PROVIDER is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

Dated: July 18, 2012

EXHIBIT “A”

COMPENSATION & PRICING

Fixed Monthly Fee

Tier One

Commencing on the effective date of this Second Amendment, the Customer shall be obligated to pay Redflex a fixed fee of \$2900.00 each month per Designated Intersection Approach (“Fixed Fee”) as full remuneration for performing all of the services contemplated in this Agreement and for the continued operation of the following approaches:

Brookhurst Street and Chapman Avenue, Southbound
Brookhurst Street and Orangewood Avenue, Northbound
Brookhurst Street and Westminster Avenue, Northbound
Brookhurst Street and Westminster Avenue, Southbound
Harbor Boulevard and Trask Avenue, Southbound
Magnolia Street and Trask Avenue, Northbound
Trask Avenue and Harbor Boulevard, Eastbound
Trask Avenue and Magnolia Street, Westbound
Valley View Street and Chapman Avenue, Northbound
Valley View Street and Chapman Avenue, Southbound
Valley View Street and Lampson Avenue, Southbound

Tier Two

Commencing on the effective date of this Second Amendment, the following Designated Intersection Approaches shall continue operation with all of the services contemplated in this Agreement without fee, and shall be identified on invoicing thereafter as being without fee:

Chapman Avenue and Brookhurst Street, Westbound
Trask Avenue and Brookhurst Street, Westbound
Trask Avenue and Brookhurst Street, Eastbound

Tier Three

Compensation for Designated Intersection Approaches constructed after execution of this Agreement shall be a fixed fee mutually agreed upon by both parties.

The fee paid to Redflex Traffic Systems under this contract are for full a turnkey program, inclusive of all hardware, software and support services required to implement and maintain functional photo enforcement safety program, including but not limited to a program and process by which the monitoring, identification and enforcement of Violations is facilitated by the use of

certain equipment, applications and back office processes of Redflex, including but not limited to cameras, flashes, central processing units, signal controller interfaces and detectors (whether loop, radar or video loop) which, collectively, are capable of measuring Violations and recording such Violation data in the form of photographic images of motor vehicles and/or their drivers. Redflex Traffic Systems shall have and maintain a valid California contractor's license prior to the installation of equipment or facilities, and shall use California licensed subcontractors. Services include Training Services, Citation Processing, Expert Witness, and System Maintenance.

BUSINESS ASSUMPTIONS FOR ALL PRICING OPTIONS:

1. Each year, on the anniversary date of the contract, the pricing will increase by the Consumer Price Index ("CPI"), as published by the Bureau of Labor Statistics for the United States Department of Labor for U.S. City average. If the Index is discontinued or revised during the Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised. Any increase in compensation, other than as provided in the Agreement, shall be limited to the aforementioned CPI increase.

Exhibit C

SCOPE OF SERVICES

1. **Services.** Redflex shall provide the Redlight Photo Enforcement Program to the Customer with respect to the Designated Intersection Approaches, in each case in accordance with the terms and provisions set forth in this Agreement.

a. **Installation.** With respect to the construction of the Designated Intersection Approaches and the installation of the Redflex System at such Designated Intersection Approaches, the Customer and Redflex shall have the respective rights and obligations set forth herein and in the Professional Services Agreement to which this Exhibit C is attached.

b. **Maintenance.** With respect to the maintenance of the Redflex System at the Designated Intersection Approaches, the Customer and Redflex shall have the respective rights and obligations set forth herein.

c. **Violation Processing.** Violations shall be processed as follows:

- i. All violations data shall be stored on the Redflex System;
- ii. The Redflex System shall process Violations Data gathered from the Designated Intersection Approaches into a format capable of review by the authorized Officer via the Redflex System;
- iii. The Redflex System shall be accessible by the Authorized Officer through a virtual private network in encrypted format by use of a confidential password on any computer equipped with a high-speed internet connection and a web browser;
- iv. Redflex shall provide the Authorized Officer with access to the Redflex System for the purpose of reviewing the pre-processed Violations Data within six (6) days of gathering the Violation Data from the applicable Designated Intersection Approach;
- v. The Customer shall cause the Authorized Officer to review the Violations Data and to determine whether a citation shall be issued with respect to each Potential Violation captured within such Violation Data, and to transmit each such determination in the form of an Electronic Signature to Redflex using the software or other applications or procedures provided by Redflex on the Redflex System for such purpose, and REDFLEX 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 REDFLEX HAVE THE ABILITY OR AUTHORIZATION TO MAKE A CITATION DECISION;
- vi. With respect to each Authorized Violation, Redflex shall print and mail a Citation within five (5) days after Redflex's receipt of such authorization; provided, however, during the Warning Period, warning violation notices shall be issued in respect of all Authorized Violations;
- vii. Redflex shall provide a toll-free telephone number for the purpose of answering citizen inquiries, responding to complaints and scheduling appointments during which recipients of Citations may view the applicable Violations Data, and Redflex shall provide necessary personnel for such purpose;
- viii. Redflex shall permit the Authorized Officer to generate monthly reports using the Redflex Standard Report System;

