

PROFESSIONAL SERVICES AGREEMENT
"AGREEMENT"

THIS AGREEMENT made this 6th day of May, 2011 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, County of Maricopa, State of Arizona, and the City of Bellingham WA, herein "Customer", a municipal corporation of the State of Washington with principal offices at 210 Lottie St. Bellingham, WA 98225.

WHEREAS, The City of Bellingham desires to implement and operate a turnkey traffic safety camera system pursuant to Washington State Law RCW 46.63.170; and

WHEREAS, the City of Bellingham wishes to obtain the services of a contractor that has photo enforcement implementation and operations experience: and

WHEREAS, the City of Seattle awarded a contract to American Traffic Solutions, Inc. for the provision implementation and operation of a traffic safety camera system; and

WHEREAS, pursuant to the Interlocal agreement with the City of Seattle, the City of Bellingham wishes to contract directly with the American Traffic Solutions, Inc on terms similar to the terms of the agreement between the City of Seattle and American Traffic Solutions, Inc.; and

WHEREAS, The City of Bellingham Police Department has evaluated other potential providers of turnkey traffic safety camera systems through the results of the City of Seattle's competitive negotiation process which involved evaluation and selection of responses to its Request for Proposal; and

WHEREAS, The City of Bellingham finds that the American Traffic Safety Solutions, Inc. is the most qualified company to perform the necessary services and provide the necessary equipment on terms most advantageous

NOW THEREFORE, the parties herein do mutually agree as follows:

1. DEFINITIONS:

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

"Approach" is defined as one direction of travel of one or more lanes on a road or a traffic intersection up to four (4) contiguous lanes controlled by up to two (2) signal phases.

"Camera System" means a photo-traffic monitoring device consisting of one (1) rear camera, strobe, and traffic monitoring device capable of accurately detecting a traffic infraction on up to four contiguous lanes controlled by up to two (2) signal phases and which records such data with one or more images of such vehicle. "Camera System" shall also, where the sense requires, include any enclosure or cabinet and related appurtenances in which the Axis™ is stationed.

"Citation" means a citation or notice of violation or equivalent instrument issued by a competent state or municipal law enforcement agent or agency or by a court of competent jurisdiction relating to a violation documented or evidenced by Axis™.

"Owner" means the owner(s) of a motor vehicle as shown by the motor vehicle registration records of the motor vehicle department or the analogous agency of another state or country.

"Paid Citation" means a situation where the person cited has entered a plea of guilty and paid any portion of the fine and applicable court costs associated with the particular citation.

"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.

"Recorded Image" means an image digitally recorded by a Camera System.

"Axis System" means the Axis Violation Processing System which is a hosted application owned, maintained and managed by ATS from its facilities.

"Traffic Control Signal" means a traffic control device that displays alternating red, yellow and green lights intended to direct traffic when to stop at or proceed through and intersection.

"VIMS Analysis" is a statistical assessment of violations rates at suspected problem intersections and approaches to determine the need for a red light system.

"Violation" means failure to obey an applicable traffic law or regulations, including, without limitation, failure to obey a traffic signal, operating a motor vehicle in excess of the posted speed limit.

2. ATS IMPLEMENTATION

- 2.1** ATS agrees to provide a turnkey solution for Red Light Stationary Camera Systems to the City of Bellingham (herein after the "City" or COB) where in all reasonably necessary elements required to implement and operate the system are the responsibility of ATS, except for those items identified in Section 5 titled "City Scope of Work". ATS and the City 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 City, unless otherwise specified, City shall not charge ATS for the cost. All other in scope work, external to the City, is the responsibility of ATS.
- 2.2** ATS agrees to make every effort to adhere to the Project Time Line outlined in Schedule 3.
- 2.3** ATS agrees to provide the City with AxsiC RLC-300 Red Light Stationary Camera Systems.
- 2.4** ATS will assist the City with video evaluation of candidate sites using the Axis VIMS system.
- 2.5** ATS will install Camera Systems at a number of approaches, to be agreed upon between ATS and the City after completion of site analysis. In addition to the initial locations, after completion of the one year pilot program, the parties may agree from time to time, by additional work order(s) to add to the quantities and locations where Camera Systems are installed and maintained.
- 2.6** No ATS technician shall enter a traffic signal cabinet without the presence of a City Transportation and/or Communications Technician.
- 2.7** ATS will operate each Camera System on a 24 hour basis, barring downtime for maintenance and normal servicing activities.

- 2.8 ATS agrees to commence the installation of the System identified in Schedule 2 – Initial Work Order, 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 City, stating that permits from a particular site or set of sites have been approved.
- 2.9 ATS agrees to have all agreed-upon installation work completed and have the System fully operational according to the Project Time Line mutually agreed to by the parties.
- 2.10 ATS agrees to provide necessary training for persons designated by the City and to assist the City with development of public information and outreach campaigns.
- 2.11 ATS agrees to provide a secure web site (www.violationinfo.com), (hereinafter referred to as "violation information website"), accessible to citation recipients by means of a Notice # and a PIN, which will allow a violation image review and entry of affidavits of non-liability of the registered owner for the violation.
- 2.12 The City and ATS will complete the Project Business Process Work Flow design within 30 calendar days of contract signature. It is assumed that the business needs and requirements have already been established, including all fees, and all requirements for accessing the system for administration purposes.
- 2.13 ATS normally shall provide technician site visits to each Stationary 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 wire; and general system inspection and maintenance.
- 2.14 ATS shall repair a non-functional Stationary Camera System within 72 hours of determination of a malfunction.
- 2.15 ATS shall repair the Axis™ VPS system within one business day from the time of the outage. Outages of City internet connections or infrastructure are excluded from this service level.

3. ATS OPERATIONS

- 3.1 ATS shall provide the city with an optional one-time warning period up to 30 days in length and at the outset of the program.
- 3.2 As the party responsible for initial contact with the red light violator, ATS shall provide the City with an automated web-based citation processing system (Axis™VPS) including image processing, color printing, and mailing of at least one citation for Notice of Violation per chargeable event. Each citation and Notice of Violation 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 of Notice of Violation again if the City provides it with better information.
- 3.3 ATS shall apply an electronic signature to the citation when authorized to do so by an approving law enforcement officer.
- 3.4 ATS shall obtain in-state vehicle registration information necessary to issue citations assuming that it is named as the City's agent.

