

# SOFTWARE MAINTENANCE AGREEMENT

BETWEEN

**SunGard Public Sector Inc.**  
a Florida corporation  
with headquarters at:  
1000 Business Center Drive  
Lake Mary, FL 32746

**("SunGard Public Sector" or "Contractor")**

AND

**City of Fort Lauderdale**  
1300 W Broward Boulevard  
Fort Lauderdale, FL 33312

**(for purposes of this Agreement, "Customer" or "City")**

By the signatures of their duly authorized representatives below, SunGard Public Sector and Customer, intending to be legally bound, agree to all of the provisions of this Agreement and all Exhibits, Supplements, Schedules, Appendices, and/or Addenda to this Agreement.

## CITY

ATTEST:

CITY OF FORT LAUDERDALE

\_\_\_\_\_  
Jonda K. Joseph, City Clerk

\_\_\_\_\_  
John P. "Jack" Seiler, Mayor

\_\_\_\_\_  
Lee R. Feldman, City Manager

Approved as to form:

\_\_\_\_\_  
Senior Assistant City Attorney

## SUNGARD PUBLIC SECTOR

WITNESSES:

SUNGARD PUBLIC SECTOR, INC.

\_\_\_\_\_  
Print Name:

By: \_\_\_\_\_  
Michael J. Borman  
President

\_\_\_\_\_  
Print Name:

(Corporate Seal)

ATTEST:

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Vice President

STATE OF \_\_\_\_\_:  
COUNTY OF \_\_\_\_\_:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by Michael J. Borman as president for SunGard Public Sector, Inc. a Florida corporation.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Print, Type, or Stamp Commissioned  
Name of Notary Public)

Personally Known \_\_\_\_\_ OR produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

**T**HIS AGREEMENT is entered into between SunGard Public Sector and Customer on the Execution Date.

SunGard Public Sector and Customer have entered into a Software License and Services Agreement dated as of the Execution Date (the "License Agreement") for the Software. Customer desires that SunGard Public Sector provide Maintenance and Enhancements for and new releases of the Baseline Software identified in Exhibit 1 on the terms and conditions contained in this Agreement, and for the Custom Modifications identified in Exhibit 1 on the terms and conditions of this Agreement. Accordingly, the parties agree as follows:

1. Incorporation By Reference. Sections 1 (Definitions), 8 (Confidential Information), 11 through 15, (Notices, Force Majeure, Assignment, No Waiver and Choice of Law; and Severability, respectively), 18 (Insurance), 19 (Indemnification), 20 (Public Records), and 21 (Scrutinized Companies) of the Software License and Services Agreement are incorporated into this Agreement by this reference as fully as if written out below. If any provision incorporated by reference from the License Agreement conflicts with any provision of this Agreement, the provision of this Agreement will control.

2. Additional Definitions.

"Contract Year" means, with respect to each Baseline Component System and Custom Modification, each one (1) year period beginning on the Execution Date or the anniversary thereof, and ending one (1) year thereafter.

"Custom Modification" means a change that SunGard Public Sector has made at Customer's request to any Component System in accordance with a SunGard Public Sector-generated specification, but without any other changes whatsoever by any person or entity. Each Custom Modification for which SunGard Public Sector will provide Customer with Improvements is identified in Exhibit 1.

"Defect" has the meaning ascribed to that term in the License Agreement, and further, with regard to each Custom Modification, means a material deviation between the Custom Modification and the SunGard Public Sector-generated specification and documentation for such Custom Modification, and for which Defect

Customer has given SunGard Public Sector enough information to enable SunGard Public Sector to replicate the deviation on a computer configuration that is both comparable to the Equipment and that is under SunGard Public Sector's control.

"Enhancements" means general release (as opposed to custom) changes to a Baseline Component System or Custom Modification which increase the functionality of the Baseline Component System or Custom Modification in question.

"Improvements" means, collectively, Maintenance, Enhancements and New Releases provided under this Agreement.

