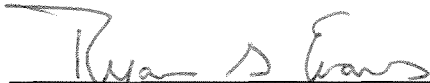



**NOVEMBER 5, 2007 BRIEFING CITY COUNCIL AGENDA
CERTIFICATION**

This certification is given pursuant to Chapter XI, Section 9 of the City Charter for the City Council Agenda dated November 5, 2007. We hereby certify, as to those contracts, agreements, or other obligations on this Agenda authorized by the City Council for which expenditures of money by the City are required, that all of the money required for those contracts, agreements, and other obligations is in the City treasury to the credit of the fund or funds from which the money is to be drawn, as required and permitted by the City Charter, and that the money is not appropriated for any other purpose.



Mary K. Suhm
City Manager

10-31-07
Date



Edward Scott
City Controller

10/31/07
Date

RECEIVED

2007 OCT 31 PM 5:57

CITY SECRETARY
DALLAS, TEXAS



COUNCIL BRIEFING AGENDA

November 5, 2007

DATE

(FOR GENERAL INFORMATION AND RULES OF COURTESY PLEASE SEE OPPOSITE SIDE.)
(LA INFORMACIÓN GENERAL Y REGLAS DE CORTESÍA QUE DEBEN OBSERVARSE
DURANTE LAS ASAMBLEAS DEL CONSEJO MUNICIPAL APARECEN EN EL LADO OPUESTO, FAVOR DE LEERLAS.)

General Information

The Dallas City Council regularly meets on Wednesdays beginning at 9:00 a.m. in the Council Chambers, 6th floor, City Hall, 1500 Marilla. Council agenda meetings are broadcast live on WRR-FM radio (101.1 FM) and on AT&T CityCable Channel 6B. Briefing meetings are held the first and third Wednesdays of each month. Council agenda (voting) meetings are held on the second and fourth Wednesdays. Anyone wishing to speak at a meeting should sign up with the City Secretary's Office by calling (214) 670-3738 before 9:00 a.m. on the meeting date. Citizens can find out the name of their representative and their voting district by calling the City Secretary's Office.

Sign interpreters are available upon request with a 48-hour advance notice by calling (214) 670-5208 V/TDD. The City of Dallas is committed to compliance with the Americans with Disabilities Act. **The Council agenda is available in alternative formats upon request.**

If you have any questions about this agenda or comments or complaints about city services, call 311.

Rules of Courtesy

City Council meetings bring together citizens of many varied interests and ideas. To insure fairness and orderly meetings, the Council has adopted rules of courtesy which apply to all members of the Council, administrative staff, news media, citizens and visitors. These procedures provide:

- That no one shall delay or interrupt the proceedings, or refuse to obey the orders of the presiding officer.
- All persons should refrain from private conversation, eating, drinking and smoking while in the Council Chamber.
- Posters or placards must remain outside the Council Chamber.
- No cellular phones or audible beepers allowed in Council Chamber while City Council is in session.

"Citizens and other visitors attending City Council meetings shall observe the same rules of propriety, decorum and good conduct applicable to members of the City Council. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the City Council or while attending the City Council meeting shall be removed from the room if the sergeant-at-arms is so directed by the presiding officer, and the person shall be barred from further audience before the City Council during that session of the City Council. If the presiding officer fails to act, any member of the City Council may move to require enforcement of the rules, and the affirmative vote of a majority of the City Council shall require the presiding officer to act." Section 3.3(c) of the City Council Rules of Procedure.

Informacion General

El Ayuntamiento de la Ciudad de Dallas se reúne regularmente los miércoles en la Cámara del Ayuntamiento en el sexto piso de la Alcaldía, 1500 Marilla, a las 9 de la mañana. Las reuniones informativas se llevan a cabo el primer y tercer miércoles del mes. Estas audiencias se transmiten en vivo por la estación de radio WRR-FM 101.1 y por cablevisión en la estación AT&T CityCable Canal 6B. El Ayuntamiento Municipal se reúne el segundo y cuarto miércoles del mes para tratar asuntos presentados de manera oficial en la agenda para su aprobación. Toda persona que desee hablar durante la asamblea del Ayuntamiento, debe inscribirse llamando a la Secretaría Municipal al teléfono (214) 670-3738, antes de las 9 de la mañana del día de la asamblea. Para enterarse del nombre de su representante en el Ayuntamiento Municipal y el distrito donde usted puede votar, favor de llamar a la Secretaría Municipal.

Intérpretes para personas con impedimentos auditivos están disponibles si lo solicita con 48 horas de anticipación llamando al (214) 670-5208 (aparato auditivo V/TDD). La Ciudad de Dallas se esfuerza por cumplir con el decreto que protege a las personas con impedimentos, *Americans with Disabilities Act*. **La agenda del Ayuntamiento está disponible en formatos alternos si lo solicita.**

Si tiene preguntas sobre esta agenda, o si desea hacer comentarios o presentar quejas con respecto a servicios de la Ciudad, llame al 311.

Reglas de Cortesia

Las asambleas del Ayuntamiento Municipal reúnen a ciudadanos de diversos intereses e ideologías. Para asegurar la imparcialidad y el orden durante las asambleas, el Ayuntamiento ha adoptado ciertas reglas de cortesía que aplican a todos los miembros del Ayuntamiento, al personal administrativo, personal de los medios de comunicación, a los ciudadanos, y a visitantes. Estos reglamentos establecen lo siguiente:

- Ninguna persona retrasará o interrumpirá los procedimientos, o se negará a obedecer las órdenes del oficial que preside la asamblea.
- Todas las personas deben abstenerse de entablar conversaciones, comer, beber y fumar dentro de la cámara del Ayuntamiento.
- Anuncios y pancartas deben permanecer fuera de la cámara del Ayuntamiento.
- No se permite usar teléfonos celulares o enlaces electrónicos (*paggers*) audibles en la cámara del Ayuntamiento durante audiencias del Ayuntamiento Municipal.

