



REGULAR MEETING AGENDA
125 E. College Street, Covina, California
Council Chamber of City Hall
Tuesday, May 16, 2017

**CITY COUNCIL/SUCCESSOR AGENCY TO THE COVINA
REDEVELOPMENT AGENCY/COVINA PUBLIC FINANCING
AUTHORITY/COVINA HOUSING AUTHORITY
JOINT MEETING—CLOSED SESSION
6:30 p.m.**

CALL TO ORDER

ROLL CALL

Council/Agency/Authority Members Peggy A. Delach, John C. King, Victor Linares, Mayor Pro Tem/Vice-Chair Walter Allen III and Mayor/Chair Jorge A. Marquez

PUBLIC COMMENTS

The Public is invited to make comment on Closed Session items only at this time. To address the Council/Agency/Authority please complete a yellow speaker request card located at the entrance and give it to the City Clerk. Your name will be called when it is your turn to speak. Individual speakers are limited to five minutes each.

The City Council/Successor Agency to the Covina Redevelopment Agency/Covina Public Financing Authority/Covina Housing Authority will adjourn to closed session for the following:

CLOSED SESSION

- A. Government Code § 54957.6 – CONFERENCE WITH LABOR NEGOTIATORS**
Agency Designated Representative: Danielle Tellez, Human Resources Director
Employee Organizations: American Federation of State, County and Municipal Employees (AFSCME); Police Management Group (PMG); and Police Supervisors of Covina (PSC)
- B. Government Code § 54957.6 – CONFERENCE WITH LABOR NEGOTIATORS**
Agency Designated Representative: Danielle Tellez, Human Resources Director
Unrepresented Employees: Mid-Management, Supervisory and Professional, and Confidential and Technical Employees; and Executive Employees (excluding the City Manager)

RECESS



CITY OF COVINA

AGENDA REPORT

ITEM NO. CC 3

MEETING DATE: May 16, 2017

TITLE: City of Covina Red-Light Photo Enforcement Agreement with American Traffic Solutions

PRESENTED BY: John Curley, Police Chief
David Povero, Police Captain

RECOMMENDATION: Renew the existing contract with ATS for a period of five (5) years with no fee changes to the contract and authorize the City Manager or his designee to execute this agreement

EXECUTIVE SUMMARY:

The City of Covina has been utilizing a Red-Light Photo Enforcement Program (RLPE) through American Traffic Solutions (ATS) since 2007. The original contract bid, program implementation, training and customer service that ATS provided were outstanding. ATS and its staff have continued to provide professionalism and system integrity beyond reproach. Their ongoing training and customer support have kept our RLPE program operating with efficiency and effectiveness. In fact in 2008, the City and ATS agreed to an adjusted fee schedule to lower operating costs and ATS remains committed to those lower fees that save our City money. These facts along with ATS' proven electronic interface with Los Angeles County Courts demonstrate a solid, proven traffic safety system.

BACKGROUND:

In September of 2006, the Covina City Council approved the implementation of a Red-Light Photo Enforcement Program, and awarded a five-year agreement to American Traffic Solutions. ATS began providing RLPE services to the City of Covina in April 2007. The initial 2006 agreement was for five years with the option of two additional two-year terms. The first amendment extended the term for two years (2011-2013). The second amendment was approved by Council and extended the term for the final two-years (2014-2016). A third amendment extended the contract once again for one year and is due to expire on April 15, 2017, and it was extended to May 31, 2017.

DISCUSSION:

In September 2006, the Covina Police Department, with the assistance of ATS, selected three major intersections in the city for RLPE. To this date, the program continues to monitor seven approaches contained within these three intersections:

- N/B Azusa Avenue at Cypress Street
- N/B Barranca Avenue at Rowland Street
- E/B Rowland Street at Barranca Avenue
- W/B Rowland Street at Barranca Avenue

- N/B Grand Avenue at Badillo Street
- S/B Grand Avenue at Badillo Street
- E/B Badillo Street at Grand Avenue

Citation Analysis

The Red Light Photo Enforcement Program was implemented to enhance traffic safety, reduce traffic collisions related to red light violations and increase driver awareness. The program has been operational for the past nine years, which provides historical perspective on the functionality and success of the system. It appears, based on the citation and collision data, that drivers are getting the message to stop on red lights in Covina. The community’s recidivism rate is only six percent, which means ninety-four percent of all violators who receive a citation do not commit a second violation. The low rate of repeat behavior, dating from April 2007 through December 2016, indicates a positive change in driver behavior. Refer to Figure #1.

