



**FIRST AMENDMENT
TO
TRAFFIC SIGNAL VIOLATION VIDEO-ENFORCEMENT SYSTEM LEASE AND SERVICES
AGREEMENT**

June 1, 2010

This First Amendment is dated effective this first day of June, 2010 (the "First Amendment") and is entered into 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 7681 E. Gray Road, Scottsdale, Arizona 85260, and the City of Murrieta (herein "City"), a municipal corporation of the State of California with principal offices at Town Square, 24601 Jefferson Ave, Murrieta, CA 92562 (collectively the "Parties").

WITNESSETH:

WHEREAS, on October 18, 2005 the City entered into a Contract for Traffic Signal Violation Video-Enforcement System Lease and Services Agreement with Nestor Traffic Systems, Inc. (herein "Nestor") as acquired by and assigned to ATS (the "Agreement") to provide Automated Traffic Enforcement Systems;

WHEREAS, the Parties wish to amend the Agreement with additional terms and conditions:

WHEREAS, ATS has the exclusive knowledge, possession and ownership of certain equipment, licenses, and processes, referred to collectively as the "Axisis"™ System" (herein "Axisis"), and

WHEREAS, Customer desires to use the Axisis™ System to monitor and enforce red light violations, and may in the future desire to monitor and enforce traffic speed or other traffic movements and to issue citations for traffic violations.

NOW THEREFORE, the Parties agree to amend the Agreement as follows:

1. Delete Sections 2 & 3 in their entirety and add the following:

TERM AND TERMINATION:

- a. This contract shall be effective on the signature date above.
- b. The term of this Amendment shall be for three (3) years beginning on the date of first issued and payable notice of a violation from the last installed Camera System (the "Start Date") and may be automatically extended for two additional three (3) year periods. However, Customer may terminate this Agreement at the expiration of any term by providing written notice of its intent not to extend the Agreement 120 days prior to the expiration of the current term.
- c. The Contractor'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 therefore, and the other party fails to cure the default within forty-five (45) days after receiving notice.

- iii) For convenience, by either party in the event that state legislation, a decision by a court of competent jurisdiction, or other change in state law or circumstances materially interferes with the terms of this Agreement or the ability of a party to perform its obligations under the terms of this Agreement. In any termination for convenience, ATS shall retain an amount of revenue collected from the program sufficient to cover ATS's costs in excess of fees paid to date.
- d. Upon termination of this Agreement, either for breach or because it has reached the end of its term, the parties recognize that the Customer will have to process traffic law violations in the "pipeline," and that ATS accordingly must assist the Customer 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 Customer shall cease using the Axisis™ System, shall return or allow ATS to recover all provided equipment within a reasonable time not to exceed 60 days, and shall not generate further images to be processed. Unless directed by the Customer not to do so, ATS shall continue to process all images taken by the Customer before termination and provide all services associated with 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.

2. Add the following:

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 the purposes of ATS business financing purposes, ATS may sell, assign, transfer or convey any interest in this contract in whole or in part without the written consent of the Customer.

3. Delete sections 4.1 & 4.3 and add the following:

FEES AND PAYMENT:

Customer shall pay for all equipment, services and maintenance based on the fee schedule indicated in Exhibit A, Schedule 1, ("Fees").

The Customer shall pay all fees due ATS based upon invoices on a quarterly basis within 30 days of submission. Late payments are subject to interest calculated at 1.5% per month on open balances.

Flexible Payment Plan

During the term of the contract, payments by the Customer may be made to ATS under a Flexible Payment Plan. Under the Flexible Payment Plan, the Customer may defer certain payments to ATS until the Customer has collected sufficient funds pursuant to the terms of the contract. If, at the end of the term of the contract, sufficient funds have not been collected by the Customer to pay the balance then due to ATS, ATS agrees to waive its right to recovery of any outstanding balance. For purposes of this clause, the term "funds" means the revenue retained by the Customer according to the distribution methods applicable under this contract and California law.

This clause will be applied as follows:

ATS will maintain an accounting of any net balances owed to ATS. If the amount collected during a billing period exceeds the amount of ATS invoices during the same period, the Customer shall pay ATS the total amount due. If the amount collected during a billing period is less than the amount of ATS invoices during the same period, the Customer shall pay ATS the amount collected, and may defer payment of the remaining balance. Payments due to ATS shall be reconciled by applying future funds collected, first to the accrued balance, and then to the invoice for the current billing period. At any time that ATS invoices, including any accrued balance, are fully repaid, the Customer will retain all additional funds collected during that billing period. Such additional funds (whether reserved in cash or not by the Customer) will be available to offset future ATS invoices.

4. Add the following:

COMMUNICATION OF INFORMATION:

ATS agrees that all information obtained by ATS through operation of the Axis System shall be made available to the Customer at any time during ATS's normal working hours, excluding trade secrets and other confidential or proprietary information not reasonably necessary for the prosecution of citations or the fulfillment of Customer's obligation under this Agreement.

5. Add the following:

INTERSECTION ANALYSIS & CAMERA SITES:

a. **An Intersection and violation rate analysis** has been performed on the existing sites and potential new sites. This data, along with current performance results that the following existing sites should be removed:

- WB Murrieta Hot Springs @ Margarita
- WB Clinton Keith @ Nutmeg

And that the following sites be converted to the new ATS technology:

- EB and WB Murrieta Hot Springs @ Whitewood

And the following Caltrans site be installed:

- I-215 SB off ramp @ Murrieta Hot Springs Rd
- EB Murrieta Hot Springs Road @ I-15 NB Off Ramp
- NB Madison Avenue @ Murrieta Hot Springs Road

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

Monthly Service Fee per Intersection Approach

Cost Element	Monthly fee
Axis RLC-300 Red Light Camera System monitoring front and rear images up to 4 lanes, Axis LIVE digital video system for monitoring 1 direction of travel, data entry, In State registered owner acquisition, final quality control review, access to web-based Axis VPS for Police Review, 1 st notice printing in color, postage and mailing, electronic notice file transmission to court system, evidence packages for scheduled hearings.	
Monthly Service Fee per camera system installation:	
Existing sites converted to ATS technology and systems	\$4,850
New ATS site installations.....	\$5,395

6. All other terms and conditions of the Agreement not modified by this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the effective date first hereinabove written.

AMERICAN TRAFFIC SOLUTIONS, INC.



Adam E. Tuton, Executive Vice President

CITY OF MURRIETTA

Mayor

ATTEST:

City Clerk