"Los ciudadanos y visitantes presentes durante las asambleas del Ayuntamiento Municipal deben obedecer las mismas reglas de comportamiento, decoro y buena conducta que se aplican a los miembros del Ayuntamiento Municipal. Cualquier persona que haga comentarios impertinentes, utilice vocabulario obsceno o difamatorio, o que al dirigirse al Ayuntamiento lo haga en forma escandalosa, o si causa disturbio durante la asamblea del Ayuntamiento Municipal, será expulsada de la cámara si el oficial que esté presidiendo la asamblea así lo ordena. Además, se le prohibirá continuar participando en la audiencia ante el Ayuntamiento Municipal. Si el oficial que preside la asamblea no toma acción, cualquier otro miembro del Ayuntamiento Municipal puede tomar medidas para hacer cumplir las reglas establecidas, y el voto afirmativo de la mayoría del Ayuntamiento Municipal precisará al oficial que esté presidiendo la sesión a tomar acción." Según la sección 3.3(c) de las reglas de procedimientos del Ayuntamiento.

AGENDA
CITY COUNCIL BRIEFING MEETING
MONDAY, NOVEMBER 5, 2007
CITY HALL
1500 MARILLA
DALLAS, TEXAS 75201
9:00 A.M.

9:00 am Invocation and Pledge of Allegiance 6ES

 Special Presentations

 Open Microphone Speakers

VOTING AGENDA 6ES

1. Approval of Minutes of the October 17, 2007 City Council Meeting
2. Consideration of appointments to boards and commissions and the evaluation and duties of board and commission members (List of nominees is available in the City Secretary's Office)

ITEMS FOR INDIVIDUAL CONSIDERATION

Business Development & Procurement Services

3. Authorize a thirty-six-month professional services contract for the audit of the City's financial operations and grant activities for fiscal year ending September 30, 2007 through September 30, 2009 - Grant Thornton LLP, most advantageous proposer of two - Not to exceed \$3,147,000 - Financing: Current Funds (subject to annual appropriations)

ITEMS FOR FURTHER CONSIDERATION

Public Works & Transportation

4. An ordinance amending Chapter 28 of the Dallas City Code to conform the City's red light camera ordinance to SB 1119, adopted by the 80th Legislature, Regular Session, and to provide for civil fines not to exceed \$75 per offense - Financing: No cost consideration to the City

AGENDA
CITY COUNCIL BRIEFING MEETING
MONDAY, NOVEMBER 5, 2007

Briefings

6ES

- A. Council Appointees Performance Plans
- Mary K. Suhm, City Manager
 - Thomas P. Perkins, Jr., City Attorney
 - Deborah A. Watkins, City Secretary

- B. 2008 City Calendar

Lunch

- C. Fair Park Comprehensive Development Plan Update

Closed Session

6ES

Attorney Briefings (Sec. 551.071 T.O.M.A.)

- Marilyn Ford v. City of Dallas, Civil Action No. 3:05-CV-1676-D
- Dallas Morning News v. City of Dallas, Cause No. 06-06607-J

Personnel Matters (Sec. 551.074 T.O.M.A.)

- Discussion regarding the performance review of City Manager Mary K. Suhm
- Discussion regarding the performance review of City Attorney Thomas P. Perkins, Jr.
- Discussion regarding the performance review of City Secretary Deborah A. Watkins

Open Microphone Speakers

6ES

The above schedule represents an estimate of the order for the indicated briefings and is subject to change at any time. Current agenda information may be obtained by calling (214) 670-3100 during working hours.

Note: An expression of preference or a preliminary vote may be taken by the Council on any of the briefing items.

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. Contemplated or pending litigation, or matters where legal advice is requested of the City Attorney. Section 551.071 of the Texas Open Meetings Act.
2. The purchase, exchange, lease or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.072 of the Texas Open Meetings Act.
3. A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.073 of the Texas Open Meetings Act.
4. Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Section 551.074 of the Texas Open Meetings Act.
5. The deployment, or specific occasions for implementation of security personnel or devices. Section 551.076 of the Texas Open Meetings Act.
6. Deliberations regarding economic development negotiations. Section 551.087 of the Texas Open Meetings Act.

PUBLIC MEETINGS FOR NOVEMBER 1 - NOVEMBER 15, 2007

Thursday, November 1, 2007

Civil Service Board

8:30 a.m.

City Hall, Suite 1C-South

AGENDA ITEM # 3

KEY FOCUS AREA: Make Government More Efficient, Effective and Economical

AGENDA DATE: November 5, 2007

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Business Development & Procurement Services
Office of Financial Services

CMO: Dave Cook, 670-7804

MAPSCO: N/A

SUBJECT

Authorize a thirty-six-month professional services contract for the audit of the City's financial operations and grant activities for fiscal year ending September 30, 2007 through September 30, 2009 - Grant Thornton LLP, most advantageous proposer of two - Not to exceed \$3,147,000 - Financing: Current Funds (subject to annual appropriations)

BACKGROUND

The City Charter (Chapter III, Section 19) requires an annual independent audit of the City's "books of account, records, and transactions" by one or more certified public accountants. The Single Audit Act of 1996, as amended, also requires an audit of grantees who have received federal grants exceeding certain thresholds.

The City issued a Request for Proposal for audit services. Two major accounting firms which perform audits in the government sector, Grant Thornton LLP and KPMG LLP submitted written proposals for audit services.

The Finance, Audit and Accountability Committee (FAA) met on October 22, 2007, to review the proposals and hear oral presentations from each firm. After careful consideration, the FAA Committee voted to recommend the proposal from Grant Thornton to the full Council.

During the presentation period of the meeting with the FAA Committee, Grant Thornton stated and agreed that their estimated hours would not be exceeded during the term of the agreement.

As part of the bid process, 132 vendor notices were sent electronically by the City's web base procurement system. In an effort to secure more bids, notifications were sent by the Business Development and Procurement Services' ResourceLINK Team (RLT) to 25 chambers of commerce, and two advocacy groups (i.e. DFW Minority Business Council and Women's Business Council – Southwest).

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On October 22, 2007, presentations were made to the Finance, Audit and Accountability Committee by the two proposals received on October 17, 2007.