"Maintenance" means using reasonable efforts to provide Customer with avoidance procedures for or corrections of Defects. The hours during which Maintenance will be provided for each Component System, the targeted response times for certain defined categories of Maintenance calls for each Component System and Custom Modification, and other details and procedures (collectively, the "Maintenance Standards") relating to the provision of Maintenance for each Component System and Custom Modification are described in attached Exhibit 2.

"New Releases" means new editions of a Baseline Component System or Custom Modification, as applicable.

"Notification" means a communication to SunGard Public Sector's help desk by means of: (i) SunGard Public Sector's web helpline; (ii) the placement of a telephone call; or (iii) the sending of an e-mail, in each case, in accordance with SunGard Public Sector's then-current policies and procedures for submitting such communications.

3. Services.

(a) Types of Services. During the term of this Agreement, SunGard Public Sector will provide Customer with Maintenance for, Enhancements of, and New Releases of each Baseline Component System and each Custom Modification identified in Exhibit 1.

(b) Limitations. All Improvements will be part of the applicable Baseline Component System/Custom Modification, and will be subject to all of the terms and conditions of the License Agreement and this Agreement. Customer must provide SunGard Public Sector with such facilities, equipment and support as are reasonably necessary for SunGard Public Sector to perform its obligations under this Agreement, including remote access to the Equipment.

#### 4. Payment and Taxes.

(a) Improvement Fees. Improvements for the initial Contract Year are provided at no charge. For the Improvements, Customer will pay SunGard Public Sector the amount provided for in Exhibit 1 as the "Payment Amount" for the Second Contract Year. For each Contract Year subsequent to the Second Contract Year, SunGard Public Sector reserves the right to increase the Improvements fees. subject to a maximum increase in any one year of the greater of five percent (5%) or the Consumer Price Index – All Urban Consumers (CPI) for the twelve (12) month period prior to first day of the renewal Contract Year.

Fees for Improvements for a Baseline Component System/Custom Modification are due on the first day of the first month of the Contract Year for that Baseline Component System/Custom Modification.

(b) Additional Costs. Customer will also reimburse SunGard Public Sector for actual travel and living expenses that SunGard Public Sector incurs in providing Customer with Improvements under this Agreement, with reimbursement to be on an as-incurred basis. Such travel and living expenses will be governed in accordance with the limitations of FSS 112.061 and will be invoiced on a monthly basis in arrears and due within thirty (30) days from the date of invoice. Customer will also reimburse SunGard Public Sector for all reasonable charges incurred in connection with accessing Equipment.

(c) Taxes. Customer is responsible for paying all taxes (except for taxes based on SunGard Public Sector's net income or capital stock) relating to this Agreement, the Improvements, any services provided or payments made under this Agreement. Applicable tax amounts (if any) are NOT included in the fees set forth in this Agreement. If Customer is exempt from the payment of any such taxes, Customer must provide SunGard Public Sector with a valid tax exemption certificate; otherwise, absent proof of Customer's direct payment of such tax amounts to the applicable taxing authority, or proof of exemption, SunGard Public Sector will invoice Customer for and Customer will pay to SunGard Public Sector all such tax amounts.

5. Term. This Agreement will remain in full force and effect throughout the initial Contract Year. After the initial Contract Year, this Agreement will renew for an additional Contract Year unless, at least six (6) months prior to the expiration of the initial Contract Year, Customer notifies SunGard Public Sector in writing of Customer's intent not to renew the Agreement for the second Contract Year. After the second Contract Year, this Agreement will automatically be extended for consecutive Contract Years on a year-to-year basis unless either party notifies the other in writing of its intent not to extend this Agreement for any particular Baseline Component System/Custom Modification at least six (6) months prior to the expiration of the then-current Contract Year.

