Condensed Title:

A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Accepting The Recommendation Of The City Manager Pursuant To Request For Proposals (RFP) No. 02-08/09, For Red Light Violation Camera Enforcement System And Related Support Services; And Authorizing The Administration To Enter Into Negotiations With Either American Traffic Solutions (ATS), Or Affiliated Computer Systems (ACS), As Deemed By The City Commission To Be In The City's Best Interest; And Authorizing The Administration To Enter Into Negotiations With The City Commission's Selected Proposer; And Further Authorizing The Mayor And City Clerk To Execute An Agreement, Upon Conclusion Of Successful Negotiations.

Key Intended Outcome Supported:

Increase resident ratings of public safety services.

Supporting Data (Surveys, Environmental Scan, etc.): Safety across the City was rated as the number one most important area regarding quality of life in the City of Miami Beach. Enforcing traffic laws was rated as one of the areas that the City can address in regards to public safety.

Issue:

Shall the Mayor and City Commission adopt Resolution?

Item Summary/Recommendation:

On October 7, 2008, the Mayor and City Commission approved the issuance of Request for Proposals (RFP) No. 02-08/09, for Red Light Violation Camera Enforcement System and related support services.

On December 10, 2008, the Mayor and City Commission adopted on second and final reading, Ordinance No. 2008-3621, creating Article XI entitled "Dangerous Intersection Safety," of Chapter 106 of the Miami Beach City Code, entitled "Traffic and Vehicles," see attached Ordinance.

The City Manager, via a Letter to Commission (LTC) No. 010-2009, appointed the Evaluation Committee which convened on January 23, 2009 for shortlisting. The Committee unanimously agreed to invite the top three (3) ranked, ACS, ATS, Traffipax. Based on the scores and rankings of the Committee members, ATS was unanimously selected as the top-ranked firm. A motion was therefore made by Michael Gruen, and seconded by Nelson Martinez, to recommend to the City Manager to negotiate an Agreement with the top-ranked firm, ATS, in the effect that negotiations with the top-ranked firm deem unsuccessful, to negotiate with the second-ranked firm, ACS.

The Administration in the assessment of the various proposals submitted, and the results of the Evaluation Committee (the "Committee) believe that either of the top two (2) ranked vendors by the Committee, can serve as capable vendors, as such the top two (2) ranked vendors have been invited to present to the City Commission prior to a decision being rendered by the City Commission.

In assessing the presentations, the members of the City Commission may wish to consider the physical appearance of the vendor's hardware solution, as well as the vendor's willingness to hold the City harmless in the event of an adverse legal opinion and a requirement to refund fees. Upon completion of the presentations and the City Commission's deliberations, a resolution designating the top ranked firm and second ranked firm for negotiation of agreement is recommended.

ACCEPT THE CITY MANAGER'S RECOMMENDATION.

Advisory Board Recommendation:

Financial Information:

Source of Funds:		Amount	Account
OBPI	1		
	Total		

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Gus Lopez, Ext: 6641

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL	RCM PDW	JMG

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MIAMIBEACH

AGENDA ITEM R7K

DATE 2-25-09

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: February 25, 2009

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER, PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 02-08/09, FOR RED LIGHT VIOLATION CAMERA ENFORCEMENT SYSTEM AND RELATED SUPPORT SERVICES; AND AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH EITHER AMERICAN TRAFFIC SOLUTIONS (ATS), OR AFFILIATED COMPUTER SYSTEMS (ACS), AS DEEMED BY THE CITY COMMISSION TO BE IN THE CITY'S BEST INTEREST; AND AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH THE CITY COMMISSION'S SELECTED PROPOSER; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT, UPON CONCLUSION OF SUCCESSFUL NEGOTIATIONS.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

BACKGROUND

On October 7, 2008, the Mayor and City Commission approved the issuance of Request for Proposals (RFP) No. 02-08/09, for Red Light Violation Camera Enforcement System and related support services (the "RFP").

On December 10, 2008, the Mayor and City Commission adopted on second and final reading, Ordinance No. 2008-3621, creating Article XI entitled "Dangerous Intersection Safety," of Chapter 106 of the Miami Beach City Code, entitled "Traffic and Vehicles," see Ordinance as Exhibit A.

The purpose of the RFP is to enter into a contract for the delivery and maintenance of unmanned cameras/monitoring devices also known as traffic control signal monitoring system for red traffic light violations with a vendor capable of a turnkey solution for design, implementation and maintenance in order to implement an enforcement mechanism for the approved Ordinance.

For several years the City has monitored the possibility of enforcement of red light violations at intersections through the use of automated image capture technology (camera enforcement). Before pursuing a program of enforcement for the City, the previous City Commission opted to allow other jurisdictions to develop operating experience. In this manner, the City would learn from those experiences.

more sensors to work in conjunction with a traffic control signal, still camera and video recording device, to capture and produce recorded images of motor vehicles entering into an intersection against a steady or flashing red light signal. The cameras will be installed by the vendor at no cost to the City of Miami Beach at traffic intersections at the direction of representatives of the Miami Beach Police Department.

The photographic color images produced by the camera will clearly identify the license plate, vehicle color, manufacturer and model. The camera will have the technology to capture the image at the precise time the vehicle breaks the plane of an intersection where the traffic signal light turns red. The vendor will provide a representative to work closely with a trained law enforcement officer from the Miami Beach Police Department to verify each red light infraction. As a result of the infraction, the owner/driver of the offending vehicle will be issued an infraction notice with the photographs of the violation from the vendor. The infraction will impose a fine that when paid, the revenue will be split in a percentage agreeable to the City of Miami Beach and the vendor. The City of Miami Beach agrees to assist the vendor in identifying the owner of the offending vehicle driver, their owner registration in an effort to determine the address to send the infraction. All repair and maintenance of the cameras and related equipment will be the sole responsibility of the vendor, including but not limited to maintaining the casings of the cameras and the vendor system and at no cost to the City of Miami Beach.

