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MEMORANDUM

DATE: October 29, 2010

FROM: Paul D. Degges, P.E.
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TO: Steve Hall, Assistant Chief Engineer
Mike Tugwell, State Traffic Engineer
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SUBJECT: **Staff Guidance Regarding Traffic Cameras, Traffic Signals, and Speed Limits**

BACKGROUND:

The use of traffic enforcement cameras by municipalities has been growing over the last several years, and the Attorney General has provided an opinion that they are legal under state law. The Tennessee General Assembly has debated the merits of traffic enforcement cameras, and in general they appear to be concerned about their use as a mechanism for raising revenue rather than for traffic control/safety reasons.

The department takes a neutral position on traffic cameras. We acknowledge their potential to promote safety; however, since we do not operate traffic signals for the most part, or enforce traffic laws, we do not advocate for or against the use of cameras for enforcement purposes.

This document is intended to provide staff with guidance when responding to local government proposals to install traffic cameras as permanent devices on state highway right of way. The guidance assumes that where a local government has legal authority to install traffic signals or establish and post speed limits on a street or highway, the local government also has authority, subject to any conditions established by the General Assembly, to install traffic cameras on that street or highway to enforce its traffic signal operations and posted speed limits. Where the local government lacks such regulatory authority, however, it will need the department's consent to

install the traffic camera on a state highway. It is the purpose of this guidance to determine whether such consent is needed and where it may be given. In addition, this guidance confirms current guidance regarding the approval of traffic signals and attempts to clarify the respective authority of the department and municipalities to establish speed limits on state routes.

GUIDANCE:

There are two types of traffic cameras currently being used in Tennessee: (1) Red light cameras used to enforce the regulation of traffic at signalized intersections, and (2) Speed cameras used to enforce posted speed limits on public roads. In general, incorporated municipalities have more authority to regulate traffic on state highways than do counties. Accordingly, municipalities will have more authority than counties to install traffic cameras on state highways to enforce their regulation of traffic. Traffic cameras are generally prohibited on interstate highways, except as noted below, but there are four basic circumstances in which a local government might request or propose to install a red light camera or speed camera on a state highway.

A. Definition of "Access Controlled" Highway

In the code sections governing the operation of motor vehicles on public roads, Tenn. Code Ann. § 55-8-101, et seq., the terms "access controlled" and "controlled access" are used interchangeably. "Controlled-access highway" is defined as a "highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway." Tenn. Code Ann. § 55-8-101(8). To establish access control, the government having jurisdiction over the roadway must acquire the abutting landowners' legal rights of access to the public road. The intent seems to be to define as "controlled-access" those highways where such access control is the predominant characteristic of the roadway and any driveway access from abutting properties is exceptional or incidental rather than the norm.

Since the character of highways having some form of access control can vary considerably, the following additional distinctions are made for the purposes of this guidance:

1. "Fully access controlled" facilities do not have any at-grade intersections or driveway access from abutting properties.
2. "Access controlled" facilities may have at-grade intersections at public roads but will have no driveway access from abutting properties.
3. "Partially access controlled" facilities may have at-grade intersections and some limited driveway access from abutting properties.

B. Traffic Cameras on Interstate Highways

Guidance: The department cannot permit local governments to install or operate traffic enforcement cameras on any interstate highway. If the proposed traffic camera

will be at the terminal end of an interstate ramp, the character of the highway intersecting with the ramp will determine which part of this guidance shall apply.

Note: The department may need to approve and/or permit the location of roadside hardware and/or utility installations necessary for these devices.

Analysis: Apart from the maximum speed limit established by law, Tenn. Code Ann. § 55-8-152(c), the department has exclusive authority to set speed limits on interstate highways. Tenn. Code Ann. § 55-8-152(h). As fully access controlled facilities, interstates have no at-grade intersections or traffic signals, except perhaps at the end of a ramp. Moreover, the General Assembly has prohibited the use of any traffic enforcement cameras on interstate highways, except state-operated cameras used to monitor traffic violations within work zones designated by the department of transportation. Tenn. Code Ann. § 55-8-198(f). Therefore, local governments have no authority to install traffic cameras, and the department cannot grant any local government permission to operate a traffic camera on any interstate highway. If the proposed camera is to be located at the terminal end of a ramp, the character of the highway intersecting with the ramp will determine which part of this guidance shall apply. Note: Even in cases where the local government has jurisdiction to install a traffic camera at the end of a ramp, however, the department may need to approve and/or permit the location of roadside hardware and/or utility installations for these devices to the extent that such may be located within state highway right-of-way.