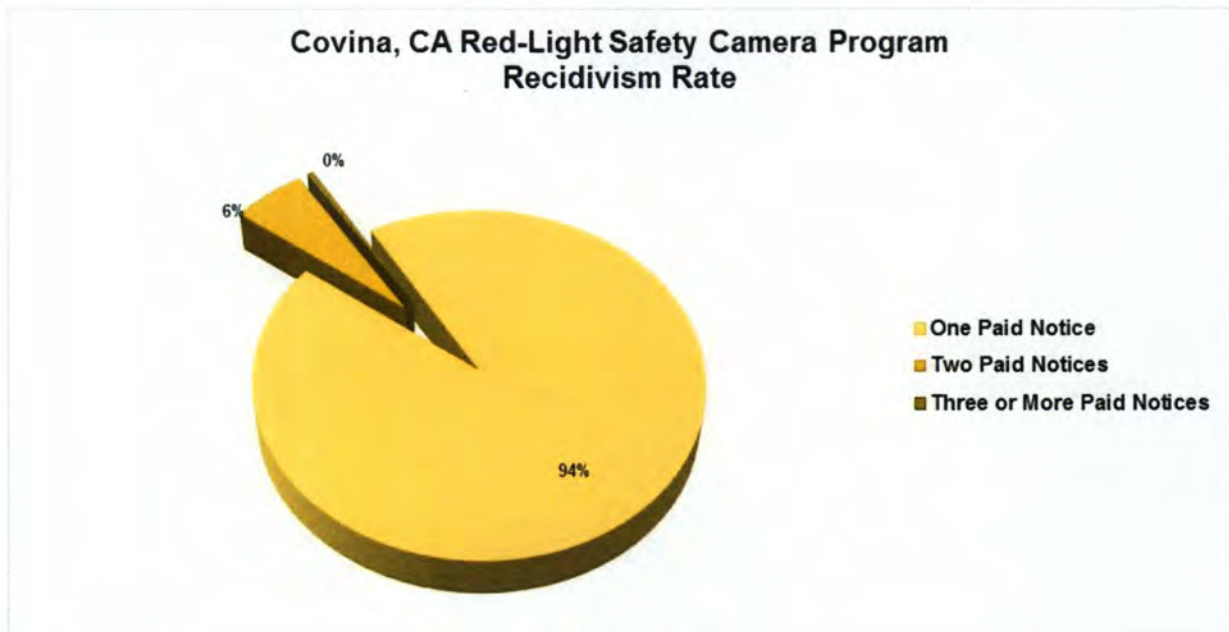


Figure #1

Vehicles registered in Covina are the recipients of twenty-four percent of all violations issued. This includes postal zip codes 91722, 91723 and 91724; therefore the majority of violators are non-City of Covina residents. Refer to Figure #2.

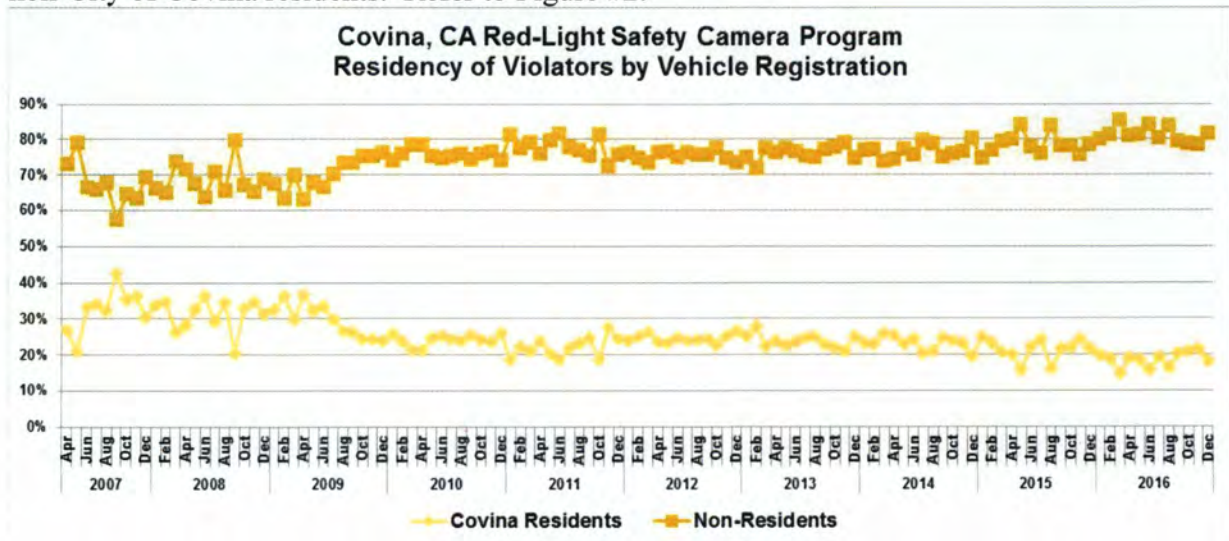


Figure #2

Figure #3 represents the total citations issued by year from 2007-2016.

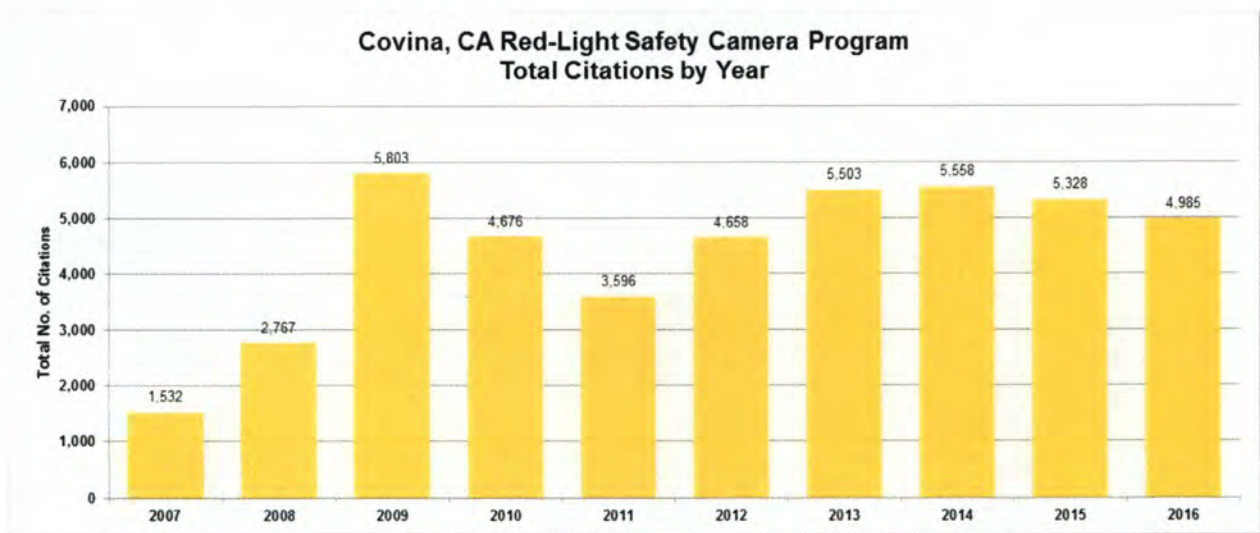


Figure #3

Rear-end Collision Analysis

Drivers who speed and follow too closely to the lead vehicle are to blame for rear-end collisions, and according to the National Highway Traffic Safety Administration, approximately 87% of rear-end crashes nationwide included some form of driver distraction. Research also shows intersection safety improves with RLPE cameras, and that states report decreases in rear-end collisions.

