



YARMUTH WILSDON CALFO  
ATTORNEYS AT LAW

Sonja Rasmussen  
DIRECT 206.516.3891  
srasmussen@yarmuth.com

November 23, 2011

RECEIVED

NOV 28 2011

INSLEE, BEST, ET AL.

Rosemary A. Larson  
Inslee Best  
777 - 108th Avenue N.E., Suite 1900  
P.O. Box 90016  
Bellevue, WA 98009-9016

Re: City of Lynnwood/American Traffic Solutions

Dear Ms. Larson:

Enclosed please find Patty Eakes' report regarding the above-mentioned matter. Please do not hesitate to call if you have any questions.

Sincerely,

Sonja Rasmussen  
Legal Assistant

Enclosure  
/sr

T 206.516.3800  
F 206.516.3888



# YARMUTH WILSDON CALFO

## MEMORANDUM

T 206.516.3800  
F 206.516.3888

**TO:** Rosemary A. Larson  
City of Lynnwood Attorney

**FROM:** Patty Eakes

**DATE:** November 23, 2011

**RE:** City of Lynnwood/American Traffic Solutions

**Attorney-Client Privilege  
& Attorney Work Product**

### I. INTRODUCTION

This investigation was conducted at the request of the City of Lynnwood ("City"). By way of background, the Everett Herald ("Herald") made a public disclosure request to the City for a wide range of documents, including e-mails between certain members of the Lynnwood Police Department ("LPD") and a vendor, American Traffic Solutions ("ATS"). ATS provides red light cameras to the City and has a contract to service those cameras and the citations that result from images captured by the cameras. Following receipt of a portion of the documents requested, the Herald published an article describing several of the communications between LPD personnel and ATS that arguably raised issues about potential conflicts of interest between members of LPD and ATS. After learning of the content of some of the e-mails, LPD Chief Jensen indicated that he intended to ask the Everett Police Department to conduct an investigation into the issues raised by the Herald article. Shortly thereafter, Lynnwood Mayor Gough determined that the investigation should be conducted by a non-law-enforcement outside investigator. This report is a summary of my findings relating to the relationship between the LPD and ATS and analyzes whether there was a violation of the City's Code of Ethics or LPD policies. The report recounts some of the information I obtained during the investigation to illustrate and support my findings, but it does not contain all of the voluminous information I received. This report also summarizes information, as opposed to stating it verbatim.

### II. PERSONS INTERVIEWED AND DOCUMENTS REVIEWED

I interviewed or obtained information from: Marty Manegold, City Purchasing Manager; Larry O'Connor, City Buyer; Paul Haugen, City Director Information Services; Lorenzo Hines, City Finance Director; LPD Chief Steve Jensen; LPD Deputy Chief Brian Stanifer; LPD Deputy Chief Karen Manser; LPD Commander Chuck Steichen; LPD Sergeant Wayne Davis; Dan Hoven, ATS Vice President for Business Development; and Ray Pedrosa, ATS Account Representative.

In addition, I reviewed the following documents:

- Purchasing and Finance documents relating to all ATS contracts, addendums, and the July 2011 proposed addendum
- City of Lynnwood Personnel Guidelines and Policies
- City of Lynnwood Code of Ethics
- Agreement Between City of Lynnwood and Police Management Personnel
- Agreement Between City of Lynnwood Police and Police Guild Representing Sergeants
- City of Lynnwood Civil Service Rules
- City of Lynnwood Employee Handbook
- Lynnwood Police Department Policies and Procedures Manual
- Approximately 15,000 e-mails and attachments from City of Lynnwood personnel including the LPD
- Hardcopy documents from LPD relating to ATS

### III. APPLICABLE STANDARDS

#### A. City's Code of Ethics

Lynnwood Code of Ethics, Chapter 2.94, provides in relevant part:

##### **2.94.10 Policy.**

The City of Lynnwood is committed to conducting its business in a fair, open, efficient and accountable manner. Public officials and employees shall conduct their public and private actions and financial dealings in a manner that shall present no apparent or actual conflict of interest between the public trust and their private interest. Each official and employee is assumed and expected to act in accordance with all laws that may apply to his or her position, as well as striving to avoid even an appearance of impropriety in the conduct of his or her office or business. Each employee and official should be informed of this code and meet its requirements.

