



ADMINISTRATIVE REPORT

MEETING DATE: 8/12/2015

Consent - Agreements t.

TO: Honorable Mayor and City Council
FROM: Greg Williamson, Chief of Police
DATE: 7/31/2015
WARD:
SUBJECT: Amendment No. 3 to Agreement No. 08-015 with Redflex (\$257,476.80; revised not to exceed \$742,282.80 and extend term five years) for Photo Enforced Redlight Citation Program.

STAFF RECOMMENDATION:

Staff recommends approval of amendment.

BACKGROUND:

Since April 10, 2002, the Bakersfield Police Department (BPD) has partnered with Redflex Traffic Systems, Inc. to implement and operate a digital photo enforced red light camera system in the City of Bakersfield. Currently, the system consists of continued operational services at the following 12 approaches:

Tier 1: Four Approaches (\$1,075.60 per approach / per month, under the current agreement)

Chester Ave and Brundage Ln - one approach, Northbound
Coffee Rd and Truxtun Ave - two systems, straight through lanes and turn lanes, Southbound
California Ave and Oak St - two approaches, Eastbound and Northbound

Tier 2: Eight Approaches (\$4,518.25 per approach / per month, under the current agreement)

California Ave and Stockdale Hwy - two approaches, Southbound and Eastbound
Ming Ave and Real Rd - one approach, Westbound
Ming Ave and Highway 99 - one approach, Eastbound
Oswell St and Bernard St - one approach, Northbound
White Ln and Wible Rd, - two approaches, Eastbound and Southbound

On February 1, 2008, the BPD and Redflex Traffic Systems, Inc. changed the business model of the agreement to comply with changes in the California Vehicle Code, and subsequently entered into a second 5 year agreement (08-015). Under this agreement the City pays a monthly flat fee for each of the twelve existing approaches. The agreement contains a provision for cost neutrality, which provides the City a safeguard from ever being required to pay Redflex more than actual cash received. The agreement also provides for an annual CPI increase and upgrades to all cameras (current rates are displayed at each Tier description). Since February 1, 2008 two amendments have been approved by City Council to modify the payment process and extend the agreement term.

The current agreement [08-015 (2)] allows for expansion of the program as additional intersection / approaches are identified as warranted by community safety and traffic needs, and upon mutual agreement between Redflex and the BPD. At the request of the City Council, the BPD and Redflex have conducted a traffic study of the intersections at Ming Ave and Old River Rd, and at Stockdale Hwy and Gosford Rd. The conclusion of the study showed that four approaches at these two intersections warrant photo enforced red light cameras installed to address community safety and traffic needs.

The four approaches recommended for red light cameras are as follows:

Tier 3: Four Approaches (\$6,529.50 per approach / per month under the current agreement)

Ming / Old River, Westbound

Stockdale / Coffee – Gosford, Northbound

Stockdale / Coffee – Gosford, Southbound

Given the construction and lead time required to implement the four additional approaches, the short time before the agreement term ends in June 2016, and the additional cost of expanding the system, the BPD requests approval of a third amendment to agreement No. [08-015 (2)]. The key elements to the proposed amendment are as follows:

- Continue the agreement for an additional 5 years with provision for one 24 month extension.
- Remove the Consumer Price Index (CPI) provision, locking in the monthly fee for the duration of the term.
- Maintain the Cost Neutrality provision, providing the City a safeguard from ever being required to pay Redflex more than actual cash received.
- Add an annual Cost Neutrality reconciliation provision to “true up” accounts and provide a forum to evaluate the status and effectiveness of the program.
- Change to Pricing Structure
 - Maintain the price on Tier 1 “Existing Approaches” at \$1,075.60
 - Lower the price on Tier 2 “Existing Approaches” from \$4,518.25 to \$4,350.00
 - Lower the price on the Tier 3 “Additional Approaches” and any other “New” approaches from \$6,529.50 to \$5,700.00
- Add HALO Collision Preemption as an optional add on in the future
 - REDFLEXred Halo is an intelligent collision preemption system that extends the all-red phase for cross-traffic when it detects a vehicle could run a red light. Law-abiding drivers in cross-traffic lanes stay put while the incident is captured on camera, greatly reducing the chances they’ll enter into a deadly situation.