Intersection:	2011	2012	2013	2014	2015*	2016
Azusa/Cypress	10	11	6	8	N/A	4
Barranca/Row	2	6	1	3	N/A	3
Grand/Badillo	2	7	9	7	N/A	3

*CAD/RMS changeover

Figure #4

Overall Collision Analysis

The City of Covina maintains collision data along with a pre/post RLPE implementation analysis. This was completed using the available collision data for years 2005, 2006 and 2007. Post RLPE was examined for years 2008-2016. In 2016, there was a record low of 658 collisions, which Covina has not seen since before 2004. Refer to Figure #5 that highlights the total traffic collisions in Covina in the pre-RLPE period (2004-2006) compared to a post-RLPE period (2008-2016).

Total Collisions per year:												
2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
945	1002	928	948	822	803	798	678	735	664	666	695	658

Figure #5

The next table shows a comparison of three sets of years, 2005-2008, 2009-2012 and 2013-2016. The table shows the number of collisions citywide in comparison with the red light enforcement intersections. It further compares the number of collisions to the severity of the collision. Refer to Figure #6.

	Red-Light Enforcement Intersections			
Collision Severity	Years 05, 06, 07*, 08	Years 09, 10, 11, 12	Years 13, 14, 15, 16	% Change
Property Damage	181	171	128	-29%
Injury	41	26	17	-58%
Fatal	0	0	0	0
Total Collisions	222	197	145	-34%
	Citywide			
Collision Severity	Years 05, 06, 07*, 08	Years 09, 10, 11, 12	Years 13, 14, 15, 16	% Change
Property Damage	2,986	2,502	2,198	-26%
Injury	699	509	480	-31%
Fatal	15	3	5	-67%
Total Collisions	3,700	3,014	2,683	-27%

*Indicates year of implementation

Figure #6

The total number of yearly collisions citywide has decreased by twenty-seven percent; furthermore the RLPE intersections had larger declines in collisions by thirty-four percent.

Amber Signal Phasing

The purpose of the amber signal phasing interval is to notify motorist that the traffic signal is changing from green to red, and to provide the motorists sufficient time to slow and safely stop for the signal. Amber signal interval timing is set in accordance with State guidelines; the minimum amber interval for protected left-turn movements is three (3) seconds, and the amber interval timing for through movements is based on the approach speed limit of the roadway, with a minimum of three (3) seconds. The City of Covina follows this criterion in determining the amber interval time for all through movement and will continue to comply with any new standards adopted by the State.

Traffic signals along major arterial roads are coordinated and synchronized in accordance to Los Angeles County Department of Public Works Traffic and Lighting Division Traffic Signal timing standards to maximize traffic flow and minimize delay. Any adjustments to signal timing may impact traffic flow and circulation. Increasing the overall signal cycle may also increase the wait time at intersections and reduce efficiencies in traffic flow.

Citations Issued by Intersections & the Right Turn on Red Violations

All three intersections monitor for vehicles turning right against a solid red traffic signal. Data indicates that the majority of citations issued are for violations where the motorist failed to stop for the red signal prior to completing their right turn against the red. Refer to Figure #7.

Azusa/Cypress	08	09	10	11	12	13	14	15	16	Avg. %	Overall %
Left Turns	46	35	25	39	82	201	195	98	60	88.64%	30.00%
% Change	-	-24%	-46%	-15%	78%	337%	324%	113%	30%		
Straight Thru	445	433	344	411	605	421	627	300	296	-3.07%	33.48%
% Change	-	-3%	-23%	-8%	36%	-5%	41%	-33%	-33%		
Right Turns	104						1,01			-	-
	8	1071	605	528	839	864	9	718	595	22.74%	43.22%
% Change	-	2%	-42%	-50%	-20%	-18%	-3%	-31%	-43%		
Barranca/Row	08	09	10	11	12	13	14	15	16	Avg. %	Overall %
Left Turns	43	98	155	97	210	167	115	197	219	236.17%	409.30%
% Change	-	128%	260%	126%	388%	288%	167%	358%	409%		
Straight Thru	302	469	750	369	414	526	448	415	426	51.54%	41.05%
% Change	-	55%	148%	22%	37%	74%	48%	37%	41%		
Right Turns	133	1375	1235	752	848	1151	711	929	860	567.83%	546.61%
% Change	-	934%	829%	465%	538%	765%	435%	598%	546%		
Grand/Badillo	08	09	10	11	12	13	14	15	16	Avg. %	Overall %
Left Turns	78	172	276	314	380	368	292	272	211	236.60%	170.51%
% Change	-	121%	254%	303%	387%	372%	274%	249%	170%		
Straight Thru	109	109	132	100	86	118	217	182	139	21.50%	27.52%
% Change	-	0%	21%	-8%	-21%	8%	99%	67%	27%		
Right Turns	563	2040	1153	985	1193	1686	1934	2217	2179	175.31%	287.03%
% Change	-	262%	105%	75%	112%	199%	244%	294%	287%		

Figure #7

Fine Amount /Revenue Distribution

The State Legislature and the County of Los Angeles Superior Court, not the City of Covina or ATS, establish the fine amount of \$490 for a RLPE violation. The fine amount of \$490 is the same whether the enforcement is conducted by the RLPE system or an actual police officer.

RLPE citation revenues are distributed between the State of California, the County of Los Angeles and the City of Covina. The city receives approximately \$147 per citation or thirty percent of the fine amount. The remaining revenue goes to the State of California (fifty-five percent) and Los Angeles County (fifteen percent) for penalty assessments and fees added by the State Legislature and County of Los Angeles to all traffic moving violations.

Letter of the Law vs. Spirit of the Law

Since the inception of the RLPE program in the City of Covina, officers viewing the violations have leaned toward the spirit of the law when it comes to actually issuing the citation. For example, in 2016 although 4,985 citations were issued, 7,708 were viewed and **not cited** for either being too close to call, stopping just after the limit line, or the photograph was not good enough to make an identification on the violator. A total of 12,693 violations were viewed in 2016. This was a consistent theme throughout the entire RLPE program’s existence.