On September 24, 2007, the Finance, Audit and Accountability Committee was briefed on the proposal process, solicitation efforts and the evaluation process of the Audit Services Request for Proposal.

FISCAL INFORMATION

\$3,147,000.00 - Current Funds (subject to annual appropriations)

M/WBE INFORMATION

- 31 -Vendors contacted
- 31 - No response
 - 0 - Response (Bid)
 - 0 - Response (No bid)
 - 0 - Successful vendor

132 total vendors were contacted.

The recommended awardees have fulfilled the Good Faith requirements set forth in the Good Faith Effort Plan adopted by Council Resolution #84-3501 as amended.

ETHNIC COMPOSITION

Grant Thornton LLP

Hispanic Female	9	Hispanic Male	15
Black Female	9	Black Male	7
Other Female	10	Other Male	16
White Female	94	White Male	92

PROPOSAL INFORMATION

A Request for Proposal (RFP) for the audit of the City's financial operations and grant activities for fiscal year ending September 30, 2007 was advertised on September 27, 2007 and October 4, 2007. The RFP information was mailed to the 25 largest metroplex accounting firms as published in the Dallas Business Journal. Responses were received and opened on October 17, 2007 from Grant Thornton LLP and KPMG LLP.

PROPOSAL INFORMATION (Continued)

All proposals were evaluated by the FAA Committee and other City Council members. Respondents were interviewed by the FAA Committee on October 22, 2007. The FAA Committee recommends that the contract for the audit of the City's financial operations and single audit be awarded to Grant Thornton LLP for this service.

*Denotes successful proposer

<u>Proposer</u>	<u>Address</u>	<u>Amount of Proposal</u>
*Grant Thornton LLP	1717 Main Street Suite 1500 Dallas, Texas 75228	\$3,147,000.00
KPMG LLP	717 North Harwood Street Suite 3100 Dallas, Texas 75201	\$3,765,000.00

OWNER

Grant Thornton LLP

Edward Nusbaum, CEO/President

GOOD FAITH EFFORT PLAN SUMMARY

PROJECT: Authorize a thirty-six-month professional services contract for the audit of the City's financial operations and grant activities for fiscal year ending September 30, 2007 through September 30, 2009 - Grant Thornton LLP, most advantageous proposer of two - Not to exceed \$3,147,000 - Financing: Current Funds (subject to annual appropriations)

Grant Thornton is a local, non-minority firm, has signed the "Good Faith Effort" documentation, and proposes to use the following sub-contractors.

PROJECT CATEGORY: Professional Services

LOCAL/NON-LOCAL CONTRACT SUMMARY

	<u>Amount</u>	<u>Percent</u>
Total local contracts	\$2,863,770.00	91.00%
Total non-local contracts	\$283,230.00	9.00%
TOTAL CONTRACT	\$3,147,000.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

<u>Local</u>	<u>Certification</u>	<u>Amount</u>	<u>Percent</u>
Owens and Thurman P.C.	BFMB33651Y0308	\$283,230.00	9.89%
Logan and Associates	BMDB32881Y1207	\$283,230.00	9.89%
Hopkins and Associates	BMMB35022N1008	\$283,230.00	9.89%
Total Minority - Local		\$849,690.00	29.67%

Non-Local Contractors / Sub-Contractors

<u>Non-local</u>	<u>Certification</u>	<u>Amount</u>	<u>Percent</u>
Serna and Company	HMMB33612N0208	\$283,230.00	100.00%
Total Minority - Non-local		\$283,230.00	100.00%

TOTAL M/WBE CONTRACT PARTICIPATION

	<u>Local</u>	<u>Percent</u>	<u>Local & Non-Local</u>	<u>Percent</u>
African American	\$566,460.00	19.78%	\$566,460.00	18.00%
Hispanic American	\$0.00	0.00%	\$283,230.00	9.00%
Asian American	\$0.00	0.00%	\$0.00	0.00%
Native American	\$0.00	0.00%	\$0.00	0.00%
WBE	\$283,230.00	9.89%	\$283,230.00	9.00%
Total	\$849,690.00	29.67%	\$1,132,920.00	36.00%

November 5, 2007

WHEREAS, the annual independent audit of the City's financial operations and the audit of the City's grant funds (Single Audit) is normally performed on a rotational basis by the same firm(s); and,

WHEREAS, two qualified firms have made proposals to the City Council Finance, Audit and Accountability Committee for the Fiscal Year 2006/07 audit; and,

WHEREAS, the City Council Finance, Audit and Accountability Committee has recommended the firm of Grant Thornton LLP which proposes to conduct the audit with the minority firms of Hopkins & Associates, Logan & Associates, Owens & Thurman, and Serna & Company, P.C.,

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the City Manager is authorized to execute a professional services contract with Grant Thornton LLP for the audit of the City's financial operations and grant activities for the fiscal year ending September 30, 2007 through September 30, 2009, for a term of thirty-six months, in an amount not to exceed \$3,147,000.00, upon approval as to form by the City Attorney. If the service was bid or proposed on an as needed, unit price basis for performance of specified tasks, payment to Grant Thornton LLP shall be based only on the amount of the services directed to be performed by the City and properly performed by Grant Thornton LLP under the contract.

Section 2. That the City Controller is authorized to disburse funds from the following appropriation in an amount not to exceed \$3,147,000.00, subject to annual appropriations.

Fund: 0001, Dept: BMS, Unit: 1138, Object Code:3070, Encumbrance: BMS CCO
AUDIT 07

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas and it is accordingly so resolved.

DISTRIBUTION:

Office of Business Development and Procurement Services, 3FN

Office of Financial Services, Edward Scott, 4BN

Office of Financial Services, Maria Alicia Garcia, 4FN

AGENDA ITEM # 4

KEY FOCUS AREA: Public Safety Improvements and Crime Reduction

AGENDA DATE: November 5, 2007

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Public Works & Transportation

CMO: Ramon F. Miguez, P.E., 670-3308

MAPSCO: N/A

SUBJECT

An ordinance amending Chapter 28 of the Dallas City Code to conform the City's red light camera ordinance to SB 1119, adopted by the 80th Legislature, Regular Session, and to provide for civil fines not to exceed \$75 per offense - Financing: No cost consideration to the City

BACKGROUND

The City recognizes that numerous right angle collisions occur each year due to drivers running red lights at intersections. In an effort to reduce these types of crashes and to change driving habits, the City adopted a new red light camera enforcement ordinance on April 12, 2006.