To date the intersections identified by the Miami Beach Police Department as potential candidates are included in Exhibit B and C. The lists are based solely on accident data and indicate the10 intersections in the City with the highest number of accidents for 2007 and 2008. The two lists are not identical as would be expected from year to year. A breakdown of the accident history by cause of accident is also included as Exhibit D. As part of the negotiation process with a selected vendor, a more detailed analysis of sites will be undertaken and submitted to the City Commission as part of the vendor agreement.

In reviewing accident causes, the vendors will note that only a few accidents are listed as caused by a red light infraction or disregard for a traffic signal. As Police Officers generally arrive at an accident site after the event, very often the cause of the accident is attributed to some other category, such as careless driving or improper turn, even if a red light violation may have been contributory. The Officer typically has no direct knowledge of a red light violation at an accident scene and it is easier to establish other infractions based on the site evidence.

Beyond accident data, intersections might also receive consideration for traffic volumes, speed or level of service. While of the intersections on Exhibit B and C are among the busiest in the City, these other traffic elements might also be considered if cameras are to be implemented in the City. As part of the recently approved Transportation Element update for the City Comprehensive Plan, up to date traffic flow data is now being gathered that will be available to the City Commission when a potential vendor for cameras is considered for approval and intersections need to be identified for a program.

While the principal reason for implementing a red light violation enforcement program with the use of unmanned cameras is to protect the public health, safety and welfare and to deter accidents, there is generally a positive revenue stream that results from the implementation of these programs. Actual revenues will depend upon the number of cameras which are utilized for enforcement and the location of said cameras.

Utilizing unmanned cameras for red light violation enforcement can also provide a benefit to the Police Department for use in resolving crimes that may be committed in the City. The unmanned cameras used for red light violations will also capture a continuous photo record of the subject intersection thereby allowing the Police Department an opportunity to review the photo record in order to identify a vehicle which might have been utilized in the commission of a crime in the City. While there may be some deterrent as a result of having the photo record, the benefit to the Police Department is principally in resolving a crime after the fact.

RFQ PROCESS

On November 14, 2008, the RFP was issued with an opening date of December 15, 2008. A Pre-proposal meeting to provide information to prospective Proposers was held on December 2, 2008. BidNet sent notices to 19 prospective proposers; BidSync sent notices to 2645 prospective proposers of which 43 viewed the documentation; which resulted in the receipt of the following six (6) proposals:

- REDFLEX TRAFFIC SYSTEM, INC.
- NESTOR TRAFFIC SYSTEMS, INC.
- LASERCRAFT, INC.
- AMERICAN TRAFFIC SOLUTION (ATS), INC.
- AFFELIATED COMPUTERS SYSTEMS (ACS), INC.
- TRAFFIPAX, INC.

The City Manager, via a Letter to Commission (LTC) No. 010-2009, appointed an Evaluation Committee ("The Committee") consisting of the following individuals:

- Michael Gruen, Planning Research Manager, Police Department;
- Jeffrey Cohen, Sergeant, Police Department;
- Nelson Martinez, Systems Support Manager, Information Technology;
- Robert Dean Fairless, Miami Beach Resident, Leadership Academy;
- Maria Koller, Miami Beach Resident, Leadership Academy;
- Josephine Pampanas, Transportation and Parking; and
- Mary Browning, Miami Beach Resident, Leadership Academy.

EVALUATION PROCESS

On January 23, 2009, the Committee convened to evaluate, shortlist, score and rank. The Committee proceeded without member Robert Fairless who was not able to attend and participate; however, a quorum was in attendance. The Committee unanimously agreed to nominate Michael Gruen as Committee Chair. In determining the best qualified firms, the Committee thoroughly discussed each company's proposal according to the criteria as set forth in the RFP and shown below:

	Criteria	Scoring Weight
A	**Experience and Qualifications of the vendor**	**30**
B	**Soundness & Quality of proposed technical proposal**	**20**
C	**Quality of Proposed Solution**	**20**
D	**Revenue Sharing Proposal**	**20**
E	**Past Performance in providing similar services as outlined in the RFQ**	**10**

The Committee proceeded to shortlist the firms for presentations based on the following scoring and ranking:

RFP 02-08-09	Michael Gruen	Jeffrey Cohen	Nelson Martinez	Josephine Pampanas	Mary Browning	Maria Koller	TOTALS
ACS	97 (2)	81 (3)	94 (2)	92 (2)	95 (2)	98 (2)	**557**
ATS	100 (1)	89 (1)	99 (1)	95 (1)	100 (1)	99 (1)	**582**
LASERCRAFT	92	80	83	91 (3)	70	83	499
NESTOR TRAFFIC	83	74	72	89	55	65	438
REDFLEX	95 (3)	80	85 tie	79	70	80	489
TRAFFIPAX	94	83 (2)	85 tie	86	90 (3)	91 (3)	**529**

The Committee unanimously agreed through a motion presented by Chairperson Michael Gruen and seconded by Josephine Pampanas to invite for presentations the three (3) top-ranked proposers: ATS, ACS, and Traffipax.

Furthermore, the Committee motioned and unanimously agreed, for purposes of giving a final scoring and ranking, to re-evaluate both criteria, B and C, after presentations by the top three ranked vendors.

B	**Soundness & Quality of proposed technical proposal**	**20**
C	**Quality of Proposed Solution**	**20**

On February 6, 2009, the Committee reconvened for presentations, deliberations, and recommendations.

