

IN THE CIRCUIT COURT OF THE 5TH JUDICIAL
CIRCUIT IN AND FOR HERNANDO COUNTY, FLORIDA
CIVIL DIVISION

CITY OF BROOKSVILLE, a
Political Subdivision of the
State of Florida,
Petitioner,

v.

CASE NO.: 15-

SENSYS AMERICA, INC.
Respondent.

_____ /

VERIFIED PETITION FOR DECLARATORY JUDGMENT

COMES NOW the City of Brooksville (hereinafter referred to as “the City”) and files it Verified Petition for Declaratory Judgment against the Respondent, Sensys America, Inc. (hereinafter referred to as “Sensys”) and other relief and would state in support as follows:

PRELIMINARY STATEMENTS ON PARTIES AND JURISDICTION

1. The City is a municipality established under the laws of the State of Florida.
2. The Respondent is a Florida Corporation lawfully doing business in the State of Florida and in particular, Hernando County, Florida.
3. The City entered into a contract with the Defendant, Sensys, on or about October 3, 2011. This contract was to implement a red light camera program within the City. A copy of the contract is attached hereto as **Petitioner’s Composite Exhibit “A”** and is made a part hereof as if set forth in haec verba.
4. Venue is correctly located in Hernando County Florida pursuant to Section 18 of the contract between the parties.

DECLARATORY JUDGMENT PETITION

5. This is a cause of action for a Declaratory Judgment pursuant to Chapter 86 of the Florida Statutes requesting a declaration of rights regarding a contract between the parties. The subject matter involves legal questions concerning the term of the contract and potential monetary damages in the event of a breach. These legal determinations fall within the jurisdiction of the Court.

6. Pursuant to the contract, the City was obligated to direct Sensys to install up to 20 traffic infraction detectors. Sixteen traffic infraction detectors were installed pursuant to the contract. An additional four (4) traffic infraction detectors were ordered by the City, but the installation was delayed due to construction by the Florida Department of Transportation.

7. On or about April 11, 2014, before the installation of the aforementioned four traffic infraction detectors, the City sent a letter to Sensys instructing it not to install any further traffic installation devices. A copy of the letter is attached hereto as **Petitioner's Composite Exhibit "B"** and is made a part hereof as if set forth in haec verba.

8. On or about April 17, 2014, Sensys responded and requested reimbursement for the work related to the four traffic infraction detectors which were not installed. A copy of the letter from Sensys is attached hereto as **Petitioner's Composite Exhibit "C"** and is made a part hereof as if set forth in haec verba.

9. On or about February 26, 2015, the City sent a letter to Sensys stating that it wished not to extend the contract upon its natural conclusion which was anticipated to occur on or about December of 2015. A copy of said letter is attached hereto as **Petitioner's Exhibit "D"** and is made a part hereof as if set forth in haec verba.

10. In response to the letter sent by the City, Sensys sent a letter dated March 18, 2015. However, this letter did not discuss an exact date for the termination of the contract. The letter only stated that it would like to meet with City Council members individually and offered information concerning the benefits of the red light camera program. A copy of this letter is attached hereto as **Petitioner's Composite Exhibit "E"** and is made a part hereof as if set forth in haec verba.

11. After a representative of Sensys met with several of the City Council members, a letter from Sensys dated April 9, 2015 was sent to the City. This letter gave a different interpretation of when the natural termination date of the contract would occur other than the December 2015 date anticipated by the City. The interpretation by Sensys was that the contract would naturally terminate in April 2017. Further, this letter threatened damages in excess of \$500,000 if the city attempted to end the contract in December of 2015. A copy of this letter is attached hereto as **Petitioner's Composite Exhibit "F"** and is made a part hereof as if set forth in haec verba.

12. The contract between the parties defines "Term", as follows:

TERM

- A. The effective date of this Agreement shall be the date first written above (the "Effective Date"). The initial term of this Agreement, the License and the Lease shall begin upon the Effective Date, following full execution of the Agreement by the Parties, and shall continue until the third (3rd) anniversary of the Installation Date (the "Initial Term")
- B. . . . The "Installation Date" shall be the latest date that a System becomes ***installed and operational*** at any of the intersections described in Sections 1.A or 1.B of Exhibit A. (emphasis added)

13. The legal position of the City is that, since the four additional traffic infraction detectors were never installed or operational, the term of the contract was not extended by three

years. Therefore, the term of the agreement should run three years from the last date of the installation of a traffic infraction detector, which was in December of 2012.

14. The Sensys letter attached as Exhibit F states its legal position on the issue as follows:

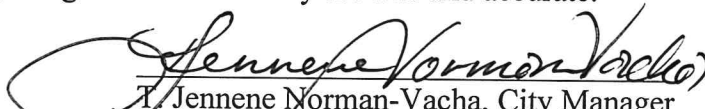
Sensys completed 100% of the work necessary to install four new traffic infraction detectors and was ready to commence final installation when it received the City's notice not to proceed in April 2014. Accordingly, our contract's natural termination is April 2017.

15. The parties are unsure of their rights and obligations under the contract and seek a declaration of rights by this Court.

WHEREFORE, the City prays for an order determining the rights of the parties and for other relief deemed just and proper by the Court.

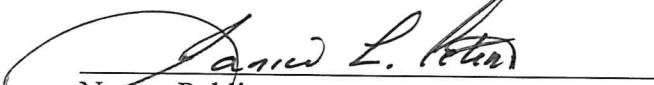
VERIFICATION OF THE FACTS

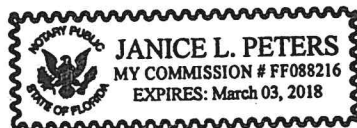
I, T. Jennene Norman-Vacha, serve as the City Manager for the City of Brooksville, Florida. I do solemnly swear or affirm that I am personally familiar with the facts contained within this Petition for Declaratory Judgment and that they are true and accurate.


T. Jennene Norman-Vacha, City Manager
The City of Brooksville

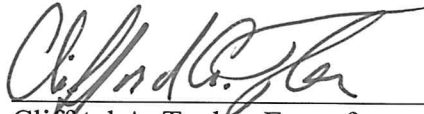
STATE OF FLORIDA)
COUNTY OF HERNANDO)

The foregoing Verification of the Facts executed by T. Jennene Norman-Vacha was acknowledged before me this 17th day of April, 2015, by T. Jennene Norman-Vacha, who is personally known to me or who has produced N/A as identification and who did not take an oath.


Notary Public
My Commission Expires:



Respectfully submitted,

A handwritten signature in black ink, appearing to read "Clifford A. Taylor", written over a horizontal line.

Clifford A. Taylor, Esq. of
The Hogan Law Firm
City Attorney for the City of Brooksville
20 S. Broad Street
Brooksville, FL 34601
Telephone: 352-799-8423
Facsimile: 352-799-8294
Cityattorney.brooksville.fl@hoganlawfirm.com

**SERVICES AGREEMENT
BETWEEN THE CITY OF BROOKSVILLE AND SENSYS AMERICA, INC. FOR
TRAFFIC INFRACTION DETECTION & ENFORCEMENT PROGRAM**

This **AGREEMENT** (the "Agreement") made this 3rd day of October, 2011, by and between Sensys America, Inc., a Delaware corporation having a place of business at 80 SW 8th Street, 20th Floor, Miami, Florida 33130 ("Sensys"), and the City of Brooksville, Florida, a municipal corporation of the State of Florida, having an address at 201 Howell Avenue, Brooksville, Florida 34601 (the "City" and together with Sensys, the "Parties" and each singularly a "Party").

WITNESSETH:

WHEREAS, pursuant to Sec. 316.0776, Florida Statutes, the City may implement a red light camera enforcement program;

WHEREAS, the City adopted Ordinance No. 758, as subsequently amended, providing for a red light camera enforcement program codified in Sections 74-201, et. seq.;

WHEREAS, Sensys has the knowledge, possession, and ownership of certain equipment, licenses and processes, referred to collectively as the Sensys Red Light Safety System;

WHEREAS, City desires to use the Sensys Red Light Safety System to monitor and enforce red light violations in accordance with applicable laws and ordinances;

WHEREAS, the Parties desire to enter into this Agreement, whereby Sensys will (I) install and assist the City in the administration and operation of the Sensys Red Light Safety Systems, traffic signal violation detection systems, and streaming video monitoring systems, each described in more detail on Exhibit A to this Agreement (the "System(s)") at the intersections located within the City, and provide to the City the services (the "Services"), all as more fully described on Exhibit A, and (II) in connection with the Services, license certain software and lease certain equipment to the City.

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions contained herein, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. **RECITALS AND EXHIBITS.** The foregoing recitals are true and correct and are hereby incorporated in *haec verba*. All exhibits attached to this Agreement contain additional terms of this Agreement and are hereby incorporated in *haec verba*.
2. **SERVICES.**
 - A. Sensys agrees to use commercially reasonable efforts to install and provide to the City for the Term the Systems (the "Equipment") and software (the "Software") to be supplied and installed by Sensys in accordance with Exhibit A (including the provision of all construction drawings, permit applications and other documents required by applicable



law for the installation and operation of the System). In addition, if and to the extent set forth in Exhibits A, B, and C, Sensys shall also supply to the City:

- (1) citation preparation processes that assist the City in complying with current applicable law;
- (2) training of personnel designated by the City involved with the operation of the Systems and/or the enforcement and disposition of citations;
- (3) expert witness testimony regarding the operation and functionality of the System; and
- (4) other support services for the System as set forth in Exhibit A.

