

**SCHOOL BUS SAFETY CAMERA ENFORCEMENT PROGRAM  
PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement which includes the attached Exhibits (herein "Agreement") is made by and between American Traffic Solutions, Inc. (herein "ATS"), with its principal place of business at 1330 West Southern Avenue, Tempe, Arizona 85282; the Cobb County Board of Education (herein "Board"), with principal offices at 514 Glover Street SE, Marietta, Georgia 30060; and Cobb County Board of Commissioners (herein "County"), with principal offices at 100 Cherokee Street, Marietta, Georgia 30090 (cumulatively, the "Parties" or individually a "Party"). This Agreement sets forth the terms, conditions and obligations of the Parties.

**Recitals**

WHEREAS, Board and County wish to implement an automated enforcement program for school bus warning device violations ("School Bus Safety Camera Enforcement Program"); and

WHEREAS, ATS has the exclusive knowledge, possession and ownership of certain equipment, licenses, and processes, referred to collectively as the "Axisis™ System" (herein "Axisis"), for implementing and monitoring the School Bus Safety Camera Enforcement Program;

Now, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby admitted and acknowledged, the Parties agree as follows:

The attached Exhibits include:

- Exhibit A.....SERVICE FEE SCHEDULE**
- Exhibit B..... DMV SERVICES SUBSCRIBER AUTHORIZATION**

By signing below, the Parties agree to the terms and conditions of this Agreement together with the attached Exhibits. This Agreement contains the complete and exclusive statement of the agreement between the Parties relating to the matters referenced herein and replaces any prior oral or written representations or communications between the Parties. Each individual signing below represents that s/he has the requisite authority to execute this Agreement on behalf of the entity which s/he represents and that all the necessary formalities have been met. If the individual is not so authorized then s/he assumes personal liability for compliance under this Agreement.

**ACKNOWLEDGED AND AGREED TO BY:**

**AMERICAN TRAFFIC SOLUTIONS, INC.**

**COBB COUNTY BOARD OF EDUCATION**

By: \_\_\_\_\_  
 Michael Bolton Date  
 Chief Operating Officer

By: \_\_\_\_\_  
 Name/Title Date

**COBB COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
 Name/Title Date

Attest:

By: \_\_\_\_\_  
 Name/Title Date

This Agreement is effective upon the last signature date as shown on this first page.

## 1. DEFINITIONS:

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

- 1.1 “*Axisis*”: ATS’ in-house system that processes violations, including the printing and mailing of citations, the generation of evidence packages, and that provides system generated reports of violation counts.
- 1.2 “*Camera System*” or “*Camera*”: A photo-traffic monitoring device consisting of camera(s) and a traffic monitoring device capable of accurately detecting a school bus stop arm traffic violation on up to two (2) contiguous lanes which records such data with one (1) or more images of such vehicle. “*Camera System*” shall, where the context requires, also include any enclosure or cabinet and related appurtenances in which the equipment is stationed.
- 1.3 “*Citation*”: A citation or notice of violation or equivalent instrument issued by a competent state, county or municipal law enforcement agent or agency or by a court of competent jurisdiction relating to a violation documented or evidenced by Axisis.
- 1.4 “*Fees*”: The amount payable by County to ATS for equipment, services, and maintenance as set forth in Exhibit “A”.
- 1.5 “*Notice to Proceed*”: Written confirmation from Board that ATS may proceed with the installation of a given Camera System.
- 1.6 “*Person*” or “*Persons*”: Any individual, partnership, joint venture, corporation, trust, unincorporated association, governmental authority or political subdivision thereof or any other form of entity.
- 1.7 “*Program Revenue*”: Any fine, funds or monies paid by a violator and collected by County for any reason related to any violation documented and evidenced by Axisis, excluding any state surcharges or convenience fees.
- 1.8 “*Remaining Revenue*”: Program Revenue minus any Fees paid to ATS pursuant to this Agreement.