After presentations, the Committee proceeded to score and rank the three (3) top-ranked proposers as follows:

FIRMS	Michael Gruen	Jeffrey Cohen	Nelson Martinez	Josephine Pampanas	Mary Browning	Maria Koller	TOTALS
ACS	**98 (2)**	**88 (1)**	**97 (2)**	**94 (2)**	**100 (1)**	**98 (2)**	**575 (2)**
ATS	**99 (1)**	**87 (2)**	**99 (1)**	**95 (1)**	**90 (2)**	**99 (1)**	**569 (1)**
TRAFFIPAX	**90 (3)**	**83 (3)**	**88 (3)**	**89 (3)**	**90 (3)**	**91 (3)**	**528 (3)**

Based on the scores and rankings of the Committee members, ATS was selected as the top-ranked firm based on having the majority of the Committee members' first place votes (4 out of 6). A motion was therefore made by Michael Gruen, and seconded by Nelson Martinez, to recommend to the City Manager to negotiate an Agreement with the top-ranked firm, ATS, in the event that negotiations with the top-ranked firm are unsuccessful, to negotiate with the second-ranked firm, ACS.

ATS PROPOSAL (provided by ATS)

James Tuton, the President and CEO of ATS, pioneered the automated photo traffic enforcement industry in the United States, with the first speed-camera program implemented in Paradise Valley, Arizona in 1987. The red-light camera industry followed nearly 10 years later, as the market has matured and grown, so has ATS.

ATS serves over 125 municipalities and government agencies with red-light and speed camera enforcement programs and installed nearly 1,000 cameras around the country, with hundreds more in various planning stages.

ATS provides traffic enforcement programs to the following cities: New York City, New York; Philadelphia, Pennsylvania; Washington, D.C.; St. Louis and Kansas City; San Diego, California; Seattle, Washington; Houston, Fort Worth, Irving and Arlington, Texas; New Orleans and Baton Rouge, Louisiana; and Phoenix, Tucson, Mesa, Glendale and Scottsdale, Arizona. ATS also provides Canada's largest digital red-light camera and speed enforcement program in Calgary, Alberta.

Matrix for ATS on particulars offered by each company for this RFP:

Camera Technology – The Axsis™ TC-16MP	• 16-megapixel single-camera system • Remote access and camera automation • Up to 60-day video storage enables for real time traffic viewing and full data retrieval of recorded video • 24/7/365 live, online, IP-addressable color digital video surveillance and recording system • Each camera records the date and time of day for each image that is captured. In addition to the date and time data, the system can also record: 1. the speed of vehicle 2. time the light has been red 3. posted speed 4. location identifier 5. lane number 6. amber phase time • The data bar, which contains the infraction information, is imprinted on the infraction images at the point-of-capture. • Images are transmitted from the Red Light Digital Camera to the Axsis™ collection point through a 3DES encrypted VPN tunnel secured by Cisco firewall.	• Small footprint, camera dimensions 9" x 4" x 4.5" • 15 to 20-foot fixed aluminum or galvanized steel pole (single pole) • There are three visible components including a small 14-inch camera enclosure, an 8-inch strobe unit, and a 19-inch controller cabinet • Camera housing dimensions: 14" x 9" x 13" • Vandal and Tamperproof Housing • Camera design offers placement and configuration flexibility to accommodate different intersection design requirements • The system can be configured to detect and capture infractions across five (5) moving lanes of traffic • Two-Factor Security System • 3DES encrypted VPN tunnel secured by Cisco firewall • secondary firewall devices from different manufacturers, running Checkpoint NG • Digital encryption at the point of image capture to eliminate electronic record tampering capabilities • Non-invasive vehicle detection • Non-Invasive Signal Detection System • Wireless vehicle detection • ATS Iteris detection technology has proven to accurately detect vehicles at high speeds and in all types of weather
Implementation Management	Assuming close coordination between ATS and the City, ATS is able to have the first intersection fully operational within 30 days of permit approval.	Via coordination with the Project Manager and the maintenance teams, field equipment is scheduled to be installed. As construction nears completion, an installation request ticket is submitted, outlining the specific details of the site. • ATS will manage permitting, drawing review, and provision of final drawings for the approved sites. • These installations range from red light cameras to traffic signal controllers. • ATS will provide all equipment, materials, supplies, and labor necessary to install and calibrate all cameras for operation.

Citation Processing	• The Axsis™ VPS (Violation Processing System) is a full-featured and web-enabled infraction processing solution, managed and maintained at the Scottsdale Data Center. • Infraction website www.ViolationInfo.com • The system security is enabled through a VPN 3DES encryption. • Two-Factor Authentication using the industry-standard for two-factor authentication called SecurID® by RSA. • based on a password or PIN and an authenticator • The City can access any infraction image stored in Axsis™ VPS 24 hours a day, seven days a week. • Infraction data and image retention is a customer defined requirement. Typically, infraction images are retained 30 days after final disposition.	• ATS has three levels of infraction review. In those instances in which the infraction review escalates to a supervisor review, a fourth level of review is provided. This ensures that the infraction will be issued to the correct person. • ATS' Internet security certification is provided by Thawte. • Utilizing an automated online and real-time interface established with NLETS (National Law Enforcement Telecommunication System). • If multiple registration data is returned by the DMV, then the infraction image is moved to the Type Selection process. • In the Final Review step, a second ATS Quality Assurance Specialist performs a final review of the infraction images and verifies that the vehicle license plate, registration information and vehicle information matches the vehicle shown in the images. • Only authorized City personnel will be able to log in and access the infraction processing system. • ATS will provide online access with a secure login ID to our Axsis™ system where authorized City personnel and the Special Magistrate can view and reproduce evidence packages in real-time from the Axsis™ system.
Public Awareness Campaign	• Vendor will provide assistance with the content and design of a public education program and associated materials to be funded by the City and implemented by the Community Relations Department	• Press releases • Informative public education pamphlet in English, Spanish and other languages • Free media ideas Paid media assistance including radio and television public service announcements • Public opinion monitoring
Customer Service	• Headquartered in Scottsdale, Arizona	• Help Desk organization that responds to calls 24 x 7 x 365 • Multi-lingual personnel
Collections	The available payment channels are: ▪ Mail in the payment with the coupon (Lockbox) ▪ Pay online, using the web (Web) ▪ Pay by phone (Phone)	• If the original notice letter remains unpaid as of its due date, Axsis™ will automatically issue a second notice. If the fines are not paid within 30 days of mailing the second notice, Axsis™ will automatically send a Notice of Hearing • All payments are tracked by payment source (web, phone or lockbox) and payment method (Check, Money Order, Visa, MC and ACH). Axsis™ Payment Processing handles applied payments, unapplied payments, overpayments, refunds, adjustments, dismissals and reversals.

