

**AMENDMENT NO. 1 TO THE FEBRUARY 2, 2010 AGREEMENT BETWEEN
THE CITY OF FT. LAUDERDALE AND AMERICAN TRAFFIC SOLUTIONS**

This Amendment No. 1 (the "Amendment") to the Agreement Between the City of Ft. Lauderdale and American Traffic Solutions, Inc., a Kansas corporation authorized to transact business in the State of Florida as ATS American Traffic Solutions, Inc., entered into February 2, 2010 (the "Agreement") is made and effective as of this 7th day of July, 2010 by and between the City of Fort Lauderdale, Florida, a municipal corporation (the "City") and American Traffic Solutions, Inc., a Kansas corporation ("Contractor").

Recitals

WHEREAS, on or about June 2, 2009, the City adopted Ordinance C-09-14, codified at Chapter 26, Article VII of the City's Code of Ordinances, which provides for the enforcement of red light violations using traffic infraction detectors (the "Ordinance"); and

WHEREAS, on or about February 2, 2010, the City and Contractor entered into the Agreement, whereby the City and Contractor agreed to the provision by Contractor of services to the City in connection with the enforcement of the Ordinance, subject to the terms and conditions stated in the Agreement; and

WHEREAS, on or about May 13, 2010, the Governor of the State of Florida signed CS/CS/HB325 into law, resulting in the Law of Florida 2010-80 taking effect on July 1, 2010; and

WHEREAS, Law of Florida 2010-80 expressly authorizes municipalities to use traffic infraction detectors to enforce certain provisions of Chapter 316 of the Florida Statutes, subject to certain requirements; and

WHEREAS, the City has amended Ordinance C-09-14 and Chapter 26, Article VII of the City's Code of Ordinances to provide for the operation of its Traffic Safety Camera Program in accord with the provisions of Law of Florida 2010-80; and

WHEREAS, the City and Contractor wish to amend and modify the Agreement to align the provision of services by Contractor with the provisions and requirements of Law of Florida 2010-80;

Terms and Conditions

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Contractor and City agree that the Agreement shall be and hereby is amended and modified on the terms provided herein:

1. Recitals. The preceding recitals are true and correct and are incorporated into this Amendment by reference.

2. Definitions. Except as otherwise specified herein, all capitalized terms used in this Amendment shall have the meanings given to them in the Agreement and the Professional Services Agreement dated January 14, 2010.

3. Conflict Among Contract Documents. Paragraph 3 of the Agreement is deleted and replaced with the following:

In the event of conflict between or among the contract documents, the order of priority shall be as follows:

First, this Amendment;

Second, the Professional Services Agreement dated January 14, 2010 and the Exhibits and Schedules thereto (collectively, the "PSA"), which attached to Agreement, as amended by Paragraphs 3, 4, and 5 of the Amendment;

Third, the Agreement;

Fourth, any and all addenda to the City's RFP in reverse chronological order;

Fifth, the Contractor's Best and Final Offer;

Sixth, the Contractor's response to any addendum requiring a response;

Seventh, the Contractor's proposal in response to the RFP.

4. Definitions in PSA. Section 1 of the PSA is amended as follows:

(a) The definitions of "Paid Citation" and "Actionable Activation" are deleted.

(b) The definition of "Traffic Enforcement Officer" is deleted and replaced with the following:

"Traffic Infraction Enforcement Officer" means an employee of Customer's police or sheriff's department who meets the qualifications of Section 316.640(5)(a) of the Florida Statutes.

(c) The following definitions are added:

"Violation" means a violation of Section 316.074(1) or 316.075(1)(c)1 of the Florida Statutes and Section 26-213 of Customer's code of ordinances, as may be amended from time to time.

"Uniform Traffic Citation" means a uniform traffic citation as described in Section 316.650 of the Florida Statutes.

5. Fees and Payment. Section 6 of the Agreement now includes the following:

City has a potential need for fifty (50) Intersection Safety Cameras throughout City. Contractor shall provide a discount as outlined in Schedule 1, Service Fee Schedule, which is attached hereto and incorporated herein, with a blended fee of \$4,250 per month, per approach. The City shall receive this blended pricing for cameras 1-50. Contractor acknowledges the City will determine the final number of cameras installed and has no obligation to install a set number.