The City established the SafeLight, Dallas Stops on Red program and began enforcement on January 15, 2007. From January 15, 2007 through September 30, 2007, officers issued approximately 161,061 citations to offenders who were caught on camera running a red light. The citations issued equate to approximately \$7,227,390 in revenue collected for FY 06-07, which will be used to support multiple traffic safety programs.

On September 1, 2007, an amendment was adopted and implemented by the State of Texas, which defines specific guidelines for municipalities who operate a red light camera enforcement program.

This item amends Chapter 28 of the Dallas City Code to conform the City's red light camera ordinance to SB 1119.

SB 1119 requires municipalities to share with the State 50% of all net revenues generated by red light camera enforcement.

BACKGROUND (Continued)

Other amendments require minor revisions to Chapter 28 of the Dallas City Code, Motor Vehicle and Traffic, Article XIX, Photographic Enforcement and Administrative Adjudication of Red Light Violations, as follows:

- To designate the department responsible for the administration and enforcement of the program;
- To include a defense for vehicle dealerships receiving citations on test driven vehicles;
- To establish a 30-day period for dealerships and rental/leasing companies to provide data supporting their defense;
- To establish a new procedure for hearing requests. Hearings are no longer preset and requests must be made in writing within 30 calendar days from the issuance date of the citation;
- To provide notification that an arrest warrant will not be issued and the violation will not be recorded on the owner's driving record;
- To establish a period of not less than 30 days for answering a civil red light citation;
- To establish that hearings must be set no later than 30 days after the request has been made;
- To establish a defense for late requests for administrative hearings or payment of the original fine due to receiving the notice in an untimely manner;
- To establish a set fine amount of \$75, even on subsequent violations,
- To establish a procedure that requires the appellant to agree to financial responsibility if found liable;
- To establish a compliance date and procedures for transferring 50% of net revenues gained from the red light camera enforcement program to the Office of the Texas State Comptroller.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Adopted initial Red Light Camera Ordinance No. 26305 on April 12, 2006.

Authorized a contract with ACS, State and Local Solutions, Inc. on September 13, 2006, by Resolution #06-2492.

Authorized Supplemental Agreement #1 to contract with ACS, State and Local Solutions, Inc. to increase cameras and extend contract date on September 12, 2007, by Resolution #07-2604.

Deferred by Councilmember Vonciel Jones Hill on October 24, 2007.

FISCAL INFORMATION

No cost consideration to the City.

10/15/07

ORDINANCE NO.

An ordinance amending Article XIX (composed of Sections 28-203 through 28-217) of CHAPTER 28, "MOTOR VEHICLES AND TRAFFIC," of the Dallas City Code, as amended; defining terms; conforming the city's red light camera ordinance to SB 1119, adopted by the 80th Legislature, Regular Session; providing for civil fines not to exceed \$75; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Article XIX, "Photographic Enforcement and Administrative Adjudication of Red Light Violations," of CHAPTER 28, "MOTOR VEHICLES AND TRAFFIC," of the Dallas City Code, as amended, is amended to read as follows:

"ARTICLE XIX.

**PHOTOGRAPHIC ENFORCEMENT AND ADMINISTRATIVE
ADJUDICATION OF RED LIGHT VIOLATIONS.**

Division 1. Generally.

SEC. 28-203. DEFINITIONS.

In this article:

(1) **AUTOMATED RED LIGHT ENFORCEMENT PROGRAM** means the installation of one or more photographic traffic signal enforcement systems to reduce red light violations and collisions citywide.

(2) **CAMERA-ENFORCED INTERSECTION** means an intersection toward which a photographic traffic signal enforcement system is directed and in operation.

(3) DATE OF ISSUANCE means the date that a civil red light citation is mailed in accordance with this article.

(4) DEPARTMENT means the city department of public works and transportation.

(5) DIRECTOR means the director of the department or the director's authorized representative.

(6) INTERSECTION means the point or area where two or more intersecting streets meet.

(7) OWNER means:

(A) the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Transportation or the analogous department or agency of another state or country;

(B) the person named under Section 28-207(d) or (g) as the lessee of the motor vehicle at the time of a red light violation; or

(C) the person named under Sections 28-207(h)~~(f)~~ as holding legal title to the motor vehicle at the time of a red light violation.

(8) PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM means a system that:

(A) consists of a camera system and a vehicle sensor installed to exclusively work in conjunction with an electronically-operated traffic-control signal; and

(B) is capable of producing at least two recorded images depicting the license plate attached to the front or the rear of a motor vehicle that is not operated in compliance with the instructions of the traffic-control signal.

(9) RECORDED IMAGE means a photographic or digital ~~[an]~~ image recorded by a photographic traffic signal enforcement system that depicts the front or the rear of a motor vehicle ~~[and is automatically recorded on a photograph or digital image]~~.

(10) RED LIGHT VIOLATION means a violation of Section 28-207 of this article.

(11) RED LIGHT CITATION or CIVIL RED LIGHT CITATION means a citation for a red light violation issued under this article.

(12) TRAFFIC-CONTROL SIGNAL means a traffic-control device that displays red, amber, and green lights successively to direct traffic when to stop at or proceed through an intersection.

SEC. 28-204. GENERAL AUTHORITY AND DUTIES OF THE DIRECTOR AND DEPARTMENT.

The department is responsible for the enforcement and administration of this article. The director shall implement and enforce this article and may by written order establish such rules or regulations, not inconsistent with this article, as the director determines are necessary to discharge the director's duties under or to effect the policy of this article.

SEC. 28-205. ENFORCEMENT OFFICERS - POWERS, DUTIES, AND FUNCTIONS.

(a) The city manager or a designated representative shall appoint enforcement officers to issue civil red light citations.

