

**FIRST AMENDMENT TO
AGREEMENT BETWEEN THE CITY OF MODESTO AND REDFLEX
TRAFFIC SYSTEMS, INC. (CALIFORNIA) FOR PHOTO RED LIGHT
ENFORCEMENT PROGRAM**

PARTIES AND DATE

This First Amendment (“Amendment”) is made and entered into this 7th day of July, 2009. This Amendment is made and entered into by and between Redflex Traffic Systems, Inc. (“Redflex”), a corporation with offices at 6047 Bristol Parkway, 1st Floor, Culver City, California 90230, and the City of Modesto (“Customer”), a municipal corporation, with offices at 1010 10th Street, Modesto, California 95354.

WITNESSETH:

WHEREAS, Redflex and the Customer have previously entered into an Agreement dated June 8, 2004 (hereafter referred to as the “Agreement”); and

WHEREAS, under the Agreement, Redflex provides certain services to Customer concerning the use of traffic cameras to enforce certain traffic violations in order to improve traffic safety by reducing red-light violations; and

WHEREAS, Redflex and Customer wish to amend the Agreement as permitted by the terms of the Agreement;

NOW THEREFORE, in consideration of mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. Paragraph 2 of the Agreement entitled TERM is amended in its entirety to read as follows:

“From the executed date of this First Amendment, the term of this Agreement will continue for a period of seven (7) years (the “Initial Term”). The Customer shall have the right, but not the obligation, to extend the term of the Agreement for one two-year renewal term following the expiration of the Initial Term (a “Renewal Term” and collectively with the Initial Term, the (“Term”). The Customer may exercise the right to extend the term of this agreement for Renewal Term by providing written notice to Redflex not less than thirty (30) days prior to the last day of the Initial Term or Renewal Term, as the case may be.”

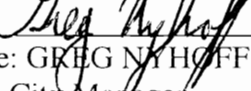
2. “Exhibit “D” COMPENSATION AND PRICING” is replaced in its entirety with the attached revised Exhibit “D” signed by the Customer and Redflex attesting to the agreed changes. Revised Exhibit “D” shall become operative upon the executed date of this Amendment.

All other provisions of the Agreement shall remain in effect.

IN THE WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this First Amendment to Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2009- 286 , adopted by the Council of the City of Modesto on the 7th day of July, 2009, and Redflex has caused this First Amendment to Agreement to be duly executed.

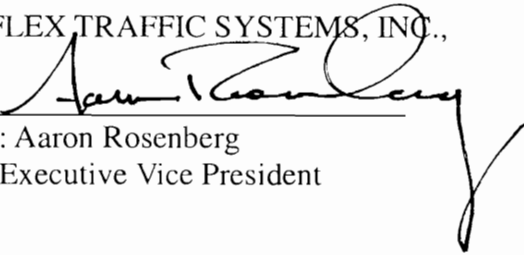
“Customer”

CITY OF MODESTO

By: 
Name: GREG NYHOFF
Title: City Manager

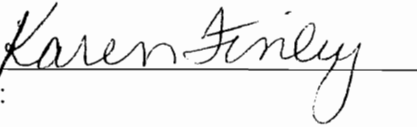
“Redflex”

REDFLEX TRAFFIC SYSTEMS, INC.,

By: 
Name: Aaron Rosenberg
Title: Executive Vice President

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

By: 
Name:
Title:

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By: 
JAMES WILSON, Senior Deputy
City Attorney

*Corporations – signature of two (2) officers
required or one (1) officer plus a corporate seal
Partnership – signature of a partner required
Sole Proprietorship – signature of proprietor
required*

EXHIBIT “D”
COMPENSATION & PRICING

Commencing on executed date of this First Amendment, and on the expiration of the Warning Period for each Designated Intersection Approach, Customer shall be obligated to pay Redflex a fixed fee in accordance with the schedule below:

	Option A	Option B
Term of Agreement	5 years with 2 x 2 year extension options	7 years with 2 x 2 year extension options
Existing Approach Systems Red Light Enforcement	\$6,192.00 per system per month	\$5,500 per system per month
New Approaches Systems Red Light Enforcement	\$6,192.00 per system per month	\$6,000 per system per month

Cost Neutrality

Cost neutrality is assured to Customer. Cost neutrality is assured to Customer using this methodology as Customer will never pay Redflex more than actual cash received.

The Customer agrees to pay Redflex within thirty (30) days after the invoice is received. City shall be obligated to pay the cumulative balance invoiced by Redflex. In accordance with the terms set forth above to the extent of **gross cash received by the City from automated red light violations. In the event that a balance remains unpaid due to a deficit in gross cash received by the City compared to invoiced amounts, city will provide to Redflex with each monthly payment, an accounting of such gross receipts supporting the amount withheld.**

1. In the event that the contract ends or is terminated and an invoiced balance is still owed to Redflex, all subsequent receipts from automated red light violations for a period of 12 months from the date of termination will be applied to such balance and paid to Redflex.
2. Payment will only be made by Customer up to the amount of cash received by Customer from the County through collection of red light citation up to the amount currently due.
3. Customer to open special revenue account and payments to Redflex will come only from the available balance in that account up to the amount currently due, including any unpaid prior invoiced amounts.
4. Intersection approaches can be relocated to a new site at the customers request and expense.

Customer Operating Costs

Any gross cash receipts received by the Customer from Stanislaus County through the collection of red light citations shall first be applied to the Customer’s monthly program operating costs (“Customer Operating Costs”) which has been established at \$500 per Operational Approach per month. In order to ensure cost neutrality to the Customer, Customer will only be obliged to pay Redflex from the gross cash receipts received from Stanislaus County after first withholding Customer Operating Costs. In the event that balance remains unpaid due to a deficit in gross cash received by the Customer compared to the invoiced amount, Customer will provide Redflex, with payments, an accounting of such amounts supporting non payment of full invoiced amount and balance remaining.

Example:

Month 1

Gross Revenue to City for month	\$24,000
Withheld Operating Cost (4 x \$500)	\$2,000
Balance	\$22,000
Redflex Invoice for month 1	\$24,768
Payment to Redflex	\$22,000

Check to Redflex for \$22,000 with accounting as above. Remaining balance of \$2,768 carried forward under Cost Neutrality provisions.

Month 2

Gross Revenue to City for month	\$56,000
Withheld Operating Cost (4 x \$500)	\$2,000
Balance	\$54,000
Redflex Invoice month 2	\$24,768
Balance unpaid month 1	\$2,768
Total Outstanding	\$27,535
Payment to Redflex	\$27,535

Check to Redflex for \$27,535 with accounting as above. No Remaining balance to carry forward this month under Cost Neutrality provisions and City retains balance of \$28,465.

BUSINESS ASSUMPTIONS FOR ALL PRICING OPTIONS:

1. Redflex construction will be able to utilize existing conduit for installation where space is available. The cost of any such additional conduit shall be the sole responsibility of Redflex Traffic Systems and shall become the exclusive property of the Customer upon termination of this agreement.
2. The Customer agrees to pay Redflex Traffic Systems within thirty (30) days after the invoice is received. A monthly late fee of 1.5% is payable for payments past due 60 days.

3. Prices do not include supply of power and supply of DSL, Cable or other broadband services. The Customer shall be solely responsible for power and communication infrastructure.
4. Each year 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. 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.