- ix. Upon Redflex's receipt of a written request from the Customer and in addition to the Standard Reports, Redflex shall provide, without cost to the Customer, reports regarding the processing and issuance of Citations, the maintenance and downtime records of the Designated Intersection Approaches and the functionality of the Redflex System with respect thereto to the Customer in such format and for such periods as the Customer may reasonably request; provided, however, Redflex shall not be obligated to provide in excess of six (6) such reports in any given twelve (12) month period without cost to the Customer;
- x. Upon the Customer's receipt of a written request from Redflex, the Customer shall provide, without cost to Redflex, reports regarding the prosecution of Citations and the collection of fines, fees and other monies in respect thereof in such format and for such periods as Redflex may reasonably request: provided, however, the Customer shall not be obligated to provide in excess of six (6) such reports in any given twelve (12) month period without cost to Redflex;
- xi. Upon receipt of reasonable notice, Redflex shall provide expert witnesses for use by the Customer in prosecuting violations; provided, however, the Customer shall use reasonable best efforts to seek judicial notice in lieu of requiring Redflex to provide such expert witnesses.
- xii. During the three (3) month period following the Installation Date, Redflex shall provide such training to police personnel as shall be reasonably necessary in order to allow such personnel to act as expert witnesses on behalf of the Customer with respect to the Redlight Enforcement Program.

2. Designated Intersection Approaches: This contract is for the implementation or continued implementation of up to twenty-five (25) intersection approaches, including fourteen (14) existing intersection approaches. Identification of enforced intersections will be based on mutual agreement between Redflex and the City as warranted by community safety and traffic needs.

3. Construction Obligations and Timelines. Timeframe for Installation. Redflex will have each specified installation installed and activated in phases in accordance with the implementation plan to be mutually agreed to by Redflex Traffic Systems and the Municipality. Redflex 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. Redflex shall have and maintain a valid California contractor's license prior to the installation of the systems, and shall utilize subcontractors licensed by the State of California. Redflex will use reasonable commercial efforts to install and activate the first specified intersection within the first ninety (90) days subsequent to formal project kick-off. The Municipality agrees that the estimated timeframe for installation and activation are subject to conditions beyond the control of Redflex and are not guaranteed.

a. Redflex Obligations. Redflex shall do or cause to be done each of the following (in each case, unless otherwise stated below, at Redflex's sole expense):

- i. Appoint the Redflex Project Manager and a project implementation team consisting of between one (1) and four (4) people to assist the Redflex Project Manager;
- ii. Request current "as-built" electronic engineer drawings for the Designated Intersection Approaches (the "Drawings") from the city traffic engineer;
- iii. Develop and submit to the Customer for approval construction and installation specifications in reasonable detail for the Designated Intersection Approaches, including but not limited to

- specifications for all radar sensors, pavement loops, electrical connections and traffic controller connections, as required; and
- iv. Seek approval from the relevant Governmental Authorities having authority or jurisdiction over the construction and installation specifications for the Designated Intersection Approaches (collectively, the "Approvals"), which will include compliance with City permit applications.
 - v. Finalize the acquisition of the Approvals;
 - vi. Complete the installation and testing of all necessary Equipment, including hardware and software, at the Designated Intersection Approaches (under the supervision of the Customer);
 - vii. Cause an electrical subcontractor to complete all reasonably necessary electrical work at the Designated Intersection Approaches, including but not limited to the installation of the related Equipment and other detection sensors, poles, cabling, telecommunications equipment and wiring, which work shall be performed in compliance with all applicable local, state and federal regulations;
 - viii. Install and test the functionality of the Designated Intersection Approaches with the Redflex System and establish fully operational Violation processing capability with the Redflex System;
 - ix. Implement the use of the Redflex System at each of the Designated Intersection Approaches;
 - x. Deliver the materials to the Customer; and
 - xi. Redflex shall comply with Customer-developed guidelines for processing and storage of confidential information as those guidelines may be revised from time to time; and
 - xii. In order to ensure that Customer maintains overall control and supervision of the system, Redflex shall maintain records of the following services, and shall deliver quarterly reports to Customer summarizing: (A) regular inspections of the equipment; and (B) certification of proper installation and calibration, and operation of equipment.
 - xiii. Maintenance. All repair and maintenance of camera systems and related equipment will be the sole responsibility of Redflex, including but not limited to maintaining the casings of the cameras included in the Redflex System and all other Equipment in reasonably clean and graffiti-free condition.
 - xiv. Redflex shall not open the Traffic Signal Controller Boxes without a representative of City Traffic Engineer present.
 - xv. In the event that images of a quality suitable for the Authorized Officer to identify Violations cannot be reasonably obtained without the use of flash units, Redflex shall provide and install such flash units.
 - xvi. The Redflex Project Manager (or a reasonable alternate) shall be available to the Police Project Manager each day, on a reasonable best efforts basis.

