

City of Laguna Woods Agenda Report

FOR: January 20, 2010 City Council Meeting
TO: Honorable Mayor and Councilmembers
FROM: Douglas C. Reilly, Assistant City Manager *DR*
AGENDA ITEM: Redflex Traffic Systems Contract Amendment and Extension

Recommendation

A. Approve an amendment to the contract with Redflex Traffic Systems, Inc. to delete the cost neutrality provision, extend the term for one year to July 2011, and establish a new monthly payment for red light camera services at the intersections of Moulton Parkway/El Toro Road and Moulton Parkway/Gate 12.

AND

B1. Continue use of the California Vehicle Code to determine red light camera violations.

OR

B2. Approve establishment of administrative citations for red light camera violations.

Background

In June 2005, the City Council approved a contract with Redflex Traffic Systems, Inc. for automated red light photo enforcement equipment and services at the intersections of Moulton Parkway/El Toro Road and Moulton Parkway/Gate 12. A section under Exhibit D of the contract related to Compensation and Pricing provides that "If City's costs exceed revenues received from redlight citation fines, Contractor shall lower its monthly fixed fee to ensure cost neutrality. If there is a discrepancy, Contractor shall issue a 'Cash Back Refund' to City in order to provide total cost neutrality for the term of the Agreement." The purpose of this cost neutrality contract provision is to protect the City and its taxpayers from having to pay for contractor services from other General Fund revenues. Its effect is to lower the cost of Redflex services to an amount equal to red light camera-related revenues collected. These

fluctuate monthly but declined in FY 08-09 below the \$27,350 monthly fee, which equals \$328,200 per year, to approximately \$25,442 monthly. Revenues have increased in FY 09-10 but still fluctuate as much as 20% above or below average monthly collections.

Discussion

The use of cameras for the enforcement of red light running violations at signalized intersections has become increasingly widespread in California and the rest of the United States. Red light photo enforcement systems are currently being utilized in over 40 cities across California, including Santa Ana, San Juan Capistrano, Costa Mesa and Garden Grove in Orange County. Local agencies have found that the use of red light cameras can reduce red light running by about 30 percent and, more importantly, reduce the number of accidents at equipped intersections.

In Laguna Woods, between calendar years 2006 and 2009, the number of red light violations decreased by 18%. Before the installation of the cameras at Moulton Parkway/El Toro Road and Moulton Parkway/Gate 12, there were a number of serious accidents at both intersections, including one involving an ambulance on a call, and many more near misses. Since the installation, the number of accidents has decreased and drivers appear to be more careful as they approach the traffic signals.

There have been several court cases heard recently in California Superior Courts that challenge the legality of the cost neutrality provision of red light camera contracts with cities and counties. A recent case in the City of Turlock involved a challenge to the City's red light camera contract provision that "In any given month, if the program cost exceeds collected revenues, the balance will be carried over to the next month in which the cost can be met. That carry-over can continue for the term of the contract...Payment will only be made by the City of Turlock up to the amount of revenue received by the City through the collection of red light citations, up to the total due." A November 2009 appellate ruling by a California Superior Court judge found that this scheme runs afoul of state law banning per ticket compensation. Earlier, the court found that a similar cost neutrality provision in a contract between the City of Fullerton and Nestor Traffic Systems was illegal and all tickets issued by the system were declared void.

The California Supreme Court is currently considering the question of whether contracts for red light camera services paid on a per-ticket basis are inherently void. Argument on the red light camera question is on hold pending resolution of a related case, County of Santa Clara v. Atlantic Richfield.

The City Attorney considered the Laguna Woods agreement with Redflex Traffic Systems defensible because the contractor makes no determination about whether or not a ticket is issued. Still photos and videos of incidents captured by the system are reviewed by a Sheriff's deputy. Redflex makes an initial determination about whether to send on an incident for review based on the existence of minimum evidentiary information (e.g., clear photos of driver's face and front and rear license plates). However, given recent Court decisions, he has recommended the proposed contract modification.

Staff recommends that the City revise the contract with Redflex to delete the cost neutrality provision, with the result that the City would pay a flat fee for service. Staff has negotiated a reduction of the monthly fee, from \$27,350 to \$25,000, which more accurately reflects historic monthly citation revenues. Staff further recommends that the contract with Redflex be extended for one year, to July 2011, instead of a five-year extension, to maintain the program and its public safety benefits and provide time for the cost neutrality issue to be decided by the California Supreme Court.

A second issue is whether to adopt administrative citations for red light violations, as some cities in California have started to do. Fines for these citations are set by each city, whereas fines for California Vehicle Code violations are set by the state. In the case of red light violations, the vehicle code fine is \$446, plus an additional \$50 for traffic school. The City collects only approximately \$166 of that amount. Administrative citations are typically set much lower for first time offenses (e.g., \$100), with fines increasing for subsequent violations. Administrative citations are not heard in traffic court; the City must cite violators, collect fines and hear appeals.

Running a red light is considered a serious infraction by law enforcement agencies and the courts, so the question of whether to adopt such administrative citations must be considered carefully given the effectiveness to date in reducing violations and accidents and the additional cost to the City.

Committee Action

On January 13, 2010, the Public Safety Committee voted unanimously to recommend that the City Council approve an amendment to the contract with Redflex Traffic Systems, Inc. to delete the cost neutrality provision, accept the new monthly payment for red light camera services and extend the term of the contract. The Committee also voted unanimously to continue use of the California Vehicle Code to determine red light camera violations. The Committee discussed the goals of the program and the

majority agreed that the primary goal is to have all drivers stop for red lights and to issue citations to all who do not.

Fiscal Impact

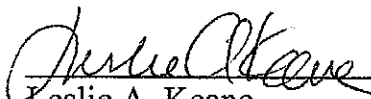
In Fiscal Year (FY) 2008-2009, the City paid Redflex \$305,307, or \$22,893 less than the fixed cost of \$328,200 for the services provided at the two intersections served by red light cameras. The amount paid matched the revenues received from red light camera citations. Eliminating the cost neutrality provision will require the City to pay a full monthly fee, regardless of the amount of citation revenues. Staff has negotiated a new monthly fee of \$25,000, or \$300,000 per year. It is difficult to project monthly or annual revenues from red light camera citations since they fluctuate so widely, however, the result of the contract revision may require payment in excess of revenues collected annually.

Adoption of administrative citations for red light violations, with fines set lower than the current \$166 collected by the City for vehicle code violations, would reduce the amount of citation revenues collected overall. Conversely, administrative fines for red light violations set higher than the amount collected by the City from vehicle code fines would increase citation revenues.

Conclusion

The City's contract with Redflex Traffic Systems calls for cost neutrality in the event that revenues from red light photo enforced citations are less than the monthly fee charged for service and equipment. Recent court cases have found these provisions in violation of state law governing the operation of automated red light camera systems. Approval of a contract amendment eliminating the cost neutrality provision would ensure that red light camera citations could not be challenged under the per-ticket payment for services argument. Extending the contract for one year would continue the public safety benefits of the program and provide time for the cost neutrality issue to be decided by the California Supreme Court.

Approved by:



Leslie A. Keane
City Manager