6. Independent Contractor. Section 17 of the Agreement is deleted and replaced as follows:

Except as specifically provided otherwise herein, ATS is an independent contractor under this Agreement. Personal services provided by ATS shall be by employees of ATS who shall be subject to supervision by ATS, and not as officers, employees or agents of the Customer. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of ATS.

7 ATS Scope of Work; ATS Implementation. Section 1.2 of Exhibit A to the PSA is amended as follows:

(a) Paragraph 1.2.7 is deleted and replaced with the following:

ATS agrees to provide a secure web site (www.violationinfo.com) accessible to recipients who have received Notices of Violation or Uniform Traffic Citations by means of a Notice # and PIN, which will allow violation image and video viewing.

8 ATS Scope of Work; ATS Operations. Section 1.3 of Exhibit A to the PSA is amended as follows:

(a) Paragraph 1.3.1 is deleted.

(b) Paragraph 1.3.2 is deleted and replaced with the following:

ATS shall provide Customer with an automated web-based citation processing system (Axis™ VPS) including image processing, color printing and mailing of a Notice of Violation per chargeable event. Each Notice of Violation shall be delivered by first class mail to the Owner within the statutory period. Mailings to Owners responding to Notices of

Violation identifying drivers in affidavits of non-liability or by rental car companies are also included.

(c) Paragraph 1.3.2.A is added as follows:

ATS shall act as Customer's agent for the limited purpose of making an initial determination of whether Recorded Images should be forwarded to the Traffic Infraction Enforcement Officer to determine whether a Violation has occurred and shall not forward for processing those Recorded Images that clearly fail to establish the occurrence of a Violation.

ATS shall provide the Traffic Infraction Enforcement Officer with access to ~~the Contractor System~~, Axis VPS, for the purposes of reviewing the pre-processed Violations Data within five (5) days of the gathering of the Registered Vehicle Owner Information, but in any event no less than fifteen (15) days after the violation has occurred, and as to the issuance of Uniform Traffic Citations, within five (5) days of the expiration of the time frame under the State Law when a recipient of a Notice of Violation fails to pay the penalty or submit an affidavit of non-responsibility that satisfies the requirements of the State Law.

ATS shall provide the Traffic Infraction Enforcement Officer with information to review whether a UTC Uniform Traffic Citation should be issued after failure of the owner to pay or submit an affidavit within 30 days after Notice of Violation, provided that the Traffic Infraction Enforcement Officer has five (5) days to review the information and determine if a Uniform Traffic Citation shall be issued in accordance with State law.

ATS hereby acknowledges and agrees that the decision to issue Notice of Violation and Uniform Traffic Citations shall be the sole, unilateral and exclusive decision of the Traffic Infraction Enforcement Officer, ~~and shall be made in such authorized employee's sole discretion consistent with State Law (an "Issuance Decision"), and in no event shall Contractor have the ability or authorization to make an issuance decision.~~

(d) Paragraph 1.3.3 is deleted and replaced with the following:

Text only reminder notices may be delivered by first class or other mail means.

(e) Paragraph 1.3.3.A is added as follows:

Upon expiration of the due date of the Notice of Violation, AxisTM VPS shall issue a Uniform Traffic Citation, which shall be delivered by certified mail to the Owner within the statutory period. The issuance of the Uniform

Traffic Citation shall be based on the Traffic Infraction Enforcement Officer's approval, as provided in Section 2.4 of this Exhibit A, of the Notice of Violation.

(f) Paragraph 1.3.3.B is added as follows:

ATS shall make available a form of affidavit, approved by Customer, to be used by an Owner who wishes to establish the existence of an exemption to a Notice of Violation or Uniform Traffic Citation as provided in Section 316.0083(1)(d)1 of the Florida Statutes, as may be amended or recodified from time to time.