- 3.5 Where obtainable, ATS shall provide out of state vehicle registration necessary to issue citations at no cost to the City.
- 3.6 ATS will designate rental car companies as registered owners. Notice of Violation (not citations) shall initially be issued to rental car companies. ATS will receive and review responses and documentation from rental car companies and will enter new driver information into Axis or otherwise designate that the rental car company or other party previously identified as the responsible party is not the responsible party. Citations may be issued to a rental car company if the rental car company does not provide information required by RCW 46.63.170 or to designated drivers if the rental car company identifies the driver.
- 3.7 Should the City request daily file transmittals on a daily basis (or as otherwise agreed), ATS shall transmit to the City of Bellingham Municipal Court (Court) a text file containing all citation and Notice of Violation information issued, for uploading into the Court computer system.
- 3.8 On a daily basis (or as otherwise agreed), ATS shall receive from the Court the status of citations based on the latest disposition following a contested hearing, indicating cases closed, Dismissed or otherwise resolved.
- 3.9 The Axis™ VPS system, which provides the City with ability to run and print a report (no cost), shall include the following:
- Program Statistics Report
 - Location Performance Summary Report
 - Location Performance Detail Report
 - Violation Reject Report
 - Document Aging Report
- 3.10 ATS shall provide the City with, or train a local expert witness able to testify in Court on Mailers relating to the accuracy, technical operations, and effectiveness of the Axis System. The expert witness' time testifying in court, traveling to and from court, and preparing for testimony will not be charged to the City as an additional cost on top of the Service Fee Schedule (Schedule 1). As used in this subsection, "local expert witness" is not necessarily to be construed as meaning a Bellingham Police Officer. The City may at its discretion call Bellingham Police officers to testify at contested hearings on citations consistent with their experience and training on the Axis System. Otherwise, expert witness requirements for Court hearings will be provided by ATS consistent with this subsection. However, it is not contemplated that every hearing will need an expert witness as the violation notices are prima facie evidence. In those instances where damage to a Camera System or sensors is caused by negligence on the part of the City 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 the City for the pre-approved repair cost. ATS shall bear the cost to replace or repair equipment damaged in all other circumstances.
- 3.11 ATS shall provide a website and help line to help the City resolve any problems encountered regarding its Red Light Camera System and/or citation processing. The help line shall function during normal business hours.
- 3.12 As part of its turnkey system, ATS shall provide the violator with the ability to view the violation on the violation information website. This online viewing system shall include a link for online payment as described in subsection 4.4 and an opportunity to download an

affidavit of non-liability. Online affidavits of non-liability shall be directed to and processed by ATS.

- 3.13 ATS shall provide data collection support to the Transportation and Communications section of the City Public Works Department. Such data collection support is to include access to any automated traffic volume count data and all other data collected by the system and shall be at no cost to the City.

4. COURT SERVICES

The following services are provided for in this contract. Fees for these services are identified on Schedule 1 - Service Fee Schedule.

- 4.1 Issuance of second notice upon expiration of unpaid first citation. ATS shall issue a second citation notice including a payment coupon and return payment envelope within 5 days of determination that no payment on a first citation was received. The second notice shall be due within 14 days of issuance and shall contain language advising the violator that collections action will ensue immediately unless payment is received.
- 4.2 Affidavit/Transfer of Liability Processing. ATS shall process all inbound affidavits of non-liability and transfer of liability forms, rental car driver identification forms and new or change of address items and reissue a new citation to the identified party.
- 4.3 Lockbox payment processing services. ATS shall operate a lockbox payment processing service for the program and shall process all checks, money orders and cashier's checks on behalf of the City.
- 4.4 City will establish a public demand deposit account bearing the title, "City of Bellingham" at US Bank. All funds collected on behalf of the City will be deposited in this account and transferred by ACH transfer or wire the first business day of each week to the City's primary deposit bank, US Bank. All banking fees, except chargeback/NSF fees, associated with this account will be paid by ATS. The City will identify the account to receive funds transferred from ATS. Reconciliation reports identifying each paid citation and summary information will be available from the system.
- 4.5 Electronic online payments. ATS shall operate an electronic payment portal for the purposes of accepting debit card, electronic check (ACH) and Visa and MasterCard credit card payments over the internet. Funds collected through this portal will be deposited in the City's public deposit account at US Bank. The fees for these transactions are paid by the user through the application of a convenience fee. ATS represents and warrants that for the life of the contract, the software and services used for processing **photo enforcement citation** transactions shall be compliant with standards established by the PCI Security Standards Council (<https://www.pcisecuritystandards.org/index.shtml>). ATS shall defend and indemnify the City Pursuant to paragraph 14 of this Agreement for claims, as defined in paragraph 14, arising out of or relating to any loss of City customer credit card information managed, retained or maintained by ATS, including but not limited to fraudulent or unapproved use of such credit card or identity information.
- 4.6 Collections services. Upon expiration of the first citation, or, if applicable, upon expiration of the second citation notice, ATS will provide citation fine collection services and shall be compensated for said collection services as described in Schedule 1.
- 4.7 ATS will handle inbound and outbound phone calls and correspondence from defendants who have questions about issues relating to Notices of Violation, citation issuance,

citation processing, payments, and Axis™ technology processes via websites and/or toll-free telephone numbers provided by ATS for that purpose.

- 4.8 ATS will retain infraction notice related records in accordance with the RCW and City requirements for retention and destruction. Prior to execution of the agreement, ATS will provide the City with its data storage, backup, and disaster recovery plans for City data.

5. CITY SCOPE OF WORK

5.1 General Implementation Requirements.

- 5.1.1 Within 7 business days of contract execution, the City shall provide ATS with the name and contact information for a project manager with authority to coordinate City responsibilities under the Agreement.
- 5.1.2 Within 7 business days of contract execution, the city shall provide ATS with the name and contact information for a Court manager responsible for oversight of all Court related program requirements.
- 5.1.3 The City shall make every effort to adhere to the Project Time Line mutually agreed to by the parties.
- 5.1.4 The City shall direct the Chief of Police or approved alternate to execute the ATS DMV Subscriber Services Agreement (Schedule 2) to provide verification to the Washington State Department of Licensing, National Law Enforcement Telecommunications System, or appropriate authority 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 USC§.
- 5.1.5 The City and ATS shall complete the Project Business Process Work Flow design within 30 calendar days of contract signature, using the outlines in Schedules 1 through 3 as the basis for the final work flow design.

5.2 PUBLIC WORKS OPERATIONS - TRANSPORTATION AND COMMUNICATION

- 5.2.1 The City will design, fabricate, install and maintain red light camera warning signs.
- 5.2.2 The City shall provide access to traffic signal phase connections according to approved design. Only City Traffic Signal Technicians will perform wiring connections within the traffic signal cabinet to accomplish the red light camera installation.
- 5.2.3 The City may allow ATS to use existing street furniture, poles, and available conduit for the purposes of installing and operating its Camera Systems, according to approved design. A City Traffic and/or Communications Technician must be present during installation for the Camera Systems using existing street furniture, poles and conduit at the intersections.
- 5.2.4 The City shall not require ATS to provide installation drawings stamped by a licensed civil engineer. However, ATS work product and drawings shall conform to professional norms and reflect the details of installation work to be completed.

5.2.5 The City shall approve or reject ATS's submitted plans within 7-10 business days of receipt. If after 10 business days, or good faith effort, the City has not rejected ATS's plans, they will be deemed acceptable.

5.2.6 The City shall process street use and pole attachment permit requests prepared by ATS in accordance with its established criteria.

5.3 POLICE DEPARTMENT OPERATIONS

5.3.1 The City of Bellingham Police Department (BPD) shall process each potential violation in accordance with Washington State Laws and City Ordinances. Processing of a potential violation will normally occur within 3 business days of its appearance in the Police Review Queue, using Axis™ to view images online and determine which violations will be issued as citations or Notices of Violation.

5.3.2 BPD workstation computer monitors for violation review and approval should provide resolution of 1280 x 1024.

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

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

5.4 JUDICIAL SERVICES (JS)

5.4.1 The City shall provide a judge or hearing officer and Municipal Court facilities to schedule and hear disputed citations.

5.4.2 On a daily basis (or as otherwise agreed), The City shall enter into the ATS Axis™ system the status of citations based on the latest disposition following a contested hearing, indicating cases closed, dismissed or otherwise resolved.

5.4.3 The City shall provide the specific text required to be placed on citations and Notices of Violation to be issued by ATS within 30 calendar days of contract signature. The Washington Administrative Office of the Courts (AQO) must approve the citation text. JS shall make reasonable efforts to expedite the approval process but cannot guarantee that AOC will communicate approval within 30 days of contract signature.