....

##### **2.94.020 Definitions.**

Throughout this code, the following definitions shall apply:

....

- B. "Benefit," "gain," "profit," or "interest in a contract" applies only to situations or contracts involving business transactions, employment matters, or other financial interests, and does not apply to situations or contracts which confer no financial benefit.

....

I. "Gift" means anything of economic value for which no consideration is given. . . .

**2.94.030 Personal gain or profit – Use of persons, money or property.**

- A. An official or employee shall not knowingly use his or her office or position for personal or family benefit gain or profit, or use his or her position to secure special privileges or exceptions for himself, herself, or for the benefit, gain, or profits of any other persons.
- B. No official or employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the personal or family benefit, gain, or profit of the officer or employee, or another.
- C. This section does not prohibit the use of public resources to benefit others as part of an officer's or employee's public duties.

....

**2.94.040 Conflict of Interest**

- A. An official or employee shall not be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such person in whole or in part, or which may be made for the benefit of his or her office, or accept directly or indirectly, any compensation, gratuity, or reward in connection with such contract from any other person beneficially interested therein, and shall not knowingly engage in activities which are in conflict, or which have the potential to create a conflict, with performance of official duties. Examples of conflicts, or potential conflicts of interest, include but are not necessarily limited to circumstances where the official or employee, or their families:
  - 1. Influences the selection or nonselection of or the conduct of business between the city and any entity when the official or employee has a financial interest;
  - 2. Solicits for himself or herself or for another a gift or any other thing of value from the city or from any person or entity having dealings with the city; provided, however, that no conflict of interest for the official or employee shall be deemed to exist with respect to solicitation for campaign contributions required to be reported under Chapter 42.17 RCW or for charitable contributions;
  - 3. Accepts any retainer, compensation, gift or other thing of value which is contingent upon a specific action or nonaction by the official or employee;
  - 4. Accepts a gift in any manner other than as provided in subsection (E) of this section;
  - 5. Intentionally uses or discloses information not available to the general public and acquired by reason for his or her official position which financially benefits himself or herself, family, friends or others.

- B. An official or employee is not interested in a contract if he or she has only a "remote interest" in the contract. "Remote interest" means that of:
1. A nonsalaried officer of a nonprofit corporation;
  2. An employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary; . . .

None of the provisions of this section are applicable to any officer or employee interested in a contract, even if the officers' or employee's interest is only remote, if the officer or employee influences or attempts to influence any other officer or employee of the city to enter into the contract.

**B. Lynnwood Police Department Policy and Procedure Manual**

The Lynnwood Police Department Policy and Procedure Manual provides in relevant part:

**7.06.07 SOLICITATION OF CONTRIBUTIONS**

Employees shall not solicit or accept contributions for this agency or for any other agency, organization, event, or cause without the express consent of the Chief of Police or his or her designee.

**7.08.00 POLICE CODE OF ETHICS**

The Code of Ethics shall apply to all Department personnel, . . .

**IV. SUMMARY OF INFORMATION FROM INTERVIEWS AND DOCUMENTS**

**A. ATS Contract and Proposed Addendum**

**1. Factual Summary re: ATS Contract and Proposed Addendum**

The original contract between ATS and the City was executed in 2006. The majority of the original contract terms were essentially identical to the contract terms that the City of Seattle had negotiated for their red light camera contract with ATS. The City understood that Seattle had gone through an extensive proposal/bidding process and ultimately selected ATS to be its vendor. As is commonly done, the City decided to "piggyback" on the Seattle contract, and the Seattle contract formed the basis for the City's original five-year contract, which was scheduled to expire in November 2011. The City Council approved the original ATS contract.