FISCAL IMPACT:

Revenues/Expenditures of Red-Light Photo Enforcement Program

Fiscal Year Program Revenue:

• 2008	\$162,548
• 2009	\$382,914
• 2010	\$454,180
• 2011	\$396,149
• 2012	\$286,733
• 2013	\$258,980
• 2014	\$323,193
• 2015	\$526,017
• 2016	<u>\$323,995</u>
Average Yearly Program Revenue	\$346,079

Yearly Expenditures:

ATS Contract	\$194,220
CPD Personnel Costs*	<u>\$ 37,430</u>
Total	\$231,650

Average Yearly Program Revenue	\$346,079
Yearly Program Expenditure	<u>\$231,650</u>
Average Yearly Program Net Revenue	\$114,429

*The City incurs costs annually as a result of personnel expenses required to manage and operate the program. These expenses include time dedicated to reviewing violations, preparing for court trials, administrative tasks and data preparation for public records requests.

CEQA (CALIFORNIA ENVIRONMENTAL QUALITY ACT):

None

Respectfully submitted,

John Curley
Police Chief

ATTACHMENTS:

Attachment A: Professional Services Agreement

Schedule 1 – Approved Fee Schedule – Per Dual Camera System

Schedule 2 – Equipment Modifications for Existing Dual Camera Systems

Schedule 3 – Relocated Dual Camera Systems

Exhibit A – ATS Scope of Work

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT made this ____ day of _____, 2017 between AMERICAN TRAFFIC SOLUTIONS, INC. (herein "ATS"), a corporation duly registered under the laws of the State of Kansas with its principal place of business at 1150 North Alma School Road, Mesa, Arizona, and the City of Covina, California (herein "City"), a municipal corporation of the State of California with principal offices at 125 East College Street, Covina, California. ATS and City are collectively referred to as the "Parties" and individually as a "Party."

WITNESSETH:

WHEREAS, ATS has the exclusive knowledge, possession and ownership of certain equipment, licenses and processes, referred to collectively as the "Axis™ System" or "Axis"; and

WHEREAS, City desires to use the Axis™ System to monitor red light violations and to issue citations for traffic violations in accordance with the provisions of the California Vehicle Code authorizing the use of automated enforcement systems.

NOW, THEREFORE, the Parties agree:

1. DEFINITIONS

As used in this Agreement, the following words and terms shall, unless the context otherwise requires, have the respective meanings provided below:

"Business Rules" means the standards, as determined by the City, that will apply to ATS's review and processing of the data generated by the Axis™ System.

"Citation" means a citation issued by a competent state or municipal law enforcement agent or agency or by a court of competent jurisdiction relating to a Violation captured, documented or evidenced by Axis.

"Event" means a potential Violation captured by the Axis™ System.

"Person" or **"persons"** means any individual, partnership, joint venture, corporation, trust, unincorporated association, governmental authority or political subdivision thereof or any other form of entity.

"Dual Camera System" means a photo-traffic monitoring device consisting of one front and one rear camera and a traffic monitoring device capable of accurately detecting a traffic infraction on up to four (4) lanes and which records such data on an image of such vehicle and its driver. "Dual Camera System" shall, where context requires, also include any enclosure or cabinet in which the Axis System is stationed.

"Approach" is defined as one (1) direction of travel of one (1) or more lane(s) controlled by one (1) signal phase on a road or a traffic intersection up to four (4) lanes.

"Violation" means any failure, as determined by City, to obey an applicable traffic law or regulation for which automated enforcement is authorized by the California Vehicle Code, including, without limitation, a failure to obey a traffic signal and operating a motor vehicle without displaying a valid license plate.

“**Operational Time**” means the actual time that a Dual Camera System is monitoring traffic.

“**VIMS (Violation Incident Monitoring System) Analysis**” is a statistical assessment of potential violation rates at suspected problem intersections and approaches to determine the need for an automated enforcement system.

2. ATS AGREES TO PROVIDE

The scope of work identified in Exhibit A, Section 1 and the equipment modifications identified in Exhibit A, Schedule 2.

3. CITY AGREES TO PROVIDE

The scope of work identified in Exhibit A, Section 2.

4. TERM AND TERMINATION

- a. The term of this Agreement shall be for five (5) years beginning on June 1, 2017 to June 1, 2022.
- b. ATS's services may be terminated:
 - i. By mutual written consent of the Parties;
 - ii. For cause, by either Party where the other Party fails in any material way to perform its obligations under this Agreement. Termination under this Subsection is subject to the condition that the terminating Party notifies the other Party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other Party fails to cure the default within forty-five (45) days after receiving notice.
 - iii. Following completion of the second contract year (i.e., starting on April 17, 2019), City may terminate or suspend this Agreement at any time, for any reason or no reason, after giving written notice to ATS at least ninety (90) days before such termination or suspension becomes effective.
- c. Upon termination of this Agreement, either for cause or because it has reached the end of its term, the Parties recognize that the City will have to process Events in the “pipeline,” and that ATS accordingly must assist the City in this regard. Accordingly, the Parties shall take the following actions, and shall have the following obligations, which survive termination during the wind-down period: The City shall cease using the Axsis™ System, shall return all equipment to ATS within a reasonable time not to exceed thirty (30) days, and shall not generate further Events to be processed. Unless expressly directed in writing by the City not to do so, ATS shall continue to administratively process all Events captured by the

Axisis™ System before termination and provide all services associated with such processing in accordance with this Agreement, and shall be entitled to all Fees specified in the Agreement as if the Agreement were still in effect.

5. PRE-IMPLEMENTATION INTERSECTION ANALYSIS FOR NEW APPROACHES

Prior to implementing the Axisis™ System for a Relocated Dual Camera System (i.e., at an Approach other than those “Existing Dual Camera Systems” listed in Exhibit A, Schedule 1), ATS will provide the City with an analysis of each Approach being considered for a Dual Camera System. ATS will use the Axisis™ VIMS (Violation Incident Monitoring System), or other tool or means, to complete the analysis over a sixteen (16) to twenty-four (24) hour period. The City will be provided a report for each monitored approach, including the number of Events recorded and the time of day and lanes for which Events were captured.

The City and ATS agree that installation of a Dual Camera System at tested intersection Approaches where ten (10) or more Events per day were recorded would be viable, unless there are other circumstances that would cause the intersection or approach not to be viable. However, the decision whether to install a Dual Camera System at tested intersection Approaches shall be at the sole discretion of the City. Furthermore, ATS shall not be required to install a Dual Camera System at any tested intersection where fewer than ten (10) potential Violations per day were recorded.