B. If and to the extent the City has or obtains during the Term custody, possession or control over any of the Equipment or Software, the City agrees:

- (1) such Software, if manufactured or licensed by Sensys, is supplied under the license set forth in Exhibit B (the "License") to which the City agrees;
- (2) such Software, if manufactured by third parties, is supplied under third-party licenses accompanying the Software, which licenses the City acknowledges receiving and to which it hereby agrees; and
- (3) such Equipment is supplied under the lease terms set forth in Exhibit C (the "Lease") to which the City hereby agrees.

C. The City understands and agrees that (I) Sensys may, subject to the prior approval of the City, which approval shall not be unreasonably delayed, conditioned or withheld, subcontract with third parties for the provision or installation of part or parts of the Systems or Services and (II) installation of the Systems requires the City's cooperation and compliance with Sensys' reasonable instructions (including but not limited to City's provision of the personnel, equipment, engineering plans, and other resources as described in Exhibit A or as otherwise reasonably requested by Sensys) and reasonable access by Sensys (or such third parties) to City premises and systems and the City agrees to provide all of the foregoing to Sensys.

D. The City understands and agrees that the Systems will be owned by Sensys (or its designees). The City shall use its best efforts to assist Sensys

to identify any third-party who is responsible for damage to the Systems or any part thereof.

- E. Sensys shall coordinate its work with the City's police, public works and engineering departments and, as necessary or required, with the Florida Department of Transportation.

3. **TERM**

- A. The effective date of this Agreement shall be the date first written above (the "Effective Date"). The initial term of this Agreement, the License and the Lease shall begin upon the Effective Date, following full execution of the Agreement by the Parties, and shall continue until the third (3rd) anniversary of the Installation Date (the "Initial Term").
- B. The City shall have the option to extend this Agreement, the License and the Lease for three (3) additional thirty-six month terms (each, a "Renewal Term"), on the same terms and conditions specified herein except that the amounts due pursuant to Section 5 hereof shall be adjusted in accordance with the change in the Consumer Price Index – All Urban Consumers – U.S. City Average ("CPI") by multiplying said amounts by the percentage change in the CPI from the beginning of the immediately preceding term to the end of the immediately preceding Term. (Each Renewal Term, if any, together with the Initial Term, the "Term"). The "Installation Date" shall be the latest date that a System becomes installed and operational at any of the intersections described in Sections 1.A or 1.B of Exhibit A.

4. **TERMINATION AND EXPIRATION**

- A. This Agreement may be terminated by mutual written consent of the Parties.
- B. This Agreement may be terminated for cause, by either Party if the other Party fails in any material way to perform its obligations under the Agreement or otherwise defaults in the performance of any obligation under this Agreement and such failure or default continues for more than forty-five (45) days after written notice thereof to the defaulting Party.
- C. Sensys may terminate this Agreement, without liability, on thirty (30) days advance written notice if Sensys concludes in its reasonable discretion that (I) potential or actual liability of Sensys to third parties (other than persons claiming to own Intellectual Property required for the operation of the System) arising out of or in connection with the System makes the program impractical, uneconomical or impossible to continue.
- D. The City may terminate this Agreement on thirty (30) days advance written notice if City concludes in its reasonable discretion that (I) potential or actual liability of City to third parties arising out of or in

Select Year:

The 2014 Florida Statutes

Title VI

CIVIL PRACTICE AND PROCEDURE

Chapter 86

DECLARATORY JUDGMENTS

[View Entire Chapter](#)

86.021 Power to construe.—Any person claiming to be interested or who may be in doubt about his or her rights under a deed, will, contract, or other article, memorandum, or instrument in writing or whose rights, status, or other equitable or legal relations are affected by a statute, or any regulation made under statutory authority, or by municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing may have determined any question of construction or validity arising under such statute, regulation, municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing, or any part thereof, and obtain a declaration of rights, status, or other equitable or legal relations thereunder.

History.—s. 2, ch. 21820, 1943; s. 38, ch. 67-254; s. 458, ch. 95-147.

Note.—Former s. 87.02.

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connection with the System makes the program impractical, uneconomical or impossible to continue; and/or (II) the Systems cannot be installed.

E. Upon termination or expiration of this Agreement, either for default or because it has reached the end of its term, the Parties recognize that the City will have to process violations in the "pipeline," and that Sensys accordingly must assist the City in this accord. Accordingly, the Parties shall take the following actions during the wind-down period, and shall have the following obligations, which obligations shall survive termination or expiration of the Agreement:

- (1) The City shall cease using the Software and Equipment in its possession, custody or control and shall (a) immediately allow Sensys a reasonable opportunity to remove such Equipment not to exceed sixty (60) days and (b) (I) immediately deliver to Sensys or irretrievably destroy, or cause to be so delivered or destroyed, any and all copies of such Software in whatever form and any written or other materials relating to such Software in the City's possession, custody or control and within thirty (30) days deliver to Sensys a certification thereof or (II) allow Sensys reasonable access to the System(s) on which such Software is loaded and permission to Sensys to remove such Software and documentation.
- (2) Unless directed by the City not to do so, Sensys shall continue to process all images taken by the City before termination and provide all services associated with processing in accordance with this Agreement, and shall be entitled to Fees specified in the Agreement as if the Agreement were still in effect.

F. Notwithstanding anything to the contrary contained herein, or in the License or the Lease, but except as provided in Section 21, the License and the Lease shall terminate upon the termination or expiration of this Agreement.

5. FEES AND PAYMENT

A. The City agrees to pay Sensys a monthly fee as follows (the "Monthly Fees"):

- (1) \$4,500 per month (pro rated for any partial month) in arrears with respect to each approach installed with standard flash ("Standard System"). Such payment shall commence on the first business day of the month following Commencement of Operations of each Standard System and shall continue on the first business day of each month for the Term or until this Agreement is sooner terminated or such payment is modified in accordance with Section 5.B. For purposes of this Agreement, "Commencement of

Operations” shall mean the first full day that the System captures events for processing and issuance of notices of violation.

- (2) \$4,600 per month (pro rated for any partial month) in arrears with respect to each approach installed with infrared flash (“Infrared System”). Such payment shall commence on the first business day of the month following Commencement of Operations of each Infrared System and shall continue on the first business day of each month for the Term or until this Agreement is sooner terminated or such payment is modified in accordance with Section 5.B.
 - (3) \$100 per month (pro rated for any partial month) in arrears with respect to each streaming video monitoring System (a “Video Monitoring System”). Such payment shall commence on the first business day of the month following first full day that such Video Monitoring Systems provides live feed to the Police Department and shall continue on the first business day of each month for the Term or until this Agreement is sooner terminated.
- B. No Monthly Fees shall be due or payable by City on any Approach or System during any period in which only notices or warning are issued.
- C. Notwithstanding anything in this Agreement to the contrary, if amounts due to Sensys pursuant to Section 5.A in any month during the Term plus any amounts due to Sensys pursuant to this Section 5.B (“Monthly Photo Enforcement Fees”) exceed fifty percent (50%) of the revenue generated by operation of the Systems and actually received by the City during that same month (“Monthly Photo Enforcement Revenue”) then the City shall pay to Sensys for such month only fifty percent (50%) of the amount of Monthly Photo Enforcement Revenue. In such case, the difference between Monthly Photo Enforcement Fees and Monthly Photo Enforcement Revenue (a “Payment Shortfall”) shall be accumulated and added to the Monthly Photo Enforcement Fees for the following month. Payment Shortfalls, if any, shall accumulate from month-to-month until paid in full, provided that under no circumstances shall the City ever be required to make a payment of Monthly Photo Enforcement Fees to Sensys except from Monthly Photo Enforcement Revenue. Any Payment Shortfall not paid from Monthly Photo Enforcement Revenue during the Term shall be forfeited as of termination or expiration of the Agreement.
- D. The City is a tax-exempt entity and is exempt from the payment of sales tax; however, in the event that any excise, sales or other taxes are due relating to this Agreement, the City will be responsible for the payment of such taxes; provided, however, that any taxes imposed by the City to Sensys shall be waived by the City or reimbursed to Sensys by the City.