In early spring 2011, Deputy Chief Manser learned that the ATS contract would expire in November 2011. Manser is responsible for overseeing contracts involving the police department and its vendors. She works along with the City's Purchasing Department to negotiate the contracts and is responsible for eventually placing the contracts on the City Council's agenda for approval. Manser was not involved in negotiating the original ATS contract and is not responsible for day-to-day operations of the red light camera system. She had, however,

attended an ATS-sponsored conference<sup>1</sup> in Arizona for the past three years and was aware that LPD's ATS account representative was Ray Pedrosa. On March 26, 2011, Manser sent an e-mail to Pedrosa pointing out that the ATS contract was about to expire and requesting a time to discuss the renewal.<sup>2</sup>

According to Manser, her initial thoughts about the contract renewal were that there should be (1) no pricing change, and (2) no major changes to the terms, except that she desired an "opt out" clause that would allow the City to terminate the contract if there was a change to red light legislation or if the City Council decided to abandon the project. Shortly after Manser sent the March 26 e-mail to Pedrosa, LPD management met with Lorenzo Hines<sup>3</sup> and Marty Manegold to discuss the Purchasing Department's role in contract renewals.

Following that meeting, the City and ATS began negotiating the terms of the renewal. Manser was involved only in that she was copied on e-mails, and was kept apprised of the progress and terms at issue in the renewal. While Manser expressed her opinion on various contract terms as the LPD contact for the ATS contract, she was not ultimately responsible for the contract terms. Sometime in the spring/early summer, O'Connor, the buyer who is assigned to LPD contracts, and Manegold took over the negotiations with ATS. Manegold consulted the City Attorney, Rosemary Larson, about the termination clause and proposed language that would allow the City to terminate the contract for convenience. Manegold and Larson both participated in a telephone conference with ATS personnel including Hoven, ATS's general counsel, and ATS's outside counsel. In late July 2011, they reached final agreement on the proposed extension, and ATS signed the contract. The contract renewal (which was proposed to be accomplished by an addendum to the contract) was for a five-year term. The two major changes to the contract included an addition of a termination for convenience clause and a CPI index that would allow the contract price to be adjusted consistent with inflation.

## **2. Findings re: ATS Contract and Proposed Addendum**

There is no evidence that Manser or any other employee of LPD had a prohibited "beneficial interest" in the ATS contract, as the City's Code of Ethics uses that term. Moreover, there is no evidence that anyone from LPD influenced or attempted to influence the City to enter into the contract addendum, or influenced or attempted to influence the addendum's terms. The witnesses and e-mails confirm that LPD did not negotiate the terms of the renewal and did not have authority to contract with ATS absent approval from the City Council. For example, while

---

<sup>1</sup> Manser, Chief Jensen, and Sergeant Davis each attended the ATS-sponsored conference in 2009, 2010, and 2011. Each paid for their own airfare to the conference, and there was no cost for lodging or conference fees. In short, no expenses relating to the conference were charged to the City. However, each of the individuals was paid their regular wages for attending the conference.

<sup>2</sup> The e-mail also contained a postscript in which Manser indicated that she was looking to move and was interested in learning if ATS had any positions available for which she might be qualified. The e-mail is more fully discussed below.

<sup>3</sup> As an aside, Hines was hired as the Finance Director early in 2011, and he set a meeting with LPD to discuss budget and responsibilities with respect to City contracts. During the meeting, Hines informed LPD that any of their contract negotiations would be overseen by Manegold, as the Purchasing Director.

Manser was the primary contact for LPD on the contract, it is undisputed that she played a limited role in the negotiation process and was not responsible for setting the final terms. Her role in the contracting process is best described as a "client contact" for the Purchasing Department: she was aware of the status of the renewal but did not substantively participate in the process. According to Manegold, the ultimate contract terms were very favorable to the City and provided the City with an important option to cancel the ATS contract for any reason. Therefore, I find no violation of the City of Lynnwood Code of Ethics with respect to the ATS contract addendum.

