

**FIRST AMENDMENT
TO PROFESSIONAL SERVICES AGREEMENT**

This First Amendment ("First Amendment") is entered into between American Traffic Solutions, Inc. ("ATS"), a corporation duly registered under the laws of the State of Kansas with its principal place of business at 1330 West Southern Avenue, Tempe, Arizona 85282 and the City of Capitola ("City"), a municipal corporation of the State of California with principal offices at 420 Capitola Avenue, Capitola, California 95010.

RECITALS

WHEREAS, on December 7, 2007, the City and ATS entered into a Professional Services Agreement for the City's use of the Axis™ System to enforce traffic violations (the "Agreement"); and

WHEREAS, the current term of the Agreement will expire on December 6, 2012; and

WHEREAS, Section 17 of the Agreement requires any amendments, modifications, or alterations of the Agreement to be in writing and duly executed by the parties; and

WHEREAS, the City and ATS mutually desire to amend, modify or alter certain terms and conditions of the Agreement.

TERMS AND CONDITIONS

NOW THEREFORE, in consideration of the mutual covenants and promises contained in this First Amendment, the City and ATS do hereby agree as set forth below:

1. The above recitals are true and correct and are incorporated herein.
2. Subsection 4.a. is hereby deleted in its entirety and replaced with the following:
 - a. The term of this Agreement shall be extended by five (5) years, expiring on December 6, 2017, and shall automatically be extended for an additional two (2) year period, unless either party notifies the other party in writing, at least sixty (60) days prior to expiration of the then-current term, of its intention to terminate this Agreement.

The Contractor's services may be terminated:

- (i) By mutual consent of the parties; or
- (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 provides written notification to 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.

3. Section 5 is hereby deleted in its entirety and replaced with the following:

City shall pay for all equipment, services and maintenance based on the pricing indicated in Exhibit C, ("Fees").

The City shall pay all fees due ATS based upon invoices received from ATS, which will be reconciled by Police Department staff, working with ATS accounting staff and verified by the City's Finance Department. Staff will utilize Santa Cruz County Red Light Photo Enforcement Fine Collection data and distribution reports provided to the city by the county for each billing period.

Flexible Payment Plan. During the term of the Agreement, payments by the Customer may be made to ATS under a Flexible Payment Plan if the total funds collected by the Program are insufficient to cover the Fees due ATS. Under the Flexible Payment Plan, the Customer may defer certain payments due and owing to ATS during the term of the Agreement. If at the end of the term sufficient funds have not been collected by the Customer to pay the accrued balance then due to ATS, ATS agrees to waive its right to recovery with respect to any balance owing to ATS at the end of that term.

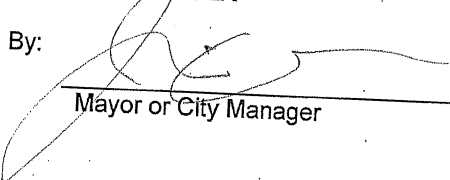
This Flexible Payment Plan will be applied as follows: ATS will maintain an accounting of any net balances owed ATS each month during the term. If the total amount of funds collected from all Camera Systems combined during a month exceeds the amount of the ATS invoice for the same month, the Customer shall pay ATS the total amount due on the invoice. If the total amount of funds collected from all Camera Systems combined during a month is less than the amount of the ATS invoice for the same month, the Customer shall pay ATS only the amount collected during the same month and Customer may defer payment of the remaining balance. If opting to use a Flexible Payment Plan, Customer will provide ATS with sufficient information about payments received directly by the Customer or by the Courts to accurately determine the amount of funds collected. Payments due ATS shall be reconciled by applying funds collected in subsequent months, first to the accrued balance and then to the subsequent monthly invoice. If at any time the ATS invoices, including any accrued balance, are fully repaid, the Customer will retain all additional funds collected. Such additional funds (whether reserved in cash or not by the Customer) will be available to offset future ATS invoices during the term of the Agreement. Customer agrees and understands the Flexible Payment Plan shall be applied in the aggregate across all installed Camera Systems and will not be applied on a per camera basis or on a per month basis.

Example: Fee of \$4,750 per Camera System per month and four (4) cameras installed. If during Month 1 camera #1 revenue is \$5,000, camera #2 revenue is \$3,500, camera #3 revenue is \$6,000 and camera #4 revenue is \$3,500, the total revenue from the cameras for the month is \$18,000. ATS would invoice Customer for \$19,000 (\$4,750 x 4 Camera Systems). However, Customer would only be required to pay \$18,000 in Month 1 and the \$1,000 deficit would carry over to subsequent months. If in Month 2 the combined revenue from the 4 cameras was \$28,000, ATS would invoice the Customer \$20,000 (i.e., the \$1,000 deficit from the prior month plus the \$19,000 monthly fee for the 4 Camera Systems). The Customer is not responsible for any deficit balance fee at the end of the term of the Agreement.

4. Except as expressly amended or modified by the terms of this Amendment, all terms of the Agreement shall remain in full force and effect. In the event of a conflict between the terms of this Amendment and the Agreement, the terms of this Amendment shall prevail and control.
5. The provisions of the Agreement, as amended by this Amendment, including the recitals, comprise all of the terms, conditions, agreements, and representations of the parties with respect to the subject matter hereof.
6. 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.
7. 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 WHEREOF, the parties hereto have executed this First Amendment, effective on the date of execution by the last signatory below.

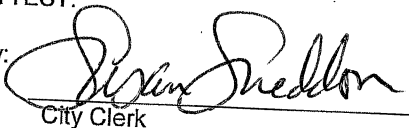
CITY OF CAPITOLA

By: 

Mayor or City Manager

5/10/12
Date

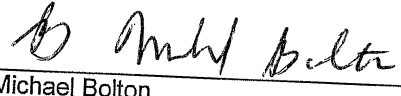
ATTEST:

By: 

City Clerk

5-21-12
Date

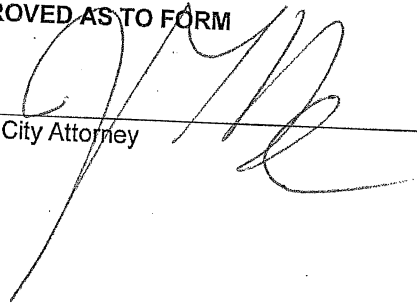
AMERICAN TRAFFIC SOLUTIONS, INC.

By: 

Michael Bolton,
Chief Operating Officer

5/14/12
Date

APPROVED AS TO FORM

By: 

City Attorney

5-10-12
Date