## 2. ATS RESPONSIBILITIES INCLUDE:

- 2.1 Board may elect to have either ATS or a third party vendor provide and install school bus stop arm Camera Systems for Board’s school buses. The Cameras will monitor multiple lanes of traffic.
- 2.2 ATS will provide maintenance for the installed Cameras during the Initial Term of this Agreement; provided, however, that within ninety (90) days after the effective date of this Agreement, ATS and the Board shall develop a maintenance program to determine maintenance responsibilities for the installed Cameras.
- 2.3 ATS will process violations of the school bus stop arm and provide County with digital color images and video of the violations, including a cropped close-up digital image of the offending vehicle’s license plate, in a secure web-based application for the review and approval of the County’s designated law enforcement agent or agency. Low light images may appear black and white.
- 2.4 ATS shall seek records from vehicle registration databases and use such records to issue Notices of Violation for the County. ATS assumes this responsibility as a named County’s agent by signing of DMV Services Subscriber Authorization found in Exhibit B of this Agreement. ATS reserves the right to mail Notices of Violation to the address of the Owner

obtained through the DMV, obtained through the National Change of Address (NCOA) database provided by the United States Postal Service, or obtained through other means including but not limited to skip tracing.

- 2.5 ATS shall provide an automated web-based Citation processing system including image processing, first notice printing and first class mailing of Citation or notice of violation per chargeable event and a certified mailing of a second notice, a hearing scheduled letter, a hearing denied letter, an insufficient information letter, and a dismiss letter. Each Citation or notice of violation shall be mailed to the Owner within the statutory period.
- 2.6 ATS will establish a dedicated demand deposit account for receipt of violation payments. Revenue will be transferred each week from the account to the County ("Transfer"). If County is more than sixty (60) days past due on payments to ATS pursuant to Section 8 of this Agreement, ATS may withhold all Transfers of violation payments to County until County becomes current on its payments.
- 2.7 ATS is authorized to charge, collect and retain a convenience fee of \$4.00 for each electronic payment processed. Such fee is paid by the violator.
- 2.8 ATS' in-house Communications Department will assist the Board and the County with public information content and outreach campaign strategies.
- 2.9 ATS will produce evidence packages for the County, to include the violation images and data; all issued and disputed notices; violation history; payment history and other relevant documents, as requested by the state court solicitor. This package will be made available to the County, or its designee, for each scheduled hearing.
- 2.10 ATS agrees to comply with all audit requirements of the National Law Enforcement Telecommunications Systems in order to obtain Division of Motor Vehicle records on behalf of the County.

### **3. BOARD RESPONSIBILITIES INCLUDE:**

- 3.1 Board shall allow ATS' employees and/or subcontractors access to buses for the installation and maintenance of the Cameras.
- 3.2 Board will designate first phase implementation of Cameras on each school bus as identified by the bus number of the school bus, subject to ATS' approval. By mutual agreement of the Parties, school bus numbers may be added at any time during the term of this Agreement. Board shall issue a written Notice to Proceed to ATS within ten (10) days of execution of this Agreement. The first phase will include at least 102 Cameras, all of which are to be installed by the end of the 2012–2013 school year, unless delayed due to unforeseen circumstances. The Board may designate additional Cameras to be installed as a second phase by mutual agreement by all Parties.
- 3.3 Board will work with ATS' in-house Communications Department and the County regarding public information content and outreach campaign strategies.

### **4. COUNTY RESPONSIBILITIES INCLUDE:**

- 4.1 County will process each potential Violation in accordance with State Law, using Axisis to determine which Violations will be issued as Citations or notices of violation.
- 4.2 County will ensure that valid violations captured by the Camera System are, where applicable, forwarded to the state court solicitor for enforcement and prosecution in a court of competent jurisdiction.

- 4.3 The County's law enforcement agent or agency will execute the document in *Exhibit B, ATS DMV Services Subscriber Authorization* to provide verification to the State Department of Motor Vehicles, National Law Enforcement Telecommunications System, or appropriate authority indicating that ATS is acting on behalf of the County for the purposes of accessing vehicle ownership data pursuant to the list of permissible uses delineated in the Drivers Privacy Protection Act 18 U.S.C. 2721, Section (b) (1) and as may otherwise be provided or required by any provision of applicable state law.
- 4.4 County will work with ATS' in-house Communications Department and the Board regarding public information content and outreach campaign strategies.
- 4.5 The County is not responsible for the prosecutorial discretion or independent judicial decisions regarding the manner by which any violation notices or Summonses issued pursuant to this Agreement are pursued, prosecuted or collected.

## **5. TERM:**

The term of this Agreement shall be for five (5) years beginning on the date of the first issued Citation or violation notice ("Initial Term"). This Agreement may be renewed by mutual agreement of the Parties.

The Parties agree that if any Party reasonably determines that state surcharges must be added to, or made a part of, or deducted from, the fine amounts in O.C.G.A § 40-6-163, the parties agree to meet within thirty (30) days of such determination and negotiate in good faith on any service or fee adjustment required by either party to allow for full performance of the Agreement to commence.