Under the current agreement, prior to this amendment, the annual cost with the additional four approaches is \$798,796.80 (with annual adjustments based on the CPI). However, with the proposed changes described above, the fixed annual cost for the next five years will be \$742,828.80 (a reduction of \$55,968 per year). The net annual increase in cost is \$257,476.80. All other provisions of the agreement shall remain in effect. No additional

funds will be required, as the cost of the proposed expansion is included in the adopted FY2015-16 Traffic Safety Fund Budget.

ATTACHMENTS:

Description	Type
☐ Draft Amendment No.3 to Agt. 08-015(3)	Agreement

AGREEMENT NO. _____

AMENDMENT NUMBER 3 TO AGREEMENT NO. 08-015

**EXCLUSIVE AGREEMENT BETWEEN THE CITY OF BAKERSFIELD AND
REDFLEX TRAFFIC SYSTEMS, INC.**

THIS AMENDMENT NO. 3 TO AGREEMENT NO. 08-015 ("Third Amendment") is made and entered into on _____, by and between **CITY OF BAKERSFIELD**, a municipal corporation ("City" herein) and **REDFLEX TRAFFIC SYSTEMS INC.** ("Customer" herein).

RECITALS

WHEREAS, the City and Customer executed the Exclusive Agreement for Photo Red Light Enforcement Program on January 16, 2008 (the "Original Agreement");

WHEREAS, the Original Agreement was amended on July 15, 2009 (the "First Amendment") and June 4, 2015 (the "Second Amendment") (collectively, with the Original Agreement, the "Agreement"); and,

WHEREAS, the City and Customer desire to extend the Term of the Agreement and modify the Agreement to reflect changes to the Program.

NOW, THEREFORE, incorporating the foregoing recitals herein, City and Customer mutually agree to amend Agreement No. 08-015 as follows:

1. Section 1 of Agreement No. 08-015 entitled "DEFINITIONS" is hereby amended to read as follows:

DEFINITIONS.

1.34 "Existing Designated Intersection Approaches" means the Designated Intersection Approaches that were installed and in operation prior to the Effective Date of the Third Amendment.

1.35 "New Designated Intersection Approaches" means the Designated Intersection Approaches that will be installed and in operation after the Effective Date of the Third Amendment.

1.36 “REDFLEXhalo® System” (“HALO”) means Redflex’s intelligent collision preemption system integrated technology that dynamically extends all red clearance intervals.

2. Section 2 of Agreement No. 08-015 entitled “TERM” is hereby amended to read as follows:

TERM.

The term of this Agreement is extended for five (5) years commencing on the date the Effective Date (the “Initial Term”). The City has the right, but not the obligation, to extend the Initial Term of the Agreement for one (1) additional two (2) year period following the expiration of the Initial Term (the “Renewal Term”). The City may exercise the right not to extend the Initial Term for the Renewal Term by providing written notice to Redflex not less than thirty (30) days prior to the last day of the Initial Term.

3. Exhibit “A” to the Agreement entitled “STATEMENT OF WORK” is hereby amended as follows:

STATEMENT OF WORK.

Exhibit “A” to the Agreement is deleted in its entirety and replaced with the attached Exhibit “A”.

4. Exhibit “D” to the Agreement entitled “PRICING” is hereby amended as follows:

PRICING.

Exhibit “D” to the Agreement is deleted in its entirety and replaced with the attached Exhibit “D”.

5. Exhibit “C” to the Agreement entitled “MAINTENANCE” is hereby amended as follows:

MAINTENANCE.

Section 6 of Exhibit “C” is removed.

6. Except as amended herein, all other provisions of Agreement No. 08-015 shall remain in full force and effect, to the extent that this Third Amendment conflicts with the terms of the Agreement, this Third Amendment shall control.

IN WITNESS WHEREOF, the parties hereto have caused this Third Amendment to be executed, the day and year first-above written.

"CITY"
CITY OF BAKERSFIELD

"CONTRACTOR"
REDFLEX TRAFFIC SYSTEMS, INC.