5.4.4 The City shall provide at least one City standard PC and will provide secured access to the violation information website to be used by defendants to view their violations online. The PC will have standard City security/AV software installed. The location of the PC shall be determined by the City.

5.4.5 JS will handle inbound and outbound phone calls and correspondence from defendants who have questions about hearings and issues relating to in-court adjudication.

5.5 INFORMATION TECHNOLOGY SERVICES (IT)

5.5.1 In the event that remote access to the ATS Axis™ VPS System is blocked by City network security infrastructure, IT shall coordinate with ATS to facilitate appropriate communications while maintaining required security measures.

5.6 ACCEPTANCE UPON COMPLETION OF INSTALLATION AND TESTING

- 5.6.1 Upon completion of all installation, ATS shall perform an end to end test for each of the contracted approaches.
- 5.6.2 Upon completion of installation and testing of all contracted approaches. ATS shall notify the City that the system is ready for acceptance.
- 5.6.3 City shall conduct an acceptance test in accordance with specifications mutually agreed upon by the parties.
- 5.6.4 Upon successful completion of the acceptance test, the City shall issue certificate of acceptance.

5.7 PAYMENT SCHEDULE

- 5.7.1 Upon certification of acceptance and consistent with Section 11 (Request for Payment), the City shall commence monthly payments.

6. ENGAGEMENT OF ATS/CONTRACTOR

- 6.1 Except for items specifically described as City responsibility under Section 5 (City Scope of Work) ATS shall furnish all services, labor, materials, documentation, equipment, and software to install and test the Camera System, and to provide the specified training warranties and maintenance for the System.
- 6.2 The Contractor shall perform all work described in Sections 2, 3, and 4 (Work) in a competent and professional manner consistent with the terms and conditions of the Agreement and with all applicable laws, ordinances, and regulations.
- 6.3 The City may revise the scope of work and the compensation only by a written Change Order signed by the Mayor or his designee, which shall become incorporated into this Agreement.

7. COMMENCEMENT OF PERFORMANCE OF WORK

- 7.1 Work shall commence when the City issues a notice to proceed and it shall be completed no later than 90 days after the receipt of the last installation permit, unless the completion date is extended in writing by the City.
- 7.2 The execution of this Agreement shall constitute the City's notice to ATS to proceed with the Work described in Sections 2, 3, and 4. Work outside the scope of what is described in Sections 2, 3, and 4 will require additional work orders.

8. ADDITIONAL WORK ORDERS

- 8.1 Additional work orders issued under this Agreement may be generated by the City for the following purposes:
 - a. Implementation of cameras or any other items related to the red light traffic safety system or speed camera system at additional locations identified by the City; and

- b. Upgrade(s) of equipment, software, or change(s) of any deliverable provided hereunder; and
 - c. Any other items related to the red light traffic safety system or speed camera system for locations where the City has already authorized Work or issued a work order.
- 8.2 For any work order(s) requested by either party subsequent to commencement of the Work described in Sections 2, 3, and 4, ATS shall submit to the City for its review and approval a detailed proposal for the scope, implementation plan, milestones, test and acceptance procedures, as well as the cost consistent with previous work orders. Once this proposal is received and approved by the City, a work order will be issued for the change or additional work and invoiced for the change or additional work consistent with the City's approval notice and the terms and conditions of this Agreement.

9. PAYMENT TERMS

9.1 Compensation.

- 9.1.1 The total compensation to be paid to Contractor, including all services and expenses, shall not exceed the fees indicated on Schedule 1 - Service Fee Schedule, which shall be full compensation for the Work.
- 9.1.2 Compensation for any additional work orders shall conform to Schedule 1 Service Fee Schedule, or as agreed upon in writing by both parties.
- 9.1.3 Pricing shall be fixed and firm through the Contract Term, assuming the City elects to continue the project.
- 9.1.4 For service charge adjustment beyond the Initial Term of three (3) years, the basis for adjustment shall:
- a. Be fixed and adjusted annually by City of Bellingham CPI appropriate to the particular product herein;
 - b. Clearly identify the items impacted by the increase;
 - c. Be accompanied by documentation acceptable to the City sufficient to warrant the price increase request and shall be no greater than the total of charges to the CPI index for Whatcom County; and
 - d. Remain firm for a minimum of 365 days.
- 9.1.5 This contract includes no reimbursable expenses.

9.2 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 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.

- 9.2.1** The Flexible Payment Provision as applied in this section shall not apply should the City elect not to enforce illegal right turn on red violations where the violator clearly makes no meaningful action to stop before making a turn (i.e. fast right turn) or if the City elects not to pursue collections on unpaid violations, or if City directs ATS to install a camera at a site with an initial starting violation rate of less than 0.66 violations per hour based on VIMS analysis data collected for at least 7 or more hours that include the AM or PM peak hour, or fewer than 8 violations per day, or if the City of BPD waives more than 15 percent of valid violations forwarded to the Police for acceptance according to business rules.

10. TERM, TERMINATION and PILOT PROGRAM:

The term of this Agreement 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 at least 60 days prior to the expiration of the current term.

Year one shall be a "**pilot program**" to determine the effects of the program. Pilot Program Terms: With at least 60 days written notice of the first anniversary of the *Start Date*, either party shall have the option to terminate this Agreement. The option to terminate pursuant to this paragraph shall expire except as otherwise provided herein. There shall be no penalty or additional assessment if the city elects to terminate at the end of the Pilot program.

The annual fee shall be increased or decreased by the amount that the Consumer Price Index-All Urban Consumers (CPI-U) for the Seattle-Tacoma- Bremerton WA Area shall have increased or decreased for the twelve-month period immediately prior to the renewal date of this agreement.

This contract shall be effective on the last signature date at the end of this agreement.

11. REQUEST FOR PAYMENT

- 11.1** Not more than once every thirty days, ATS shall file its request for payment, accompanied by evidence satisfactory to the City justifying the request for payment, including a report of violations paid during the month. Invoices must show a breakdown of violations paid during the billing period.

- 11.2** All requests for payment should be sent to:

Deputy Chief Flo Simon
Bellingham Police Department
505 Grand Avenue
Bellingham, WA, 98225

12. TERMINATION OF CONTRACT

- 12.1 For Cause: The City may terminate this Contract if the Contractor is in material breach of any terms of this Contract, and such breach has not been corrected according to established standards and agreed upon designs indicated in a valid Work Order within 30 days from notice of breach. For purposes of this subsection, a material breach is defined as a failure to perform any work described in Sections 2, 3, and 4 or in any Initial or Additional Work Order.
- 12.2 For City Convenience: The City may terminate this Contract in the event that state or local legislation, state or local initiative, state or local referendum, or a decision by a court of competent jurisdiction prohibits the enforcement of Violations using image-capture technology or in any way effects the terms of this agreement, however the Contractor shall be given the opportunity to petition a court of competent jurisdiction to determine the legality of any such state or local legislation, state or local initiative, state or local referendum, before the City may terminate the Agreement under this section 12.2, and during such time the City may suspend the program pending the outcome of Vendor's petition. "Suspend" means all operations of the automated traffic safety program will stop, including but not limited to the operation of cameras, issuance and enforcement of tickets, holding and scheduling of court hearings, and payments to Contractor. The City will have no obligations or duty to perform during the suspension period. In any termination for convenience, ATS shall retain its fees paid up to the date of termination and there shall be no further penalty or additional assessment of any kind to the City. . Notwithstanding the above provisions, the City retains the right to terminate this Agreement under paragraph 10. The City can terminate without cause at the end of the first year of the Agreement (the "pilot program" year) or with the appropriate notice at the end of the 3 year contract term.
- 12.3 Acts of Insolvency: The City may terminate this Contract by written notice to Contractor if the Contractor becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or is wound up or liquidated voluntarily or otherwise.
- 12.4 Notice: The City is not required to provide advance notice of termination. Notwithstanding, the City may issue a termination notice with an effective date later than the termination notice itself. In such case, the Contractor shall continue to provide products and services as required by the City until the effective date provided in the termination notice.