Appeals Process	• Axsis™ has the ability to manage the definition of the Special Master's schedule, manage hearing requests, schedule hearings and appeals, and issue Hearing Notification Letters. • The Evidence Package can be printed or downloaded. • Provides the ability to present all the infraction information online, the ability for the Special Master to enter the adjudication results securely via a web browser interface and generate the Notice of Determination	• The Axsis™ system will be configured to produce an electronic Evidence Package which includes the infraction images and data, all issued and disputed notices, violator history, a correspondence file, payment history, and any other relevant documents (such as letters from the defendant) that may be included in the file <u>two weeks prior to each scheduled hearing.</u>
Training	• ATS will train City personnel who will be involved with the program.	• ATS will consult with the City on the courses provided to determine what will be most effective for the participants attending. All training will be held in Miami Beach at a time convenient to the City

<u>ACS PROPOSAL (provided by ACS)</u>

ACS was founded in 1988 and 17 years of photo enforcement experience worldwide and 25 years of violations processing experience. Since going public in 1994, Affiliated Computer Services has achieved the financial stability and strong growth through sound financial management policy and stringent controls. Affiliated Computer Services, Inc. continues to remain a financially stable company. In a press release on August 7, 2008, ACS announced 2008 revenues were a record $6.16 billion, an increase of seven percent compared to the prior fiscal year, and demand for our technology services continues to rise. New business signings were increased by 32 percent over the prior year period. As a solid financial performer, Affiliated Computer Services achieved Fortune 500 status and Class A common stock trades on the New York Stock Exchange under the symbol "ACS."

ACS has over 1,100 photo enforcement systems installed and/or under contract.

ACS provides traffic enforcement programs to the following cities: Atlanta, Georgia; Baltimore, Maryland; Montgomery County, Maryland; Washington, D.C.; Dallas, TX; Boston, MA; Los Angeles, CA; San Francisco, CA; Portland, OR; Denver, CO; Philadelphia, PA; Detroit, MI; St. Louis, MO; and Cleveland, OH.

Matrix for ACS on particulars offered by each company for this RFP:

Camera Technology – ACS Red Light Camera System (RLCS-1)	• 10 mega pixel camera • 14 bits of dynamic range providing a high-quality image • Remote access and camera automation • 12-second video clip to support still images • 30-day video storage to be used for real time traffic surveillance • 24/7 live video	• Smallest, efficient footprint • Pleasing aesthetics at intersections • Fits in housing 23" high X 8.6" wide X 6.2" deep • Two Pole design – one for camera and one for flash • Monitors eight lanes of traffic • Video and data linked securely to ensure chain of evidence • Maximizes enforcement at heavy traffic approaches – 16 violations at one time • Decreases time required for citation processing • Variety of camera lenses to match the right lens for intersection • Non-invasive vehicle detection • No attachment required to any devices inside the DOT or City infrastructure
Implementation Management	• Experienced implementation team and ongoing program support	• Program manager and field service technicians reside in the local area • Executive sponsors provide project oversight
Citation Processing	• CiteWeb™ – a fully developed and deployed integrated ticket management system • Access to FDMV or NLETS for name and address acquisition • Strategic partner of NLETS – important for out-of-state name and address acquisition • Website for violator review of violation, 12-second video clip and payment: www.public.cite-web.com • Website for efficient approval by law enforcement of violations in less than 30 seconds • Printing and mailing of warnings and citations, certified and regular mail	• Minimal effort required by City or Law Enforcement Staff for citation processing • No effort required by City staff for registered owner information • Initial view and blind verification of images allows for accurate citations passed to the City • Automated update of NLETS data reduces data entry error
Public Awareness Campaign	• Signage at each approach • Public awareness information about red light program • Assistance with content and design of brochures, pamphlets, and City website	• Sample Media kits
Customer Service	• Customer support with ACS employees within the United States • Toll-free number	• Spanish-speaking customer service representatives • Telecommunication Device for the Deaf (TDD)
Collections	• Convenient payment options: pay by mail, Pay-by-Web, and Pay-by-Phone	• Spanish option for Pay-by-Web and Pay-by-Phone • Cashiering solution for walk-ins • Customized collections program for delinquent violators

Appeals Process	• Hearing scheduling and disposition • Accommodates rescheduling of hearings • Electronic court packages • Expert testimony	• Hearing scheduling via IVR • Accommodates requests to reschedule hearings
Training	• Customized training • Customized written manuals and online help	• Small training classes • Combination of classroom and hands-on training • Refresher and new hire training

ANALYSIS

In the evaluation process all three (3) vendors invited to present were deemed technically sufficient. Each of the three (3) vendors had a camera mechanism that was able to capture necessary images and process images as required for enforcement of the City Ordinance. Other capabilities of the proposing firms, particularly in the support associated with implementation distinguished the third ranked vendor from the top two (2) ranked vendors. The top two (2) ranked vendors demonstrated a more extensive capacity to support the issuance of citations and the collection of fines than the third ranked vendor.