(g) Paragraph 1.3.4 is deleted and replaced with the following:

Axis VPS shall apply an electronic signature to a Notice of Violation or Uniform Traffic Citation, when authorized to do so by an approving Traffic Infraction Enforcement Officer.

(h) Paragraph 1.3.7 is deleted and replaced with the following:

If Customer is unable to or does not desire to integrate ATS data into its adjudication system, ATS shall provide an on-line adjudication processing module, which will enable the adjudication function to review cases, related images, correspondence, and other related information required to adjudicate the disputed Uniform Traffic Citation. The system will also enable the adjudication staff to accept and account for payments. Any costs charged by a third-party vendor to integrate the ATS system to a Customer computer system shall be borne by the Customer. If the Customer approves the quoted work and cost, ATS may agree to cover these up front costs and recover the costs in addition to its normal fees.

(i) Paragraph 1.3.12 is deleted and replaced with the following:

As part of its turnkey system, ATS shall provide Owners with the ability to view Recorded Images of Violations involving their motor vehicles online. This online viewing system shall include a link to the ATS payment website(s) and may offer the opportunity to download a form of affidavit to establish an exemption under Section 316.0083(1)(d) of the Florida Statutes. Online obtained affidavits submitted in response to a Notice of Violation or Uniform Traffic Citation shall be directed to and processed by ATS and communicated to Customer via the Axis system. ATS shall adhere to timelines and other regulations specified in Section 316.0083 of the Florida Statutes in the processing of affidavits.

9. Customer Scope of Work; General Implementation Requirements.
Section 2.2 of Exhibit A to the PSA is amended as follows:

(a) Paragraph 2.2.1.A is added as follows:

Within seven (7) business days of the execution of Amendment No 1 to the Agreement, Customer shall provide ATS with the name and contact information for a Uniform Traffic Citation manager responsible for oversight of all Uniform Traffic Citation-related program requirements.

(b) Paragraph 2.2.1.B is added as follows:

Within seven (7) business days of execution of Amendment No. 1 to the Agreement, Customer shall provide ATS with the name(s), contact information, and electronic signature(s) of all Traffic Infraction Enforcement Officers authorized by Customer's police or sheriff's department to approve and issue Notices of Violation and Uniform Traffic Citations.

(c) Paragraph 2.2.1.C is added as follows:

Customer shall establish a method by which an Owner who has received a Notice of Violation or a Uniform Traffic Citation may review the images and video evidencing the Violation at www.violationinfo.com free of charge. This may be at a publicly available terminal at a Customer facility or by appointment with the Uniform Traffic Citation manager.

10. Customer Scope of Work; Police Department Operations. Section 2.4 of Exhibit A to the Agreement is amended as follows:

(a) Paragraph 2.4.1 is deleted and replaced as follows:

Customer's Traffic Infraction Enforcement Officer(s) shall process each potential violation in accordance with State Law and/or Customer Ordinances within five (5) days (excluding Saturday, Sunday and City observed holidays) of its appearance in the Law Enforcement Review Queue, using AxisTM to determine which Violations will be issued as Notices of Violation.

(b) Paragraph 2.4.1.A is added as follows:

Within seven (7) days of the execution of Amendment No. 1 to the Agreement, Customer shall provide ATS with a form of Uniform Traffic Citation that complies with the provisions of Chapter 316 of the Florida Statutes, with the understanding that some modifications may be necessary to enable use with ATS's systems.

(c) Paragraph 2.4.1.B is deleted:

(d) Paragraph 2.4.1.C is added as follows:

Customer shall provide ATS with instructions or specifications for the treatment of affidavits, with the understanding that any modifications that are necessary to ensure compatability with ATS's processes are subject to the City's approval or disapproval.

11. Customer Scope of Work; Customer Operations. Section 2.5 of Exhibit A to the PSA is amended as follows:

(a) Paragraph 2.5.2 is deleted and replaced with the following:

All Uniform Traffic Citation hearings/proceedings shall be conducted in accordance with the laws of the State of Florida. ATS shall not be required to provide a judge or hearing officer or adjudication facilities to schedule and hear disputed Uniform Traffic Citations.