C. Locally Operated Traffic Cameras on State Highways

1. Traffic Cameras on State Highways Outside of Municipalities

Guidance: On state highways outside of incorporated municipalities, the department does not permit the installation or operation of traffic enforcement cameras by local governments.

Analysis: In general, no one other than the department may permit the installation of a traffic signal on any state highway, Tenn. Code Ann. § 54-5-601, except within an incorporated municipality, Tenn. Code Ann. § 54-5-603. The department also has exclusive authority to set speed limits on state highways outside of incorporated municipalities. See Tenn. Code Ann. § 55-8-152(f)(1)(A) (authorizing the department to lower speed limits on state highways), and Tenn. Code Ann. § 55-8-152(f)(1)(C) (giving counties no authority to set speed limits on state highways). Since the department has exclusive authority to authorize traffic signals and set speed limits on state highways outside of incorporated municipalities, no local government has regulatory authority to install red light cameras or speed cameras on such highways without the department's consent. The department will not authorize traffic cameras in this circumstance.

2. **Traffic Cameras on Non-Access Controlled Highways Within Municipalities**

Guidance: On non-access controlled state highways within an incorporated municipality, the department should neither approve nor disapprove the municipality's proposal to install a red light camera or a speed camera.

Note: The department may need to approve and/or permit the location of roadside hardware and/or utility installations necessary for these devices.

Analysis: Incorporated municipalities have apparent authority to install and maintain signal lights on state highways within their jurisdiction. See Tenn. Code Ann. § 54-5-603 (exempting incorporated municipalities from the general rule that no one other than the department may erect traffic signals on state highways). They also have authority to set speed limits below the statutory maximum on non-access controlled state highways within their jurisdictional limits. Tenn. Code Ann. §§ 55-8-152(f)(1)(C). But see Tenn. Code Ann. § 55-8-153(c) (authorizing municipalities to set lower speed limits on state highways only when an engineering study shows that public safety requires a lower speed limit). Because municipalities have authority to install traffic signals and erect signs posting speed limits on non-access controlled state highways within their corporate limits, it follows that municipalities also have authority to install traffic cameras on such highways to enforce compliance with their traffic signals and posted speed limits. Therefore, the department should neither approve nor disapprove a municipality's proposal to operate a traffic camera on such highways. Note: Even though the municipality has authority to install a traffic camera, the department may need to approve and/or permit the location of roadside hardware and/or utility installations for these devices to the extent that such may be located within state highway right-of-way.

3. **Red Light Cameras on Controlled-Access Highways Within Municipalities**

Guidance: Within an incorporated municipality, on "access controlled" state highways having at-grade intersections but no driveways, or on "partially access controlled" state highways having at-grade intersections and some driveways, the department should neither approve nor disapprove the installation of red light cameras at signalized intersections.

Note: The department may need to approve and/or permit the location of roadside hardware and/or utility installations necessary for these devices.

4. Analysis: Incorporated municipalities have apparent authority to install traffic signals at intersections on state highways within their jurisdiction. See Tenn. Code Ann. § 54-5-603 (exempting incorporated municipalities from the general rule that no one other than the department may erect traffic signals on state highways). The law does not appear to limit this authority to highways without access control, so it is assumed that the authority

extends to any state highway within a municipality that has at-grade intersections. It follows that the municipality would also have authority to install traffic cameras to enforce compliance with the traffic signals it operates on state highways within its jurisdiction. Therefore, the department should neither approve nor disapprove a municipality's proposal to operate a red light camera on such highways. Note: Even though the municipality has authority to install a traffic camera, the department may need to approve and/or permit the location of roadside hardware and/or utility installations for these devices to the extent that such may be located within state highway right-of-way.