6. ASSIGNMENT

Neither Party may assign all or any portion of this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed. However, for business financing purposes, ATS may sell, assign, transfer or convey any interest in this Agreement in whole or in part without the written consent of City.

7. FEES AND PAYMENT

As full compensation for ATS’s services provided under this Agreement, City shall pay ATS a sum not to exceed sixteen thousand one hundred and eighty-five dollars (\$16,185.00) per month (the “Maximum Compensation”), based on the rates set forth in the Approved Fee Schedule, attached hereto as Exhibit A, Schedule 1.

On or before the 10th day of each month, City shall pay all Fees due to ATS based upon invoices from the preceding month. Late payments are subject to interest calculated at 1.5% per month on open balances.

8. COMMUNICATION OF INFORMATION

ATS agrees that all information obtained by ATS through operation of the Axisis™ System shall be made available to the City upon City’s request during ATS’s normal working hours, excluding

trade secrets and other confidential or proprietary information not reasonably necessary for City's prosecution of Citations, compliance with the California Public Records Act or similar disclosure law(s) to the extent such law(s) may be applicable, or the fulfillment of City's obligations under this Agreement.

9. CONFIDENTIAL INFORMATION

No information given by ATS to City will be of a confidential nature, unless specifically designated in writing as proprietary and/or confidential by ATS; provided, however, that nothing in this Section 8 shall be construed contrary to the provisions of any "Open Records Act" or similar laws, insofar as they may be applicable. ATS shall not use any information acquired through the program with respect to Violations or City's law enforcement activities for any purpose other than administratively conducting the program without City's written consent.

10. OWNERSHIP OF DUAL CAMERA SYSTEMS

It is understood by the City that any Dual Camera Systems installed by ATS pursuant to this Agreement are and shall remain the sole property of ATS, unless separately procured from ATS. The Dual Camera Systems installed by ATS are provided to City only under the terms and conditions of this Agreement.

11. INDEMNIFICATION

ATS shall at all times comply with all federal, state and local laws, ordinances and regulations and shall comply with the maintenance procedures and manufacturer recommendations for operation of the Axis equipment which affect this Agreement and shall indemnify and hold harmless the City and its managers, officers, directors, employees, agents, representatives and successors (individually, a "City Party" and collectively, the "City Parties") against any claims arising from ATS's violation of any such laws, ordinances and regulations or any claims arising from ATS's violation of the maintenance procedures and manufacturer recommendations for operation of the equipment as a result of the gross negligence or willful misconduct of ATS, its officers and directors, agents, attorneys, and employees, except to the extent caused by the gross negligence or willful misconduct of any City Party.

12. INSURANCE

12.1 ATS shall maintain the following minimum scope and limits of insurance:

- a. Commercial General Liability Insurance including coverage for bodily injury, property damage, premises and operations, products/completed operations, personal and advertising injury, and contractual liability with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 general aggregate, and \$2,000,000 completed operations aggregate. Such insurance shall include the City, its

officers, directors, employees, and elected officials as additional insureds for liability arising from ATS's role in administratively conducting the program.

- b. Workers' Compensation as required by applicable state law, and Employers' Liability Insurance within limits of not less than \$1,000,000 each accident; ATS shall at all times maintain workers' compensation insurance coverage in the amounts required by law, but shall not be required to provide such coverage for any actual or statutory employee of City.
- c. Comprehensive Business Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by ATS with a minimum of \$1,000,000 per occurrence combined single limit bodily injury and property damage.

12.2 Acceptability of Insurers. The insurance policies required under this Section 12 shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self insurance shall not be considered to comply with the insurance requirements under this Section 12.

12.3 Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming the City, its officers, employees, agents and volunteers as additional insureds.

12.4 Evidence of Insurance. Certificates showing ATS is carrying the above described insurance, and evidencing the additional insured status specified above, shall be furnished to the City within thirty (30) calendar days after the date on which this Agreement is made. The limits set forth in this Section 12 may be achieved by evidencing a combination of primary and excess liability. Such certificates shall show that the City shall be notified of all cancellations of such insurance policies. ATS shall forthwith obtain substitute insurance in the event of a cancellation.

12.5 Vehicles. The City shall be responsible for vehicle insurance coverage on any vehicles driven by City employees. Coverage will include liability and collision damage.

12.6 Primary and Non-Contributing. The insurance policies required under this Section 12, other than Workers' Compensation, shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

12.7 Cancellations or Modifications to Coverage. ATS shall not cancel, reduce or otherwise modify the insurance policies required by this Section 12 during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail thirty (30) calendar days' prior written notice to City. If any insurance policy required under this Section 12 is canceled in coverage or limits, ATS shall, within two (2) business days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

12.8 City Remedy for Noncompliance. If ATS does not maintain the policies of insurance required under this Section 12 in full force and effect during the term of this Agreement, or in the

event any of ATS's policies do not comply with the requirements under this Section 12, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at ATS's expense, the premium thereon. ATS shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to ATS.

12.9 Indemnity Requirements not Limiting. Procurement of insurance by ATS shall not be construed as a limitation of ATS's liability or as full performance of ATS's duty to indemnify City under Section 11 of this Agreement.

12.10 Subcontractor Insurance Requirements. ATS shall require each of its subcontractors that perform services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section 12.

13. CORRESPONDENCE BETWEEN PARTIES

All notices required to be given under this Agreement shall be deemed given when mailed by first class mail, addressed to the proper Party at the address set forth on the first page of this Agreement.

14. STATE LAW TO APPLY

This Agreement shall be construed under and in accordance with the laws of the State of California.