(b) An enforcement officer shall have the following powers, duties, and functions:

(1) To review recorded images from the photographic traffic signal enforcement system to determine whether a red light violation has occurred.

(2) To order a red light citation to be issued based on evidence from the recorded images.

(3) To void recorded images due to lack of evidence or due to knowledge that a defense described in Section 28-207 applies.

(4) To issue warnings in lieu of citations during acceptance testing of the photographic traffic signal enforcement system equipment or at any other time prescribed by the director.

SEC. 28-206. HEARING OFFICERS - POWERS, DUTIES, AND FUNCTIONS.

(a) The city council shall designate hearing officers from a list of persons recommended [~~Hearing officers shall be appointed~~] by the city manager, or a designated representative, to administratively adjudicate all red light violations for which a civil red light citation has been issued.

(b) A hearing officer shall have the following powers, duties, and functions:

(1) To administer oaths.

(2) To accept admissions to, and to hear and determine contests of, red light violations under this article.

(3) To issue orders compelling the attendance of witnesses and the production of documents, which orders may be enforced by a municipal court.

(4) To assess civil fines, penalties, and other costs for a red light violation in accordance with Section 28-214 of this article.

(5) To waive penalties assessed for a red light violation in accordance with Section 28-214 of this article.

**Division 2. Enforcement of Red Light Violations
as Civil Offenses.**

**SEC. 28-207. RED LIGHT VIOLATIONS AS CIVIL OFFENSES; DEFENSES;
PRESUMPTIONS.**

(a) The owner of a motor vehicle that is operated in violation of Section 544.007(d), Texas Transportation Code at [proceeds into] a camera-enforced intersection [~~when the traffic signal for that vehicle's direction of travel is emitting a steady red signal~~] commits a civil offense and is liable for a civil fine under this article.

(b) It is a defense to a charge of a red light violation under this section that:

(1) the traffic signal was not in proper position or sufficiently visible [~~legible~~] to an ordinarily observant person;

(2) the operator of the motor vehicle was acting in compliance with the lawful order or direction of a peace officer;

(3) the operator of the motor vehicle was lawfully making a right turn while a red signal was being emitted from the traffic signal;

(4) the operator of the motor vehicle was lawfully making a left turn from a one-way street onto another one-way street while a red signal was being emitted from the traffic signal;

(5) the operator of the motor vehicle was completing a left turn after having entered the intersection before a red signal was emitted from the traffic signal;

(6) the operator of the motor vehicle violated the instructions of the traffic signal so as to yield the right of way to an immediately approaching authorized emergency vehicle;

(7) the motor vehicle was being operated as an authorized emergency vehicle under Chapter 546 of the Texas Transportation Code and the operator was acting in compliance with that chapter;

(8) the motor vehicle was a stolen vehicle being operated by a person other than the vehicle's owner without the consent of the vehicle owner and proof is submitted to the hearing officer that the theft of the motor vehicle had been timely reported to the appropriate law enforcement agency;

(9) the license plate depicted in the recorded image of the red light violation was a stolen plate being displayed on a motor vehicle other than the motor vehicle for which the plate had been issued and proof is submitted to the hearing officer that the theft of the license plate had been timely reported to the appropriate law enforcement agency; or

(10) the presence of ice, snow, unusual amounts of rain, or other unusually hazardous road conditions existed that would have made compliance with this section more dangerous under the circumstances than non-compliance~~[; or~~

~~(11) the person who received the red light citation did not hold legal title to the motor vehicle, and was not a lessee of the vehicle, at the time of the red light violation].~~

(c) It is presumed that the registered owner of the vehicle depicted in the recorded image of a red light violation for which a red light citation is issued is the person who committed the red light violation. Proof of ownership may be made by a computer-generated record of the registration of the vehicle with the Texas Department of Transportation showing the name of the person to whom state license plates were issued. This proof is prima facie evidence of the ownership of the vehicle by the person to whom the certificate of registration was issued.

(d) A vehicle owner who is ~~[engaged]~~ in the business of selling, renting, or leasing vehicles ~~[under written rental or leasing agreements]~~ will not be liable for the civil red light fines, penalties, and costs imposed by the city on a vehicle for sale or a rented or leased vehicle if ~~[, within 15 calendar days after receiving a red light citation,]~~ the vehicle owner presents evidence establishing that the vehicle depicted in the recorded image was at the time of the alleged violation being rented, leased, or test driven by another person. Evidence sufficient to establish that the vehicle was being rented, leased, or test driven includes ~~[provides in affidavit form]~~:

(1) the true name, address, and driver's license number and state of issuance of the person renting, leasing, or test driving ~~[in possession of]~~ the vehicle at the time the recorded ~~[photographic]~~ image of the red light violation was taken ~~[recorded]~~; or

(2) a true copy of the lease or rental agreement in effect at the time the recorded ~~[photographic]~~ image of the red light violation was taken ~~[recorded]~~.

(e) Evidence presented under Subsection (d) of this section must be presented through oral testimony or by affidavit under penalty of perjury. Evidence through oral testimony must be presented at the administrative adjudication hearing. Evidence by affidavit under penalty of perjury may be presented by mail.

(f) If the owner [lessor] of a vehicle presents evidence under [complies with] Subsections (d) and (e) of this section establishing that the vehicle depicted in the recorded image was being rented, leased, or test driven at the time of the violation, the owner may not be held liable for civil red light fines, penalties, and costs, and the director shall send the red light citation to the test driver or lessee who is presumed to have committed the red light violation [person named under Subsection (d)(1) or (d)(2)]. An owner [lessor] of a vehicle who fails to comply with Subsections (d) or (e) of this section will be treated as any other vehicle owner and will be liable for the red light violation charge.

(g) If, at the time the recorded image of the red light violation was taken, the vehicle depicted in the recorded image was owned by a person in the business of renting or leasing motor vehicles and the vehicle was being rented or leased to an individual, the vehicle owner shall, within 30 calendar days after the date the red light citation is received, provide to the department the name and address of the individual who was renting or leasing the motor vehicle depicted in the recorded image and a statement of the period during which that individual was renting or leasing the vehicle. This information must be provided regardless of whether the person provides evidence under Subsections (d) and (e) of this section that the vehicle was being rented, leased, or test driven at the time of the red light violation.