Upon termination of the Software Maintenance Agreement with respect to a Component System provided under the Software License and Services Agreement, notwithstanding anything contrary in the Software License and Services Agreement, Customer may continue using the Component System for the remainder of the term of the Software License and Services Agreement; however, (i) SunGard Public Sector will discontinue providing all on-going Maintenance services and Improvements, including SunGard Public Sector's obligations under this Software Maintenance Agreement, (ii) any SunGard Public Sector warranties under the Software License and Services Agreement and this Software Maintenance Agreement with respect to the Component System for which Maintenance services are terminated shall cease to apply for the period following termination, and (iii) SunGard Public Sector shall have no liability with respect to Customer's use of the Component System for which Maintenance services are terminated after termination of the Software Maintenance Agreement Term.

6. Disclaimer of Warranties. Customer agrees and understands that **SUNGARD PUBLIC SECTOR MAKES NO WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, WITH REGARD TO ANY IMPROVEMENTS AND/OR ANY OTHER MATTER RELATING TO THIS AGREEMENT, AND THAT SUNGARD PUBLIC SECTOR EXPLICITLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FURTHER, SUNGARD PUBLIC SECTOR EXPRESSLY DOES NOT WARRANT THAT A COMPONENT SYSTEM, ANY CUSTOM MODIFICATION OR ANY IMPROVEMENTS WILL BE USABLE BY CUSTOMER IF THE COMPONENT SYSTEM OR CUSTOM MODIFICATION HAS BEEN MODIFIED BY ANYONE OTHER THAN SUNGARD PUBLIC SECTOR, OR WILL BE ERROR FREE, WILL OPERATE WITHOUT INTERRUPTION OR WILL BE COMPATIBLE WITH ANY HARDWARE OR SOFTWARE OTHER THAN THE EQUIPMENT.**

7. Termination. A party has the right to terminate this Agreement as follows if the other party breaches a material provision of this Agreement. Either party has the right to terminate this Agreement at any time while an event or condition giving rise to the right of termination exists. To terminate this Agreement, the party seeking termination must give the other party notice that describes the event or condition of termination in reasonable detail. From the date of its receipt of that notice, the other party will have thirty (30) days to cure the breach to the reasonable satisfaction of the party desiring termination. If the event or condition giving rise to the right of termination is not cured within that period, then the party seeking to terminate this Agreement can effect such termination by providing the other party with a termination notice that specifies the effective date of such termination. Termination of this Agreement will be without prejudice to the terminating party's other rights and remedies pursuant to this Agreement.

## 8. LIMITATIONS OF LIABILITY.

(a) LIMITED LIABILITY OF SUNGARD PUBLIC SECTOR. EXCEPTING SUNGARD PUBLIC SECTOR'S OBLIGATIONS TO INDEMNIFY CUSTOMER FOR THIRD-PARTY CLAIMS PURSUANT TO SECTION 19 OF THE SOFTWARE LICENSE AND SERVICES AGREEMENT INCORPORATED HEREIN, SUNGARD PUBLIC SECTOR'S LIABILITY IN CONNECTION WITH THE IMPROVEMENTS OR ANY OTHER MATTER RELATING TO THIS AGREEMENT WILL NOT EXCEED THE FEES THAT CUSTOMER ACTUALLY PAID TO SUNGARD PUBLIC SECTOR FOR THE IMPROVEMENTS FOR THE YEAR THAT SUCH LIABILITY ARISES.

(b) EXCLUSION OF DAMAGES. REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL SUNGARD PUBLIC SECTOR BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT SUNGARD PUBLIC SECTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

(c) BASIS OF THE BARGAIN. CUSTOMER ACKNOWLEDGES THAT SUNGARD PUBLIC SECTOR HAS SET ITS FEES AND ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND THE DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH IN THIS AGREEMENT, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

9. Entire Agreement. This Agreement contains the entire understanding of the parties with respect to its subject matter, and supersedes and extinguishes all prior oral and written communications between the parties about its subject matter. Any purchase order or similar document which may be issued by Customer in connection with this Agreement does not modify this Agreement. No modification of this Agreement will be effective unless it is in writing, is signed by each party, and expressly provides that it amends this Agreement.