If within ninety (90) days of said determination by any party, the parties cannot reach an agreement on how to continue with the Agreement, any and all parties shall have the right to terminate the Agreement at the end of the then current calendar year at their sole discretion and no services or costs shall be required to be performed or paid by one party to the other after the date of termination. Unless directed by the County not to do so, ATS will continue to process all images taken before termination and provide all services associated with processing in accordance with this Agreement, and shall be entitled to all Fees specified in the Agreement as if the Agreement were still in effect. This provision shall survive termination.

## **6. EQUIPMENT:**

All Cameras and other hardware provided by ATS and installed on Board's buses ("Equipment") shall become the property of Board at the end of the Initial Term of this Agreement. Board shall be responsible for all maintenance and repair of Equipment during any Renewal Term, unless the Parties mutually agree on a maintenance plan.

ATS shall retain ownership of all Axis processing hardware and/or software, including the web-based application and all intellectual property rights therein.

## **7. ASSIGNMENT:**

No Party may assign all or any portion of this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed. However, for the purposes of ATS business financing purposes, ATS may sell, assign, transfer or convey any interest in this Agreement in whole or in part without the written consent of the Board or County; provided, however, that ATS shall provide written notice to Board and County of any such assignment within thirty (30) days.

## **8. FEES AND PAYMENT:**

County shall pay ATS for all equipment, services and maintenance based on the fee schedule indicated in Exhibit A, Service Fee Schedule of this Agreement. County shall pay all Fees due ATS based upon invoices from the preceding month within thirty (30) days of submission. Late payments, received more

than thirty (30) days of invoice submission are subject to interest calculated at 1.5% per month on open balances.

County will remit fifty percent (50%) of Remaining Revenue to Board to offset Board's expenses regarding the implementation and ongoing operation of the Program. County and Board shall each bear its respective administrative costs associated with the program.

#### **9. LIMITED LIABILITY:**

Notwithstanding anything to the contrary in this Agreement, no Party shall be liable to any other, by reason of any representation or express or implied warranty, condition or other term or any duty at common or civil law, for any indirect, incidental, special, lost profits or consequential damages, however caused and on any theory of liability arising out of or relating to this Agreement.

#### **10. STATE LAW TO APPLY:**

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

#### **11. TERMINATION:**

11.1 This Agreement may be terminated:

- i) By mutual written consent of the Parties, which consent shall not unreasonably be withheld;
- ii) For cause, by any 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 must first notify the other Parties of its intent to terminate, stating with reasonable specificity the grounds therefore. The defaulting Party shall have forty-five (45) days from the receipt of notice to cure the default. In the event that the default is not cured, the termination shall be effective on the forty-sixth day following the notice of default.
- iii) The language contained in O.C.G.A. § 20-2-506 is fully incorporated herein by reference. Board may terminate this agreement as provided for in O.C.G.A. § 20-2-506 in general and section (b)(1) in particular:  
  
The contract shall terminate absolutely and without further obligation on the part of the school system at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed as provided in this Code section.
- iv) This Agreement shall terminate absolutely and without further obligation on the part of the County at the close of the calendar year for which in which it was executed, and at the close of each succeeding calendar year for which it may be renewed as provided in O.C.G.A. § 36-60-13. The Agreement shall automatically renew for each of the remaining calendar years provided in the Agreement, unless positive action is taken by the County to terminate such Agreement, and the nature of such action shall be written notice provided to the other Parties within thirty (30) days before the end of the initial year of the Agreement or each succeeding remaining calendar year.

11.2 Upon termination of this Agreement, either for breach or because it has reached the end of its term, the Parties recognize that County will have to process Violation Notices in the pipeline, and that ATS accordingly must assist County in this regard. Accordingly, unless directed by the County not to do so, ATS will continue to process all images taken before termination and provide all services associated with processing in accordance with this Agreement, and shall

be entitled to all Fees specified in the Agreement as if the Agreement were still in effect. This provision shall survive termination.

**12. LEGAL CONSTRUCTION:**

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein. This Agreement shall be enforced to the maximum extent possible so as to give effect to the intent of the Parties and shall be reformed without further action by the Parties to the extent necessary to make such provision valid and enforceable herein.

**13. ENTIRE AGREEMENT:**

This Agreement constitutes the sole and only agreement of the Parties and supersedes any prior understanding, written or oral, between the Parties respecting the subject matter of this Agreement. Any modification or amendment must be in writing, executed by both Parties.