(h)[(f)] A registered [vehicle] owner named in the red light citation who did not hold legal title to the motor vehicle at the time of a red light violation will not be liable for the civil red light fines, penalties, and costs imposed by the city on that vehicle if[, within 15 calendar days after receiving a red light citation,] the registered owner presents evidence establishing that another person held legal title to the vehicle at the time the recorded image of the red light violation was taken. Evidence sufficient to establish that the vehicle was owned by another person at the time of the red light violation includes [provides in affidavit form]:

(1) the true name, address, and driver's license number and state of issuance of the person who held legal title to the vehicle at the time the recorded [photographic] image of the red light violation was taken [recoreded]; or

(2) a true copy of any purchase or sale documentation (including proof of transfer of title) showing the name of the person who held [in which the] title to [of] the vehicle [was held] at the time the recorded [photographic] image of the red light violation was taken (that person's address must also be provided if not contained in the documentation) [recoreded].

(i) Evidence presented under Subsection (h) of this section must be presented through oral testimony or by affidavit under penalty of perjury. Evidence through oral testimony must be presented at the administrative adjudication hearing. Evidence by affidavit under penalty of perjury may be presented by mail.

(j)(g) If the registered [a vehicle] owner named in the violation complies with Subsections (h) and (i) of this section [(f)], the registered owner may not be held liable for civil red light fines, penalties, and costs, and the director shall send the red light citation to the person who held legal title to the vehicle at the time the recorded image of the red light violation was taken [named under Subsection (f)(1) or (f)(2)]. A registered [vehicle] owner named in the red light citation who fails to comply with Subsections (h) and (i) of this section [(f)] will be treated as any other vehicle owner and will be liable for the red light violation charge.

SEC. 28-208. CIVIL RED LIGHT CITATIONS; FORM.

(a) A civil red light citation serves as the summons and complaint for purposes of this article.

(b) The red light citation must be on a form prescribed by the director and must include the following information:

(1) The name and address of the owner of the vehicle involved in the violation.

(2) A description of the violation alleged.

(3)(2) The date and[;] time of the violation[;] and the location of the intersection where [of] the violation occurred.

(4)(3) The citation issuance date.

(5) The registration number displayed on the license plate of the vehicle involved in the violation.

(6)(4) A copy of a recorded image of [the vehicle involved in] the violation limited solely to a depiction of the area of the registration number displayed on the license plate of the vehicle involved in the violation.

(7)(5) The amount of the civil fine to be imposed for the violation.

(8)(6) The date by which the civil fine must be paid or the request for an administrative adjudication hearing must be made.

(9)(7) A statement that, in lieu of requesting an administrative adjudication hearing, the person named in the red light citation may pay the civil fine in person or by mail at an address designated on the citation [in lieu of appearing at an administrative adjudication hearing].

~~(10)~~~~(8)~~ A notification that the vehicle owner has the right to contest the imposition of the civil fine in an administrative adjudication hearing by submitting a written request for an administrative adjudication hearing within 30 calendar days after the date the red light citation is issued ~~[The date, time, and location of the administrative adjudication hearing, which must be set on the 15th calendar day after the date of issuance of the red light citation or, if the 15th calendar day is a Saturday, Sunday, or holiday, on the immediately preceding business day].~~

~~(11)~~~~(9)~~ A notification that any request by the vehicle owner to have the enforcement officer, or other authorized person who issued the citation, present at the hearing must be made in writing as part of the written request for an administrative adjudication hearing under Paragraph (10) of this subsection ~~[and received by the hearing officer at least five days before the scheduled hearing date,]~~ and that failure to timely make this request constitutes a waiver of the vehicle owner's right to require the presence of the enforcement officer or other authorized person at the hearing.

~~(12)~~~~(10)~~ A notification that failure to pay the civil fine or to timely request an [appear at the scheduled] administrative adjudication hearing is considered an admission of liability for the red light violation charge, is a waiver of the person's right to appeal the imposition of the civil fine, and will result in the assessment of appropriate civil fines, penalties, and costs.

~~(13)~~ A statement that the person will incur a late payment penalty if the person fails to pay the civil fine or request an administrative adjudication hearing within 30 calendar days after the date of issuance of the red light citation.

~~(14)~~ A notification that an arrest warrant may not be issued for failure to timely pay the civil fines, penalties, and costs and that the imposition of the civil penalty may not be recorded on the vehicle owner's driving record.

(c) The original or any copy of a civil red light citation is a record kept in the ordinary course of city business and is prima facie evidence of the facts contained in the citation.

SEC. 28-209. SERVICE OF A CIVIL RED LIGHT CITATION.

(a) In order to impose a civil fine under this article, the director shall send a red light citation to the owner of the motor vehicle involved in the red light violation within 30 calendar days after the date the violation is alleged to have occurred. The citation must be sent, by United States mail, to:

(1) the owner's address as shown on the registration records of the Texas Department of Transportation;

(2) if the vehicle is registered in another state or country, the owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Transportation;

(3) if the owner presents evidence or information ~~[is the person named]~~ under Section 28-207(d) or (g) that the vehicle was being rented, leased, or test driven ~~[as the lessee of the vehicle]~~ at the time of the red light violation, the address provided by the seller or lessor under Section 28-207(d) or (g); or

(4) if the registered owner presents evidence ~~[is the person named]~~ under Section 28-207(h) ~~[(f)]~~ that another person had ~~[as having]~~ legal title to the vehicle at the time of the red light violation, the address provided under Section 28-207(h) ~~[(f)]~~.

(b) A red light citation is presumed to have been received on the fifth day after the date the citation is mailed.

SEC. 28-210. ANSWERING A CIVIL RED LIGHT CITATION.

(a) A vehicle owner who has been issued a civil red light citation shall, either personally or through a representative, answer to the charge of the red light violation by the date shown on the citation, which date may not be earlier than the 30th day after the date the citation is issued. An answer may be made in any of the following ways:

(1) An admission of liability with a payment of the applicable civil fine, and any additional penalties and costs.