- E. Subject to Section 5.B, in the event that the United States Postal Service increases applicable First Class Mail and/or Certified Mail postage, Sensys may invoice the City for the increased postage actually paid by Sensys in connection with this Agreement. For example, if First Class Mail postage were increased by \$0.02, and Sensys mailed 1,000 notices, Sensys would invoice the City \$20.00. As of the date hereof, First Class Mail postage is \$0.44 per letter and standard Certified Mail postage is \$1.15.
- F. Payment of all fees and other charges owed pursuant to this Agreement is due as set forth above, and, to the extent invoice is required, within forty-five (45) days after receipt of the invoice. Invoices will be sent to the City at:
City of Brooksville
201 Howell Avenue
Brooksville, Florida 34601
- G. The Parties acknowledge and agree that the City may, in the future, desire to perform some or all of the services specified in Section 4 "Citation Preparation and Processing Services" of Exhibit A. Upon 30 days' prior written notice, Sensys and the City shall commence negotiations in good faith to modify this Agreement (including modification of price terms) to allow for the City to perform such services on its own behalf.

6. **RESPONSIBILITIES OF THE CITY**

- A. The City shall provide Sensys with any "as built" drawings in electronic format (AutoCad) that are available at no cost to the City and/or shall consider for approval Sensys' engineering drawings without unusual or unreasonable cost or delay.
- B. The City shall not levy any permit fees or, if municipal ordinance requires the assessment of fees, the City shall waive or be responsible for such fees associated with the installation of the System.
- C. The City shall diligently prosecute citations in court at its own expense. Sensys shall, at its own expense, participate in any proceeding challenging the use of the System or validity of its results and/or use of the U.S. Mails to deliver the citation.
- D. The City will cooperate with Sensys in obtaining electrical connections at the roadside and Sensys shall pay all costs associated with such connection and shall pay for all power required by the System.
- E. To allow for proper operation of the System, when known to the City, the City shall provide Sensys with advance written notice of any modifications proposed to intersections or roadways, including traffic signal operations, after installation of a System. In the event any such

intersection or roadway modification requires a material change to the System, Sensys shall pay the costs reasonably incurred by Sensys to adapt the affected video monitoring system(s) or fixed speed enforcement unit(s) to make such video monitoring system(s) or fixed speed enforcement unit(s) compatible therewith. Notwithstanding the above, Sensys makes no guarantee that it will be able to make any such adaptation. In the event that Sensys is unable to adapt the affected System, then both parties shall be relieved of any further obligations under this Agreement with respect only to the affected System. In addition, Sensys does not, and will not, make recommendations or otherwise manage the configuration or operation of the intersection traffic light system.

- F. During the Term, except as expressly permitted by this Agreement the City shall not use the System, or allow the System's use by a third party, without the prior written permission of Sensys.

7. LIMITED WARRANTY AND LIMITATION ON DAMAGES

- A. Sensys warrants that the System's functionality will conform in all material respects to the description of the System set forth on Exhibit A. This warranty is subject to the conditions of Section 7.D.
- B. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, SENSYS HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE SERVICES AND SYSTEM, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, NON-INTERFERENCE WITH ENJOYMENT, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ALL WARRANTIES IMPLIED FROM ANY COURSE OF DEALING OR USAGE OF TRADE. CITY ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY PROVIDED HEREIN NO OTHER WARRANTIES HAVE BEEN MADE TO MUNICIPALITY BY OR ON BEHALF OF SENSYS OR OTHERWISE FORM THE BASIS FOR THE BARGAIN BETWEEN THE PARTIES.
- C. The City acknowledges and agrees that:
 - (1) The Systems may not detect every red light violation;
 - (2) Since the System may flag as a violation conduct that is in fact not a violation, the output of the System will require review, analysis and approval by personnel appropriately qualified and authorized by the City under applicable law prior to the issuance of any citation;
 - (3) The System has no control over, and relies on the proper functioning of equipment for signal light changes, which equipment is provided by entities other than Sensys;

- (4) The proper functioning of the System requires the City's full and complete compliance with the Systems' operating instructions, which it hereby agrees to do; and
- (5) Sensys shall not be responsible for the configuration and/or operation of any intersection traffic light systems and Sensys shall have no liability or obligations with respect thereto.

8. **INDEMNIFICATION AND INSURANCE**

- A. Sensys shall at all times comply with all federal, state and local laws, ordinances and regulations and shall comply with the maintenance procedures and manufacturer recommendations for operation of the Systems which affect this Agreement, and shall indemnify and save harmless the City against any claims, arising from Sensys' violation of any such laws, ordinances and regulations or any claims arising from Sensys' performance of this Agreement, including as a result of the negligence or willful misconduct of Sensys, its officers and directors, agents, attorneys, and employees, but excluding any employees or agents of City.
- B. Sensys agrees to indemnify, defend, and hold harmless the City from any claim of damages (including the payment of reasonable attorneys' fees) by a third party arising solely from either (a) a finding that the System infringes any validly issued United States patent or (b) Sensys' negligence, provided that such claim of damages is not attributable to (I) any act or omission set forth in Section 7.2 or (II) any third-party software or other third-party products used with, required for use of, or supplied under their own names with or as part of the System. If, as a final result of any litigation of which Sensys is obligated to indemnify, the use of the System by City is prevented, in whole or in part, by an injunction, Sensys' sole obligation to the City as a result of such injunction shall be, at Sensys' option, either to (I) replace such part as has been enjoined, or (II) procure a license for Sensys or the City to use same, or (III) remove same and terminate this Agreement at no additional cost to the City.
- C. Notwithstanding anything in this Agreement to the contrary, Sensys assumes no obligation or liability for any claim of damages (including the payment of reasonable attorneys' fees) by a third party arising from or related to (I) any modification of the System made by the City, (II) the negligence or intentional act of City, (III) the failure to function properly of any hardware, software or equipment of any kind used by, in or on behalf of the City (other than that supplied by Sensys), (IV) the review and analysis of the System data output by City personnel for citation preparation, or (V) the City's use and/or administration of any traffic signal.

- D. The rights of the City to seek indemnification under this Section 8.B shall be conditioned upon (I) the City notifying Sensys promptly upon receipt of the claim or action for which indemnification is sought (but the failure to do so shall not relieve Sensys of its obligations under this Section 8.B unless it is, and then only to the that extent it is materially prejudiced thereby) and (II) the City's full cooperation with Sensys in the settlement or defense of such claim or action at no cost to the City. The City agrees not to charge Sensys for the reasonable time of the City's personnel engaged in such cooperation. Such cooperation shall include, but not be limited to, the City providing access for, and permission to, Sensys for the purpose of the replacement of such part or parts of Systems as Sensys may deem necessary or desirable. The City may participate in the defense of any indemnified matter through counsel of its own choice and at its own expense provided that Sensys shall remain in, and responsible for, control of the matter. This Section 8 states the entire liability and obligation and the exclusive remedy of the City with respect to any actions or claims (I) of alleged infringement relating to or arising out of the subject matter of this Agreement or (II) otherwise the subject of this paragraph.
- E. Sensys shall maintain the following minimum scope and limits of insurance:
- (1) Comprehensive general liability insurance including but not limited to coverage for bodily injury, property damage, premises and operations, products/completed operations, personal and advertising injury, and contractual liability, with a combined single limit of \$1,000,000 per occurrence, with an aggregate liability per occurrence of \$2 million. Such insurance shall include the City, its officers, directors, employees, and elected officials as additional insured for liability arising from Contractor's operation.
 - (2) Workers Compensation as required by applicable state law; and
 - (3) Comprehensive Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by Sensys with a minimum \$1,000,000 per occurrence combined single limit bodily injury and property damage.
- F. The City, its elected officials, officers, employees, agents and representatives, shall be named as additional insured on the comprehensive general liability policies provided by Sensys under this Agreement. Sensys shall require any subcontractors doing work under this Agreement to provide and maintain the same insurance, which insurance shall also name the City and its officers, employees, and authorized volunteers as additional insured.

- G. Certificates showing Sensys is carrying the above described insurance, and evidencing the additional insured status specified above, shall be furnished to the City within thirty (30) calendar days after the date on which this Agreement is made. Such certificates shall show that the City shall be notified of all cancellations of such insurance policies. Sensys shall forthwith obtain substitute insurance in the event of a cancellation.
 - H. All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of Florida and shall name as additional insured the City, its elected officials, officers, employees, agents and representatives. Sensys will furnish City with Certificates of Insurance and applicable endorsements for all such policies promptly upon receipt of them. Sensys may effect for its own account insurance not required under this Agreement.
9. **CHANGE ORDERS OR ADDITIONAL SERVICES.** Changes to Services and additional Systems may be added to this Agreement by mutual consent of the Parties in writing as an addendum to this Agreement. City and Sensys agree that should legislation or local ordinance be enacted to enable speed enforcement within the City limits, the City shall have the option to negotiate services and fees and issue a change order to cover such services.
10. **CONFIDENTIAL AND PROPRIETARY INFORMATION; PUBLIC RECORDS LAW COMPLIANCE.**
- A. The Parties agree that they shall comply with the public records disclosure provisions of Art. 1, Sec. 24 of the Constitution of the State of Florida and Chapter 119, Florida Statutes.
 - B. Sensys agrees that:
 - (1) All information obtained by Sensys through operation of the Systems shall be made available to the City at any time during Sensys' normal business hours, excluding Proprietary Information not reasonably necessary for the prosecution of citations or fulfillment of the City's obligations under this Agreement.
 - (2) It shall not use any information acquired from the performance of the Services contemplated in this Agreement, including without limitation, information with respect to any violations, violators, information obtained from recorded images or information concerning the City's law enforcement activities for any purpose other than for the benefit of the City.
 - C. No information given by Sensys to the City will be of a confidential nature, unless specifically designated in writing as "Proprietary Information" and expressly exempt from public records disclosures

required by Art. 1, Sec. 24 of the Constitution of the State of Florida and Chapter 119, Florida Statutes.