Further, the officers at issue are not responsible for procuring or otherwise approving the City's contract with ATS; for example, they do not vote on whether the City should enter into the contract with ATS. In fact, the terms of the City's contract were, for the most part, negotiated by the City of Seattle, and the City essentially "piggy-backed" on the City of Seattle contract. Accordingly, the City's contracts were not made "by, through, or under" those officers, as the City's Code of Ethics applies those terms. See LMC 2.94.010. Even if the contract is "for the benefit of" their office, as noted above there is no evidence that the officers had a prohibited "beneficial interest" in the contract. *Id.*

## **B. Deputy Chief Manser's Alleged Job Solicitation from ATS**

### **1. Factual Summary re: Manser's Alleged Job Solicitation from ATS**

DC Manser has been employed by the LPD for 24 years and has been Deputy Chief for the past 13 years. Manser claims that for the past couple of years, she has been considering retiring from LPD and moving to her second home near Phoenix. To that end, she has applied for several jobs with other law enforcement agencies and made contact with private employers to discuss what opportunities exist for someone with her law enforcement background. Manser acknowledged she sent an email to Pedrosa on March 26, 2011, advising that the LPD contract was up for renewal and inquiring in a postscript:

P.S. I saw the article in the AZ Republic a week or so ago that said the company is doing very well. I am looking for a job in AZ so I can move soon. If you have any idea if I might qualify for something with ATS let's talk. Thanks! Karen

Manser said that she had been looking at the ATS website as part of her job search and noticed that there were many positions posted. However, most of those advertised appeared to require technical/computer skills that she does not possess. She explained that she e-mailed Pedrosa, who she had met during past ATS conferences and with whom she had played golf on one occasion during an ATS conference, because she wanted to know more about open positions for someone with her background. Pedrosa responded to her e-mail and proposed that they discuss the issue at the upcoming conference. At the May 2011 conference, Manser and Pedrosa discussed job opportunities at ATS. Manser stated that Pedrosa explained that jobs such as his essentially involved sales—which she was not interested in doing. They also discussed compensation and the location of available jobs. Manser said that Pedrosa's response to her questions was "neutral" and that he explained she would need to apply through human resources if she was interested in a job. Based on their discussion, Manser said that she was no longer interested in exploring employment opportunities with ATS and therefore took no further action to pursue employment there.

Pedrosa does not recall any specific discussion with Manser about employment with ATS. He reviewed the e-mail he received from her and said that this type of inquiry was very typical in his experience. The e-mail was not something that stood out in his mind, and he stated that he did not have "much of a reaction" to it. Pedrosa said that he did not feel any pressure to help Manser get a job with ATS and that in his 20 plus years of working with public agencies, he has had numerous clients make off-hand comments or general inquiries about working for his company. He did not recall discussing the topic with Manser at the conference, and she never sent him a resume or applied for a job to his knowledge. Pedrosa also said that he was not directly involved in negotiating the addendum with LPD. Hoven (on behalf of ATS) handled the contract negotiations.

## **2. Findings re: Deputy Chief Manser's Alleged Job Solicitation from ATS**

I find that, based on the above-described conduct, Manser did not violate the City's Code of Ethics. There is no evidence that Manser received any personal "benefit, gain, or profit" or that she secured any special privileges for herself as contemplated by LMC 2.94.030. I also find that Manser's actions did not violate LCM 2.94.040 because she was not "beneficially interested" in the ATS contract. However, if she had subsequently pursued a position with ATS, she could have created a conflict situation under the Code.