15. DISPUTE RESOLUTION

- a. All disputes arising out of or in connection with this Agreement shall be attempted to be settled through good faith negotiation between senior management of both parties, followed if necessary within thirty (30) days by professionally-assisted mediation. Any mediator so designated must be acceptable to both Parties. The mediation will be conducted as specified by the mediator and agreed upon by the Parties. The Parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute. The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either Party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings. Each Party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the Parties.
- b. Failing resolution through negotiation or mediation, any remaining dispute shall be submitted to binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA Rules") before a single arbitrator. The place of arbitration will be County of Los Angeles, California. Limited discovery will be permitted in connection with the arbitration upon agreement of the Parties or upon a showing of the substantial need by the Party seeking discovery. The arbitrator's decision shall follow the plain and natural meaning of the relevant documents, and shall be final and binding. The arbitrator will have no power to award (i) damages inconsistent with this Agreement, or (ii) punitive damages or any other damages not measured by the prevailing Party's

actual damages, and the Parties expressly waive their right to obtain such damages in arbitration or in any other forum. All aspects of the arbitration will be confidential. Neither the Parties nor the arbitrator may disclose the existence, content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. Each Party will promptly pay its share of all arbitration fees and costs, provided that such fees and costs shall be recoverable by the prevailing Party as determined by the arbitrator. If a Party fails to pay such share promptly upon demand, the arbitrator shall, upon written request by the other Party, enter a final and binding decision against the nonpaying Party for the full amount of such share, together with an award of attorneys' fees and costs incurred by the other Party in obtaining such decision, which decision may be entered in any court of competent jurisdiction. Except for the failure of a Party to pay arbitration fees and costs that requires resort to the arbitrator to order such payment, the Parties will bear their own attorneys' fees in any matter or dispute under this Agreement.

16. ADDITIONAL SERVICES

Relocated Dual Camera Systems may be added to this Agreement by mutual consent of the Parties pursuant to Exhibit A, Schedule 3. Such modification shall be documented in writing as an addendum to this Agreement. Additional services and Additional Dual Camera Systems (i.e., Dual Camera Systems other than Existing Dual Camera Systems and Relocated Dual Camera Systems) may be added to this Agreement by mutual agreement of the Parties pursuant to pricing as agreed by the Parties and documented in writing as an addendum to this Agreement. All other terms and conditions shall remain the same.

17. LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

18. PRIOR AGREEMENT SUSPENDED

This Agreement constitutes the sole and only agreement of the Parties and supersedes any prior or contemporaneous understanding, whether written or oral, between the Parties respecting the written subject matter.

19. AMENDMENT

No amendments, modifications, or alterations of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date of this Agreement and duly executed by the Parties.

20. LIMITED AGENCY

ATS shall act as a limited agent of City solely for purposes of (i) access to DMV records; (ii) generating and administratively processing recorded images generated by the Axis™ System as described in this Agreement; and (iii) the Business Rules. Employees, contractors, agents and servants of ATS shall in no event be considered to be employees, agents (other than in the limited

capacity described herein), contractors or servants of City. This Agreement does not and shall not be interpreted as creating a general agency relationship between ATS and City.

21. FORCE MAJEURE

Neither Party will be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather. The Party whose performance is affected agrees to notify the other promptly of the existence and nature of any delay.

22. TAXES

In the event City's use of the System is deemed by any taxing agency to be a sale of the System, City shall be responsible for the payment of any excise, sales or other taxes due relating to such sale.

23. COUNTERPARTS

This Agreement 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 hereby represents and warrants that the representative(s) signing this Agreement on its behalf has all right and authority to bind and commit that Party to the terms and conditions of this Agreement.

24. NOTICES

Any notices or demand which under the terms of this Agreement or under any other statute must or may be given or made by ATS or City shall be in writing and shall be given or made by personal service, telegram, first class mail, FedEx, or by certified or registered mail to the Parties at the following address:

City of Covina
125 E. College Street
Covina, CA 91723
Attn: City Manager

American Traffic Solutions, Inc.
1150 N. Alma School Road
Mesa, AZ 85201
Attn: Legal Department

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date accepted by the City.

AMERICAN TRAFFIC SOLUTIONS, INC.

David Roberts, President & Chief Operating Officer

STATE OF ARIZONA)
)SS.
COUNTY OF MARICOPA)

On this _____ day of _____, 2017, David Roberts personally appeared before me, who being by me duly sworn did say that he is President & Chief Operating Officer for AMERICAN TRAFFIC SOLUTIONS, INC., a Kansas corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and acknowledged to me that said corporation executed the same.

NOTARY PUBLIC
My Commission Expires:

CITY OF COVINA

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Schedule 1

Approved Fee Schedule – Per Dual Camera System

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

Existing Dual Camera Systems	Monthly Unit Price
CV01: NB Azusa Ave @ Cypress Street	\$2,200.00
CV02: NB Barranca Ave @ Rowland Street	\$2,200.00
CV03: EB Rowland Street @ Barranca Ave	\$2,200.00
CV04: WB Rowland Street @ Barranca Ave	\$2,200.00
CV05: NB Grand Ave @ Badillo Street	\$2,200.00
CV06: SB Grand Ave @ Badillo Street	\$2,200.00
CV07: EB Badillo Street @ Grand Ave	\$2,200.00
Live Video 1	\$195.00
Live Video 2	\$295.00
Live Video 3	\$295.00
<u>TOTAL:</u>	\$16,185.00

Schedule 2

Equipment Modifications for Existing Dual Camera Systems

Existing Dual Camera Systems are currently in place at the intersections listed below. ATS shall make its best efforts to upgrade these Dual Camera Systems within three (3) months of execution of this Agreement. Subsequently, ATS will not upgrade, replace or install additional Dual Camera Systems without prior written approval from the City.

Execution of this Agreement shall serve as written Notice to Proceed by City for the upgrade of Dual Camera Systems designated as follows:

CV01: NB Azusa Ave @ Cypress Street

CV02: NB Barranca Ave @ Rowland Street

CV03: EB Rowland Street @ Barranca Ave

CV04: WB Rowland Street @ Barranca Ave

CV05: NB Grand Ave @ Badillo Street

CV06: SB Grand Ave @ Badillo Street

CV07: EB Badillo Street @ Grand Ave

Schedule 3

Relocated Dual Camera Systems

Subject to the results of Site Selection Analysis and upon mutual agreement by the City and ATS, Existing Dual Camera Systems as identified in Exhibit A, Schedule 1 may be relocated at additional intersections within six (6) months of the execution of this Agreement. City shall pay to ATS a monthly Service Fee of **\$4,250.00** for each such Relocated Dual Camera System.