- D. As used in this Agreement, the term "Proprietary Information" shall mean all trade secrets or confidential or proprietary information designated as such by Sensys, whether letter or by the use of an appropriate proprietary stamp or legend, prior to or at the time any such trade secret or confidential or proprietary information is disclosed by Sensys to the City. In addition, the term "Proprietary Information" shall be deemed to include: (a) any notes, analyses, compilations, studies, interpretations, memoranda or other documents prepared by the Recipient which contain, reflect or are based upon, in whole or in part, any Proprietary Information furnished to the Recipient.
- E. The City shall use the Proprietary Information only for the purpose of fulfilling its duties hereunder (the "Purpose") and such Proprietary Information shall not be used for any other purpose without the prior written consent of Sensys. "Purpose" shall be deemed to not include any disclosure of the Proprietary Information to any person or entity. The City shall hold in confidence, and shall not disclose to any person or entity, any Proprietary Information nor exploit such Proprietary Information for its own benefit or the benefit of another without the prior written consent of Sensys.
- F. Notwithstanding anything contained in this Agreement to the contrary, this Agreement shall not prohibit the City from disclosing Proprietary Information to the extent required in order for the City to comply with applicable laws and regulations, provided that the City provides prior written notice of such required disclosure to Sensys.

11. **INDEPENDENT CONTRACTOR; NO AGENCY.**

- A. It is understood that Sensys is an independent contractor and not an agent or employee of the City for any purpose including, but not limited to, federal tax and other state and federal law purposes. Sensys assumes responsibility for payment of all federal, state and local taxes imposed or required of Sensys under unemployment insurance, Social Security and income tax laws. Sensys shall be solely responsible for any worker's compensation insurance required by law and shall provide the City with proof of insurance upon demand. The parties agree that the City shall not:
 - (1) Pay dues, licenses or membership fees for Sensys;
 - (2) Require attendance by Sensys, except as otherwise specified herein;

- (3) Control the method, manner or means of performing Services under this Agreement, except as otherwise specified herein; or
 - (4) Restrict or prevent Sensys from working for any other party.
- B. Neither party has the right or the power to enter into any contract or commitment on behalf of the other party, including entering into agreements with third parties, exercising incidents of ownership with respect to property owned by the Party or executing contracts binding upon the other Party.
- C. Sensys is an independent contractor providing services to the City and the employees, agents and servants of Sensys shall in no event be considered to be the employees, agents, or servants of the City. Except as expressly provided herein, this Agreement is not intended to create an agency relationship between Sensys and the City.

12. **NOTICES.**

- A. Any notices or demands which under the terms of this Agreement or under any statute must or may be given or made by Sensys or City 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 address:

CITY

T. Jennene Norman Vacha
City Manager
City of Brooksville
201 Howell Avenue
Brooksville, Florida 34601

CONTRACTOR

Sensys America, Inc.
80 SW 8th St., 20th Floor
Miami, Florida 33130
Attn: Carlos Lofstedt

- B. Except as otherwise specified, all notices, payments and reports hereunder shall be deemed given and in effect as of the date of mailing or transmission, as the case may be, when sent by next day delivery or courier service, postage pre-paid, or three days after the date of mailing when sent by first class mail, postage pre-paid, addressed in all such cases to the Parties as set forth in the preamble to this Agreement directed in each case to the President of Sensys at the address in the preamble or the Chief of Police of the City at the address in the preamble, or to such other addresses as the Parties may from time to time give written notice of as herein provided.

13. **ASSIGNMENT.** Except as specifically provided in this Agreement, neither Party may assign, or delegate performance of its obligations under, this Agreement, without the express written consent of the other Party, except that Sensys may assign or otherwise encumber this Agreement, the License and the Lease for the

purpose of obtaining financing; provided, however, that this Agreement may be assigned to any Person that acquires all or substantially all of Sensys' assets in one transaction.

14. **AMENDMENT AND MODIFICATION.** This Agreement may be modified or amended from time to time by the Parties, provided, however, that no modification or amendment hereto shall be effective unless it is stated in writing, specifically refers to this Agreement and is executed on behalf of the Party against whom enforcement of such modification or amendment is sought.
15. **NON WAIVER.** The failure of either Party to require performance of any provision of this Agreement shall not affect the right to subsequently require the performance of such provision or any other provision of this Agreement. The waiver of either Party of a breach of any provision shall not be taken or held to be a waiver of any subsequent breach of that provision or any subsequent breach of any other provision of this Agreement.
16. **FORCE MAJEURE.** Neither Party shall be liable to the other for failure or delay in meeting any obligations hereunder which arises in whole or in part from causes which are unforeseen by, or beyond the control of, such Party, including without limitation, acts of God or of a public enemy, acts of terrorism, acts of the Government (other than the City in the case of the City) in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, acts or omissions of (I) non-subcontractor third-parties and (II) third party equipment, telecommunications and software suppliers, and unusually severe weather. When any such circumstance(s) exist, Sensys shall have the right, in its sole discretion, to allocate its available production, deliveries, services, supplies and other resources among any and all buyers (whether or not including the City), as well as among departments and affiliates of Sensys, without any liability to the City.
17. **DISPUTE RESOLUTION AND REMEDIES.**
 - A. All disputes arising out of or in connection with the Agreement shall be attempted to be settled through good-faith negotiation between the City Manager and the President of Sensys, followed if necessary within thirty (30) calendar days by professionally-assisted mediation. Any mediator so designated must be acceptable to each party and must be a Florida Supreme Court Certified Circuit Civil Mediator. The mediation will be conducted as specified by the mediator and agreed upon by the Parties. The Parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute. The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings. Each party will

bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the Parties.

- B. Failing resolution through negotiation or mediation, each party to this Agreement shall be entitled to seek enforcement of this Agreement against the other party and shall have all remedies available at law or in equity, including the remedy of specific performance and all forms of injunctive relief.

18. **GOVERNING LAW; JURISDICTION; VENUE.** The parties agree that this Agreement is consummated, entered into, and delivered in Hernando County, Florida. Notwithstanding conflicts of laws provisions, this Agreement has been and is to be governed by, construed, interpreted and enforced in accordance with the laws of the State of Florida. In the event that any litigation is commenced by either party to enforce this Agreement, the action will be filed and litigated, if necessary, solely and exclusively in a State court of competent jurisdiction located in Hernando County, Florida. The parties waive any and all rights to have this action brought in any place other than Hernando County, Florida, under applicable venue laws. The Parties hereby irrevocably waive any and all rights to have this action brought in any place other than those stated herein. The Parties hereby irrevocably waive any claim that any such action has been brought in an inconvenient forum.

19. **ATTORNEY'S FEES AND COSTS.** In the event suit is commenced to enforce this Agreement, costs of said suit including reasonable attorney's fees in all proceedings, trials, investigations, appearances, appeals and in any bankruptcy proceeding or administrative proceeding shall be paid to the prevailing party by the other party.

20. **GENERAL AND MISCELLANEOUS.**

- A. Time shall be of the essence of this Agreement.
- B. In this Agreement, wherefore the singular and masculine are used, they shall be construed as if the plural or the feminine or the neuter had been used, where the context or the party or parties so requires, and the rest of the sentence shall be construed as if the grammatical and the terminological changes thereby rendered necessary had been made.
- C. Paragraph headings are provided as an organizational convenience and are not meant to be construed as material provisions of this Agreement.
- D. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

- E. This Agreement may be executed in counterparts, each constituting a duplicate original, but such counterparts shall constitute one and the same Agreement.
 - F. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement from and after the Effective Date.
 - G. Each Party to this Agreement agrees to do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances in a manner and to the degree allowed by law, as shall be reasonably requested by the other party in order to carry out the intent of and give effect to this Agreement. Without in any manner limiting the specific rights and obligations set forth in this Agreement or illegally limiting or infringing upon the governmental authority of the City, the Parties declare their intention to cooperate with each other in effecting the purposes of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.
 - H. Except as set forth in this Agreement and the Exhibits hereto, no representation, statement, understanding or agreement, whether written or oral, has been made and there has been no reliance on anything done, said or any assumption in law or fact with respect to this Agreement for the duration, termination or renewal of this Agreement other than as expressly set forth in this Agreement and there has been no reliance upon anything so done or said that in any way tends to change or modify the terms or subject matter of this Agreement or to prevent this Agreement from becoming effective.
 - I. This Agreement supersedes any agreements and understandings, whether written or oral, entered into by the Parties hereto prior to the effective date of this Agreement.
21. **SURVIVABILITY.** Termination or expiration of this Agreement shall not relieve either Party of their respective obligations, which are expressly noted to survive termination or expiration or under the following sections which shall survive termination and expiration: Sections 4E, 5, 7.B, 7.C, 7.D, 8, 10, 17, 18, 19, and 20. Sections 4, 7, 8 and 9 (but only to the extent Section 9 corresponds to Sections of the Agreement which survive) of the License and Sections 3, 4, 5, 6, 7 and 9 (but only to the extent Section 9 corresponds to Sections of the Agreement which survive) of the Lease shall survive any expiration or termination of this Agreement, the License or the Lease.
22. **SEVERABILITY.** If any covenant or provision of this Agreement is, or is determined to be, invalid, illegal or unenforceable by a court of competent

jurisdiction, then such covenant or provision will be ineffective only to the extent of such prohibition or invalidity. All remaining covenants and provisions of this Agreement shall nevertheless remain in full force and effect, and no covenant or provision of this Agreement shall be deemed to be dependent upon any covenant or provision so determined to be invalid, illegal or unenforceable unless otherwise expressly provided for herein. The invalidity of any provision of this Agreement or any covenant herein contained on the part of any party shall not affect the validity of any other provision or covenant hereof or herein contained which shall remain in full force and effect.

