

RESOLUTION NO. 15-96

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, RESCINDING RESOLUTION NO. 15-59, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH AMERICAN TRAFFIC SOLUTIONS, INC., ("ATS"), AND THE LAW FIRM OF WEISS SEROTA HELFMAN COLE & BIERMAN, TO ACT AS SUBSTITUTE COUNSEL, AND 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. 14-032655T120A, AND THE OMNIBUS ORDER, CONCERNING CITATIONS ISSUED FOR RED LIGHT CAMERA VIOLATIONS, AND APPOINTING WEISS SEROTA HELFMAN COLE & BIERMAN 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 titled, *State of Florida (City of Fort Lauderdale) v. Mary Welsh Wesolowski*, Case No. 14-032655T120A, 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, American Traffic Solutions, Inc., ("ATS"), by affording ATS 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 March 5, 2015, the Magistrate entered a separate Omnibus Order dismissing all of the City's filed, pending, and docketed red light camera cases presently scheduled or to be scheduled in the future; 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 aforementioned 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 the March 5, 2015 Omnibus Order; and

WHEREAS, the City Commission previously authorized, pursuant to Resolution No. 15-59, the City Manager to negotiate and enter into an agreement with ATS and its counsel, Carlton, Fields, Jorden, Burt, P.A., ("Carlton, Fields"), to undertake and fully fund the representation of the City to seek judicial review 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, Carlton, Fields, and the City could not resolve issues regarding potential conflicts of interest relating to counsel's joint representation, and as a result, ATS has retained the law firm of Weiss Serota Helfman Cole & Bierman ("Weiss Serota") to represent the City in seeking judicial review 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 the March 5, 2015 Omnibus Order; and

WHEREAS, ATS and Weiss Serota 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 and the March 5, 2015 Omnibus Order.

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 the law firm of Weiss Serota Helfman Cole & Bierman 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 and the March 5, 2015 Omnibus Order.

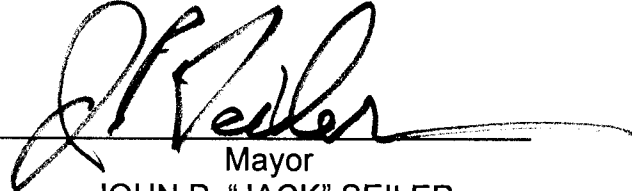
SECTION 2. That the law firm of Weiss Serota Helfman Cole & Bierman is appointed as Special Counsel for the limited purpose of representing the City of Fort Lauderdale in seeking and obtaining judicial review, *via* the Circuit Court of the Seventeenth Judicial Circuit, of the County Court's February 23, 2015, ruling in *State of Florida (City of Fort Lauderdale) v. Mary Welsh Wesolowski*, Case No. 14-032655TI20A, and the March 5, 2015, Omnibus Order.

SECTION 3. That the agreement among the City of Fort Lauderdale, ATS, and Weiss Serota Helfman Cole & Bierman provide 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, and the March 5, 2015, Omnibus Order shall be directly invoiced by Weiss Serota Helfman Cole & Bierman to, and paid by, ATS.

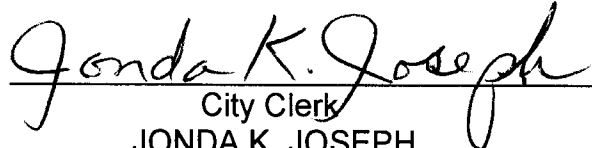
SECTION 4. That the agreement among the City of Fort Lauderdale, ATS, and Weiss Serota Helfman Cole & Bierman provide that any decisions made, and actions to be taken by Weiss Serota Helfman Cole & Bierman with regards to seeking and obtaining judicial review *via* the Circuit Court of the Seventeenth 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, and the March 5, 2015, Omnibus Order 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, Weiss Serota Helfman Cole & Bierman 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 Resolution No. 15-59 and all other resolutions or parts of resolutions in conflict herewith are hereby repealed.

ADOPTED this the 5th day of May, 2015.


Mayor
JOHN P. "JACK" SEILER

ATTEST:


City Clerk
JONDA K. JOSEPH