By: _____
HARVEY L. HALL
Mayor

By: _____
Type or Print Name: Michael R. Finn
Title: CEO and President

APPROVED AS TO FORM:
VIRGINIA GENARO
City Attorney

By: _____
RICHARD IGER
Deputy Attorney
Insurance: _____

APPROVED AS TO CONTENT:
BAKERSFIELD POLICE DEPARTMENT

By: _____
GREG WILLIAMSON
POLICE CHIEF

COUNTERSIGNED:

By: _____
NELSON SMITH
Finance Director

RI/vlg
Exclusive Agreement-Redflex
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July 31, 2015

Attachments: Exhibit "A" & Exhibit "D"

EXHIBIT "A"
STATEMENT OF WORK

The contract is for the continued operational services of the following twelve (12) Existing Designated Intersection Approaches:

Chester and Brundage, Northbound
Coffee and Truxtun, Straight-Through lanes, Southbound
Coffee and Truxtun, Turn-lanes, Southbound
California Avenue and Oak Street, Eastbound
California Avenue and Stockdale, Southbound
California Avenue and Stockdale, Eastbound
California Avenue and Oak Street, Northbound
Ming and Real, Westbound
Ming and Highway 99, Eastbound
Oswell and Bernard, Northbound
White Lane and Wible Road, Eastbound
White Lane and Wible Road, Southbound

The Parties may install an unlimited number of New Designated Intersection Approaches. Identification of photo enforced Intersection Approaches will be based on mutual agreement of Redflex and the City and as warranted by community safety and traffic needs.

**“EXHIBIT “D”
COMPENSATION & PRICING**

PRICING PROVISIONS AND OPTIONS:

A. Fixed Monthly Fee. Commencing on the Effective Date of the Third Amendment, the Fixed Monthly Fees for the Designated Intersection Approaches are as follows.

Tier 1: Fixed Monthly Fee of \$1,075.60 per month, per Approach for the following Existing Designated Intersection Approaches:

Chester and Brundage, Northbound
Coffee and Truxtun, Straight-Through lanes, Southbound
Coffee and Truxtun, Turn-lanes, Southbound
California Avenue and Oak Street, Eastbound

Tier 2: Fixed Monthly Fee of \$4,350.00 per month, per Approach for the following Existing Designated Intersection Approaches:

California Avenue and Stockdale, Southbound
California Avenue and Stockdale, Eastbound
California Avenue and Oak Street, Northbound
Ming and Real, Westbound
Ming and Highway 99, Eastbound
Oswell and Bernard, Northbound
White Lane and Wible Road, Eastbound
White Lane and Wible Road, Southbound

Tier 3: Fixed Monthly Fee of \$5,700.00 per month, per Approach for all New Designated Intersection Approaches installed with used Equipment.

HALO may be installed and operated at New or Existing Designated Intersection Approaches as determined by mutual agreement between Redflex and the Customer. The pricing options for HALO are as follows:

Option 1: Fixed Monthly Fee for each HALO system shall be \$500 per month per HALO system.

Option 2: The City may purchase the HALO system(s) for \$15,000 per HALO system and pay an annual licensing fee of \$250.00 per installed HALO system.

B. City Operating Costs. The City's monthly program operating costs are estimated to be \$250.00 per active Designated Intersection Approach ("City Operating Costs"). The gross cash receipts received by the City each month from the Kern County Superior Court through the collection of red light Citations shall first be applied to the City Operating Costs. In order to ensure cost neutrality to the City, City will only be obligated to pay Redflex from the gross cash receipts received from the Kern County Superior Court after first deducting the City Operating Costs. In the event that balance remains unpaid due to a deficit in gross cash received by the City compared to the invoiced amount, City will provide Redflex, with payments, an accounting of such amounts supporting nonpayment of full invoiced amount and balance remaining.

C. Cost Neutrality.

1. The City shall have the option to make payments to Redflex in accordance with the Cost Neutrality payment option. Under this option, the City may defer payment of that portion of the Fixed Monthly Fee in excess of the amount collected during that month after the deduction of the City Operating Costs, until the City has collected sufficient funds pursuant to this Agreement to pay that portion of the monthly service fee ("Deferred Monthly Fee"). A Deferred Monthly Fee shall be paid from the funds collected in the following month pursuant to this Agreement provided that sufficient funds are collected during that month to pay the Deferred Monthly Fee. Specifically, the funds collected each month pursuant to this Agreement, less the City Operating Costs, shall be applied first to any unpaid Deferred Monthly Fees and then to that month's Fixed Monthly Fee; provided, however, that the City shall never be required to pay in any month an amount in excess of the funds collected that month.