Each party acknowledges that it has read this Agreement and understands the terms and conditions herein. Further, the parties have caused this Agreement to be executed on its behalf by the authorized officer whose signature appears below under its name, to be effective as of the date written above.

IN WITNESS WHEREOF, the Parties hereto have set their hands by their duly authorized representatives as of the day and year first above written.

Witness:

SENSYS AMERICA, INC.

By: Brian D. Hull

Carlos Lofstedt
Carlos Lofstedt
President and CEO

By: Charles Hogan

BROOKSVILLE, FLORIDA

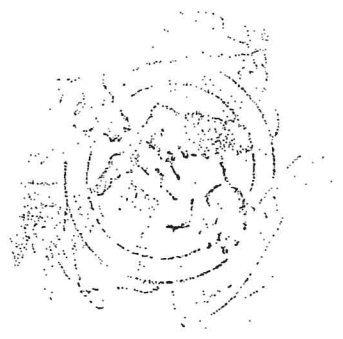
T. Jennene Norman-Vacha
T. Jennene Norman-Vacha
City Manager

Approved as to Form for the Reliance of
the City of Brooksville Only:

Thomas S. Hogan Jr.
Thomas S. Hogan Jr.
The Hogan Law Firm
As City Attorney

Attest:

Janice L. Peters, CMC
Janice L. Peters, CMC
City Clerk



Distribution: Original to City Clerk, Copy to Contractor, Finance, and City File

EXHIBIT A SERVICES

Sensys shall provide the City with the Systems. In connection with furnishing the Systems, Sensys shall provide the following, each of which is more fully described below:

1. SITE INSTALLATION PLANNING; DESIGN AND EQUIPMENT INSTALLATION
2. USER TRAINING AND SUPPORT
3. NOTICE OF VIOLATION AND UTC PREPARATION AND PROCESSING SERVICES
4. MAINTENANCE AND SUPPORT
5. PUBLIC EDUCATION CAMPAIGN
6. EXPERT WITNESS TESTIMONY AND COURT TRAINING
7. VIOLATION REVIEW STATION
8. REPORTING
9. MEETINGS

1. SITE INSTALLATION PLANNING, DESIGN AND EQUIPMENT INSTALLATION

A. The Systems.

- (1) Sensys will install up to twenty (20) Systems (which shall remain property of Sensys), monitoring such locations as the City and Sensys shall mutually agree. Up to ten (10) additional Systems may be added at the option of the City with Sensys' consent. Each System shall comprise equipment capable of monitoring red light violations at a single approach to an intersection for up to three lanes of traffic. Sensys will install new Systems upon mutual agreement of the Parties.
- (2) Such number of Video Monitoring Systems as the City may request (which shall remain property of Sensys) shall be installed, providing continuous video monitoring of the selected intersections. Each such Video Monitoring System shall comprise an IP addressable digital video camera inside a secure virtual private network, video streaming to the police department via secure, encrypted network to a supplied digital video recording device capable of storing at least 60 days of video. Sensys will install additional Video Monitoring Systems in connection with any System at the request of the City.
- (3) In the event that the City desires to relocate any System after 1 full year of continuous operation of such System, Sensys will effect such relocation at no cost to the City provided that the Initial Term of the Agreement shall not be within one year of expiration.
- (4) The Systems shall include all equipment located at each intersection, all equipment in the City Police Department (including court laptop), telecommunications equipment, and Software and shall have the capability

of transferring images from the roadside to the City's Police Department processing facility.

- B. Substitution or Addition of an Intersection. If Sensys or the City reasonably determines that one or more intersections selected for installation of a System is not for any reason appropriate for the System (and such determination is made at least fifteen (15) days prior to the commencement of installation of the System at any such intersection), then alternate intersection(s) may be substituted by written consent of the Parties.
- C. Timeframe for Installation of the System. Sensys shall install and activate the Systems in accordance with an Implementation Plan to be mutually agreed to by Sensys and the City, which installation shall, at minimum, conclude within 60 days after all necessary permits and approvals are received by Sensys. Sensys shall use reasonable commercial efforts to install the System in accordance with the schedule set forth in the Implementation Plan. The City agrees that the estimated dates of installation and activation of the System set forth in the Implementation Plan are subject to delay based on conditions beyond the control of Sensys and are not guaranteed.
- D. Installation/Ownership of the System. Sensys shall procure, install and provide support of Equipment at each of the agreed upon locations. As between Sensys and the City, all components for the System will remain the property of Sensys.
- E. Installation
- (1) Sensys shall submit plans and specifications to the City for review and approval, which review and approval will not be unreasonably withheld, delayed or conditioned. These plans and specifications shall be signed and stamped as approved by a professional engineer licensed to practice in the State in which the City is located if the same is required by law. Sensys shall provide at least three sets of drawings of the wiring for the System circuitry.
 - (2) All cameras and other equipment shall be enclosed in lockable, weather and vandal-resistant housing. All wiring shall be internal to equipment (not exposed) and if commercially reasonable and if capacity exists, underground in existing traffic signal conduits, except where required to directly interface with the traffic signals and electrical service. Separate conduits or overhead wiring may be used by Sensys if existing conduit(s) are at capacity. If existing conduits are used, the City will not unreasonably withhold, delay or condition consent to such use.
 - (3) The System may be mounted on or utilize support of existing traffic signal poles, arms or other intersection structures where possible, subject to City

review and approval, such review and approval not to be unreasonably withheld, delayed or conditioned.

- (4) The System poles, foundations and new infrastructure, as required, shall conform to applicable law.

F. Restoration of Intersections. Upon termination or expiration of the Agreement, Sensys shall remove the System and restore the affected public facilities including returning the intersections to their original condition; provided, however, that Sensys shall not be required to remove any conduit, in-ground fixture, underground wiring or other infrastructure that will require excavation or demolition. All costs incurred by Sensys thereby will be the responsibility of Sensys.

G. Compliance with Law. Sensys shall design and install the System in compliance with all currently existing federal, Florida and municipal laws and regulations. Sensys covenants and agrees that its Red Light Safety Systems shall, at all times, comply with all applicable laws, regulations, rules and orders ("Legal Requirements"). Sensys shall continuously monitor the status of such Legal Requirements to ensure continuous compliance. In the event of any change in the Legal Requirements, Sensys shall modify or replace (at its sole cost) all or any portion of its non-compliant Red Light Safety Systems. Any such modification shall be effected by Sensys in a reasonable period of time (not to exceed 90 days for modification or 180 days for complete system replacement) and Sensys' failure to effect such modification or replacement in a timely manner shall be grounds for the City to terminate this Agreement for cause. Any such termination shall not relieve Sensys of its obligation to restore each site to its original condition.

2. **PRODUCTION OF VIDEO FILES.** Sensys shall produce digital video files of each red light violation, capable of identifying vehicles traveling through the intersection during the red light phase.

3. **TRAINING OF CITY PERSONNEL.** After System installation, Sensys shall provide up to eight (8) hours of training for up to ten (10) persons at two (2) sessions at the City's facilities to acquaint City personnel with System operation. Training shall consist of instructional and operational training as well as hands-on equipment exercises with an instructor. All necessary training materials and documentation will be provided by Sensys at Sensys' expense. Sensys shall make all such training services available to the City prior to the end of the thirty (30) day period following the Installation Date. If the City requests additional courses or training, Sensys shall provide these on a cost reimbursement basis.