In reviewing the Committee's individual scores, the members of the City Commission will note that with the exception of one (1) score, the top two (2) ranked proposers were distinguished by no more than two (2) points. In fact, an unusual occurrence is illustrated in the Committee's rankings where the second ranked vendor actually received more total points (575) than the highest ranked vendor (569). Since the City in evaluations typically uses the number of first placed votes cast for a vendor to determine rankings, even though a higher point total was cast for ACS, the firm ATS had more first place votes and thus was ranked higher.

Given the extreme closeness of the judge's assessment for the two (2) vendors, it is recommended that the top two (2) vendors be invited to make a presentation to the City Commission to highlight their respective capabilities and their technology. Either of the firms is capable of providing the services required by the City for red light enforcement.

While not part of the formal evaluation criteria, there are two (2) variables which the City Commission may wish to consider in the final selection of a vendor to negotiate an agreement with the City. The actual appearance of the systems that will be presented to the City Commission differ slightly and may ultimately affect the City Commission's view of which is more appropriate to the Miami Beach streetscape. The ACS camera installation is more simple and streamlined than the ATS camera installation.

On the implementation process no capital and/or operating expenses will be incurred by the City. Volume will require a PSS (Public Safety Specialist) position to support Police review, to be funded by revenues received by the City.

Also an issue for the members of the City Commission to consider is at what level the respective vendor would provide a hold harmless for the City in the event a legal challenge of our Ordinance was successful. The vendor's willingness and ability to guaranty that in the event of an adverse legal decision requiring refund of fines collected may be a variable in selecting a top ranked vendor. During the evaluation process ATS indicated their willingness to include language to protect the City in the event of an

adverse legal ruling, while ACS indicated that was a matter for review and discussion.

In reviewing the top two (2) vendor's cost and revenue proposals, ACS in the flat fee pricing comparison is less expensive than ATS. Both of the vendors also offer a pricing based on per tickets that is more complex for comparison purposes.

Each vendor submitted different methods to return revenue to the City, both flat fee and per ticket were submitted.

Using the same number of citations and cameras, the two (2) vendor proposals on a flat fee basis compare as follows:

ITEMS	ACS	ATS
Gross monthly revenue collected	$375,000	$375,000
Monthly vendor cost to City	$39,500	$47,500
Net monthly revenue to the City	$335,500	$327,500
Net yearly revenue to the City (assumes 10 cameras with 10 collected citations per day per camera)	$4,026,000	$3,930,000

A comparison matrix of other Cities' contracted revenue sharing agreements with ATS and ACS will be provided as a Supplemental Agenda Item to this item.

CONCLUSION

The Administration in the assessment of the various proposals submitted, and the results of the Evaluation Committee (the "Committee) believe that either of the top two (2) ranked vendors by the Committee, can serve as capable vendors, as such the top two (2) ranked vendors have been invited to present to the City Commission prior to a decision being rendered by the City Commission.

In assessing the presentations, the members of the City Commission may wish to consider the physical appearance of the vendor's hardware solution, as well as the vendor's willingness to hold the City harmless in the event of an adverse legal opinion and a requirement to refund fees. Upon completion of the presentations and the City Commission's deliberations, a resolution designating the top ranked firm and second ranked firm for negotiation of agreement is recommended.

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ORDINANCE 2008-3621

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CREATING ARTICLE XI, TO BE ENTITLED "DANGEROUS INTERSECTION SAFETY," OF CHAPTER 106, ENTITLED "TRAFFIC AND VEHICLES," OF THE MIAMI BEACH CITY CODE, BY CREATING SECTIONS 106 - 480 THROUGH 106 - 494 PROVIDING FOR INTENT AND DEFINITIONS; ESTABLISHING AN ENFORCEMENT PROGRAM WITHIN THE CITY; AUTHORIZING THE CITY TO PERMIT AND IMPLEMENT THE USE OF UNMANNED CAMERAS/MONITORING DEVICES FOR RED LIGHT VIOLATIONS; PROVIDING FOR ENFORCEMENT PROCEDURES AND REGULATIONS, INCLUDING NOTICE, VIOLATIONS, VEHICLE OWNER RESPONSIBILITIES, APPEAL HEARINGS, PENALTIES, THE IMPOSITION OF ADMINISTRATIVE CHARGES, FINES, AND LIENS, AND THE COLLECTION THEREOF; PROVIDING FOR EXCEPTIONS; AND PROVIDING FOR CODIFICATION; SEVERABILITY; REPEALER; AND AN EFFECTIVE DATE.

WHEREAS, the running of red lights at intersections causes a safety hazard affecting every citizen and visitor in the City of Miami Beach ("City"); and

WHEREAS, the Mayor and City Commission are concerned with the inability to sufficiently enforce provisions in the Florida Statutes prohibiting the running of red lights due to the requirement that enforcement of the State statutory provisions require the personal observation of police officers; and

WHEREAS, the Mayor and City Commission wish to reduce the running of red lights in the City by creating an additional code enforcement procedure therefor; and,

WHEREAS, local governments in different parts of the state and country have demonstrated the enhancement of vehicular and pedestrian traffic safety attributable to the integration of automated image capture technologies with traditional traffic law enforcement methodology; and

EXHIBIT A

WHEREAS, § 316.008 of the Florida Statutes grants municipalities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of their police power, the authority to regulate and monitor traffic by means of police officers and security devices; and

WHEREAS, the City of Miami Beach has home rule authority pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166, Florida Statutes, to enact an ordinance making the failure to stop for a red light signal a violation of the City Code, and to provide for enforcement of such violations of the City Code through the use of the City's Special Masters; and

WHEREAS, Florida Attorney General Opinion 2005-41, dated July 12, 2005, provides authority for the City to enact an ordinance making the failure to stop at a red light signal a violation of the City Code, to use unmanned cameras to monitor intersections in the City for such violations of the City's Code, and to record the license tag numbers of vehicles involved in such violations; and

WHEREAS, the Florida Attorney General has opined that cities may not issue traffic citations under the State Statutes to drivers for violations observed by the use of unmanned cameras and not otherwise observed by police officers; and

WHEREAS, the Mayor and City Commission of the City of Miami Beach find that the implementation of the code enforcement program for red light violations, as set forth herein, will promote, protect, and improve the health, safety, and welfare of its citizens, consistent with the authority granted to and the limitations on municipalities pursuant to the Florida Constitution and the Florida Statutes.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. That Article XI, to be entitled "Dangerous Intersection Safety," of Chapter 106 of the Miami Beach City Code, entitled "Traffic and Vehicles," is hereby created as follows:

CHAPTER 106

TRAFFIC AND VEHICLES

* * *

Article XI. Dangerous Intersection Safety.