13. ASSIGNMENT OF CONTRACT - SUBCONTRACTORS

- 13.1 ATS shall not assign this contract or sub-contract or assign any of the Work without prior written consent of the City.

14. INDEMNIFICATION

- 14.1** The Contractor shall defend and indemnify the City from any and all Claims arising out of or in any way relating to Contractor's negligent acts, errors or omissions in the performance of this Agreement; provided, however, the requirements of this section shall not apply to that portion of such Claim that reflects the percentage of negligence of the City compared to the total negligence of all persons, firms or corporations that resulted in the Claim.
- 14.2** Contractor agrees that the provisions of this section apply to any Claim of injury or damage to the persons or property of Contractor's employees. As to such claims and with respect to the City only, Contractor waives any right of immunity, which it may have under industrial insurance (title 51 RCW and any amendment thereof or substitution therefore). THIS WAIVER IS SPECIFICALLY NEGOTIATED BY THE PARTIES AND IS SOLELY FOR THE BENEFIT OF THE CITY AND CONTRACTOR.
- 14.3** As used in this section: (1) "City" includes the City's officers, employees, agents, and Representatives; (2) "Contractor" includes employees, agents, representatives, and any sub contractors; and (3) "Claims" include, but is not limited to , any and all losses, claims, causes of action, demands, expenses, attorney's fees and litigation expenses, suits, judgments, or damage arising from injury to persons or property.
- 14.4** Contractor shall ensure that each sub-Contractor shall agree to defend and indemnify the City to the extent an on the same terms and conditions as the Contractor pursuant to this section. The provisions of this section shall survive for up to three years after the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

15. INSURANCE

- 15.1** Contractor shall comply with the following conditions and procure and keep in force at all times during the term of this Agreement, at Contractor's expense, the following policies of insurance with companies authorized to do business in the State of Washington. The Contractor's insurance shall be rated by A.M. Best Company at least "A" or better with a numerical rating of no less than seven (7) and otherwise acceptable to the City.
- 15.2** Workers' Compensation Insurance as required by Washington law and Employers Liability Insurance with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, the Contractor shall require each sub-Contractor to provide Workers' Compensation Insurance for its employees, unless the Contractor covers such employees.
- 15.3** Commercial General Liability Insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to premises/operations (including off-site operations), blanket contractual liability a and broad form property damage.
- 15.4** Business Automobile Liability Insurance in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.
- 15.5** Each policy shall contain a provision that the policy shall not be cancelled or materially changed without 45 days prior written notice to the City.

- 15.6 Upon written request to the City, the insurer will furnish, before or during performance of any Work, a copy of any policy cited above, certified to be a true and complete copy of the original.
- 15.7 Before the Contractor performs any Work, Contractor shall provide the city with a Certificate of Insurance acceptable to the City Attorney evidencing the above-required insurance and naming the City of Bellingham, its officers, employees and agents as Additional Insured's on the Commercial General Liability Insurance policy and the Business Automobile Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insured's. Receipt by the City of any certificate showing less coverage than required is not a waiver of the Contractors obligations to fulfill the requirements. The Certificate of Insurance shall be issued within 24 hours of receipt of the signed Agreement.
- 15.8 Contractor shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Contractor shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any Work is commenced.
- 15.9 In case of the breach of any provision of this section, the City may provide and maintain at the expense of Contractor insurance in the name of the Contractor and deduct the cost of providing and maintaining such insurance from any sums due to Contractor under this Agreement, or the City may demand Contractor to promptly reimburse the City for such cost.

16. INDEPENDENT CONTRACTOR

- 16.1 The Contractor is an independent Contractor responsible for complying with all obligations of an employer imposed under federal or state law. Personnel employed by Contractor shall not acquire any rights of status regarding the City.

17. EMPLOYMENT

- 17.1 The Contractor warrants that it did not employ or retain any company or person, other than bona fide employee working solely for the Contractor, to solicit or secure this Agreement or pay or agree to pay any such company or person any consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right either to terminate this Agreement without liability or to deduct from the Agreement price or consideration or to otherwise recover, the full amount of such consideration.

18. AUDITS AND INSPECTIONS

- 18.1 The Contractor shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Contractor's records and documents with respect to all matters covered by this Agreement. The Contractor shall retain these records for three years.

19. LICENSING

- 19.1 Contractor shall obtain a City of Bellingham business license before performing any work.

20. TAXES, FEES, OTHER LICENSES

- 20.1** Taxes: Where required by state statute, ordinance or regulation, Contractor shall pay for and maintain in current status all taxes that are necessary for contract performance. Unless otherwise indicated, the City agrees to pay State of Washington sales or use taxes on all applicable consumer services and materials purchased. No charge by the Contractor shall be made of federal excise taxes and the City agrees to furnish Contractor with an exemption certificate where appropriate.
- 20.2** Fees and Licenses: Contractor shall pay for and maintain in a current status, any license fees, assessments, permit charges, etc., which are necessary for contract performance. It is the Contractor's sole responsibility to monitor and determine any changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply with said changes during the entire term of this Contract. Contractor shall take all necessary actions to ensure that materials or equipment purchased are expedited through customs. City agrees to waive any license fees, assessments, permit charges, etc. for Contractor, where permitted by law.

21. REPRESENTATIONS AND WARRANTIES

- 21.1** Contractor represents and warrants that it has the requisite training skill and experience necessary to provide Work and is appropriately accredited and licensed by all applicable agencies and governmental entities.
- 21.2** Contractor warrants that all materials, equipment, and/or services provided under this Contract shall be fit for the purpose(s) for which intended, for merchantability, and shall conform to the requirements and specifications herein. Acceptance of any service and inspection incidental thereto by the City shall not alter or affect the obligations of the contractor or the rights of the City.

22. INSPECTION

- 22.1** Work shall be subject, at all times to inspection by and with approval of the City, but the making (or failure or delay in making) such inspection or approval shall not relieve the Contractor of responsibility for performance of the Work in accordance with this Contract, notwithstanding the City's knowledge of defective or non-complying performance, its sustainability of the ease of its discovery. Contractor shall provide sufficient, safe, and proper facilities and equipment for such inspection and free access to such facilities.

23. CONFIDENTIAL INFORMATION

- 23.1** If the City notifies the Contractor of a public disclosure request, and the Contractor believes records are exempt from disclosure, it is the Contractor's responsibility to pursue a lawsuit under ROW 42.56.540 to enjoin disclosure. The Contractor must obtain the injunction and serve it on the City before the close of business on the tenth business day after the City sent notification to the Contractor. It is the contractor's discretionary decision whether to file the lawsuit.
- 23.2** If the Contractor does not timely obtain and serve an injunction, the Contractor is deemed to have authorized releasing the record. If the City has notified the Contractor of a public disclosure request, and the Contractor has not obtained an injunction and served the City with that injunction by the close of business on the tenth business day after the City sent notice, the City will then disclose the record, if in the City's belief such disclosure is permitted by law.

