

RESOLUTION NO. 15-59

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH AMERICAN TRAFFIC SOLUTIONS, INC. (ATS) AND ITS COUNSEL, CARLTON FIELDS JORDEN BURT, P.A., TO UNDERTAKE AND COMPLETELY FUND THE REPRESENTATION OF THE CITY OF FORT LAUDERDALE, FOR PURPOSES OF SEEKING AND OBTAINING JUDICIAL REVIEW OF THE BROWARD COUNTY COURT'S RULING IN STATE OF FLORIDA (CITY OF FORT LAUDERDALE) V. MARY WELSH WESOLOWSKI, CASE NO. 14-032655TI20A, CONCERNING CITATIONS ISSUED FOR RED LIGHT CAMERA VIOLATIONS, AND APPOINTING CARLTON FIELDS JORDEN BURT, AS SPECIAL COUNSEL FOR THE LIMITED PURPOSES SET FORTH HEREIN

WHEREAS, on February 23, 2015, a Traffic Magistrate of the County Court of the Seventeenth Judicial Circuit, in and for Broward County issued a ruling in the matter entitled, State of Florida (City of Fort Lauderdale) v. Mary Welsh Wesolowski, Case No. 14-032655TI20A, therein dismissing a red light camera violation issued pursuant to the Mark Wandall Act (§316.0083, Fla. Stat. (2014) on the grounds that the City improperly delegated its police power to the City's vendor (ATS) by affording them unfettered discretion to conduct initial reviews of the events captured by the City's red light cameras, before sending said events to the City's Traffic Infraction Enforcement Officer; and

WHEREAS, on February 2, 2010, the City of Fort Lauderdale entered into an Agreement with ATS to provide automated red light traffic camera systems and services, which was amended and extended for an additional three (3) years on April 3, 2013; and

WHEREAS, ATS has a substantial interest in maintaining the legality and integrity of the services provided to the City in accordance with the foregoing Agreement; and

WHEREAS, the City of Fort Lauderdale has standing and a good faith basis to seek and obtain judicial review, via the Circuit Court of the Seventeenth Judicial Circuit, of the

County Court's February 23, 2015 ruling in State of Florida (City of Fort Lauderdale) v. Mary Welsh Wesolowski, Case No. 14-032655TI20A; and

WHEREAS, ATS has retained the law firm of Carlton Fields Jordan Burt, P.A., to protect its legal interests with regards to its automated red light traffic camera systems and services; and

WHEREAS, ATS and its counsel, Carlton Fields Jordan Burt, P.A., as have agreed to undertake and fully fund the representation of the City of Fort Lauderdale, for purposes of seeking and obtaining judicial review, via the Circuit Court of the Seventeenth Judicial Circuit, of the County Court's February 23, 2015 ruling in State of Florida (City of Fort Lauderdale) v. Mary Welsh Wesolowski, Case No. 14-032655TI20A;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That the City Manager, on behalf of the City of Fort Lauderdale, is hereby authorized to negotiate and enter into an Agreement with ATS and counsel, Carlton Fields Jordan Burt, P.A., to undertake and fully fund the representation of the City of Fort Lauderdale, for purposes of seeking and obtaining judicial review, via the Circuit Court of the Seventeenth Judicial Circuit, of the County Court's February 23, 2015 ruling in State of Florida (City of Fort Lauderdale) v. Mary Welsh Wesolowski, Case No. 14-032655TI20A.


SECTION 2. That the law firm of Carlton Fields Jordan Burt, P.A., is appointed as Special Counsel for the limited purpose of representing the City of Fort Lauderdale in seeking and obtaining judicial review, via the Circuit Court of the Seventeenth Judicial Circuit, of the County Court's February 23, 2015 ruling in State of Florida (City of Fort Lauderdale) v. Mary Welsh Wesolowski, Case No. 14-032655TI20A.

SECTION 3. That it is understood and agreed between the City of Fort Lauderdale, ATS, and Carlton Fields Jordan Burt, P.A., that all attorney's fees and costs undertaken and incurred in representing the City of Fort Lauderdale in seeking and obtaining judicial review via the Circuit Court of the Seventeenth Judicial Circuit of the County Court's February 23, 2015 ruling in State of Florida (City of Fort Lauderdale) v. Mary Welsh Wesolowski, Case No. 14-032655TI20A, shall be directly invoiced by Carton Fields Jordan Burt, P.A., to, and paid by, ATS.

SECTION 4. That it is further understood and agreed between the City of Fort Lauderdale, ATS, and Carlton Fields Jordan Burt, P.A., that any decisions made, and actions to be taken by Carlton Fields Jordan Burt, P.A., with regards to seeking and obtaining judicial review via the Circuit Court of the Seventeenth Judicial Circuit, of the County Court's February 23, 2015 ruling in State of Florida (City of Fort Lauderdale) v. Mary Welsh Wesolowski, Case No. 14-032655TI20A, must be reported to and approved by the City Attorney, prior to implementation and execution, and that as Special Counsel to the City of Fort Lauderdale, and specifically with regards to the foregoing, Carlton Fields Jordan Burt, P.A., shall represent the sole and exclusive interests of the City of Fort Lauderdale, and shall not undertake any representation or actions deemed antagonistic and/or inconsistent with the interests of the City of Fort Lauderdale.

SECTION 5. That all resolutions or parts of resolutions in conflict herewith are hereby repealed.

ADOPTED this the 17th day of March, 2015.

  
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Mayor  
JOHN P. "JACK" SEILER

ATTEST:

  
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City Clerk  
JONDA K. JOSEPH