(2) A request to schedule ~~[denial of liability made before a hearing officer at]~~ an administrative adjudication hearing to either deny liability or admit liability with an explanation before a hearing officer ~~[on a date specified in the red light citation].~~

(3) A denial of liability accompanied by an affidavit under penalty of perjury presenting evidence under Section 28-207 that the vehicle depicted in the recorded image was at the time of the red light violation being rented, leased, or test driven ~~[An admission of liability with an explanation made before a hearing officer at an administrative adjudication hearing on a date specified in the red light citation].~~

(4) A denial of liability accompanied by an affidavit under penalty of perjury presenting evidence under Section 28-207 that the person named in the red light citation was not the owner of the vehicle depicted in the recorded image at the time of the violation.

(5) A request for permission from a hearing officer to adjudicate by mail.

~~[(5) A request to reset a scheduled administrative adjudication hearing from the date shown on the red light citation. A scheduled hearing may not be reset more than once unless the vehicle owner pays to the director an amount equal to the applicable civil fine for the red light violation, with any additional penalties and costs. The director shall issue a receipt for any amounts paid under this paragraph. After presentation of the receipt, all amounts paid will be refunded to the vehicle owner if the hearing officer, or a municipal court on appeal, finds that the owner is not liable for the red light violation.]~~

(b) Payment of the civil fine and any additional penalties and costs may be made in person or by mailing to the director the red light citation accompanied by payment of the amount shown on the citation. Payment by mail may be made only by money order or check made out to the city. Payment of the civil fine and all penalties and costs assessed under this article operates as a final disposition of the red light violation charge, except when payment is made to reset a scheduled hearing as allowed under Section 28-212 [~~or to file an appeal~~].

SEC. 28-212. HEARINGS FOR DISPOSITION OF A RED LIGHT CITATION; CITATION AND PHOTOGRAPHIC RECORDED IMAGES AS PRIMA FACIE EVIDENCE.

(a) Every hearing for the adjudication of a red light violation charge under this article must be held before a hearing officer not later than the 30th day after the department receives a request for an administrative adjudication hearing. The director shall notify, in writing, the person requesting a hearing of the date, time, and location of the hearing.

(b) A person may make a request to reset a scheduled administrative adjudication hearing. A scheduled administrative adjudication hearing may not be reset more than once unless the vehicle owner pays to the director an amount equal to the applicable civil fine for the red light violation, with any additional penalties and costs. The director shall issue a receipt for any amounts paid under this subsection. After presentation of the receipt, all amounts paid will be refunded to the vehicle owner if the hearing officer, or a municipal court on appeal, finds that the owner is not liable for the red light violation.

(c) At a hearing, the civil red light citation and the recorded images produced by the photographic traffic signal enforcement system are prima facie proof of the red light violation, and the enforcement officer or other authorized person who issued the citation is not required to be present unless requested by the vehicle owner charged or by the hearing officer. A vehicle owner's request to have the enforcement officer, or other authorized person who issued the citation, present at the hearing must be in writing and received by the hearing officer as part of the person's request for an administrative adjudication hearing [~~at least five days before the scheduled hearing date~~]. Failure to timely make this request constitutes a waiver of the vehicle owner's right to require the presence of the enforcement officer or other authorized person at the hearing.

(d)[(e)] At a hearing, the hearing officer shall hear and consider evidence presented by the city and by the vehicle owner. The formal rules of evidence do not apply to a hearing under this article, and the hearing officer shall make a decision based upon a preponderance of the evidence presented at the hearing, after giving due weight to all presumptions and prima facie evidence established by this article or other applicable law.

~~(e)~~ At a hearing, the reliability of the photographic traffic signal enforcement system used to produce the recorded image of the red light violation may be attested to by affidavit of an officer or employee of the city, or of the entity with which the city contracts to install or operate the system, who is responsible for inspecting and maintaining the system. An affidavit of an officer or employee of the city that alleges a red light violation based on an inspection of the pertinent recorded image is admissible in a proceeding under this article, is evidence of the facts contained in the affidavit, and is prima facie evidence of the violation alleged in the red light citation.

~~(f)~~ At the conclusion of the hearing, the hearing officer shall immediately render an order or decision, either by:

(1) finding the vehicle owner liable for the red light violation, assessing the applicable civil fine and any penalties and other costs in accordance with this article, and notifying the owner of the right to appeal to municipal court; or

(2) finding the vehicle owner not liable for the red light violation.

~~(g)~~ An order of a hearing officer must be in writing, signed, and dated by the hearing officer and filed with the department in a separate index and file. The order may be recorded using computer printouts, microfilm, microfiche, or similar data processing techniques.

SEC. 28-213. FAILURE TO ANSWER A CIVIL RED LIGHT CITATION OR APPEAR AT A HEARING.

(a) The failure of a vehicle owner charged with a red light violation to answer to the charge within 30 [~~15~~] calendar days after the date of issuance of the red light citation or to appear at any hearing, including a hearing on appeal, when required to appear is an admission of liability for the red light violation, and the hearing officer, or the municipal court in the case of an appeal, shall issue an order of liability and assess against the owner the appropriate civil fines, penalties, and other costs.

(b) Within seven calendar days after filing an order of liability issued under this section, a hearing officer or the entity with which the city contracts, shall notify the vehicle owner in writing of the order. The notice must be sent by United States mail to the address required for service of a citation under Section 28-209 or to the address of the vehicle owner last known to the hearing officer. The notice must include a statement of:

(1) the amount of the civil fines, penalties, and costs assessed; and

(2) the right to appeal to municipal court.

(c) Regardless of any other provision of this article, a person who receives a red light citation and who fails to timely pay the civil fine or fails to timely request an administrative adjudication hearing is still entitled to an administrative adjudication hearing if:

(1) the person submits to the hearing officer a written request for a hearing, accompanied by an affidavit, that attests to the date on which the person received the red light citation; and

(2) the written request and affidavit are submitted to the hearing officer within 30 calendar days after the date the person received the red light citation.