23.3 Notwithstanding the above, the Contractor must not take any action that would affect (a) the City's ability to use goods and services provided under this Agreement or (b) the Contractor obligations under this Agreement.

23.4 The Contractor will fully cooperate with the City in identifying and assembling records in case of any public disclosure request.

24. DISPUTES

24.1 Any dispute or misunderstanding that may arise under this contract concerning Contractors performance shall first be resolved, if mutually agreed to be appropriate, through negotiations between the Contractors Project Manager and the City's Project Manager, or if mutually agreed, referred to the City's named representative and the Contractors senior executive(s). Either party may decline or discontinue such discussions and may then pursue other means to resolve such disputes, or may by mutual agreement pursue other dispute alternatives such as alternate dispute resolution processes. Nothing in this dispute process shall in any way mitigate the rights, if any, of either party to terminate the contract in accordance with the termination provisions herein.

24.2 Notwithstanding above, if the City believes in good faith that some portion of Work has not been completed satisfactorily, the City may require Contractor to correct such work prior to payment. In such event, the City must clearly and reasonably provide to Contractor an explanation of the concern and the remedy that the City expects. The City may withhold from any payment that is otherwise due, an amount that the City in good faith finds to be under dispute, or if the Contractor does not provide a sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correction or remedying the work not properly completed.

25. CONFLICT OF INTEREST

25.1 Contractor confirms that Contractor does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Contractors selection, negotiation, drafting, signing, administration, or evaluating the Contractors performance.

26. COMPLIANCE WITH FEDERAL STATE AND LOCAL LAWS

26.1 Contractor, at its sole cost and expense, shall comply with and obey all federal, state and local laws, regulations, and ordinance applicable to the operation of its business and to its performance of the Work. The terms of this contract shall be governed by federal, state, and local laws, regulations and ordinances.

27. NON-WAIVER OF REMEDIES

27.1 Any waiver by the Contractor of the City of the breach of any provision of this Agreement by the other party will not operate, or be construed, as a waiver of any subsequent breach by either party or prevent either party from thereafter enforcing any such provisions. Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.

28. LIENS, CLAIMS AND ENCUMBRANCES

- 28.1 All materials, equipment, or services shall be free of all liens, claims or encumbrances of any kind and if the City requests a formal release of same it shall be delivered to the City within five days of such request.

29. COMPLETE AGREEMENT

- 29.1 This Agreement including exhibit(s), contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement or negotiation whether oral or written not set forth herein.

30. MODIFICATION OF AGREEMENT

- 30.1 This Agreement may be modified by a Change order or by a written amendment that is signed by authorized representatives of the City and Contractor. The parties specifically agree to modification(s) that would significantly expand Municipal Court operations and services, with a resulting reduction in service fees to be paid by the City, should Municipal Court's circumstances change significantly before the end of the term of the contract as set forth in Section 10 of this Agreement. One example of such circumstances is completion of the Washington State Judicial Information Services data exchange project. Any reduction in service fees shall be mutually agreed to in writing by the parties.

31. SEVERABILITY

- 31.1 If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperable, null and void, insofar as it is in conflict with said laws and the remainder of this Agreement shall remain in full force and effect.

32. NOTICES

- 32.1 Notices to the City of Bellingham shall be sent to the following contact and address:

Deputy Chief Flo Simon
Bellingham Police Department
505 Grand Avenue
Bellingham, WA 95225

- 32.2 Notices to the Contractor shall be sent to the following address:

American Traffic Solutions, Inc.
Chief Operating Officer
7681 E. Gray Road
Scottsdale, AZ 85260

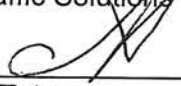
33. JURISDICTION AND VENUE

This Agreement shall be governed by the laws of the State of Washington and venue for any lawsuit arising out of this Agreement shall be in Whatcom County.

IN WITNESS WHEREOF, the City and Contractor has executed this Agreement as of the date first shown above written.

Corporation:

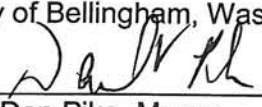
American Traffic Solutions INC.

By 
Adam E. Tuton
Its Chief Operating Officer

Date _____

City:

City of Bellingham, Washington

By 
Dan Pike, Mayor

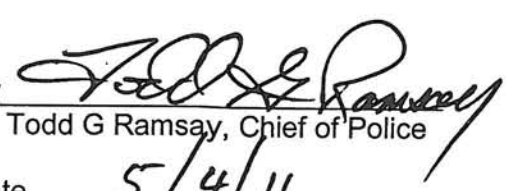
Date 5/6/11

Department Head:

Attest:


By 
John Carter, Finance Director

Date 5/6/11

By 
Todd G Ramsay, Chief of Police

Date 5/4/11

Approved as to form:

By 
Office of the City Attorney

**Schedule 1
Service Fee Schedule**

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

Monthly Service Fee per Intersection Approach or School Zone Fixed Camera site

	Monthly fee
<p>Red Light Camera Enforcement Solution</p> <p>Axis RLC-300 (or newer generation) Red Light Camera system, Axis LIVE digital video system for monitoring 1 direction of travel; training, public information, and outreach; monitoring rear images up to 4 lanes; image processing; data entry; in and out of state registered owner acquisition; final quality control review; access to web-based Axis VPS for Police review, 1st and subsequent citation/notice of violation printing in color, postage and mailing; online viewing by violators; lockbox and E-payment payment processing services; electronic notice file transmission to court system or use of ATS court system module; expert witnesses and evidence packages for scheduled hearings; phone calls/questions; data collection; help line.</p> <p>*The monthly fee shall be per camera per approach paid in twelve monthly installments per year.</p>	<p>\$4,750*</p>
<p>Speed Programs</p> <p>Fixed Site Speed Camera for School Zone Enforcement</p> <p>Fee includes up to a 4-lane site and 800 issued citations per month per camera, a \$5.00 per citation issued over 800 issued per month to cover coverage service and mailing.*The monthly fee shall be per camera per approach paid in twelve monthly installments per year.</p>	<p>\$4,750*</p>
<p>Collections</p> <p>Delinquency collections services (fee expressed as a percentage of recovered delinquent account revenue in addition to normal monthly fees).</p>	<p>30%</p>

**Schedule 2
Initial Work Order**

RED LIGHT PHOTO ENFORCMENT - Initial locations for consideration

E Holly W/B at Forest

Ellis N/B @ Lakeway

Meridian N/B @ Telegraph

Samish S/B @ 36 St. -36 St. N/B @ Samish

FIXED SITE SCHOOL ZONE SPEED PHOTO ENFOROMENT - Initial locations

Northwest between W. Maplewood and Alderwood -Birchwood Elementary

Alabama between Michigan and Woburn - Roosevelt Elementary

**Schedule 3
Workflow Diagrams**

[To be added after consultation with Police and Court]

Schedule 4 Project Timeline

Photo Enforcement Program
Timeline for Implementation

Duration of task chase and estimated date of completion

Site Review by ATS - Two weeks

Engineering Plans by ATS - Two to four weeks

City review/approval of plans - One week

System construction and IT networking (ATS) Six to eight weeks

30 day warning period/Public info -4 weeks

Fully operational photo enforcement/Infractions issued after all tasks completed - 2011

"All timelines in this Schedule 4 are conditional on both parties prompt and timely review and approval of plans and permits. Delays due to Force Majeure may excuse the Customer and ATS from the performance of their respective obligations under this Schedule when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility. Both parties may mutually agree to change scheduled tasks and timelines."