**14. NO AGENCY:**

ATS is an independent contractor providing services to Board and County. Employees, contractors, agents and servants of ATS shall in no event be considered to be the employees, agents, contractors or servants of Board or County. This Agreement does not create an agency relationship between ATS and Board or County.

**15. FORCE MAJEURE:**

None of the Parties will be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or governmental authorities approval delays which are not caused by any act or omission by the Parties. The Party whose performance is affected agrees to notify the other promptly of the existence and nature of any delay.

**16. NOTICES:**

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

Cobb County Board of Education  
514 Glover Street SE  
Marietta, GA 30060  
Attn: Superintendent

American Traffic Solutions, Inc.  
1330 West Southern Avenue  
Tempe, Arizona 85282  
Attn: Legal Department

Cobb County Clerk  
100 Cherokee Street  
Marietta, Georgia 30090  
Attn: County Clerk

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**Exhibit A  
Service Fee Schedule**

The pricing covers fixed and variable costs of the system installation, maintenance and operation.

Services	Fee per Camera System per school bus
<p><u>School Bus Safety Camera Enforcement Solution</u></p> <p>Includes a Camera System, violation processing services, mailing of 1st notice with return envelope, web-payments access with user convenience fee charged to violator, call center support for general program questions, standard report set.</p> <p>Costs of mailing second notice by certified mail, return receipt requested, are priced separately and paid by the County for additional compensation to ATS in accordance with the price charged for such mailings by the United States Postal Service.</p> <p>Example of Monthly Fee for Year 1:</p> <p>If ten Camera Systems are installed and 100 citations are issued and paid during the previous month and the fine amount is \$300, ATS' invoice for the month would be \$22,500 in year 1 (100 paid citations x \$300 fine x 75% = \$22,500).</p> <p>* ATS will provide a fee incentive for Years 3 through 5, reducing the Fee Structure from 50% to 45% of Program Revenue from the prior month, to be applied if a minimum of one hundred (100) Camera Systems are installed and operational on Board's designated buses as of the billing period.</p>	<p>Year 1 – County to pay ATS 75% of Program Revenue from prior month</p> <p>Year 2 – County to pay ATS 60% of Program Revenue from prior month</p> <p>Years 3 through 5 – County to pay ATS 50% of Program Revenue from prior month*</p>
<p><u>Collections (optional – County may elect to have ATS provide collections services by written agreement):</u></p> <p>Delinquency Collections – County agrees to notify ATS in writing during the term of the Agreement if ATS is to perform collections.</p> <p>ATS will be entitled to receive portions of the collected Program Revenue. For those accounts in default that go to collection, this is in addition to our Fees noted above.</p>	<p>To be determined by the Parties once the County and Board outline the requirements of a collections program.</p>

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**EXHIBIT B**  
**DMV Services Subscriber Authorization**

**Agency ORI:** \_\_\_\_\_

DATE

Nlets  
1918 W. Whispering Wind Dr.  
Phoenix, AZ 85085

**Attn:** Steven E. Correll, Executive Director  
**Re:** Authorization for American Traffic Solutions, Inc. to Perform MVD Inquiry

Dear Mr. Correll:

Please accept this letter of acknowledgement that a Agreement to perform automated enforcement between Cobb County School District and American Traffic Solutions, Inc. is or will be enacted and will be or is in force. As a requirement of and in performance of that Agreement between Cobb County School District and American Traffic Solutions, Inc., it will be necessary for American Traffic Solutions, Inc. to access Nlets motor vehicle data.

Please accept this letter as authorization from Cobb County Police Department for American Traffic Solutions, Inc. to run motor vehicle inquiries. This authorization is and will be in effect for the term of our Agreement with Nlets and any subsequent renewals.

This authorization will automatically expire upon the termination of the Agreement between Cobb County School District and American Traffic Solutions, Inc.; and, such authorization is limited to violations detected by the automated enforcement camera systems. By completing the information below and signing this letter, I am stating that I am a member of the Cobb County Police Department and have the authority to empower American Traffic Solutions, Inc. to use ORI AGENCY ORI for this function.

**SUBSCRIBER INFORMATION**

**Subscriber Agency/Name** \_\_\_\_\_

**Nlets Agency ORI** \_\_\_\_\_

**Name/Title of Authorized Representative** \_\_\_\_\_

**Mailing Address**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Telephone** \_\_\_\_\_ **Fax** \_\_\_\_\_

**Email** \_\_\_\_\_

**Signature of Authorized Representative** \_\_\_\_\_

**Date Signed** \_\_\_\_\_