Sec. 106 – 480. Intent.

The purpose of this Article is to authorize the use of an unmanned cameras/monitoring system to promote compliance with red light signal directives as proscribed this Article, and to adopt a civil enforcement system for red light signal violations. This Article will also supplement law enforcement personnel in the enforcement of red light signal violations and shall not prohibit law enforcement officers from issuing a citation for a red light signal violation in accordance with statutory traffic enforcement techniques.

Sec. 106 – 481. Use of image capture technologies.

The City shall 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, which are designed to protect and improve public health, safety and welfare. This Article shall not supersede infringe, curtail, or impinge upon state laws related to red light signal violations or conflict with such laws. The City shall utilize image capture technologies as an ancillary deterrent to traffic control signal violations to reduce accidents and injuries associated with such violations. Notices of infractions issued pursuant to this Article shall be enforced using the city's special masters and not uniform traffic citations or county courts.

Sec. 106 – 482. Definitions.

The following definitions shall apply to this Article:

(a) *Intersection* shall mean the area embraced within the prolongation or connection of the lateral curb line; or, if none, then the lateral boundary lines of the roadways of two roads which join or intersect one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.

(b) *Motor vehicle* shall mean any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, motorized device used by disabled persons, electric personal assisted mobility device, or moped.

(c) *Notice of Infraction* shall mean a city code citation issued for a red zone infraction.

(d) *Owner/Vehicle Owner* shall mean the person or entity identified by the Florida Department of Motor Vehicles, or other state vehicle registration office, as the registered owner of a vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a lease of six months or more.

(e) *Recorded Images* shall mean images recorded by a traffic control signal monitoring system/device:

1. On:
   Two or more photographs, or
   Two or more electronic images; or
   Two or more digital images, or
   Digital or video movies; or
   Any other medium that can display a violation; and

2. Showing the rear of a motor vehicle and, on at least one image, clearly identifying the license plate number of the motor vehicle.

(f) *Red Zone Infraction* shall mean a city code violation whereby a traffic control signal monitoring system established that a motor vehicle entered an intersection controlled by a duly erected traffic control device at a time when the traffic control signal for such vehicle's direction of travel was emitting a steady or flashing red light.

(g) *Special Master* shall mean the City's Special Masters.

(h) *Traffic Control Signal* shall mean a device exhibiting different colored lights or colored lighted arrows successively, one at a time, or in combination, using only the colors green, yellow, and red which indicate and apply to drivers of motor vehicles as provided in Florida Statutes § 316.075.

(i) *Traffic Control Signal Monitoring System/Device* shall mean a system consisting of one or more vehicle sensors, working in conjunction with a traffic control signal, still camera and video recording device, to capture and produce recorded images of motor vehicles entering an intersection against a steady or flashing red light signal.

Sec. 106 – 483. Adherence to red light traffic control signals.

Motor vehicle traffic facing a traffic control signal's steady or flashing red light indication shall stop before entering the crosswalk on the near side of an intersection or, if none, then before entering the intersection, and shall remain stopped until a green light indication is shown on the traffic control signal or, in the case of a flashing red light signal, coming to a complete stop before proceeding.~~; h~~ However the driver of a vehicle which is stopped at a clearly marked stop line, but if none, before entering the crosswalk on the near side the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection in obedience of a steady or flashing red light indication from a traffic control signal, may make a right turn (unless such turn is otherwise prohibited by posted sign or other traffic control device), but shall yield right-of-way to pedestrians and other traffic proceeding as directed by the traffic control signal at the intersection.

Sec. 106- 484. Violation/red zone infraction.

A violation of this Article, known as a red zone infraction, shall occur when a vehicle does not comply with the requirement of Sec. 106 - 483. Violations shall be enforced as provided in this Article.

Sec. 106 – 485. Review of recorded images.

(a) The owner of the vehicle which is observed by recorded images committing a red zone infraction, shall be issued a notice of infraction. The recorded image shall be sufficient grounds to issue a City notice of infraction.

(b) The City shall designate a traffic control infraction review officer, who shall meet the qualifications set forth in §316.640(5)(a), Florida Statutes, or any other relevant statute. The traffic control infraction review officer shall review recorded images prior to the issuance of a notice of infraction to ensure accuracy and the integrity of the recorded images. The traffic control infraction officer shall also verify that the traffic control monitoring system/devices which captured the recorded images were functioning properly at the time the recorded images were captured. Once the traffic control infraction review officer has verified the accuracy of the recorded Images and functionality of the traffic control monitoring system/devices, he or she shall complete a report, and a notice of infraction shall be sent to the vehicle owner at the address on record with the Florida Department of Highway Safety and Motor Vehicles.

Sec. 106 – 486. Notice of infraction.