While she did not violate the express terms of the Code, she nonetheless created an appearance of a conflict by inquiring about possible employment with ATS while simultaneously communicating with ATS about the contract extension. Clearly, she utilized her contact with ATS through her LPD employment to make contact with an ATS employee who could provide her with information about positions that she may have wanted to pursue at ATS. While such an inquiry does not violate the express terms of the City's Code of Ethics (nor are such inquiries uncommon in practice), the inquiry demonstrated questionable judgment by creating an appearance of a conflict that raised questions about whether the contract extension negotiation was fair and unbiased. This lack of judgment was publically acknowledged by LPD Chief Jensen who told the Herald that Manser's above-quoted email was not a smart decision. As noted above, the City's Code of Ethics "policy" section states that employees are expected to strive to avoid "even an appearance of impropriety in the conduct of his or her office or business." LMC 2.94.010. Arguably, her conduct failed to meet that high standard.

## **C. Sergeant Wayne Davis**

### **1. Factual Summary re: Davis's Alleged Efforts to Market ATS**

Sergeant Davis has been employed by LPD since 1997 and has been a Sergeant since December 2005. Prior to working at LPD, he worked for the Honolulu Police Department for approximately 9 years. He is currently a Traffic Sergeant. Before the Herald article, Davis was essentially responsible for the operations of the ATS red light camera system. He was responsible for responding to complaints that the City received related to the cameras, as well as being the primary point of contact for camera operational issues, adjustments to camera placement, responding to requests for information from various City officials, data tracking, and assisting in responding to media issues. In sum, he managed the ATS program on behalf of LPD. In that capacity, he had frequent interactions with ATS personnel, including Pedrosa.



Davis was not, however, involved in the ATS contracting process and did not participate in any of the negotiations for the proposed contract addendum.

ATS is reportedly the largest provider of road safety programs in the United States and provides red light camera systems to many cities in the country. ATS has approximately 230 customers and over 3000 contracts nationwide and in Canada. ATS employs around 800 people in various capacities throughout the United States. Pedrosa's Washington State clients include the Cities of Seattle, Longview, Federal Way, Puyallup, Renton, Des Moines, Bellevue, Redmond, Lynnwood, Spokane, Wenatchee, and Lake Forest Park. As the ATS Account Manager, Pedrosa is the primary interface for ATS with his customer cities. ATS provides the cameras, installs the systems, and is responsible for payment and violation processing. ATS also employs individuals who are responsible for lobbying, media relations, marketing, and other support services. Because the red light camera systems have been controversial in some localities, ATS assists customers in responding to complaints and negative media, as well as with monitoring and responding to anti-photo enforcement legislation.

In 2009 and 2011, Davis asked ATS to sponsor the annual conference held by the North American Motor Officers Association ("NAMOA"). NAMOA is a non-profit 501(c)(3) organization with approximately 400 members who are police motorcycle officers in Washington; Oregon; Idaho; British Columbia, Canada; and Alberta, Canada. NAMOA is supported by member dues and is run by volunteer officers. Davis is a member of NAMOA (as are other LPD motor officers) and is currently its President—a role that he sought with the support and encouragement of his LPD command staff, including Chief Jensen and Deputy Chief Stanifer. Davis does not receive any compensation for serving as NAMOA's president. The 2012 conference is the 30<sup>th</sup> anniversary of NAMOA, and LPD is responsible for hosting the conference. Because NAMOA is a non-profit-member-run organization, it relies on corporate sponsors to pay for its annual conference. NAMOA's sponsors have included motorcycle companies, car dealerships, insurance companies, police supply companies, law-enforcement-related associations, attorneys, and towing companies, to name a few. Some of the conference sponsors are also vendors for law enforcement agencies.

Davis believed that ATS would be a good company to sponsor NAMOA's conference. In his opinion, ATS and NAMOA share a common goal: road safety. He initially approached ATS in 2009 about sponsoring NAMOA's 2010 conference. The Marysville Police hosted the 2010 NAMOA conference. Davis contacted ATS on behalf of the Marysville Police and forwarded a letter prepared for them describing NAMOA, the conference, and the benefits of sponsorship. See Exhibit A. He also sent several e-mails to ATS requesting their participation. ATS declined to sponsor the conference, noting that because it was involved in so many states, it limited its sponsorship of shows to the "big ones," and the NAMOA conference did not "fit [its] profile." See Exhibit B.