2. Redflex shall maintain an accounting of the net balance of Fixed Monthly Fees and Deferred Monthly Fees owed to Redflex. In all events, the City will not be obligated to pay the full amount of an invoice for any given month unless there is sufficient revenue collected in that month to pay all of the amounts of the prior invoices that were deferred as well as the full amount of the current month's invoice.

3. Cost Neutrality Reconciliation.

i. Cost Neutrality will be reconciled at the end of each year on the anniversary of the Effective Date ("Cost Neutrality Reconciliation"). If at that time there is an outstanding balance of Deferred Monthly Fees, the Term of the contract shall be extended by a certain number of days ("Cost Neutrality Days") based on the amount of Deferred Monthly

Fees in accordance with the formula below. Cost Neutrality Days will be calculated each year and will be added together at the end of the Term to determine the total amount of the days the Term will be extended (the "Cost Neutrality Term").

X = the total outstanding Deferred Monthly Fees for that year

Y = the average Fixed Monthly Fee for all active Designated Intersection Approaches during the year

X/Y = the ratio of the total Deferred Monthly Fees to the average Fixed Monthly Fee

$(X/Y) \times 30$ days = Cost Neutrality Days to be added to the Cost Neutrality Term for that year rounded up to the nearest full day.

ii. The outstanding balance of Deferred Monthly Fees will return to zero (\$0) at the end of each year as long as the Cost Neutrality Reconciliation process is in effect.

iii. The Cost Neutrality Term will begin upon the last the day of the Term. The Cost Neutrality Reconciliation process will not occur during the Cost Neutrality Term; however, Cost Neutrality will apply.

iv. Termination.

a. In the event of early termination pursuant to Section 6.1(i) or (ii) of this Agreement, then the total outstanding Deferred Monthly Fees from the calendar year of the termination and the Cost Neutrality Term accrued in prior years shall be waived by Redflex. The foregoing shall also apply to early termination pursuant to Section 6.1(iii) caused by Redflex's material breach of this Agreement.

b. In the event of early termination pursuant to Section 6.1(iii) of this Agreement caused by the City's material breach, then the total outstanding Deferred Monthly Fees from the calendar year of the termination shall be owed by City to Redflex, and Cost Neutrality and Cost Neutrality Reconciliation shall not apply to such sums. Furthermore the Cost Neutrality Term accrued in prior years shall begin upon the last day of the forty-five (45) day notice period described in

Section 6, effectively extending the notice and performance period by the Cost Neutrality Term.

- v. The Fixed Monthly Fees for the Cost Neutrality Term shall be based on the Fixed Monthly Fees for each operational Designated Intersection Approach for the month immediately preceding the commencement of the Cost Neutrality Term.
4. Cost Neutrality is guaranteed except as follows:
- i. If police or Authorized Employees fail to approve violations by the due date, in good faith and due diligence;
 - ii. If systems are de-activated due to City requirement;
 - iii. If collections are not reasonably pursued, unless, despite attempts by the City to encourage collections by the courts, the courts fail to pursue unpaid collections; or
 - iv. The City fails to enforce right turn violations (from automated red light violations), in good faith and due diligence, if and when systems are configured for this purpose as mutually agreed between Redflex and the City.

BUSINESS ASSUMPTIONS FOR ALL PRICING OPTIONS:

- 1. Redflex construction will be able to utilize existing conduit for installation where space is available.
- 2. Except as provided above in Section C, Cost Neutrality, the City agrees to pay Redflex within thirty (30) days after the invoice is received. A monthly late fee of 1.5% is payable for amounts remaining unpaid sixty (60) days from date of invoice.
- 3. The provision of all necessary communication, broadband and telephone services to the Designated Intersection Approaches will be the sole responsibility of Redflex.
- 4. The on-going supply of DSL or cable services to the Designated Intersection Approaches will be the sole responsibility of the City.
- 5. The on-going provision of any and all necessary electrical power to the Designated Intersection Approaches will be the sole responsibility of the City.
- 6. The City is responsible for installing required signage. The City shall be solely responsible for the fabrication, installation and maintenance 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 § 21455.5(a)(1);
- 7. Roadway/Intersection improvement projects:
 - a. City shall reimburse Redflex the costs of replacing and or modification of operational Designated Intersection Approaches.
 - b. If a system is deactivated at the City's request due to roadway construction, the Fixed Monthly Fee will continue.