Schedule 5
DMV Subscriber Agreement

ATS requires that your agency certify the intended use of the information made available to your agency through our services and that such uses are in compliance with the Federal Driver's Privacy Protection Act Title XXXI and other applicable laws governing dissemination of public records. Based on your agency's intended use of such information, ATS will either grant permission to use the service or deny the application. Please specify any of the following permissible uses under §2721 that apply:

- (1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State or local agency in carrying out its functions.
- (4) For use in connection with any civil, criminal administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.
- (7) For use in providing notice to the owners of towed or impounded vehicles.
- (10) For use in connection with the operation of private toll transportation facilities.


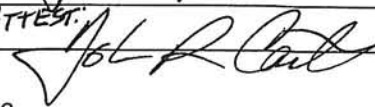
In consideration of ATS making its Services available, Subscriber agrees to:

- i) utilize ATS provided data only for the purpose(s) specified above; and
- ii) request such information only for the Subscriber's exclusive use in the ordinary course of Subscriber's business and not for resale.

I certified that I am authorized to execute the Subscribe Use Certification on behalf of the Subscriber listed below. On behalf of such Subscriber, I certify that the above statements are true and correct. Subscriber acknowledges and agrees that ATS may from time to time audit Subscriber's use of ATS's Services to ensure that such use is consistent with the intended uses set forth above and with all applicable laws.

This agreement shall be for ____ year(s) commencing on the date below and shall automatically renew annually. This agreement may be terminated within thirty (30) days notice of the anniversary date, annually.

SUBSCRIBER INFORMATION					
Subscriber Agency/Name:		City of Bellingham			
NLETS Agency ORI:					
Name of Authorized Representative:		Daniel V. Pike			
Title of Authorized Representative:		Mayor			
Mailing Address:		210 Lottie St.			
City:	Bellingham	State:	WA	Zip Code:	98225
Telephone:	(360)718-2100	Fax:	(360)718-8101	Email:	mayorsoffice@cob.org

Signature of Authorized Representative:	
Date Signed: 5/6/11	ATTEST: 



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/14/2011

Page 1 of 1

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis of Arizona, Inc. 26 Century Blvd. P. O. Box 305191 Nashville, TN 37230-5191	CONTACT NAME:		
	PHONE (A/C. NO. EXT): 877-945-7378	FAX (A/C. NO.): 888-467-2378	
	E-MAIL ADDRESS: certificates@willis.com		
INSURED American Traffic Solutions, Inc. 7681 E Gray Road Scottsdale, AZ 85260	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Wausau Business Insurance Co.		26069-001
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER F:		

COVERAGES

CERTIFICATE NUMBER: 15624828

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L INSRD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	Y		YYKZ91453113020	11/17/2010	11/17/2011	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 15,000
							PERSONAL & ADV INJURY \$ 1,000,000
GEN'L AGGREGATE LIMIT APPLIES PER:							GENERAL AGGREGATE \$ 2,000,000
POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/>							PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY	Y		ASKZ91453113030	11/17/2010	11/17/2011	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/>							EACH OCCURRENCE \$
EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/>							AGGREGATE \$
DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>							\$
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		Y/N	N/A				WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/>
ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below							E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach Acord 101, Additional Remarks Schedule, if more space is required)

Off-Site operations is included in General Liability.

It is agreed that City of Bellingham, its officers, employees and agents are included as Additional Insureds as respects to General Liability and Auto Liability when required by written contract.

It is further agreed that such insurance as is afforded shall be Primary with any other insurance in force for or which may be purchased by the Additional Insureds.

CERTIFICATE HOLDER

CANCELLATION

City of Bellingham, WA c/o Bellingham Police Department 505 Grand Avenue Bellingham, WA 95225	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

Coll: 3295441 Tpl: 1202280 Cert: 15624828 © 1988-2010 ACORD CORPORATION. All rights reserved.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIBERTY DirectSolutions for Contractors

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

This endorsement modifies insurance by broadening the insurance provided by CG 00 01.

Index of modified items:

<p>Item 1 – REASONABLE FORCE Item 2. - NON-OWNED WATERCRAFT EXTENSION Item 3. - ALIENATED PREMISES Item 4. - PROPERTY IN YOUR CARE, CUSTODY OR CONTROL Item 5. - DAMAGE TO PREMISES RENTED TO YOU - EXPANDED COVERAGE Item 6. - BODILY INJURY TO CO-EMPLOYEES Item 7. - HEALTH CARE PROFESSIONALS AS INSURED Item 8. - NEWLY FORMED OR ACQUIRED ENTITIES Item 9. - BLANKET ADDITIONAL INSURED AND WAIVER OF SUBROGATION—MANAGERS OR LESSORS OF PREMISES Item 10. - EXPANDED BLANKET ADDITIONAL INSURED AND WAIVER OF SUBROGATION (FOR INSTALLATION EXPOSURES) Item 11. - BLANKET ADDITIONAL INSURED AND WAIVER OF SUBROGATION – PERSON OR ORGANIZATION Item 12. - ADDITIONAL INSURED – ARCHITECTS, ENGINEERS OR SURVEYORS Item 13. - ADDITIONAL INSURED – STATE, MUNICIPALITY OR POLITICAL SUBDIVISION - PERMITS Item 14. - ADDITIONAL INSURED AND WAIVER OF SUBROGATION – LESSOR OF LEASED EQUIPMENT Item 15. - KNOWLEDGE OF OCCURRENCE Item 16. - UNINTENTIONAL ERRORS AND OMISSIONS Item 17. - BODILY INJURY REDEFINITION Item 18. - MOBILE EQUIPMENT REDEFINITION Item 19. - SUPPLEMENTARY PAYMENTS Item 20. - LIBERALIZATION</p>

These changes broaden the policy sections described unless differing language is separately endorsed to the coverage part.

Item 1. - REASONABLE FORCE

Exclusion a. of Coverage A is replaced by the following:

- a. Expected or Intended Injury
"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

Item 2. - NON-OWNED WATERCRAFT EXTENSION

Subparagraph g.(2) of Exclusion g. of Coverage A (Section I - Coverages) is replaced by the following:

- (2) A watercraft you do not own that is:
 - (a) Less than 55 feet long; and
 - (b) Not being used for public transportation or as a common carrier.

Item 3. - ALIENATED PREMISES

- 1. Subparagraph j.(2) of Exclusions of Section I – Coverages – Bodily Injury And Property Damage Liability is replaced by the following:

- (2) Premises you sell, give away, or abandon, if the "property damage" arises out of any part of those premises, and occurs from hazards that were known by you, or should have reasonably been known by you, at the time the property was transferred or abandoned.

Item 4. - PROPERTY IN YOUR CARE, CUSTODY OR CONTROL

1. Subparagraphs (3) and (4) of exclusion j. of coverage A. do not apply except to
 - (a) borrowed equipment, or
 - (b) "property damage" to property in your care, custody and control while in transit.

This insurance does not apply to any portion of a loss for which the insured has available any other valid and collectible insurance, whether primary, excess, contingent, or on any other basis, unless such other insurance was specifically purchased by the insured to apply in excess of this policy.

2. **Limits of Insurance**

Subject to Paragraphs 2., 3., and 5. of Section III – Limits Of Insurance, the most we will pay for insurance provided by paragraph 1., above is:

- \$10,000 Each Occurrence Limit
- \$25,000 Aggregate Limit

The Each Occurrence Limit for this coverage applies to all damages as a result of any one "occurrence" regardless of the number of persons or organizations who sustain damage because of that "occurrence."

The Aggregate Limit is the most we will pay for the sum of all occurrences covered by this provision.