In 2011, Davis again reached out to ATS to request sponsorship for the 2012 NAMOA conference. In one of the initial e-mails to ATS, Davis stated:

Last year I asked you and ATS to join us with our annual NAMOA conference (NAMOA.org); however, you were not able to make it. We (I) will be hosting the next conference here at Tulalip Casino and Resort in June 2012. Ray, I really

believe this is a great venue for ATS exposure. I have some ideas that really could market ATS in WA, ID, OR and Canada. I know you are already in some of these areas; however, there is a lot more business to be had. Is there someone in marketing that you might turn me on to?

**See Exhibit C.** Davis explained that he sent this e-mail because he was looking to contact the "right" people at ATS to consider his NAMOA sponsorship request. Based on his past experiences, he believed that the ATS marketing department might be the correct department to evaluate the value of sponsorship to ATS. As a NAMOA sponsor, ATS could elect to speak at the conference, set up a vendor booth, and hand out materials to participants. A review of the e-mails surrounding the conference suggests that the reference to "marketing ATS" was essentially a sales pitch in which Davis was explaining the possibility for new business for ATS if it sponsored the NAMOA conference. This is apparently a common approach to obtain sponsors for law enforcement conferences. According to Pedrosa, ATS is frequently solicited to sponsor groups such as NAMOA. ATS evaluates the sponsorship requests and has previously elected to sponsor certain conferences, including one in Washington related to court administrators. Pedrosa's role in such requests is to pass the information to others at ATS who make the sponsorship request decisions. ATS ultimately declined to sponsor the 2012 NAMOA conference.

Chief Jensen and Deputy Chief Stanifer were both aware that Davis was involved with NAMOA and encouraged him to run for the position of President. Jensen is also supportive of LPD hosting the 2012 NAMOA conference and has authorized the use of LPD officers and resources to plan the conference. Jensen and Stanifer both learned in an interview with the Herald about the e-mail quoted above. They were not aware that Davis was seeking sponsorship from ATS for the NAMOA conference but were not concerned with his doing so. According to Jensen and Stanifer, soliciting vendors to sponsor law-enforcement activities is common. Stanifer provided several print outs from law enforcement organizations showing their "sponsors" for various events and conferences. **See Exhibit D.** Also, in his role as the Training Chair for the Federal Bureau of Investigations National Academy Associates (FBINAA), Stanifer was involved with organizing and hosting the recent conference of that group held in Vancouver, Washington. Stanifer asked Davis to contact ATS to see if it would sponsor the FBINAA conference. **See Exhibit E.** ATS declined to sponsor that conference as well.

## **2. Findings re: Davis's Alleged Efforts to Market ATS**

I find that Sergeant Davis's actions did not violate the City's Code of Ethics. Sergeant Davis did not and would not have received a personal gain or profit if ATS had chosen to sponsor the NAMOA conference. To the extent the sponsorship would be considered a "contract" to which LMC 2.94.040 would apply, I also conclude that Davis did not violate that provision. Even if one were to construe his role as President of NAMOA as an "interest" in the contract, his interest would be "remote" as defined by the Code because he is a nonsalaried officer of a non-profit. Similarly, I conclude that Davis did not violate LPD policy 7.06.07, as he had the express consent of management to participate in NAMOA, and host and find sponsors for the NAMOA conference.