4. CITATION PREPARATION AND PROCESSING SERVICES

- A. Citation Preparation and Processing. Sensys shall perform the initial review of all data generated at the roadside, process and format violations utilizing a computerized traffic citation program that shall store all information required for citation processing by Florida and City law ("Ticket Agent"), and transfer the citations to the Police Department's computer for review and decision on whether or not to issue a citation. If Sensys is permitted by applicable law or regulation to do so, Sensys shall also review all DMV information and print and mail citation forms. Sensys shall pay all mailing and postage costs, and such other miscellaneous costs and expenses as may be reasonably necessary to issue a citation and deliver it by U.S. mail. To the extent required by applicable law, Sensys shall obtain a certification of mailing issued by the Post Office. Notwithstanding anything to the contrary in the foregoing provisions of this Section 4.A, Sensys will not process nor support any citations not captured by the System and/or approved by the City.
- (1) Mailing of Citations. Citations shall be mailed to the violator as soon as is reasonably practicable, and in no event longer than five (5) business days after being approved by the City and Sensys has been notified of such approval. The form of citation shall be subject to the approval of the City, which approval may not be unreasonably delayed, conditioned or withheld.
- (2) Cooperation With Police and the Courts. Sensys shall be responsible for, and pay for the cost of issuing and the mailing (via certified mail) Uniform Traffic Citations in accordance with applicable law. Sensys shall coordinate with the City and the Courts, and shall comply with the applicable law regarding the mailing and other requirements necessary for the issuance of Uniform Traffic Citations. All citations shall be reviewed and approved by the City's Police Department prior to mailing. In addition, Sensys will cooperate with the Courts to set up the necessary communications and procedures that will enable Sensys to send delinquent notices to those registered owners/drivers for whom such notices are appropriate.
- (3) Preparation of Evidence Packages. Sensys shall prepare evidence packages in such form as may be reasonably agreed upon to enable the City to enforce its citations in court, and in compliance with the Florida Rules of Evidence.
- B. Access to Drivers License Information. Sensys shall maintain the ability to access the driver's license information and the registered owner residence address for all US registered vehicles, and the per-request fee for information, if any, shall be paid by Sensys. If Sensys is unable to access such information, Sensys shall provide the make and license plate number of each violator to the City, which will

obtain and input the information into the System, or provide such information to Sensys, within a reasonable period of time. Any costs incurred by the City in obtaining this information (including personnel costs) shall be reimbursed by Sensys.

- C. Numbering System. Sensys, in coordination with the City, shall develop and implement an independent numbering system for automated red light citations.
- D. Transmission of Information. Sensys shall make all citation information available via an electronic file using comma separated value files on a secure FTP site. Sensys shall maintain a documented chain of custody for all electronically transmitted information while the information is under Sensys' control.
- E. Customer Service. Sensys shall provide an automated customer service telephone number to the public. Customer Service Representatives will be available Monday through Friday, from 9:00 a.m. to 5:00 p.m. local time (of the City), excluding holidays, in order to schedule violation video viewing appointments for the Police Department and to answer basic questions regarding the City's program.

5. MAINTENANCE

- A. Maintenance of System. Except as provided herein, Sensys shall Maintain the System (as such term is defined below); provided however, that Sensys shall not be responsible for any maintenance, repair or replacement required as a result of (i) the negligence or intentional act of the City, its employees, agents or independent contractors (other than Sensys) and/or (ii) any equipment or software not provided by Sensys. Sensys shall maintain a maintenance log that documents all service issues. To "Maintain the System" shall mean to keep the System in a state of operation such that the System's functionality and operation conforms in all material respects to the description of the System set forth in this Exhibit. All problems shall be documented and repairs commenced within twenty-four (24) hours of the time Sensys receives notice thereof. Sensys shall also install all software revisions for Systems and Ticket Agent as and when developed and made commercially available by Sensys.
- B. Equipment Checks. Sensys shall use commercially reasonable efforts to perform remote camera and PC equipment checks to confirm proper operation of computers, cameras and communications network. Routine in-field camera equipment inspection will be done as needed. The System shall have the capability of on-line monitoring of all cameras at each intersection.

6. PUBLIC EDUCATION CAMPAIGN

- A. Public Awareness Program. Sensys shall assist the City with a Public Awareness Program. Such assistance shall consist of:

- (1) Paying for all signage required by law or as otherwise required by resolution of the City Council
- (2) Reasonable assistance for a media event to launch the community education program
- (3) Preparing, publishing and printing a brochure for distribution
- (4) A reasonable amount of training for a City staffed speaker's bureau
- (5) Providing a toll-free customer service hotline which shall be staffed sufficiently during all regular business hours.

7. **EXPERT WITNESS TESTIMONY AND COURT TRAINING**

- A. Expert Witness Testimony. Sensys shall provide expert witness testimony at its sole expense, as reasonably necessary, to testify regarding the accuracy and technical operation of the System as necessary for court challenges to the operation of the System.
- B. Court Training. Sensys shall conduct a one-day workshop-orientation session for Municipal Court judges (and/or their designees), hearing officers, other appropriate court officials and the City prosecutor.

8. **Provision of PC Equipment.** Sensys shall provide desktop workstations as reasonably necessary to accommodate citation volume, one (1) laptop workstation and one (1) printer (all of which shall remain the property of Sensys) to be used by the City for citation review and approval, violation video viewing appointments and court hearings.

9. **REPORTING**

- A. Monthly Report. Sensys shall submit to the City a Monthly Report on project results within thirty (30) days after the end of each calendar month. The Monthly Report shall include information for each violation recorded by the System as well as the following items:
 - (1) Number of violations recorded
 - (2) Number of non-issued violations
 - (3) Breakdown of reasons for non-issuance
 - (4) Number of citations issued
 - (5) Court hearings scheduled and held
 - (6) Number of calls for information
 - (7) Number of violation video viewing appointments scheduled
- B. Additional Reports or Information. Any other reports and information are not part of the Agreement and the preparation and delivery of any other such reports or information may result in additional fees.
- C. Database. Sensys shall maintain a database with the following information per violation:
 - (1) Location, date and time

- (2) Number of seconds of yellow traffic signal and speed of vehicle
- (3) Type of violation
- (4) Vehicle description including license plate state and number
- (5) Applicable vehicle code section violated (if available to Sensys)
- (6) Citation prepared or reason for not preparing citation (if available to Sensys)
- (7) Registered vehicle owner's name and address, driver's license number and related information required to prepare citations where violation is made by a driver other than registered owner (if available to Sensys) (Affidavit of Non-Liability)
- (8) Status of citation (outstanding, cancelled, reissued, paid, bail forfeited, traffic school, warrants issued, etc.) (if available to Sensys)
- (9) Sensys shall maintain at its sole expense all records, including, but not limited to all video recordings, which it generates or receives as a result of the performance of services pursuant to the Agreement for the period of time required by, and otherwise in accordance with, Chapter 119, Florida Statutes, as same may be amended from time to time. Upon receipt of a request from the City for a copy of any record being maintained by Sensys, Sensys shall provide the requested record to the City within a reasonable time following such request, but in no event later than seven (7) days following the date the request is received by Sensys. Sensys shall be responsible for all costs associated with the providing the requested records to the City.

10. **Additional Services (if requested by the City in writing):**

- A. Payment Processing Services. Sensys shall use reasonable commercial efforts to receive citation fees from violators, deposit amounts collected into an appropriate bank account, provide accounting records to the City, and remit the amounts received as instructed by the City. In addition, Sensys will provide an online payment portal for violators.
- B. Intersection Assessment Program. Sensys will generate a video-based analysis of an intersection designed to evaluate the frequency of red-light violations for each approach at the targeted intersection. The video media will contain up to 16 hours of IAP monitoring assuming the equipment remains installed at the intersection during the course of monitoring, but not to exceed three consecutive calendar days. A report summarizing the results, along with the media generated will be provided to the City. There is no charge for the initial 20 intersection approaches to be evaluated by Sensys pursuant to this Agreement.
- C. Sensys will install additional Video Monitoring Systems in connection with any System at the request of the City Intersection Video Monitoring System IP addressable digital video camera inside a secure virtual private network, video streaming to the police department via secure, encrypted network to a supplied digital video recording device capable of storing at least 60 days of video.

EXHIBIT B
LICENSE AGREEMENT FOR RED LIGHT SAFETY SYSTEM SOFTWARE

This LICENSE AGREEMENT (the "License") is part of an agreement (the "Agreement") (to which a copy of this License is attached as Exhibit B) between the City named in the Agreement and Sensys America, Inc. ("Sensys") for the Sensys software product identified above, which includes computer software and may include associated media, printed materials, and "online" or electronic documentation (the "SOFTWARE PRODUCT"). The SOFTWARE PRODUCT also includes any updates and supplements to the original SOFTWARE PRODUCT provided to the City by Sensys. Any software provided along with the SOFTWARE PRODUCT that is associated with a separate license agreement is licensed to the City under the terms of that license agreement. By execution of the Agreement, the City has agreed to be bound by the terms of this License. Such agreement by the City is an express condition to its ability to use the SOFTWARE PRODUCT.

1. GRANT OF LICENSE. The SOFTWARE PRODUCT is licensed, not sold. This License grants the City only the following rights: The City may use those copies of the SOFTWARE PRODUCT as installed by Sensys on its network ("Network"). A license for the SOFTWARE PRODUCT may not be shared or used concurrently on different Networks.