The Notice of Infraction shall include:

(a) The name and address of the vehicle owner;

(b) The license plate number and registration number of the vehicle;

(c) The make, model, and year of the vehicle;

(d) Notice that the red zone infraction charged is pursuant to this Article;

(e) The location of the intersection where the red zone infraction occurred;

(f) The date and time of the red zone infraction;

(g) Notice that the recorded images relating to the vehicle and a statement that the recorded images are evidence of a red zone infraction;

(h) The civil penalty imposed;

(i) Images depicting the red zone infraction;

(j) The procedures for payment of the civil penalty and contesting the notice of infraction;

(k) A signed statement by the traffic control infraction officer that, based on inspection of recorded images, the vehicle was involved in a red zone infraction;

(l) Information advising the person alleged to be liable under this Article, the manner and time in which liability as alleged in the notice of infraction may be appealed and warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability.

Sec. 106 – 487. Vehicle owner responsibilities.

A vehicle owner receiving a notice of infraction shall, within twenty (20) days of the date of the notice of infraction:

(a) Pay the assessed civil penalty pursuant to instructions on the notice of infraction; or
(b) Request an appeal pursuant with procedures as outlined in this Article.

The failure to comply with the provisions of this section within twenty (20) days from the date of the notice of infraction shall constitute a waiver of the right to contest the notice of infraction and will be considered an admission of guilt.

Sec. 106 – 488. Appeal to special master.

The City's special masters are authorized to consider appeals under this Article if such appeal is filed within twenty (20) days of the date of the notice of infraction. The vehicle owner may file an appeal with the city pursuant to the directions in the notice of infraction. A hearing on the appeal shall be scheduled for all appeals except those in which the vehicle owner affirms under penalty of perjury that the vehicle was not under his or her care, custody or control, or the care, custody or control ~~that~~ of someone with the vehicle owner's consent.

(a) Upon receipt of the appeal, the city shall schedule a hearing before the special master. A notice of hearing shall be provided to the vehicle owner no less than ten (10) days prior to the hearing, and shall be provided by certified and U.S. mail to the same address to which the notice of infraction was sent.

(b) The following shall be permissible grounds for an appeal:

(i) At the time of the infraction, the vehicle was not under the care, custody, or control of the vehicle owner or an individual with the vehicle owner's consent, as established pursuant to an affidavit as provided section 106 - 489;

(ii) The motor vehicle driver was issued a citation by a law enforcement officer, which was separate and distinct from the citation issued under this Article, for violating the steady or flashing red light from a traffic control signal;

(iii) The motor vehicle driver was required to violate the steady or flashing red light from a traffic control signal in order to comply with other governing laws;

(iv) The motor vehicle driver was required to violate the steady or flashing red light from a traffic control signal in order to reasonably protect the property or person of another;

(v) The steady or flashing red light from a traffic control signal was inoperable or malfunctioning; or

(c) The traffic control infraction review officer, vehicle owner, and/or responsible party may testify and present evidence at the appeal hearing. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern all proceedings.

(d) Recorded images indicating a red zone infraction, verified by the traffic control infraction review officer, are admissible in any proceeding before the City's special master to enforce the provisions of this Article, and shall constitute prima facie evidence of the violation.

(e) Unless an affidavit is provided pursuant to Section 106 - 489, it is presumed that the person registered as the vehicle owner with the Florida Department of Motor Vehicles, or any other state vehicle registration office, or an individual having the owner's consent, was operating the vehicle at the time of a red zone infraction.

Sec. 106-489. Vehicle owner affidavit of non-responsibility.

In order to for the vehicle owner to establish that the motor vehicle was, at the time of the red zone infraction, in the care, custody, or control of another person without the consent of the registered owner, the vehicle owner is required, within twenty (20) days from the date listed on the notice of infraction, to furnish to the City, an affidavit setting forth the circumstances demonstrating that the motor vehicle was not in the vehicle owner's care custody or control, or that of a person with vehicle owner's consent. The affidavit must be executed in the presence of a notary, and include:

(a) If known to the vehicle owner, the name, address, and the driver's license number of the person who leased, rented or otherwise had care, custody or control of the motor vehicle at the time of the alleged red zone infraction; or

(b) If the vehicle was stolen, the police report indicating the vehicle was stolen at the time of the alleged red zone infraction.

(c) The following language immediately above the signature line: "Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true."

Upon receipt of an affidavit pursuant to this section, any prosecution of the notice of infraction issued to the vehicle owner shall be terminated.

Sec. 106 – 490. Penalties.

A violation of this Article shall be deemed a non-criminal, non-moving violation for which the following civil penalties shall be assessed:

First violation $125.00;
Second violation $250.00;
Third, or subsequent violations ..... $500.00.

A violation of this Article is not a violation of the State Statutes; therefore, no points as provided in § 322.27, Florida Statutes, shall be recorded on the driving record of the vehicle owner or responsible party.

Sec. 106 – 491. Administrative charges.

In addition to the penalties set forth in section 106 - 490, administrative charges may be assessed in the event of an appeal or the necessity to institute collection procedures.

Sec. 106 – 492. Collection of fines; unpaid fines to constitute a lien.

(a) The City may establish procedures for the collection of civil fines and administrative charges imposed herein, and may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.

(b) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien remaining unpaid, the city may foreclose or otherwise execute upon the lien.

Sec. 106 – 493. Failure to pay or appeal notice of code violations.

Failure to pay the civil fee or file an appeal within twenty (20) days after the notice of infraction is mailed to, or personally served upon, the motor vehicle owner shall result in the motor vehicle owner paying the costs and attorney's fees required to collect the civil fee in addition to any other fees and charges. If the motor vehicle owner files an appeal and is unsuccessful, the motor vehicle owner shall be responsible for paying the costs and attorney's fees required to collect the fee, including costs associated with the appeal, in addition to any other fees and costs.

Sec. 106 – 494. Exceptions.

This Article shall not apply to red zone infractions involving vehicle collisions or to any authorized emergency vehicle responding to a bona fide emergency; nor shall a notice of infraction be issued in any case where the operator of the vehicle was issued a citation for violating the state statute regarding the failure to stop at a steady or flashing red light from a traffic control signal.

