

City of Los Alamitos

Agenda Report Consent Calendar

August 24, 2015
Item No: 8D

To: Mayor Richard D. Murphy & Members of the City Council

Via: Bret M. Plumlee, City Manager

From: Todd Mattern, Chief of Police

Subject: Extension of the Term of Agreement with Redflex Traffic Systems, Inc. for the Red Light Camera Enforcement Program

Summary: The current agreement with Redflex Traffic Systems, Inc. for the Red Light Camera Enforcement Program expires on September 1, 2015; however, under the terms of the agreement the City may elect to extend the term for an additional two (2) years. This report seeks authorization to extend the agreement for the additional two-year term.

Recommendation: Authorize the City Manager to execute the attached amendment to the agreement with Redflex Traffic Systems, Inc., which will extend the term for an additional two (2) years while adding the ability to terminate for convenience.

Background

The City implemented the Red Light Camera Enforcement program in 2005 as a public safety measure in response to the community's safety concerns for the Los Alamitos Boulevard/Katella Avenue intersection, which is consistently ranked as one of the busiest intersections in Orange County. Since traditional enforcement efforts were difficult and unsafe given the high volume of vehicles using the intersection, photo enforcement provided a mechanism to increase awareness and provide safe enforcement 24 hours a day, 7 days per week.

Since the program's inception, the City has contracted with Redflex Traffic Systems to provide red light photo enforcement equipment and services at the following two intersections:

1. Los Alamitos Boulevard/Katella Avenue (2 approaches)
2. Bloomfield Street/Katella Avenue (1 approach)

While Redflex Traffic Systems provides and manages the equipment and data associated with the program, it is important to note that actual enforcement is conducted by specially trained Los Alamitos police officers.

According to enforcement data, the number of red light violations at the photo enforced intersections has declined 33% since the first four months of the program. Additionally, there has been a 38% reduction in the average number of traffic collisions at photo enforcement intersections since the implementation of the program. Contrary to concerns from some who question the effectiveness of red light camera enforcement, the City has not experienced an increase in rear-end collisions since the implementation of this program. From this data, it is clear that the City's photo enforcement program has contributed to a safer driving experience for residents and visitors within the Los Alamitos community.

It is also worth noting that the intersection of Bloomfield Street/Katella Avenue is utilized as a school route for children attending Los Alamitos Elementary, McAuliffe Middle and Los Alamitos High School where, in addition to the two (2) crossing guards who cross the students and their parents, the red light camera helps to enforce turning violations, thus keeping our children safe.

Discussion

The City's current five-year agreement with Redflex Traffic Systems, Inc. expires on September 1, 2015; however, according to the terms the City may elect to extend the agreement for an additional two years with written notice from the City Manager. Staff recently held meetings with representatives of Redflex Traffic Systems and negotiated the City's ability to terminate the agreement for convenience (without cause) provided thirty (30) days written notice is given. Redflex Traffic Systems would be able to terminate for convenience with ninety (90) days notice. Under the existing agreement, only termination for cause had been permitted. Because of the newly negotiated ability to terminate without cause, an amendment to the agreement has been drafted and would require execution by both parties in order to extend the term. The amendment also contains a deescalating structure for cost recovery by Redflex Traffic Systems for direct labor and material costs solely associated with installation of Redflex's system in the event the City exercises its right to terminate for convenience. This would include Redflex's plans to upgrade the system with software and high definition equipment that will improve the effectiveness at their estimated cost of \$30,000. Other terms of the agreement, including the fee of \$4,576 per approach that is subject to annual increases according to the Consumer Price Index, will remain the same.

Fiscal Impact

In the event the City exercises its right to terminate the Agreement without cause, Redflex shall be entitled to a cancellation fee for each installed Designated Intersection Approach which reflects reimbursement of the direct labor costs and direct material costs associated with the installation of the Redflex's System at all Designated

Intersection Approaches. Redflex has estimated that reimbursable costs are approximately \$30,000.00 total for all Designated Intersection Approaches.