Item 5. - DAMAGE TO PREMISES RENTED TO YOU - EXPANDED COVERAGE

A. Fire, Lightning Or Explosion Damage

The last paragraph of 2. Exclusions under Section I – Coverage A is replaced by the following:

Exclusions c. through n. do not apply to damage to premises rented to you or temporarily occupied by you with permission of the owner when the damage is caused by fire, lightning, or explosion or subsequent damages resulting from such fire, lightning or explosion, including water damage. A separate limit of insurance applies to this coverage as described in Section III – Limits of Insurance.

B. Limits for Damage to Premises Rented to You

Paragraph 6. of Section III – Limits of Insurance is replaced by the following:

Subject to 5. above, the Damage to Premises Rented to You Limit is the most we will pay under Coverage A for any combination of:

- (a) damage caused by fire, lightning, or explosion or subsequent damages resulting from such fire, lightning or explosion, including water damage to premises rented to you, or temporarily occupied by you with permission of the owner; and
- (b) "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days.

Item 6. - BODILY INJURY TO CO-EMPLOYEES

1. Subject to the Each Occurrence Limit and the General Aggregate Limit, Paragraphs 2.a.(1)(a), (b) and (c) of SECTION II – Who Is an Insured do not apply to your supervisory or management "employees" for "bodily injury" only.
2. Subject to the Each Occurrence Limit and the General Aggregate Limit, Paragraphs 2.a.(1)(a), (b) and (c) of SECTION II – Who Is an Insured do not apply to your "employees" or "volunteer workers" for "bodily injury" arising out of a Good Samaritan act to a co-"employee" or co-"volunteer worker." A Good Samaritan act means an attempt to rescue or aid a person in imminent or serious peril, provided the attempt is not recklessly made.

Damages owed to an injured co-"employee" or "volunteer worker" will be reduced by any amount paid or available to the injured co-"employee" or "volunteer worker" under any other valid and collectible insurance.

Item 7. - HEALTH CARE PROFESSIONALS AS INSUREDS

Paragraph 2.a. (1) (d) of Section II – Who Is An Insured is deleted unless:

- (i) You are engaged in the occupation or business of providing or offering medical, surgical, dental, x-ray or nursing services, treatment, advice or instruction; or
- (ii) The “employee” has any other insurance that would also cover claims arising under this provision, whether the other insurance is primary, excess, contingent or on any other basis.

Item 8. - NEWLY FORMED OR ACQUIRED ENTITIES

Paragraph 3. of Section II – Who Is An Insured is replaced by the following:

- 3. Any organization, other than a joint venture, you newly acquire or form and over which you maintain majority ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization.
 - a. Coverage under this provision is afforded only until
 - i. the 180th day after you acquire or form the organization; or
 - ii. separate coverage is purchased for the organization; or
 - iii. the end of the policy period,whichever is earlier.
 - b. Coverage A does not apply to “bodily injury” or “property damage” that occurred before you acquired or formed the organization; and
 - c. Coverage B does not apply to “personal and advertising injury” arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any past partnership, current or past joint venture or past limited liability company that is not shown as a Named Insured in the Declarations.

Item 9. - BLANKET ADDITIONAL INSURED AND WAIVER OF SUBROGATION—MANAGERS OR LESSORS OF PREMISES

A. Section II – Who Is An Insured is amended to include as an insured any manager or lessor of premises leased by you in which the written lease agreement obligates you to procure additional insured coverage, provided that:

- 1. the “bodily injury”, “property damage” or “personal and advertising injury” giving rise to liability occurs subsequent to the execution of the agreement; and
- 2. the written agreement is in effect at the time of the “bodily injury”, “property damage”, “personal and advertising injury” for which coverage is sought.

That person or organization shall be referred to as the additional insured.

The coverage afforded to the additional insured is limited to liability in connection with the ownership, maintenance or use of the premises leased to you and caused, in whole or in part, by some negligent acts or omissions of you, your employees, your agents, or your subcontractors. There is no coverage for the additional insured for “bodily injury”, “property damage” or “personal and advertising injury” arising out of the sole negligence of the additional insured or by those acting on behalf of the additional insured, except as provided below.

If the written agreement to indemnify an additional insured requires that you indemnify the additional insured for its sole negligence, then the coverage for the additional insured shall conform to that agreement; provided, however, that the contractual indemnification language of the agreement is valid under the law of the state where the agreement was formed. If the written agreement provides that a particular state’s law will apply, then such provision will be honored.

B. Waiver Of Subrogation

For any additional insured that obtains insured status on this policy through paragraph A., above, we waive any right of recovery we may have against the additional insured because of payments we make for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies.

C. Exclusions

This insurance does not apply to:

- 1. Any “occurrence” that takes place after you cease to be a tenant in that premises.

2. Any construction, renovation, demolition or installation operations performed by or on behalf of the Additional Insured.
3. Any premises for which coverage is excluded by endorsement.

D. Other Insurance

The insurance provided by this endorsement applies only to coverages and limits of insurance required by written agreement, but in no event exceeds either the scope of coverage or the limits of insurance available within this policy.

This insurance shall be excess over any other insurance available to the additional insured, whether such insurance is on an excess, contingent or primary basis, unless you are obligated under a written agreement to provide liability insurance for that additional insured on any other basis. In that event, this policy will apply solely on the basis required by such written agreement.

To the extent that the additional insured has the right to pursue any other insurance carrier for coverage, including a defense, we shall share that right with the additional insured.

Item 10. - EXPANDED BLANKET ADDITIONAL INSURED AND WAIVER OF SUBROGATION (FOR INSTALLATION EXPOSURES)

A. Section II – Who Is An Insured is amended to include as an insured any person or organization to whom you are obligated by a written agreement to procure additional insured coverage, provided that:

1. the “bodily injury,” “property damage,” or “personal and advertising injury” giving rise to liability occurs subsequent to the execution of the written agreement; and
2. the written agreement is in effect at the time of the “bodily injury,” “property damage,” or “personal and advertising injury” for which coverage is sought.

That person or organization shall be referred to as the additional insured.

The coverage afforded to the additional insured is limited to liability caused, in whole or in part, by the negligent acts or omissions of you, your employees, your agents, or your subcontractors, in the performance of your ongoing operations.

This insurance does not apply to “bodily injury,” or “property damage,” “personal and advertising injury” arising out of “your work” included in the “products-completed operations hazard” unless you are required to provide such coverage for the additional insured by the written agreement, and then only for the period of time required by the written agreement and only for liability caused, in whole or in part, by the negligent acts or omissions of you, your employees, your agents, or your subcontractors.

There is no coverage for the additional insured for “bodily injury,” “property damage” or “personal and advertising injury” arising out of the sole negligence of the additional insured or by those acting on behalf of the additional insured, except as provided below.

If the written agreement to indemnify an additional insured requires that you indemnify the additional insured for its sole negligence, then the coverage for the additional insured shall conform to that agreement; provided, however, that the contractual indemnification language of the agreement is valid under the law of the state where the agreement was formed. If the written agreement provides that a particular state’s law will apply, then such provision will be honored.

B. Waiver Of Subrogation

For any additional insured that obtains insured status on this policy through paragraph A., above, we waive any right of recovery we may have against the additional insured because of payments we make for “bodily injury”, “property damage” or “personal and advertising injury” to which this insurance applies.

C. Exclusions

With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply:

1. to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities.
2. to "bodily injury" or "property damage" that occurs during the ongoing operations of a project where you have purchased an Owners & Contractors Protective Liability or Railroad Protective Liability Policy for the additional insured.
3. when coverage is available under a consolidated (wrap up) insurance program in which you are involved.