Implementation and installation of a Dual Camera System is based on Site Selection Analysis, collision history, community safety, recommendations from City and engineering feasibility assessment. The proposed intersections for relocation will be designated by City, which designation will be based on Police Department review and an engineering analysis.

The following sites have been selected by the Covina PD and approved by ATS:

- Eastbound: East Covina Blvd & North Grand Ave (one left turn, one straight and one straight with shared right lane)
- Westbound: East Covina Blvd & North Grand Ave (one left turn, one straight and one straight with shared right lane)
- Southbound: South Azusa Ave/SR 39 & East Cypress Street (one left turn, one straight and one straight and shared right lane)

In the event that an Existing Dual Camera System is relocated pursuant to this Exhibit A, Schedule 3, the term of this Agreement with respect to the Relocated Dual Camera System shall automatically extend by the period during which the Existing Dual Camera System being relocated was not operational.

Exhibit A

ATS SCOPE OF WORK

1. AMERICAN TRAFFIC SOLUTIONS (ATS) SCOPE OF WORK

1.1 ATS IMPLEMENTATION

- 1.1.1 ATS agrees to provide a turnkey solution for Dual Camera Systems to the Customer wherein all reasonably necessary elements required to implement and operate the solution are the responsibility of ATS, except for those items identified in Section 2 titled "Customer Scope of Work". ATS and the Customer understand and agree that new or previously unforeseen requirements may, from time to time, be identified and that the parties shall negotiate in good faith to assign to the proper party the responsibility and cost for such items. In general, if work is to be performed by the Customer, unless otherwise specified, the Customer shall not charge ATS for the cost. All other in-scope work, external to the Customer, is the responsibility of ATS.
- 1.1.2 ATS agrees to make every effort to adhere to the Project Time Line outlined in Schedule 4.
- 1.1.3 ATS will assist the Customer with video evaluation of candidate sites using the Axis VIMS system.
- 1.1.4 ATS will install Dual Camera Systems at a number of approaches to be agreed upon between ATS and the Customer after completion of site analysis to be entered into Schedule 5. In addition to the initial locations, the parties may agree from time to time, by additional Work Order(s), to add to the quantities and locations where Dual Camera Systems are installed and maintained.
- 1.1.5 ATS will operate each Dual Camera System on a 24-hour basis, barring downtime for maintenance and normal servicing activities.
- 1.1.6 ATS agrees to commence the installation of the Systems within 14 days after all approvals and required permits have been approved (the date all permits are approved shall hereinafter be referred to as the "Approval Date"). The Approval Date shall be marked by the issuance of a signed letter from ATS to the Customer, stating that all permits have been approved.
- 1.1.7 ATS agrees to have all agreed-upon installation work completed and have the Systems fully operational according to the Project Schedule.
- 1.1.8 ATS agrees to provide necessary training for persons designated by the Customer and to assist the Customer with development of a public information and outreach campaign.
- 1.1.9 ATS agrees to provide a secure web site (www.violationinfo.com) accessible to citation recipients (defendants) by means of a Notice # and a PIN, which will allow violation image review and entry of affidavits attesting to the non-liability of the registered owner for the violation.

- 1.1.10 The Customer and ATS will complete the Project Business Process Work Flow design within 30 calendar days of contract signature; the parties to this agreement will use the drafts included on Schedules 2 and 3 as the basis for the final workflow design.
- 1.1.11 ATS normally shall provide technician site visits to each Dual Camera System once per month to perform preventive maintenance checks consisting of camera enclosure lens cleaning; camera, strobe and controller enclosure cleaning; inspection of exposed wires; and general system inspection and maintenance.
- 1.1.12 ATS shall repair a non-functional Dual Camera System within 72 business hours of determination of a malfunction.
- 1.1.13 ATS shall repair the Axis VPS system within 1 business day from the time of the outage. Outages of Customer internet connections or infrastructure are excluded from this service level.

1.2 ATS OPERATIONS

- 1.2.1 ATS shall provide the Customer with an optional one-time warning period up to 30 days in length commencing when the Dual Camera System begins operating.
- 1.2.2 As the party responsible for initial contact with the red light violator, ATS shall provide the Customer with an automated web-based citation processing system (Axis™ VPS) including image processing, color printing, and mailing of at least one Citation or Notice of Violation per chargeable event. Each citation shall be delivered by First Class mail to the registered owner within the statutory period. Subsequent mailings to drivers identified in affidavits of non-liability or by rental car companies are also included. For mail not delivered due to address problems, ATS will mail the citation again if the Customer provides it with better information.
- 1.2.3 ATS will maintain a Certificate of Mailing for notices issued, as provided by the USPS.
- 1.2.4 Subsequent notices may be delivered by First Class or other mail means for additional compensation to ATS as agreed by the parties.
- 1.2.5 ATS shall apply an electronic signature to the citation when authorized to do so by an approving law enforcement officer.
- 1.2.6 ATS shall obtain in-state vehicle registration information necessary to issue citations assuming that it is named as the Customer's agent. Under these circumstances, the State provides the registration data at no cost.
- 1.2.7 Where obtainable, ATS shall provide out-of-state vehicle registration necessary to issue citations for the Customer. The fee per record is indicated on Schedule 1.
- 1.2.8 On a daily basis (or as otherwise agreed), ATS shall transmit to the court computer system a text file containing all citation and Notice of Violation information issued, for uploading into the court computer system.
- 1.2.9 On a daily basis (or as otherwise agreed), ATS shall receive an automatic update from the court computer system containing the status of automated enforcement system citations based on the latest disposition information,

indicating payments received or cases otherwise closed, dismissed, resolved, or sent to collections.