SECTION 3. Repealer.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. Severability.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. **Codification.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 6. **Effective Date.**

This Ordinance shall take effect the 20th day of December, 2008.

PASSED and **ADOPTED** this 10th day of December, 2008.

ATTEST:

Matti Herrera Bower
Mayor

Robert Parcher
City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney 12/3/08
Date

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MIAMIBEACH
POLICE

ACCIDENT INVESTIGATION UNIT MEMORANDUM

TO: Division Chief W. Riley
Via Chain of Command

FROM: Sergeant D. Porter

DATE: January 18, 2008

SUBJECT: Top 10 Accident Intersections for 2007

Sir,

The top 10 accident intersections for 2007 are listed below. These are intersections where the accident occurred in the intersection.

1. 17th Street and Alton Road	14 Accidents
2. 41St Street and Pinetree Drive	18 Accidents
3. 5th Street and Washington Avenue	14 Accidents
4. 5th Street and Alton Road	13 Accidents
5. 74th Street and Harding Avenue	13 Accidents
6. 17th Street and Collins Avenue	12 Accidents
7. 12th Street and Collins Avenue	11 Accidents
8. 15th Street and Pennsylvania Avenue	11 Accidents
9. 63rd Street and Indian Creek Drive	11 Accidents
10. 67th Street and Collins Avenue	11 Accidents

EXHIBIT B

MIAMIBEACH
POLICE

ACCIDENT INVESTIGATION UNIT MEMORANDUM

TO: Mike Gruen

FROM: Sgt. D. Porter

DATE: October 24, 2008

SUBJECT: Top 10 Accident Intersections for 2008 to Date

1. 17th Street and Alton Road	12
2. 5th Street and Washington Avenue	12
3. 13th Street and Collins Avenue	13
4. 41st Street and Pinetree Road	9
5. 41st Street and Alton Road	9
6. 71st Street and Abbott Avenue	9
7. 12th Street and Collins Avenue	7
8. MacArthur Causeway and Fountain Street	7
9. 41st Street and Indian Creek Drive	6
10. 67th Street and Collins Avenue	6

EXHIBIT C

2007

17 Street and Alton Road 14 Accidents

Careless Driving	7
Failed to Yield Right of Way	2
Improper Lane Change	1
All Other	4

41 Street and Pinetree Drive 18 Accidents

Careless Driving	5
Failed to Yield Right of Way	3
Improper Backing	1
Improper Turn	3
Disregard Traffic Signal	2
Failed to Maintain Equipment	1
Improper Passing	1
All Other	1

5 Street and Washington Avenue 14 Accidents

Careless Driving	3
Failed to Yield Right of Way	4
Improper Turn	1
Followed Too Close	1
Disregard Traffic Signal	2
All Other	3

5 Street and Alton Road 13 Accidents

Careless Driving	6
Failed to Yield Right of Way	1
Improper Lane Change	1
Followed Too Close	1
All Other	4

EXHIBIT D

74 Street and Harding Avenue 13 Accidents

Careless Driving	4
Failed to Yield Right of Way	1
Improper Lane Change	2
Improper Turn	3
All Other	3

17 Street and Collins Avenue 12 Accidents

Careless Driving	2
Failed to Yield Right of Way	4
Improper Lane Change	1
Followed Too Close	2
All Other	3

12 Street and Collins Avenue 11 Accidents

Careless Driving	2
Failed to Yield Right of Way	5
Improper Lane Change	1
Disregard Stop Sign	1
Obstructing Traffic	1
All Other	1

15 Street and Pennsylvania Avenue 11 Accidents

Careless Driving	3
Failed to Yield Right of Way	4
Disregard Stop Sign	1
All Other	3

63 Street and Indian Creek Drive 11 Accidents

Careless Driving	4
Disregard Traffic Signal	2
Followed Too Close	1
Failed to Maintain Equipment	1
All Other	3

67 Street and Collins Avenue 11 Accidents

Careless Driving	2
Failed to Yield Right of Way	3
Improper Lane Change	2
Disregard Traffic Signal	1
Disregard Stop Sign	1
Improper Turn	1
All Other	2

2008

17 Street and Alton Road 12 Accidents

Careless Driving	4
Failed to Yield Right of Way	2
Improper Lane Change	1
Disregard Traffic Signal	2
All Other	3

5 Street and Washington Avenue 12 Accidents

Careless Driving	6
Failed to Yield Right of Way	1
Improper Lane Change	1
Improper Turn	1
All Other	3

13 Street and Collins Avenue 13 Accidents

Careless Driving	2
Failed to Yield Right of Way	7
All Other	4

41 Street and Pinetree Drive 9 Accidents

Failed to Yield Right of Way	4
Improper Turn	3
All Other	2

41 Street and Alton Road 9 Accidents

Careless Driving	6
Improper Turn	1
Disregard Traffic Signal	2

71 Street and Abbott Avenue 9 Accidents

Careless Driving	3
Improper Lane Change	3
Improper Turn	1
Disregard Traffic Signal	1
Followed Too Close	1

12 Street and Collins Avenue 7 Accidents

Careless Driving	1
Failed to Yield Right of Way	4
Improper Turn	1
All Other	1

MacArthur Causeway and Fountain Street 7 Accidents

Careless Driving	3
Alcohol Under the Influence	1
Followed Too Close	1
Disregard Traffic Signal	1
All Other	1

41 Street and Indian Creek Drive 6 Accidents

Careless Driving	2
Failed to Yield Right of Way	1
Disregard Traffic Signal	1
All Other	2

67 Street and Collins Avenue 6 Accidents

Failed to Yield Right of Way	2
Improper Turn	1
Followed Too Close	1
Disregard Traffic Signal	1
All Other	1