2. DESCRIPTION OF OTHER RIGHTS AND LIMITATIONS. The City may not reverse engineer, decompile, or disassemble the SOFTWARE PRODUCT, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. The SOFTWARE PRODUCT is licensed as a single product. Its component parts may not be separated for use on more than one computer unless so installed by Sensys. The City may not rent, lease, transfer or lend the SOFTWARE PRODUCT. This License does not grant the City any rights in connection with any trademarks or service marks of Sensys. Without prejudice to any other rights, Sensys may terminate this License if the City fails to comply with the terms and conditions of this License. In such event, the City must permit Sensys reasonable access to its computer system for the purpose of removing all copies of the SOFTWARE PRODUCT or deliver to Sensys or destroy all copies of the SOFTWARE PRODUCT and all of its component parts.

3. SUPPORT SERVICES AND UPGRADES. Sensys may provide the City with support services related to the SOFTWARE PRODUCT ("Support Services"). Use of Support Services is governed by the Agreement. Any supplemental software code provided to the City as part of the Support Services shall be considered part of the SOFTWARE PRODUCT and subject to the terms and conditions of this License. With respect to technical information the City provides to Sensys as part of the Support Services, Sensys may use such information for its business purposes, including for product support and development. In particular, Sensys will not utilize such technical information in a form that personally identifies the City or any motor vehicle, tag or person. If the SOFTWARE PRODUCT is labeled as an upgrade, the City must be properly licensed to use a product identified by Sensys as being eligible for the upgrade in order to use the SOFTWARE PRODUCT. A SOFTWARE PRODUCT labeled as an upgrade replaces and/or supplements the product that formed the basis for the City's eligibility for the upgrade. The City may use the resulting upgraded product only in accordance with the terms of this License. If the

SOFTWARE PRODUCT is an upgrade of a component of a package of software programs that the City licensed as a single product, the SOFTWARE PRODUCT may be used and transferred only as part of that single product package and may not be separated for use on more than one computer.

4. COPYRIGHT. All title and intellectual property rights in and to the SOFTWARE PRODUCT (including but not limited to any images, photographs, animations, video, audio, music, text, and "applets" incorporated into the SOFTWARE PRODUCT), the accompanying printed materials, and any copies of the SOFTWARE PRODUCT are owned by Sensys or its suppliers. As between the City and Sensys, all title and intellectual property rights in and to the images and information which may be generated through use of the SOFTWARE PRODUCT is the City's property. All rights not expressly granted are reserved by Sensys.

5. DUAL-MEDIA SOFTWARE. The City may receive the SOFTWARE PRODUCT in more than one medium. Regardless of the type or size of medium the City receives, the City may use only one medium that is appropriate for its Network. The City may not use or install the other medium on another Network. The City may not loan, rent, lease, lend or otherwise transfer the other medium to another user.

6. BACKUP COPY. After installation of one copy of the SOFTWARE PRODUCT pursuant to this License, the City may keep the original media on which the SOFTWARE PRODUCT was provided by Sensys solely for backup or archival purposes. If the original media is required to use the SOFTWARE PRODUCT on the COMPUTER, the City may make one copy of the SOFTWARE PRODUCT solely for backup or archival purposes. Except as expressly provided in this License, the City may not otherwise make copies of the SOFTWARE PRODUCT or the printed materials accompanying the SOFTWARE PRODUCT.

7. COMPLIANCE WITH LAW AND EXPORT RESTRICTIONS. The City represents and agrees that it does not intend to and will not use, disseminate or transfer in any way the SOFTWARE PRODUCT in violation of any applicable law, rule or regulation of the United States, or any State of the United States or any foreign country of applicable jurisdiction. Without limiting the foregoing, the City agrees that it will not export or re-export the SOFTWARE PRODUCT to any country, person, entity or end user subject to U.S. export restrictions. The City specifically agrees not to export or re-export the SOFTWARE PRODUCT: (i) to any country to which the U.S. has embargoed or restricted the export of goods or services, which currently include, but are not necessarily limited to Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria, or to any national of any such country, wherever located, who intends to transmit or transport the products back to such country; (ii) to any end-user who the City knows or has reason to know will utilize the SOFTWARE PRODUCT or portion thereof in the design, development or production of nuclear, chemical or biological weapons; or (iii) to any end-user who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government.

8. OTHER PROVISIONS. Sections 3, 4, 7, 10, 17, 18, 19, 20, and 22 of the Agreement are hereby incorporated by reference as if herein set forth in full.

EXHIBIT C
LEASE AGREEMENT FOR RED LIGHT CAMERA SYSTEMS

This LEASE AGREEMENT (the "Lease") is part of an agreement (the "Agreement") (to which a copy of this Lease is attached as Exhibit C) between the City named in the Agreement and Sensys America, Inc. The Parties hereto agree as follows:

1. LEASE. Sensys hereby leases to City and City hereby leases from Sensys, subject to the terms and conditions of this Lease, such items of System equipment (together with all attachments, replacements, parts, additions, substitutions, repairs, accessions and accessories incorporated therein and/or affixed thereto, the "Equipment") that City obtains possession, custody or control of pursuant to the Agreement.

2. USE AND LOCATION. The Equipment shall be used and operated by City only in connection with the operation of the System by qualified employees of City and in accordance with all applicable operating instructions, and applicable governmental laws, rules and regulations. City shall not part with control or possession of the Equipment without Sensys' prior written consent.

3. CONDITION. Sensys shall maintain the Equipment in good condition and working order in accordance with Section 5.A of Exhibit A. City shall not damage the Equipment or make any alterations, additions or improvements to the Equipment without Sensys' prior written consent unless such alterations, additions or improvements do not impair the commercial value or the originally intended function or use of the Equipment and are readily removable without causing material damage to such Equipment so as to return the Equipment to its original state, less ordinary wear and tear. Any alteration, addition or improvement not removed prior to the return of the Equipment shall without further action become the property of Sensys, provided, however, that any alterations, additions and improvements which would reduce the value of the Equipment must be removed prior to the return of such Equipment.

4. RETURN. Upon the expiration or earlier termination of the Agreement, City shall allow Sensys reasonable access to remove the Equipment at Sensys' expense.

5. OWNERSHIP, LIENS. The Equipment is and shall at all times be the property of Sensys. City agrees to take all action necessary or reasonably requested by Sensys to ensure that the Equipment shall be and remain personal property. Nothing in this Lease, the Agreement or any Exhibit shall be construed as conveying to City any interest in the Equipment other than its interest as a lessee hereunder. If at any time during the term hereof, Sensys wishes to place on the Equipment labels, plates or other markings evidencing ownership, security or other interest therein, City shall allow Sensys reasonable access therefore and keep the same displayed on the Equipment.

NO CITY SUBLEASE; ASSIGNMENT. City shall not assign or in any way dispose or otherwise relinquish possession or control of all or part of its rights or obligations under this lease or enter into any sub-lease of all or any part of the equipment without the prior written consent of Sensys.

7. OTHER PROVISIONS. Sections 3, 4, 7, 10, 17, 18, 19, 20, and 22 of the Agreement are hereby incorporated by reference as if herein set forth in full.



We mean businessSM

April 11, 2014

Sensys America, Inc.
Attention: Carlos Lofsdt
80 SW 8th St., 20th Floor
Miami, FL 33130

In Re: City of Brooksville Contract with Sensys

Dear Mr. Lofsdt:

During the regular scheduled meeting of the Brooksville City Council on March 3, 2014, several options concerning the contract between the City and Sensys were considered. The first order of business was to consider changing some or all of the existing camera systems to infra-red technology. The City Council decided to *not* switch to the infra-red camera technology at this time.

The City Council agreed to allow the contract with Sensys to proceed pursuant to its current terms and conditions with regard to the existing camera systems. However, the City Council instructed this firm to notify Sensys that it does not want Sensys to install any additional camera systems at this time. As you are aware, the contract between the City and Sensys provides for the installation of up to 20 systems within the city limits. There are currently 16 systems that monitor intersections within the city limits. Therefore, the City believes that the contracted obligation of "up to 20 systems" has been satisfied.

Please accept this letter as our formal notice that the City of Brooksville does *not* authorize the installation of any additional camera systems within its city limits, regardless of whether or not such systems have already received an authorized permit.

If you have any further questions, please do not hesitate to contact the undersigned.

Respectfully,

Clifford A. Taylor
For the City

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SENSYS AMERICA, INC

Carlos E. Lofstedt
President & CEO
8018 Sunport Drive, Suite 203
Orlando - FL 32809

Mobile: 305-812-2257
Toll Free 888-666-4218
Fax 888-666-4024
E-mail: clofstedt@sensysamerica.net

Via Electronic Mail (ctaylor@hoganlawfirm.com)

April 17, 2014

Clifford A Taylor
The Hogan Law Firm
Post Office Box 405
Brooksville, FL 34605

RE: *City of Brooksville Contract with Sensys*

Dear Mr. Taylor:

I am in receipt of your correspondence on behalf of the City of Brooksville ("**Brooksville**") dated April 11, 2014. We acknowledge that the Brooksville's obligation with respect to installation of Traffic Infraction Detectors ("**TIDs**") is for "up to 20." Accordingly, Brooksville is in compliance with its contractual obligations and is not compelled by our contract to install four new TIDs.