- 1.2.10 The Axis™ VPS system, which provides the Customer with ability to run and print a reports, shall include the following:
- Program Statistics Report
 - Location Performance Summary Report
 - Location Performance Detail Report
 - Violation Reject Report
 - Document Aging Report
- 1.2.11 If required by the court or prosecutor, ATS shall provide the Customer with, or train a local expert witness able to testify in Court on matters relating to the accuracy, technical operations, and effectiveness of the Axis™ System until judicial notice is taken.
- 1.2.12 In those instances where damage to a Dual Camera System or sensors is caused by negligence on the part of the Customer or its authorized agent(s), ATS will provide an estimate of the cost of repair. Upon authorization to proceed with the repairs or replacement, ATS shall replace or repair any damaged equipment and invoice for the pre-approved repair cost. ATS shall bear the cost to replace or repair equipment damaged in all other circumstances.
- 1.2.13 ATS shall provide a help line to help the Customer resolve any problems encountered regarding its Red Light Dual Camera System and/or citation processing. The help line shall function during normal business hours.
- 1.2.14 As part of its turnkey system, ATS shall provide violators with the ability to view violations online. This online viewing system shall include a link to the Customer's payment website(s) and may offer the opportunity to complete an affidavit of non-liability online. Online affidavits, if approved by the court, shall be directed to and processed by ATS/Axis and communicated to the Court via the Axis VPS transfer described above.

2. CUSTOMER SCOPE OF WORK

2.1 GENERAL IMPLEMENTATION REQUIREMENTS

- 2.1.1 Within 7 business days of contract execution, the Customer shall provide ATS with the name and contact information for a project manager with authority to coordinate Customer responsibilities under the Agreement.
- 2.1.2 Within 7 business days of contract execution, the Customer shall provide ATS with the name and contact information for a Court manager responsible for oversight of all Court-related program requirements.]
- 2.1.3 The Customer shall make every effort to adhere to the Project Time Line outlined in Schedule 4.
- 2.1.4 The Customer will develop uniform guidelines for screening and issuing violations and for processing and storage of confidential information in

accordance with California Vehicle Code section 21455.5(c)(1) and shall process each Citation according to such guidelines.

- 2.1.5 The Customer shall provide a letter to the State Department of Motor Vehicles on behalf of ATS indicating that ATS is acting as an Agent of the Customer for the purposes of accessing vehicle ownership data pursuant to the list of permissible uses delineated in the Drivers Privacy Protection Act 18 U.S.C. § 2721, Section (b) (1) and as may otherwise be provided or required by any provision of applicable state law. ATS shall provide the Customer with draft content for its letter.
- 2.1.6 The Customer and ATS shall complete the Project Business Process Work Flow design within 30 calendar days of contract signature, using the drafts included on Schedules 2 and 3 as the basis for the final workflow design.

2.2 STREETS AND TRAFFIC DEPARTMENT OPERATIONS

- 2.2.1 If the Customer chooses to move a Dual Camera System to a new approach after initial installation, it shall pay the costs to relocate the System.
- 2.2.2 Customer will design, fabricate, install and maintain automated enforcement system warning signs.
- 2.2.3 The Customer shall provide access to traffic signal phase connections according to approved design.
- 2.2.4 The Customer shall allow ATS to use existing power, street furniture, poles, and available conduit for the purposes of installing and operating its Dual Camera Systems, according to approved design. The costs of any additional conduit needed to support installation of the Stationary Camera shall be covered by ATS and shall be split equally by the Customer and ATS to be funded from collected revenue.
- 2.2.5 The Customer shall not require ATS to provide installation drawings stamped by a licensed civil engineer prior to installation of a Dual Camera System. However, prior to permit issuance, ATS shall provide, at its expense, product specifications, structural calculations, plans, drawings and other data required by the Customer, which materials shall conform to professional norms and reflect the details of installation work to be completed.
- 2.2.6 The Customer shall approve or reject ATS submitted plans within 7 business days of receipt.
- 2.2.7 The Customer shall not charge ATS or its subcontractor for building, constructions, street use and/or pole attachment permits.

2.3 POLICE DEPARTMENT OPERATIONS

- 2.3.1 The Police Department shall process each potential violation in accordance with State Laws and/or City Ordinances within 3 business days of its appearance in the Police Review Queue, using Axis™ to determine which violations will be issued as Citations or Notices of Violation.
- 2.3.2 Police Department workstation computer monitors for citation review and approval should provide a resolution of 1280 x 1024.

2.3.3 For optimal data throughput, Police Department workstations should be connected to a high-speed internet connection with bandwidth of T-1 or greater.

2.3.4 Police Department shall provide signatures of all authorized police users who will review events and approve citations on forms provided by ATS.

2.4 COURT OPERATIONS

2.4.1 The Los Angeles County Superior Court ("L.A. County Court") shall receive electronic text files of citation information and load the citation information into its Citation database. The L.A. County Court now charges a fee for automated enforcement system program integration. The costs to develop the interface between the L.A. County Court system will be covered by ATS and will be reimbursed to ATS from collected revenues from the Program, once available. The amount of reimbursement to ATS shall not exceed \$5,000.

2.4.2 L.A. County Court shall provide citation fine collection services for all final dispositions, collections, registration suspensions, or other legal and customary means necessary to compel payment of outstanding citations.

2.4.3 L.A. County Court shall provide a judge or hearing officer and court facilities to schedule and hear disputed citations.

2.4.4 On a daily basis (or as otherwise agreed), L.A. County Court shall transmit an electronic file to ATS Axis™ with daily updates of all citation disposition or transaction information indicating payments received or cases otherwise closed, dismissed or resolved.

2.4.5 L.A. County Court shall handle inbound and outbound phone calls and correspondence from defendants who have questions about payments, disputes, and other issues relating to citation adjudication. L.A. County Court may refer citizens with questions regarding ATS or Axis technology and processes to websites and/or toll-free telephone numbers provided by ATS for that purpose.

2.5 INFORMATION TECHNOLOGY DEPARTMENT OPERATIONS

2.5.1 In the event that remote access to the ATS Axis VPS System is blocked by Customer network security infrastructure, the Customer's Department of Information Technology shall coordinate with ATS to facilitate appropriate communications while maintaining required security measures.

2.5.2 If Customer-owned telecommunications lines or WiFi networks are present at or near the site, and if feasible to share such existing bandwidth, ATS shall be allowed to use such infrastructure for data transmission. ATS shall work with the City's IT department to ensure City security protocols are maintained.