D. Other Insurance

The insurance provided by this endorsement applies only to coverages and limits of insurance required by written agreement, but in no event exceeds either the scope of coverage or the limits of insurance available within this policy.

This insurance shall be excess over any other insurance available to the additional insured, whether such insurance is on an excess, contingent or primary basis, unless you are obligated under a written agreement to provide liability insurance for that additional insured on any other basis. In that event, this policy will apply solely on the basis required by such written agreement.

To the extent that the additional insured has the right to pursue any other insurance carrier for coverage, including a defense, we shall share that right with the additional insured.

Item 11. - BLANKET ADDITIONAL INSURED AND WAIVER OF SUBROGATION – PERSON OR ORGANIZATION

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization to whom you are obligated by a written agreement to procure additional insured coverage, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with premises owned by you

provided that:

- (a) the "bodily injury", "property damage" or "personal and advertising injury" giving rise to liability occurs subsequent to the execution of the agreement; and
- (b) the written agreement is in effect at the time of the "bodily injury", "property damage", "personal injury" or "advertising injury" for which coverage is sought.

That person or organization shall be referred to as the additional insured.

There is no coverage for the additional insured for "bodily injury", "property damage" or "personal and advertising injury" arising out of the sole negligence of the additional insured or by those acting on behalf of the additional insured, except as provided below.

If the written agreement to indemnify an additional insured requires that you indemnify the additional insured for its sole negligence, then the coverage for the additional insured shall conform to that agreement; provided, however, that the contractual indemnification language of the agreement is valid under the law of the state where the agreement was formed. If the written agreement provides that a particular state's law will apply, then such provision will be honored.

B. Waiver Of Subrogation

For any additional insured that obtains insured status on this policy through paragraph A., above, we waive any right of recovery we may have against the additional insured because of payments we make for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies.

C. Exclusions

This insurance does not apply to:

1. Any premises or equipment leased to you.
2. Any construction, renovation, demolition or installation operations performed by or on behalf of you, or those operating on your behalf.

D. Other Insurance

The insurance provided by this endorsement applies only to coverages and limits of insurance required by written agreement, but in no event exceeds either the scope of coverage or the limits of insurance available within this policy.

This insurance shall be excess over any other insurance available to the additional insured, whether such insurance is on an excess, contingent or primary basis, unless you are obligated under a written agreement to provide liability insurance for that additional insured on any other basis. In that event, this policy will apply solely on the basis required by such written agreement.

To the extent that the additional insured has the right to pursue any other insurance carrier for coverage, including a defense, we shall share that right with the additional insured.

Item 12. - ADDITIONAL INSURED – ARCHITECTS, ENGINEERS OR SURVEYORS

A. Section II – Who Is An Insured is amended to include as an additional insured any architect, engineer, or surveyor engaged by you but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In connection with your premises; or
2. In the performance of your ongoing operations.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

Item 13. - ADDITIONAL INSURED – STATE, MUNICIPALITY OR POLITICAL SUBDIVISION - PERMITS

Section II – Who Is An Insured is amended to include as an additional insured any state, municipality or political subdivision with respect to any operations performed by you, or on your behalf, for which the state, municipality or political subdivision has issued a permit

However, this insurance does not apply to:

1. "Bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state, municipality or political subdivision; or
2. Any "bodily injury" or "property damage" included within the "products-completed operations hazard", except when required by written contract or agreement initiated prior to loss; or
3. "Bodily injury," "property damage" or "personal and advertising injury," unless negligently caused, in whole or in part, by you or those acting on your behalf.

Item 14. - ADDITIONAL INSURED AND WAIVER OF SUBROGATION – LESSOR OF LEASED EQUIPMENT

A. Section II - Who Is An Insured is amended to include as an additional insured any person or organization from whom you lease equipment when you and such person or organization have agreed in a written agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

There is no coverage for the additional insured for "bodily injury", "property damage" or "personal and advertising injury" arising out of the sole negligence of the additional insured or by those acting on behalf of the additional insured.

A person's or organization's status as an additional insured under this endorsement ends when the agreement with you for such leased equipment ends.

B. Waiver of Subrogation

For any additional insured that obtains insured status on this policy through paragraph **A.**, above, we waive any right of recovery we may have against the additional insured because of payments we make for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

C. Other Insurance

This insurance shall be excess over any other insurance available to the additional insured, whether such insurance is on an excess, contingent or primary basis, unless you are obligated under a written agreement to provide liability insurance for that additional insured on any other basis. In that event, this policy will apply solely on the basis required by such written agreement.

To the extent that the additional insured has the right to pursue any other insurance carrier for coverage, including a defense, we shall share that right with the additional insured.

Item 15. - KNOWLEDGE OF OCCURRENCE

Subparagraph **2.a., b. and c.** of Condition **2. Section IV – Commercial General Liability Conditions** are amended to add the following:

As used in this paragraph, the word "you" refers to an "executive officer", partner, member or legal representative, and any other "employee" with insurance or risk management responsibilities.

Item 16. - UNINTENTIONAL ERRORS AND OMISSIONS

Paragraph **6.** of Section **IV – Commercial General Liability Conditions** is amended to add the following:

Any unintentional error or omission in the description of, or failure to completely describe, any premises or operations intended to be covered by this policy will not invalidate or affect coverage for those premises or operations. However, you must report such error or omission to us as soon as practicable after its discovery.

This provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

Item 17. - BODILY INJURY REDEFINITION

The definition of "bodily injury" in Section **V - DEFINITIONS** section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by a person. It includes death or mental anguish, which results at any time from such physical harm, physical sickness or physical disease. Mental anguish means any type of mental or emotional illness or distress.

Item 18. - MOBILE EQUIPMENT REDEFINITION

Paragraph **12. f.(1) (a), (b) and (c)** of Section **V – Definitions** does not apply to self-propelled vehicles of less than 1000 pounds gross vehicle weight.

Item 19. - SUPPLEMENTARY PAYMENTS

Section **I - Coverages, Supplementary Payments - Coverages A and B, item 1. b. and 1. d.,** respectively, are replaced with:

- b.** Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit" including substantiated loss of earnings up to \$500 a day because of time off from work.

Item 20. - LIBERALIZATION

Section IV - Commercial General Liability Conditions is amended to add the following:

10. Liberalization

If we adopt a change in our forms or rule which would broaden your coverage without an extra charge, the broader coverage will apply to this policy. This extension is effective upon the approval of such broader coverage in your state.

This endorsement is executed by the Wausau Business Insurance Co.

Premium \$

Effective Date 11/17/2010 Expiration Date 11/17/2011

For attachment to Policy No. YYKZ91453113020

Audit Basis

Issued To American Traffic Solutions, Inc.

Dexter R. Legg
SECRETARY

Edward F. Kelly
PRESIDENT

Countersigned by

Greg Glenn

Issued

Sales Office and No.

Authorized Representative

End. Serial No.

WILLIS CANCELLATION NOTICE

NAMED INSURED American Traffic Solutions, Inc.	POLICY NO. YYKZ91453113020 and ASKZ91453113030 EFFECTIVE DATE SEE PAGE 1
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Holder Name: City of Bellingham, WA

Project:

Cancellation Terms:

Should any of the above described policies be cancelled before the expiration date thereof, the insurer will send 45 days notice of cancellation to the Certificate Holder, but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.

Cancellation Terms Apply to the Following Coverages:

General Liability and Auto Liability