(b) Paragraphs 2.5.3, 2.5.4, and 2.5.6 are deleted.

(c) Paragraph 2.5.7 is deleted and replaced as follows:

Any potential, one time, direct costs to ATS to develop an interface between the Customer's computer system will be initially paid by ATS and any such reasonable costs will be reimbursed to ATS in addition to its normal fees, upon receiving the appropriate prior approval of the City .

12. Service Fee. Schedule 1 to the PSA is deleted and replaced with Schedule 1 to this Amendment.

13. Effect of Amendment on Agreement. Except as expressly amended or modified by the terms of this Amendment, all terms of the PSA and the Agreement shall remain in full force and effect. Unless a different meaning is specified in this Amendment, all capitalized terms used herein shall have the meaning described in the Agreement. In the event of a conflict between the terms of this Amendment and the PSA, the Agreement, and any other contract documents, the terms of this Amendment shall prevail and control.

14. Entire Agreement. The provisions of this Amendment, including the recitals, comprise all of the terms, conditions, agreements, and representations of the parties with respect to the subject matter hereof. All representations and promises made by any party to another, whether in writing or orally, concerning the subject matter of this Amendment are merged into this Amendment. Except as amended by this Amendment, the terms of the Agreement shall continue in full force and effect.

15. Counterpart Execution. This Amendment may be executed in one or more counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same instrument. Each party represents and warrants that the representative signing this Amendment on its behalf has all right and authority to bind and commit that party to the terms and conditions of this Amendment.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

City of Fort Lauderdale, Florida

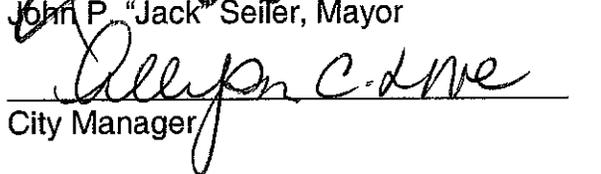
ATTEST:



CITY CLERK
SR. ASST.

By:



John P. "Jack" Seiler, Mayor


Acting City Manager

APPROVED AS TO FORM



Asst. CITY ATTORNEY

(Corporate Seal)

ATS American Traffic Solutions, Inc.

ATTEST:

By: [Signature]

[Signature]

Print Name: James D. Tuton

Print Name: Sherri Teille

Title: President and CEO

STATE OF ARIZONA :
COUNTY OF MARICOPA :

The foregoing instrument was acknowledged before me this 3rd day of AUGUST, 2010, by James D Tuton as (title): President & CEO for ATS American Traffic Solutions, Inc., a Kansas corporation authorized to transact business in the State of Florida as ATS American Traffic Solutions, Inc.

(Seal)

Catherine E. Wilkins
Notary Public, State of Arizona
(signature of Notary Public – State of ARIZONA)



Catherine E Wilkins
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known OR produced Identification ✓

Type of Identification Produced Drivers License

SCHEDULE 1
SERVICE FEE SCHEDULE

The City agrees to pay Contractor the Fee(s) as itemized below:

1.0	<u>Description of Pricing</u>	Fee
	Fees are based on per approach, per month, pro-rated for cameras installed mid-month, and are as follows:	
	<u>Flat Fee Blended Pricing</u>	
	▪ Per Camera Approach, Per Month	\$4,250
	1-10	\$4,750
	11-20	\$4,500
	21-30	\$4,250
	31-40	\$4,000
	41-50	\$3,750

Service Fees Include: Fee includes all costs required and associated with camera system installation, maintenance and on-going field and back-office operations. Includes red-light camera equipment with up to two (2) signal phases, installation, maintenance, violation processing services, DMV records access, mailing of required documents, lockbox and epayment processing services, call center support for general program questions, public awareness program support and access to web-based AXSIS VPS for Traffic Infraction Enforcement Officer review.

2.0 Optional Services:

Delinquency Collection Services	25% of Recovered Revenue
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(If City elects to use Contractor in the collection of delinquent notices, City will provide written authorization of approval)