### 3. Factual Summary re: Davis's Alleged Lobbying

Davis serves as one of two LPD representatives to the Washington Council of Police and Sheriffs ("WACOPS"), a "professional organization that has protected the rights and quality of life for sworn law enforcement officers before the Washington State Legislature for more than 35 years." <http://www.wacops.org>. Under an agreement between the Police Guild and LPD management, officers representing LPD may engage in WACOPS-related activities during their regular working hours.<sup>4</sup> In his capacity as a WACOPS representative, Davis sought to gain that organization's support for opposing proposed photo-enforcement legislation that would negatively impact cities with photo enforcement programs. See Exhibit F. Davis sent a number of e-mails regarding this issue to WACOPS personnel seeking to bring the issue before their executive board. *Id.* He also offered to put WACOPS in touch with an ATS lobbyist in Olympia. *Id.* Davis stated that his intent was to educate WACOPS on how the photo enforcement programs provided benefits to WACOPS members. Ultimately, it was determined that the legislation lacked sufficient support to become law, and the issue was tabled for that legislative session.

### 4. Findings re: Davis's Alleged Lobbying

I conclude that Davis did not violate the City's Code of Ethics or LPD Policies and Procedures by participating in the lobbying process via WACOPS. As noted above, Davis had the express consent of Chief Jensen to participate in these activities while on duty. He kept management advised of his activities and his efforts relating to defeating negative photo enforcement legislation. There is no evidence that he received any personal benefit or gain from his activities.

## V. CONCLUSIONS

First, as to the contract addendum, there is no evidence that Manser or any other employee of LPD had a prohibited "beneficial interest" in the ATS contract, as the City's Code of Ethics uses that term. Moreover, there is no evidence that anyone from LPD influenced or attempted to influence the City to enter into the contract addendum, or influenced or attempted to influence the addendum's terms. The officers at issue are not responsible for procuring or otherwise approving the City's contract with ATS. Accordingly, the City's contracts were not made "by, through, or under" those officers, as the City's Code of Ethics applies those terms. See LMC 2.94.010. Even if the contract is "for the benefit of" their office, as noted above there is no evidence that the officers had a prohibited "beneficial interest" in the contract. *Id.* I likewise find that Manser played a very limited role in the contracting process and that the ultimate contract terms apparently were very favorable to the City and provided the City with an important option to cancel the ATS contract for any reason. Therefore, I find no violation of the City of Lynnwood Code of Ethics with respect to the ATS contract addendum.

Second, as to Manser, I find that she did not violate the City's Code of Ethics. As explained above, there is no evidence that Manser received any personal "benefit, gain, or profit" or that she secured any special privileges for herself as contemplated by LMC 2.94.030 by sending the email to ATS inquiring about a job. I also find that Manser's actions did not violate

---

<sup>4</sup> Davis copied LPD management on e-mails relating to his activities with WACOPS. See Exhibit F.

LCM 2.94.040 because she was not “beneficially interested” in the ATS contract. However, if she had subsequently pursued a position with ATS, she could have created a conflict situation under the Code. Finally, I find that Manser’s inquiry to ATS regarding a job created an appearance of a conflict by inquiring about possible employment with ATS while simultaneously communicating with ATS about the contract extension. As noted above, the City’s Code of Ethics “policy” section states that employees are expected to strive to avoid “even an appearance of impropriety in the conduct of his or her office or business.” Arguably, her conduct failed to meet that high standard.

Finally, as to Davis, I find that he did not violate the City’s Code of Ethics by attempting to get ATS to sponsor the NAMOA conference. Davis did not and would not have received a personal gain or profit if ATS had chosen to sponsor the NAMOA conference. Further, even if the sponsorship would have been considered a “contract” to which LMC 2.94.040 would apply, I find that Davis’s “interest” as NAMOA’s president is a “remote interest” under LMC 2.94.040 (nonsalaried officer of a nonprofit). Similarly, I conclude that Davis did not violate LPD policy 7.06.07 because he had management’s express consent to participate in NAMOA, and host and find sponsors for the NAMOA conference. Finally, I find that Davis did not violate the City’s Code or LPD policies by participating in lobbying via WACOPS. Davis had Chief Jensen’s express authorization to engage in that “lobbying,” and there is no evidence that Davis benefitted personally from it.