SEC. 28-214. CIVIL FINES FOR RED LIGHT VIOLATIONS; PENALTIES AND OTHER COSTS.

(a) If a civil fine is assessed under this article, it must be in accordance with this section. A fine may not be waived or modified by a hearing officer, or by a municipal court on appeal, when a vehicle owner is found liable for a red light violation, except that additional penalties and other costs may be added in accordance with this section.

(b) The owner of a motor vehicle liable for a red light violation shall pay a civil fine of[=

~~(1) \$75 for each [the first or second] violation [committed by the same owner in the same motor vehicle during any 12-month period; and~~

~~(2) \$150 for the third or subsequent violation committed by the same owner in the same motor vehicle during any 12-month period].~~

(c) An additional \$25 late payment penalty will be assessed if the vehicle owner fails to:

(1) answer a red light citation within 30 [45] calendar days after its date of issuance;

(2) appear at a hearing scheduled to adjudicate the red light violation charge;

or

(3) after being found liable, pay all civil fines, penalties, fees, and costs assessed for a red light violation within the time designated by the hearing officer, or by the municipal court on appeal.

(d) A penalty assessed under Subsection (c) of this section may be waived by a hearing officer, or by a municipal court on appeal, if the vehicle owner can establish that:

(1) through no fault of the owner:

(A) no notice of the red light violation was received as required by this article;

(B) no notice of the hearing officer's order was received as required by this article; or

(C) payment of the civil fine assessed for the red light violation was not posted in a timely manner; or

(2) the penalty was assessed in error.

SEC. 28-215. APPEAL FROM HEARING.

(a) A vehicle owner determined by a hearing officer [~~(~~at an administrative adjudication hearing [~~or by failure to answer a red light citation or appear at a hearing in the time required]~~) to be liable for a red light violation may appeal this determination to the municipal court by filing an appeal petition, along with a filing fee of \$15, with the municipal court clerk or a deputy clerk before the 31st [~~within 30~~] calendar day[s] after the date the hearing officer's order is entered [~~filed~~] with the department of public works and transportation. If the hearing officer's order is reversed, the \$15 filing fee will be returned by the city to the appellant.

(b) Upon receipt of an appeal petition, the municipal court clerk or deputy clerk shall schedule an appeal hearing and notify all parties of the date, time, and location of the hearing. The enforcement officer or other authorized person who issued the civil red light citation is not required to be present at the appeal hearing unless requested by the vehicle owner charged [~~or by the municipal court~~]. A vehicle owner's request to have the enforcement officer, or other authorized person who issued the citation, present at the appeal hearing must be in writing and made as part of the appeal petition [~~received by the municipal court clerk or deputy clerk at least five days before the scheduled hearing date~~]. Failure to timely make this request constitutes a waiver of the vehicle owner's right to require the presence of the enforcement officer or other authorized person at the appeal hearing.

(c) The appeal hearing must be a trial de novo in municipal court and is a civil proceeding for the purpose of affirming or reversing the hearing officer's order. [~~The vehicle owner may request that the hearing be held before a jury.~~] The decision of the municipal court is final.

(d) Service of notice of appeal under this section [~~does not~~] stays the enforcement and collection of any civil fines, penalties, and costs ordered by the [of a] hearing officer~~[, unless the vehicle owner pays to the director an amount equal to all civil fines, penalties, and costs assessed against the owner. The director shall issue a receipt for any amounts paid under this subsection. After presentation of the receipt, all amounts paid will be refunded if the hearing officer's order is overturned on appeal].~~ An appeal petition must be accompanied by a notarized statement in which the vehicle owner agrees to pay all civil fines, penalties, and costs ordered by the hearing officer, if the person is still found liable by the municipal court upon appeal.

(e) At an appeal hearing, the civil red light citation and the recorded images produced by the photographic traffic signal enforcement system are prima facie proof of the red light violation, and the enforcement officer or other authorized person who issued the citation is not required to be present unless requested by the vehicle owner.

(f) At an appeal hearing, the reliability of the photographic traffic signal enforcement system used to produce the recorded image of the red light violation may be attested to by affidavit of an officer or employee of the city, or of the entity with which the city contracts to install or operate the system, who is responsible for inspecting and maintaining the system. An affidavit of an officer or employee of the city that alleges a red light violation based on an inspection of the pertinent recorded image is admissible in a proceeding under this article, is evidence of the facts contained in the affidavit, and is prima facie evidence of the violation alleged in the red light citation.

SEC. 28-216. EFFECT OF LIABILITY; EXCLUSION OF CIVIL REMEDY; ENFORCEMENT.

(a) The imposition of a civil fine under this article is not a conviction or criminal offense and may not be considered a conviction or criminal offense for any purpose. Failure to timely pay a civil fine under this article may not result in an arrest warrant being issued for the vehicle owner and may not be recorded on the owner's driving record.

(b) A civil fine may not be imposed under this article on the owner of a motor vehicle if the operator of the vehicle was arrested or was issued a criminal citation by a peace officer under Section 544.007(d) of the Texas Transportation Code for the red light violation recorded by the photographic traffic signal enforcement system.

(c) The city attorney is authorized to file suit or take other action to collect any civil fines, penalties, and costs assessed under this article.

SEC. 28-217. DISPOSITION OF CIVIL FINES, PENALTIES, AND COSTS ASSESSED FOR RED LIGHT VIOLATIONS.

Not later than November 29 of each year, after deducting amounts the city is authorized to retain under Section 707.008(b) of the Texas Transportation Code, 50 percent of the revenue derived from the [A#] civil fines and late payment[;] penalties[; ~~and costs~~] assessed under this article each fiscal year must be remitted to the Office of the Texas State Comptroller for deposit to the credit of the regional trauma account and 50 percent must be paid into the city's [general] fund dedicated to traffic safety programs, including pedestrian safety programs, public safety programs, intersection improvements, and traffic enforcement [for the use and benefit of the city]."

SECTION 2. That CHAPTER 28 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law is continued in effect for that purpose.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance will take effect on October 29, 2007, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

RM/DCC/000001