Speed Cameras on Controlled-Access State Highways Within Municipalities

Guidance: Guidance for responding to requests by municipalities to install speed cameras on controlled-access state highways is as follows:

(a) In the case of speed cameras on "fully access controlled" state highways, the department does not permit their installation.

(b) In the case of speed cameras on "access controlled" state highways having at-grade intersections but no driveways, or on "partially access controlled" state highways having at-grade intersections and some driveways, the department will accept the municipality's decision to install a speed camera.

Note: The department may need to approve and/or permit the location of roadside hardware and/or utility installations necessary for these devices.

Analysis: Municipalities have no authority to set speed limits on controlled-access highways on the state highway system. Only the department has this authority. Tenn. Code Ann. § 55-8-152(h). [See Additional Guidance below for the purpose of determining whether a state highway having partial access control should be characterized as "controlled-access" and within the department's exclusive jurisdiction.] Consequently, municipalities do not have authority to install speed cameras on these facilities without the department's consent.

(a) Fully access controlled facilities on the state highway system are like interstate highways in that they have no at-grade intersections or driveways. State law generally prohibits traffic cameras on interstate highways. Tenn. Code Ann. § 55-8-198(f). Since fully access controlled facilities on the state highway system are so similar to interstate highways, the department will treat them in the same manner as interstate highways for the purposes of this guidance. Therefore, the department will not allow speed cameras to be installed on fully access controlled state highways.

(b) State law does not prohibit speed cameras on access controlled highways with at-grade intersections or on partially access controlled highways having both at-grade intersections and some driveways. The General Assembly has debated proposals to restrict speed cameras to highway locations where it can be demonstrated that speed

violations have caused a higher incidence of vehicular crashes, but as yet no such legislation has been enacted. In the absence of any legislative guidance on this issue, the department will accept the municipality's determination that a speed camera is appropriate and allow the installation. Note: The department may also need to approve and/or permit the location of roadside hardware and/or utility installations for these devices to the extent that such may be located within state highway right-of-way.

ADDITIONAL GUIDANCE REGARDING AUTHORITY TO SET SPEED LIMITS ON CONTROLLED-ACCESS FACILITIES:

Municipalities have statutory authority to set speed limits on non-access controlled state highways within their corporate limits, but they do not have that authority if the state highway is defined as a controlled-access facility. Tenn. Code Ann. § 55-8-152(f)(1)(C). The department has exclusive authority to set speed limits on all interstate highways and controlled-access highways on the state highway system. Tenn. Code Ann. § 55-8-152(h). The department also has exclusive authority to set special speed limits at school entrances and exits to and from controlled-access highways on the state highway system. Tenn. Code Ann. §§ 55-8-152(d)(1)(A) and (C).

Accordingly, while the department may consider a request from a municipality to lower the speed limit on a controlled-access facility designated as a state highway, the municipality may not set the speed limit on its own authority. The scope of the department's exclusive authority to set speed limits will be clear in the case of fully access controlled facilities and clear enough in the case of access controlled highways having at-grade intersections but no driveways. It may not be so clear in the case of partially access controlled facilities having both at-grade intersections and some driveways.

Since "partially access controlled" highways may vary greatly in character, they should be analyzed to determine whether the highway at the location of the proposed lower speed limit is more like a conventional, non-access controlled highway, where the municipality would have presumptive authority to set the speed limit, or more like an "access controlled" facility, where it would not have that authority. The basic task is to determine whether access control – where there are no driveways because the abutting landowners' legal rights of access have been acquired – is the predominant characteristic of the section of highway at issue. Driveway access to the highway should be the exception, not the norm. By contrast, if driveway access is the norm and access control exists only in limited circumstances, the highway should not be characterized as a controlled-access facility for the purpose of establishing authority to set speed limits. Questionable cases should be referred to the State Traffic Engineer in Headquarters for determination so as to maintain as much consistency as possible across the state.

CC: John Reinbold, General Counsel