



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Adopt a resolution authorizing the City Manager to execute the First Amendment to Contract No. C-07-188 with Redflex Traffic Systems, Inc for red light camera operations for an additional two year period including the installation of one additional red light camera system and a related records retention schedule

MEETING DATE: December 14, 2011

PREPARED BY: Nicole York-Johnson, Management Analyst

DEPARTMENT HEAD: Robert Lehner, Chief of Police

RECOMMENDED ACTION:

Staff recommends that the City Council of the City of Elk Grove adopt a resolution authorizing the City Manager to execute the First Amendment to Contract No. C-07-188 with Redflex Traffic Systems, Inc. for red light camera operations for an additional two year period including the installation of one additional red light camera system and a related records retention schedule.

BACKGROUND INFORMATION:

The City of Elk Grove entered into an agreement with Redflex Traffic Systems, Inc. ("RTS") for red light traffic enforcement in May 2007. RTS has provided the City with the equipment, applications, and citation processes necessary for sworn officers of the City to monitor, identify and enforce red light violations. For four years, RTS has provided the City reliable, consistent service through its equipment and customer service. RTS is the longest operating company in the United States for camera road

safety. RTS has been a supportive service provider to the City of Elk Grove, helping to provide a safer community by reducing the incidence of vehicle collisions at traffic intersections and City streets.

The attached First Amendment (Attachment 2) will extend the terms of the current agreement, allowing the City to continue receiving services from RTS including the installation of one additional red light camera system to be installed in 2012. The First Amendment also provides the clarity and understanding needed to move forward with maintaining a system that meets the City's high standards for safety and reliability. In addition, establishing a records retention schedule (Exhibit A to Attachment 1) that will be followed by RTS ensures that records will be in accordance with the law.

FISCAL IMPACT:

Compensation for installation and maintenance shall remain as per the original terms of the agreement. The Police Department's annual budget includes funding for the red light camera system. There is sufficient funding identified in the Department's Fiscal Year 2011-12 budget to continue this service and add one an additional red light camera system in 2012. No additional funding is being requested as a part of this staff report.

ATTACHMENTS:

1. Resolution
 - a. Exhibit A – Records Retention Schedule
2. Contract Amendment

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT
TO CONTRACT NO. C-07-188 WITH REDFLEX TRAFFIC SYSTEMS, INC. FOR RED
LIGHT CAMERA OPERATIONS FOR AN ADDITIONAL TWO YEAR PERIOD
INCLUDING THE INSTALLATION OF ONE ADDITIONAL RED LIGHT CAMERA
SYSTEM AND A RELATED RECORDS RETENTION SCHEDULE**

WHEREAS, the City entered into Contract No. C-07-188 with Redflex Traffic Systems, Inc. (Redflex) for red light camera operations in May 2007; and

WHEREAS, for four years Redflex has provided the City with the equipment, applications, and citation processes necessary for sworn officers of the City to monitor, identify, and enforce red light violations; and

WHEREAS, Redflex has been a supportive service provider to the City of Elk Grove, helping to provide a safer community by reducing the incidence of vehicle collisions at traffic intersections and City streets; and

WHEREAS, the safety of Elk Grove's citizens is the City Council's primary concern; and

WHEREAS, it is in the best interest of the City to continue to receive services from Redflex by extending the Contract for an additional two year term, approving the placement of one additional red light camera system, and approving a records retention schedule.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby authorizes the City Manager to execute the First Amendment to Contract No. C-07-188 with Redflex Traffic Systems, Inc., for red light camera operations, extending the Contract for an additional two year term, and approving the placement of one additional red light camera system, and the City Council further approves the related records retention schedule attached as Exhibit A.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 14th day of December 2011.

STEVEN M. DETRICK, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, CITY CLERK

JONATHAN HOBBS,
INTERIM CITY ATTORNEY

EXHIBIT A

**City of Elk Grove Police Department Retention Schedule for
Records Relating to the Automated Traffic Enforcement System**

Redflex Traffic Systems, Inc. (“Redflex”), shall retain and destroy records of the City of Elk Grove Police Department (“City”) pursuant to the retention schedule and instructions set forth herein (“Retention Schedule”).

A. Definitions

1. **Documents and Records.** For purposes of this Retention Schedule, “documents” and “records” shall have the same meaning as “writing” as defined by California *Evidence Code* section 250 and mean handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.
2. **Final disposition.** For purposes of this Retention Schedule, “Final Disposition” shall mean that an acquittal, dismissal, or order of judgment has been entered in the case or proceeding, the judgment has become final, and no post-judgment motions, re-trials, or appeals are pending in the case or for the reviewing court upon the mailing of notice of the issuance of the remittitur. As used herein, the order of judgment shall mean imposition of sentence, entry of an appealable order, or forfeiture of bail without issuance of a bench warrant or calendaring of other proceedings.
3. **Personal Information.** For purposes of this Retention Schedule, “personal information” shall mean any information personal to an individual, including but not limited to, names, addresses, and license numbers.