Submitted By:



Todd Mattern
Chief of Police

Approved By:



Bret M. Plumlee
City Manager

Fiscal Impact Reviewed By:



Jason Al-Imam
Administrative Services Director

Attachment: 1. *First Amendment to Agreement*

FIRST AMENDMENT TO
EXCLUSIVE AGREEMENT BETWEEN THE CITY OF LOS ALAMITOS
AND REDFLEX TRAFFIC SYSTEMS, INC. FOR
TRAFFIC CAMERA SAFETY IMPROVEMENT PROGRAM

This First Amendment (the "First Amendment") to Exclusive Agreement between the City of Los Alamitos and Redflex Traffic Systems Inc. for Traffic Camera Safety Improvement Program is made by and between Redflex Traffic Systems, Inc. ("Redflex") and the City of Los Alamitos, CA (the "City" or the "Customer") (individually the "Party" and collectively referred to as the "Parties"). The Effective Date of this First Amendment is _____, 2015 ("Effective Date").

RECITALS

1. The Parties executed the Exclusive Agreement between the City of Los Alamitos and Redflex Traffic Systems Inc. for Traffic Camera Safety Improvement Program on September 1, 2010 (the "Agreement");
2. The Parties desire to extend the Term of the Agreement and modify the Agreement to reflect changes to the Program.

The Parties amend the Agreement as follows:

TERMS AND CONDITIONS

- A. **Term.** As provided in Section 2 of the Agreement, the Parties agree to extend the Camera Term for an additional two (2) years commencing on the Effective Date (the "Extended Term").
- B. **Termination for Convenience and Equitable Cost Recovery.** Section 6.1 is amended in its entirety and shall provide the following:

6.1 **TERMINATION**

6.1.1 **Termination for Cause.** Either Party shall have the right to terminate this Agreement by written notice to the other if (i) state statutes are amended to prohibit or substantially change the operation of the Program; (ii) the Supreme Court for the State of California rules that the Citations from the Program are inadmissible in evidence; or (iii) the other Party commits any material breach of any of the provisions of this Agreement. Upon entry of an order restraining or enjoining the operation of the Program by a court of competent jurisdiction, or an order that substantially diminishes the financial value of the program to either party, the Camera Term of the Agreement shall be suspended until the later of the dissolution of the restraint, injunction, or order or the date the restraint, injunction, or order becomes final and not subject to any appeal. Either Party may elect to restart the operation of the Program if the restraint, injunction, or order is dissolved or otherwise rendered unenforceable. The Camera Term of the Agreement shall be extended by the period of time for which the Program was suspended. Either Party shall have the right to remedy or cure the cause for termination or breach within forty-five (45) calendar days (or within such other time period as the Customer and Redflex shall mutually agree, which agreement shall not be unreasonably withheld or delayed) after written notice from the appropriate Party setting forth in reasonable detail the events of the cause for termination or breach. Termination of this Agreement for cause shall not be enforceable or effective unless the terminating Party mails written notice of termination to the non-terminating Party not less than forty-five (45) calendar days prior to the Agreement termination date and provides to the non-terminating Party the opportunity to remedy or cure the cause of the termination or breach within the forty-five (45) calendar day time period provided herein.

6.1.2 **Termination for Convenience.** The Parties may terminate this Agreement without cause upon the following conditions:

- 6.1.2.1 The City reserves the right to terminate this Agreement without cause upon thirty (30) days written notice. If the City exercises its right to terminate this Agreement in accordance with this paragraph, the City shall be obligated to pay Redflex for all services satisfactorily performed in accordance with this Agreement, through and including the initial notice of termination date, but not to exceed the payment according to the rates specified in Exhibit D and shall pay Redflex the amount of Equitable Cost Recovery, if any, to which Redflex is entitled as set forth below.
- 6.1.2.2 Redflex reserves the right to terminate this Agreement without cause upon ninety (90) days written notice to the City. In the event Redflex terminates this Agreement under this subsection, Redflex shall not be entitled to Equitable Cost Recovery.
- 6.1.2.3 Equitable Cost Recovery by Redflex Upon Termination For Convenience By the City: In the event the City exercises its right to terminate this Agreement under Section 6.1.2.1, Redflex shall be entitled to a cancellation fee for each installed Designated Intersection Approach which reflects reimbursement of the direct labor costs and direct material costs (not including Equipment costs and salvageable material costs) solely associated with the installation of the Redflex's System at all Designated Intersection Approaches where such system(s) have been installed prior to the effective date of Termination (the "Reimbursable Costs"). Said Reimbursable Costs are estimated at \$30,000.00 total for all Designated Intersection Approaches as of the Effective Date ("Current Balance"). Commencing on the Effective Date, the Current Balance will be reduced by \$357.14 each month; provided, however, if the City does not terminate the Agreement prior to the expiration of the two-year Extended Term, then the Current Balance will be forgiven, and the City will not be obligated to pay Redflex the remaining Current Balance. If new Designated Intersection Approaches are installed after the Effective Date of the First Amendment, Redflex 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's System at each Designated Intersection Approach. The Reimbursable Costs for the each new Designated Intersection Approach shall not exceed \$80,000 per Approach. For the purpose of this Section, the cancellation fee shall be derived in accordance with the following formula for any new Designated Intersection Approaches installed after the Effective Date of the First Amendment:

The cancellation fee shall be derived in accordance with the following formula:

X= the number of months remaining in the Agreement

Y =the number of months of the Agreement

X/Y = the percentage of remaining Agreement

Z = the Reimbursable Costs per Designated Intersection Approach (not to exceed \$80,000)

$(X/Y)*Z$ = amount to be paid as cancellation fee

For example, if the termination date is the last day of the 12th month under the two-year Extended Term, and the Designated Intersection Approach was installed in the first month of the Extended Term, the cancellation fee would be:

X = 12 (24 months - 12 months transpired under the Agreement)

Y = 24 (number of months of the Agreement)

Z = \$60,000 (value of reimbursable costs)

X/Y*Z = (12/24 * \$60,000)

Calculation of Fee = \$30,000

C. **Redflex Ethics** Section 3.10 is added and shall provide the following:

3.10. **Redflex Ethics.** Redflex agrees that it will comply with all applicable laws relating to its performance under this Agreement, including any applicable federal, state, or local law governing or relating to: a) conflicts of interest; b) providing of gifts or hospitality to government officials or government employees; and c) providing political and charitable contributions, or governing or relating to the ethical conduct of business with government agencies.

3.10.1 Redflex represents and warrants that its performance in connection with this Agreement will be in compliance with Redflex's internal Anti-Bribery and Anti-Corruption Policy and Procedures, a copy of which is available at <http://www.redflex.com/index.php/en/compliance-corner/policy-and-procedures>. Failure by Reflex to comply with the Anti-Bribery and Anti-Corruption Policy and Procedures shall permit to the City, in its sole discretion, to immediately terminate this Agreement.

3.7.2. From time to time, Redflex may choose to modify its own internal Anti-Bribery and Anti-Corruption Policy and Procedures. In each case where the Redflex Anti-Bribery and Anti-Corruption Policy and Procedures are modified, Redflex shall cause a copy of the revised Anti-Bribery and Anti-Corruption Policy and Procedures to be delivered to the City's Project Manager within ten (10) business days, and shall obtain a receipt in writing with the date and time of delivery. The City, in its sole discretion, may elect to reject any and all modifications, other than modifications required by changes in applicable law, made within thirty (30) business days, and shall notify Redflex in writing specifying all modifications rejected. The affected specific provisions in the current Anti-Bribery and Anti-Corruption Policy, or in a successor Anti-Bribery and Anti-Corruption Policy and Procedures document that has not been rejected by the City, shall remain in effect. However, Redflex and the City may negotiate in a timely manner and mutually approve in writing a joint document with alternate language of the specific provision which the City has rejected.

D. **Enforceability of Non-Amended Terms and Conditions.** Except as expressly amended in this First Amendment, the Terms and Conditions of the Agreement shall remain in full force and effect. To the extent that this First Amendment conflicts with the terms of the Agreement, this First Amendment shall control.

Approved as to form, content and legality:

CITY OF LOS ALAMITOS, CALIFORNIA

REFLEX TRAFFIC SYSTEMS, INC.

By: _____

Name: Bret M. Plumlee, City Manager

Date: _____

By: _____

Name: Michael R. Finn

Title: CEO and President

Date: _____

Attest:

By: _____

Windmera Quintanar, CMC, City Clerk

Approved as to Form:

By: _____

Cary S. Reisman, City Attorney