



# MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC # **244-2013**

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LETTER TO COMMISSION

CITY CLERK'S OFFICE

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 16, 2013

SUBJECT: **City of Miami Beach Red Light Camera Photo Enforcement Program Status**

The purpose of this Letter to Commission (LTC) is to provide information regarding the City of Miami Beach Red Light Camera Program, and the recent changes to Florida State law governing red light camera photo enforcement.

The City of Miami Beach Red Light Camera Program has been operational since April 15, 2010, with an original scope of ten cameras at nine intersections, which were fully operational by October 2010. The cameras are located from 17<sup>th</sup> Street in the South to 71 Street and Indian Creek in the North. The cameras have averaged from a high of 5.77 violations per day at Alton Road and Chase (Northbound), to a low of less than one violation per day at 41 Street and Prairie Avenue (Northbound). The City's Vendor, upon approval by the City, issues violations and/or Uniform Traffic Citations that have resulted in \$200,153.28 in net income since inception, excluding the \$42,478.39 annual salary of the Traffic Control Infraction Enforcement Review Officer. The crash rate at those intersections with red light cameras has significantly decreased from 59 crashes in fiscal year 2009/2010 to 23 crashes in 2011/2012, and the data does indicate that motor vehicle crashes continue to trend down in the current fiscal year.

## Background

Initially, the City of Miami Beach enacted Ordinance No. 2008, which created Article XI entitled "Dangerous Intersection Safety" of Chapter 106 of the Miami Beach Code, entitled "Traffic and Vehicles." The purpose of the Article was to authorize the use of unmanned cameras/monitoring systems to promote compliance with red light signal directives as proscribed within the Article, and to adopt a civil enforcement system for red light signal violations. The Article was a further mechanism for supplementing law enforcement personnel in the enforcement of red light signal violations, and such enforcement did not prohibit law enforcement officers from issuing a uniform traffic citation ("UTC") for a red light signal violation in accordance with statutory traffic enforcement techniques.

The Article authorized the City to utilize image capture technologies as a supplemental means of monitoring compliance with laws related to traffic control signals, while assisting law enforcement personnel in the enforcement of such laws. The utilization of this technology by the City was designed to protect and improve public health, safety and welfare, by reducing the number of motor vehicle crashes at specific, identifiable intersections. The article did not supersede, infringe, curtail or impinge upon those state laws related to red light signal violations or conflict with such laws. The Article was viewed as an ancillary deterrent to traffic control signal violations to reduce crashes and injuries associated with such violations. The Notices for these violations were deemed a code violation, and were enforced using the City's special masters, which did not require the issuance of UTC's or the utilization of Miami-Dade's Traffic Hearing Officers.

The Dangerous Intersection Safety Article was in only existence for a brief period of time within the City, and did not consume City resources during the brief period that violations were being issued pursuant to the Article. The Florida Legislature enacted the Mark Wandall Traffic Safety Act ("Act") and the Mark Wandall Traffic Safety Program (the "Program"), in Chapter 316 of the Florida Statutes, which became effective July 1, 2010. The Program set forth specific legal requirements for local governments to employ in order to continue their use of cameras for the enforcement of red light violations pursuant to Sections 316.074(1) and 316.075(1)(c)1 of the Florida Statutes. However, the Program rendered the City's Ordinance regulating red light camera unenforceable, and drastically modified those monetary fines to be imposed for these offenses. The Program mandated that an individual would be required to pay the monetary fine of \$158.00, but a portion of that monetary fine (\$75.00) would be remitted to the City. The State of Florida would receive the remainder of the monetary fine (\$83.00). The modification of the monetary fine resulted in an immediate decrease of revenue by \$50.00 per each Notice issued by the City under the new cost sharing provision of the Program. To further complicate this matter, the Program established statutory criteria for the enforcement of right turn on red violations, which incorporated a "careful and prudent" standard that was to be applied prior to the issuance of a violation by the City. This standard made it difficult to cite those owners of motor vehicles whom improperly made right-hand turns, thereby significantly impacting revenue for these types of violations.