B. Schedule and Categories of Records

Category	Record Description	Retention Period	Citation
A.	Photographic records made by an automated enforcement system.	Upon Final Disposition of the citation.	Cal. Veh. Code sections 21455.5(e)(1), 21455.5(e)(3); Cal. Gov. Code sections 68151, 68152
B.	Confidential information obtained from the California Department of Motor Vehicles for the administration or enforcement of Vehicle Code section 21455.5.	Upon Final Disposition of the citation.	Cal. Veh. Code sections 21455.5(e)(2), 21455.5(e)(3); Cal. Gov. Code sections 68151, 68152
C.	All other documents related to the automated enforcement system and the administration or enforcement of Vehicle Code section 21455.5	Two years from the date the information was first obtained.	Cal. Gov. Code section 34090(d)
D.	Records placed on hold status by the Elk Grove Police Department.	Permanent retention until instructed otherwise, in writing, by the Elk Grove Police Department.	

C. Instructions for Destruction of Records

1. **Verification of Final Disposition.** For records in Categories A and B of this Retention Schedule, Redflex shall provide documentation from the Superior Court of California, County of Sacramento, Carol Miller Justice Center, demonstrating the citations have reached Final Disposition as defined above. Should the Redflex system be unable to identify which citations have reached Final Disposition, then the records within Categories A and B shall be retained until such time that the City determines that the citations have reached Final Disposition.
2. **Identification of Records.** On a quarterly basis, Redflex shall provide notice to the City of the list of records identified for destruction pursuant to this Retention Schedule. This notice shall be provided as follows:

City of Elk Grove Police Department
Records Manager
8400 Laguna Palms Way
Elk Grove, CA 95758
Tel. 916-683-7111
Fax 916-627-4100

With a copy to:

City of Elk Grove
Office of the City Attorney
8401 Laguna Palms Way
Elk Grove, CA 95758
Tel. 916-683-7111
Fax 916-627-4100

3. **Notice of Permanent Hold.** Following receipt of the notice described above, in the event the City determines that any or all of the records scheduled for destruction should not be destroyed, then the City will notify Redflex of the documents that are not to be destroyed, at which time Redflex shall place those records on permanent hold until such time that the City notifies Redflex, in writing, that the hold has been released. Redflex shall provide City with an annual report identifying all records remaining on permanent hold.
4. **Authorization and Notice to Proceed.** Before any records shall be destroyed, the City Council of the City of Elk Grove must adopt the Retention Schedule and annually thereafter make a resolution authorizing destruction in accordance with California *Government Code* section 34090. Upon authorization by the City Council, the City shall provide Redflex with a notice to proceed with destruction.
5. **Manner of Destruction.** All records must be destroyed in a manner that shall preserve the confidentiality of any personal information included in the record or document. Within 5 business days following destruction of the records, Redflex shall provide the City with a Certificate of Destruction in the form attached hereto as Exhibit "A."

Exhibit "A"

**City of Elk Grove Police Department Retention Schedule for
Records Relating to the Automated Traffic Enforcement System**

CERTIFICATE OF DESTRUCTION

In accordance with the established City of Elk Grove Police Department Retention Schedule for Records Relating to the Automated Traffic Enforcement System, it is hereby certified that the files listed on the attached have been destroyed by Redflex Traffic Systems, Inc., as approved by the City of Elk Grove.

I declare under penalty of perjury under the law of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed this _____ day of _____, 20____, at _____.

By: _____

Redflex Traffic Systems, Inc.

[Attach list of records destroyed]

**EXTENSION OF AND FIRST AMENDMENT TO
THE PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF ELK GROVE
AND
REDFLEX TRAFFIC SYSTEMS, INC.
FOR
PHOTO RED LIGHT ENFORCEMENT PROGRAM**

This First Amendment ("Amendment") is made as of the date of the last signature contained herein to the Professional Services Agreement Between the City of Elk Grove and Redflex Traffic Systems, Inc. for Photo Red Light Enforcement Program (the "Agreement") executed on or about May 23, 2007 between Redflex Traffic Systems, Inc. ("Redflex"), a Delaware Corporation with offices located at 5835A Uplander Way, Culver City, California 90230 and the City of Elk Grove, a California municipal corporation, with offices at 8380 Laguna Palms Way, Elk Grove, California 95758 (the "Customer" or "City"), individually the "Party" and collectively referred to as the "Parties".

RECITALS

WHEREAS, Redflex has exclusive knowledge, possession and ownership of certain equipment, licenses, applications, and citation processes related to digital photo red light enforcement systems; and

WHEREAS, the Customer desires to continue to engage the services of Redflex to provide certain equipment, processes and back office services so that authorized City staff of the Customer are able to monitor, identify and enforce red light running violations; and

WHEREAS, it is a mutual objective of both Redflex and the Customer to reduce the incidence of vehicle collisions at the traffic intersections and City streets that will continue to be monitored pursuant to the terms of the Agreement as expressly modified herein; and

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration received, the receipt and sufficiency of which are hereby acknowledged, the Parties amend the Agreement as follows:

AMENDED TERMS AND CONDITIONS

1. Extension of Term. The Term of the Agreement shall be extended for an additional two (2) years (hereinafter the "First Renewal Term") commencing as of the last day of the Initial Term as stated in the Agreement. The Customer shall have the option to extend the Agreement for an additional one (1) year thereafter on an annual basis by providing written notice to Redflex not less than thirty (30) calendar days prior to the last day of the First Renewal Term or any subsequent renewal terms.