b. Customer Obligations. The Customer shall do or cause to be done each of the following (in each case), unless otherwise stated below, at the Customer's sole expense):

- i. Appoint the Police Project Manager;
- ii. Assist Redflex in obtaining the Drawings from the relevant Governmental Authorities;
- iii. Notify Redflex of any specific requirements relating to the construction and installation of any Intersection Approaches or the implementation of the Redlight Photo Enforcement Program;
- iv. Provide reasonable access to the Customer's properties and facilities in order to permit Redflex to install and test the functionality of the Designated Intersection Approaches and the Redlight Photo Enforcement Program;
- v. Provide reasonable access to the personnel of the Customer and reasonable information about the specific operational requirements of such personnel for the purposes of performing training;

vi. The provision of all necessary electrical services to the Designated Intersection Approaches will be the sole responsibility of the Customer.

4. Business Assumptions.

- a. Redflex construction can utilize existing conduit for installation where space is available. Where it is determined by both parties that additional conduit is necessary, cost and access for such additional conduit shall be equally shared by Redflex and the Customer. Any such additional conduit shall become the exclusive property of the Customer upon termination of this Agreement.
- b. The Customer agrees to pay RTS within thirty (30) days after the invoice is received. A monthly late fee of 1.5% is payable for payments past due 60 days.
- c. Prices do not include supply of power and supply of DSL, cable or other broadband services. Customer shall be solely responsible for power and communications infrastructure.
- d. Each year, the pricing will increase by the CPI. CPI will be derived from the publication of the U.S. Department of Labor Consumer Price Index for U.S. City average. The index to be used is the "West A" (1,500,000 residents or more).

5. Additional Rights and Obligations. Redflex and the Customer shall respectively have the additional rights and obligations set forth below:

- a. Redflex shall assist the Customer in public information and education efforts.
- b. The Customer shall be solely responsible for the fabrication of any signage, notices or other postings required pursuant to any law, rule or regulation of any Governmental Authority ("Signage"), including but not limited to the California Vehicle Code, and shall assist in placement of such signage, and the Customer hereby acknowledges and agrees that the Customer shall be solely responsible for installing such signage.
- c. The Customer shall be solely responsible for the installation of LED lights at enforced intersections.
- d. The Customer shall not access the Redflex System or use the Redlight Photo Enforcement Program in any manner other than prescribed by law and which restricts or inhibits any other Person from using the Redflex System or the Redflex Photo Enforcement Program with respect to any Intersection Approaches constructed or maintained by Redflex for such Person, or which could damage, disable, impair or overburden the Redflex System or the Redflex Photos Enforcement Program, and the Customer shall not attempt to gain unauthorized access to (i) any account of any other Person, (ii) any computer systems or networks connected to the Redflex System, or (iii) any materials or information not intentionally made available by Redflex to the Customer by means of hacking, password mining or any other method whatsoever, nor shall the Customer cause any other person to do any of the foregoing.
- e. The Customer shall maintain the confidentiality of any username, password or other process or device for accessing the Redflex System or using the Redlight Photo Enforcement Program.
- f. Each of Redflex and the Customer shall advise each other in writing with respect to any applicable rules or regulations governing the conduct of the other on or with respect to the property of such other party, including but not limited to the rules and regulations relating to the safeguarding of confidential or proprietary information, and when so advised, each of Redflex

and the Customer shall obey any such rules and regulations.

g. The Customer shall promptly reimburse Redflex for the cost of repairing or replacing any portion of the Redflex System, or any property or equipment related thereto, damaged directly or indirectly by the Customer, or any of its employees, contractors or agents.