At the request of Brooksville officials, however, Sensys America, Inc. ("**Sensys**") has expended substantial resources to secure Florida Department of Transportation ("**FDOT**") approval for four additional TIDs. Sensys typically recovers these costs over the term of the contract. Inasmuch as Brooksville does not intend to go forward with these new installations, Sensys is entitled to recover its costs.

The FDOT permit process is time consuming and expensive. The process comprises site studies, multiple site visits, site design, conduit and utility service marking, engineering drawings, engineer application submission, and personnel time. This work, done at the express request of Brooksville, amounts to slightly more than \$10,000 per site.

We have completed all of the predicate work for installation of four new TIDs in Brooksville. Naturally, whether to install TIDs in Brooksville remains the sole province of its elected officials. Although we would prefer to simply install the previously requested TIDs, we will follow the direction outline in your letter. We anticipate that Brooksville will promptly reimburse us for our costs in securing FDOT approval for the requested new systems in the amount of \$40,000.

SENSYS America, Inc.

8018 Sunport Drive, Suite 203 Orlando - FL
Telephone: 888-666-4218 | Facsimile: 888-666-4024 | : info@sensysamerica.net | www.sensysamericaa.net

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Please advise us promptly whether you would want to make payment to Sensys or to have Sensys deduct the amount from revenue generated by the red light camera program.

Best regards,

Carlos E. Lofstedt

cc: Chief George Turner chiefturner@ci.brooksville.fl.us
City Manager Jennene Norman-Vacha JNVacha@cityofbrooksville.us

SENSYS America, Inc.

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City of Brooksville



352.540.3810 Phone
352.544.5424 Fax

February 26, 2015

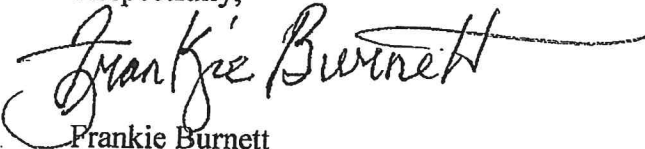
Sensys America Inc.
Attention: Carlos Lofstedt
80 S.W. 8th St., 20th Floor
Miami, FL 33130

Dear Mr. Lofstedt:

On February 2, 2015 the City Council for the City of Brooksville, at its regularly scheduled meeting, voted not to extend the contract between the City and Sensys and to consider an amendment of the City Ordinance to change the definition of careful and prudent to "not to exceed ten miles per hour". It is my understanding that your program manager, Darlene Hinds, spoke with our legal team on February 4, 2015 regarding the recent vote of the City Council and the anticipated termination date of December 2105. Pursuant to the contract, we look forward to working with you in winding down the program.

The City of Brooksville would like to thank you, your staff and employees for the work you have performed for the benefit of the City.

Respectfully,


Frankie Burnett
Mayor



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SENSYS AMERICA, INC

Carlos E. Lofstedt

President & CEO
8018 Sunport Drive, Suite 203
Orlando - FL 32809

Mobile: 305-812-2257
Toll Free 888-666-4218
Fax 888-666-4024
E-mail: clofstedt@sensysamerica.net

Via Electronic Mail (ctaylor@hoganlawfirm.com)

March 18, 2015

Hon. Frankie Burnett
Mayor
City of Brooksville, Florida
201 Howell Avenue, Brooksville, FL 34601-2041

RE: Traffic Infraction Detectors in the City of Brooksville

Dear Mayor Burnett:

We are in receipt of your letter dated February 26, 2015, wherein Sensys America, Inc. ("Sensys") was informed that the City Council had voted not to renew its contract with Sensys. It seems like we have a different understanding on the natural termination date of our contract. For that reason and other reasons that are of mutual interest, we would like to meet with individual council members in person.

We would like to address some issues and ask you to reconsider your decision to terminate the red light safety program. This program was established with the goal of reducing red light violations and reducing the risk of dangerous intersection collisions resulting from red light violations. By any measure, this program has been a success. In 2014, we captured over 12,000 violations. Of those, only a small fraction had two violations and less than 1% had over three violations. It is clear that while there are still a few stubborn drivers, behavior has changed in a positive way.

The benefits of red light enforcement have been experienced statewide. The Florida Legislature's Office of Program Policy Analysis & Government Accounting Study delivered on February 13, 2014 to the Florida Senate Transportation Committee summarized study results involving 5 counties and 74 municipalities in Florida using red light cameras. T-Bone (sideswipe) collisions were down by 85% and fatal crashes were down an astonishing 49%! It is no longer a matter of serious dispute that red light cameras change driver behavior and save lives.

You should also be aware of what happens when red light cameras are removed. In Albuquerque, New Mexico, for example, red light violations increased by 584% after red light cameras were removed.

SENSYS America, Inc.

8018 Sunport Drive, Suite 203 Orlando - FL

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Houston, Texas saw a 350% increase in injury crashes. Brooksville has a very successful red light enforcement program. One that would be impossible to duplicate using law enforcement officers, even if some were dedicated full time to red light enforcement. Red light cameras gained widespread acceptance in Florida after Mark Wandall's widow implored the state legislature to act. There is a good chance someone is alive and well in Brooksville right now because of the red light cameras.

Sensys' goal has always been to promote, protect and improve the health, safety and welfare of America's citizens. We have helped achieve this goal in Brooksville by working with the City to provide the best possible program. During our relationship, Sensys has:

- Installed and operated 16 traffic infraction detectors
- Worked tirelessly through all the technical and legal issues associated with the program
- Fully integrated Western Union as a payment option
- Provided a comprehensive new back office solution, relieving your officers and staff of many tedious administrative, record keeping, and reporting tasks

We remain at the City's disposal to continue to enhance the red light program. For example, we fully support the City's decision to increase the speed threshold for right turn violations from 5 to 10 miles per hour. Our programmable systems are able to accomplish this change remotely. Should the City Council wish to make further changes in the future, we would rapidly accommodate those as well. We are merely the service provider for *your* red light enforcement program.

Once again we believe that it should be beneficial to allow us to present and discuss the program and to solve any loose ends that might be currently. We are at the City Council's disposal for meetings during the coming weeks. Please let me know a convenient time to meet with you to discuss these matters.

Best regards,

A handwritten signature in black ink, appearing to read "Carlos Lofstedt".

Carlos Lofstedt
President and CEO

cc:	Honorable Vice-Mayor Joe Johnston	jjohnston@cityofbrooksville.us
	Council Member Robert Battista	rbattista@cityofbrooksville.us
	Council Member Betty Erhard	berhard@cityofbrooksville.us
	Council Member Natalie Kahler	nkahler@cityofbrooksville.us
	City Manager Jennene Norman-Vacha	JNVacha@cityofbrooksville.us
	Chief George Turner	chiefturner@ci.brooksville.fl.us
	Clifford A. Taylor, Esq.	ctaylor@hoganlawfirm.com

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1 (2)

SENSYS AMERICA, INC

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Fax 888-666-4024
E-mail: clofstedt@sensysamerica.net

Via Electronic Mail (ctaylor@hoganlawfirm.com, fburnett@cityofbrooksville.us)

April 9, 2015

Hon. Frankie Burnett
Mayor
City of Brooksville, Florida
201 Howell Avenue, Brooksville, FL 34601-2041

RE: Traffic Infraction Detectors in the City of Brooksville

Dear Mayor Burnett:

Please accept this clarification of our letter dated March 18, 2015. In your letter, you advised that we should work towards the "anticipated termination date of December [2015]." Our contract, however, provides that it terminates three years after the installation of the last traffic infraction detectors. Inasmuch as Sensys completed 100% of the work necessary to install four new traffic infraction detectors and was ready to commence final installation when it received the City's notice not to proceed in April 2014. Accordingly, our contract's natural termination is April 2017. Thus, the Council's vote not to renew the contract results in a program termination on or about April 2017 and not December 2015.

At all times, Sensys has acted in good faith on behalf of the City of Brooksville. Although we are disappointed that the City of Brooksville has elected not to renew our contract, we do expect that the terms of our existing contract will be honored. If the City of Brooksville elects to terminate the contract in December 2015, Sensys will be entitled to damages in excess of \$500,000 representing Sensys's lost revenue. We would much prefer to continue our services for the term of the contract with such reasonable changes (such as speed threshold on right turns) as the City of Brooksville deems appropriate.

SENSYS America, Inc.

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Please advise me as soon as possible whether the City intends to complete the contract to its termination date or terminate the contract early and pay to Sensys compensation for early termination of the contract.

Best regards,

Carlos Lofstedt
President and CEO

cc: Honorable Vice-Mayor Joe Johnston jjohnston@cityofbrooksville.us
 Council Member Robert Battista rbattista@cityofbrooksville.us
 Council Member Betty Erhard berhard@cityofbrooksville.us
 Council Member Natalie Kahler nkahler@cityofbrooksville.us
 City Manager Jennene Norman-Vacha JNVacha@cityofbrooksville.us
 Chief George Turner chiefturner@ci.brooksville.fl.us
 Clifford A. Taylor, Esq. ctaylor@hoganlawfirm.com