2. Replacement of Provision 7.1.1 Provision 7.1.1 of the Agreement is hereby deleted in its entirety and replaced with the quoted language as follows:

“7.1.1. state statutes are amended to cause material adverse impact or prohibit the operation of red light photo enforcement systems;”

3. Replacement of Provision 7.2. Provision 7.2 of the Agreement is hereby amended in its entirety and replaced with the quoted language as follows

“7.2. Termination Without Cause. The City may terminate this Agreement without cause at any time by giving thirty (30) days written notice of termination to Contractor. If the City exercises its right to terminate this Agreement in accordance with this paragraph, the City shall be obligated to pay Contractor for all services deemed by the City to have been satisfactorily performed in accordance with this Agreement, through and including the initiation of termination date, but not to exceed the payment according to the rates specified in Exhibit D. In the event the City exercises its right to Termination Without Cause during the first thirty-six (36) months after execution of this Amendment, or as otherwise defined below, the City shall reimburse Contractor on an amount equal to the Reimbursable Costs, as hereinafter defined, of reasonable direct labor costs and reasonable material costs (not including Equipment Costs and salvageable material costs) solely associated with each applicable Designated Intersection Approach (the “Reimbursable Costs”). Contractor shall provide an itemization of the Reimbursable Costs, with supporting invoices and labor expense documentation, to the City within thirty (30) days of the completion of installation of the Redflex Photo Red Light System at each Designated Intersection Approach. Said Reimbursable Costs are currently estimated to equal approximately \$50,000 to \$80,000 per Designated Intersection Approach, but, in no event, shall said amount exceed \$80,000 per Designated Intersection Approach. The monetary amounts payable to Redflex pursuant to this provision shall in no fashion be deemed to create an equitable interest on the part of Customer in Redflex’s equipment, products and/or the services provided under this Agreement. The monetary amounts payable to Redflex pursuant to this provision are an expense recovery for early termination by the Customer for Termination Without Cause.” A decision by the City to not renew the Term under the same or substantially similar terms and conditions contained in this Amendment prior to expiration of the thirty-six (36) month period described in this Provision shall be considered Termination Without Cause.

4. Records Retention. During the full Term of this Agreement, including any extensions, Redflex shall retain records related to the services provided by Redflex pursuant to this Agreement according to the approved City Retention Schedule for Records Relating to the Automated Traffic Enforcement System as may be amended by City.

5. Additional Designated Intersection Approaches. The City agrees to approve the placement of one (1) new Designated Intersection Approach on or before June 30, 2012. The new Designated Intersection Approach shall not require California Department of Transportation permitting.

6. Enforceability of Non-Amended Terms and Conditions. Except as expressly amended in writing in this Amendment, the terms and conditions of the Agreement and any and all amendments, attachments and exhibits attached thereto and incorporated herewith by reference shall be unchanged and shall remain enforceable and in full force and effect.

7. Execution And Counterparts. This Amendment may be signed in counterparts, and each counterpart shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties agree that such counterpart shall be effective and enforceable on or about the date of the last required signature.

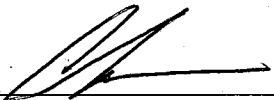
8. Covenant of Further Assurances. All Parties to this Amendment shall take, undertake, approve, sanction, and perform, in full, any and all acts and activities and execute and deliver any and all certificates, documents, permits, licenses, agreements, contracts, written instruments and other papers deemed necessary and appropriate for successful and complete compliance with each and every term and condition of this Amendment.

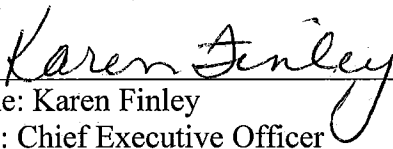
9. Authority to Execute. The undersigned individuals hereby warrant and represent that they have full authority to execute this Amendment on behalf of the entities for which they have signed.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as set forth below.

Approved as to form:

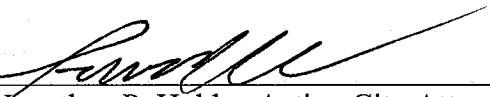
Redflex Traffic Systems, Inc.

By: 
Andrejs Bunkse
Counsel for Redflex Traffic Systems, Inc.

By: 
Name: Karen Finley
Title: Chief Executive Officer

Approved as to form:

CITY OF ELK GROVE

By: 
Jonathan P. Hobbs, Acting City Attorney

By: _____
Laura S. Gill, City Manager

Attest:

By: _____
Jason Lindgren, City Clerk