#### **Update – Newly Enacted Red Light Camera Legislation**

On June 12, 2013, Governor Rick Scott signed legislation that implemented amendments to the Program, which amendments become effective on July 1, 2013. These amendments drastically altered the procedural process for appealing those violations issued under the Program, and mandated that such appeals shall be the responsibility (both financial and procedural) of the individual municipalities and counties. Specifically, a vehicle owner would have the right to request an appeal of the Notice that was issued by the City for a violation committed under the Program, which appeal would have to be handled directly by the City's special masters. The Legislature added §316.003 to the definition section within Chapter 316, which definition sets forth the authority for a Local Hearing Officer (City's Special Masters) to conduct such hearings related to red light camera violations issued pursuant to Section 316.0083 of the Florida Statutes. In that regard, the City would be required to use its special masters to conduct these appeal hearings in order to comply with the Program amendments, and the City has the authority to impose payment of its costs surrounding the appeal, which must not exceed \$250.

The intent of the program is to reduce the number of motor vehicle accidents at those traffic signal intersections with significant crash rates by the placement of photo enforcement cameras. The statistical data does indicate that the red light cameras have positively affected the crash rate for those intersections. The projected revenue surrounding the Program never materialized for the City. The expectation of greater revenue was centralized upon the perceived projection of four to eight violations issued per individual camera on a daily occurrence, which from the inception of the Program, did not meet those expectations.

In preparation for the impending legislation, representatives of MBPD, the Legal Department, City Clerk's Office and Xerox State and Local Solutions, Inc. (City's Vendor) coordinated the City's implementation of the amendments to the Program. The City has the authority to utilize the existing Special Master System to conduct these hearings pursuant to Chapter 30 of the Miami Beach City Code, and has adopted the Act and Program within Section 106-480 of the Miami Beach City Code. The City would be required to make certain amendments to Section 106-408 in order to crystalize the appeal process, provided the Mayor and City Commission desire to continue the contractual relationship with the City's Vendor.

It is anticipated that approximately 30 percent of the violations will be contested and may warrant the need for an additional dedicated Special Master to conduct the local hearings. The addition of another Special Master and a full-time Clerk to manage the calendar and administrative support will ensure other code enforcement issues will not be compromised. The costs associated with the additional Special Master and Clerk should be offset by the assessment of authorized municipal costs.

The decline in revenue from the inception of the program is linked to several changes to the ordinances and laws regulating red light camera enforcement. In December of 2009, the City of Miami Beach enacted an ordinance which authorized the Miami Beach Police Department (MBPD) to enforce red light camera violations with a fine of \$125 per violation, with a provision for appeal before the Special Master and additional fees for late fines. During this period, the City of Miami Beach realized the most revenue per Notice of Violations.

There is currently a proposal by representatives of Xerox State and Local Solutions, Inc. to move two of the red light cameras from locations where there are very few violations to locations where red light violations are occurring more frequently. This proposal would be at no cost to the City of Miami Beach, but would require extending the current contract that expires in May of 2015 by 4 years. The movement of the cameras to the new locations at 41 Street and Alton Road (Westbound) and Dade Boulevard and Alton Road (Southbound) is anticipated to result in significant more violations based on a recent validation study of the intersections.

Since it appears that the red light camera program has reduced crashes, then the next priority is revenue to keep the program financially viable. In terms of increasing revenue, the potential is greater now with the change in the criteria for enforcing right turn on red violations and the movement of cameras. If the City Commission wishes to continue to support the Red Light Camera Photo Enforcement program, this will require the addition of a Special Master dedicated to hearing red light camera violations and a Clerk for administrative support. Concerning the current contract with the Xerox Local and State Solutions, Inc. City Administration will continue to monitor the terms and evaluate the need to move cameras.

JLM/RAM/MNO/MG