## EXHIBIT 1

Customer: City of Fort Lauderdale

**CONTRACT YEAR: Execution Date (or anniversary thereof) through one year thereafter**

Improvements for the initial Contract Year are provided at no charge. The "Initial Payment Amount" in the table below represents the Improvements fee for the second Contract Year, and is payable only if Customer elects to extend the term of the Agreement through the second Contract Year, as provided for in Section 5, Term.

Qty	Part #	Component System	Initial Payment Amount	Support Type
		<b>Records Management System</b>		
300	RMS-AW-T1	ADDITIONAL RMS WORKSTATION LICENSE	\$ 30,144.00	7x24
300	RMS-MAP-AW-T1	ADDITIONAL RMS MAP DISPLAY AND PIN MAPPING LICENSE	4,704.00	7x24
		<b>Mobile Computing</b>		
390	MCT-BMS-T15	BASE MOBILE SERVER SOFTWARE	7,425.60	7x24
390	MCT-MFR-REV-T15	REVIEW MODULE FOR FIELD REPORTING	6,177.60	7x24
390	MCT-NOCAD-T15	MCT CLIENT - NO CAD INTERFACE	15,849.60	7x24
390	MCT-MAP-T15	MCT CLIENT - MAPS	5,116.80	7x24
390	MCT-MFR-OFF-T15	MFR CLIENT - BASE INCIDENT/OFFENSE	26,457.60	7x24
390	MCT-MFR-ACC-T15	MFR CLIENT - ACCIDENT REPORTING	13,291.20	7x24
390	RMS-WIZ-CLIENT-T1-T15	ACCIDENT WIZARD WORKSTATION LICENSE	1,560.00	7x24
390	MCT-MFR-ARREST-T15	MFR CLIENT - ARREST	7,987.20	7x24
390	MCT-MFR-AFF-T15	MFR CLIENT - ARREST AFFIDAVIT	9,360.00	7x24
390	MCT-MFR-CITATION-T15	MFR CLIENT - CITATION	13,291.20	7x24
1	MCT-MFR-CANINE-T15	MFR CLIENT - CANINE	24.00	7x24
30	MCT-MFR-MBLN-CLIENT-T15	MFR CLIENT- MOBLAN VERSION	1,200.00	7x24
		<b>Web Based Applications</b>		
1	INT-P2C	POLICE 2 CITIZEN	1,920.00	7x24
		<b>PAYMENT AMOUNT (2nd Contract Year)</b>	<b>\$ 144,508.80</b>	

Improvements fees are due thirty (30) days prior to the commencement of the Contract Year for which such fees are being remitted. Improvement fees for any Contract Year subsequent to the second full Contract Year are subject to change and will be specified by SunGard Public Sector in an annual invoice.

**APPLICABLE TAXES ARE NOT INCLUDED IN THIS EXHIBIT 1, AND, IF APPLICABLE, WILL BE ADDED TO THE AMOUNT IN THE PAYMENT INVOICE(S) BEING SENT SEPARATELY TO THE CUSTOMER.**

Improvements Surcharge Imposed In Certain Instances: At the commencement of any Contract Year where Customer is operating on a version of a Baseline Component System that is more than two (2) general release versions behind the then-current release for any Component System, SunGard Public Sector will assess a ten percent (10%) surcharge over and above the Improvements fee for that Contract Year, with such surcharge to be imposed on a prorated basis for the portion of the Contract Year that Customer remains on a general release version that is more than two (2) releases behind the then-current release of the Component Systems in question. Once Customer is using a release that is no more than two (2) general release versions behind the then-current release, the Improvements surcharge will be removed on a prospective basis, as of the date that Customer is using the release that is no more than two (2) general release versions behind the then-current release.

**EXHIBIT 2**  
**Maintenance Standards**

- I. Hours During Which SunGard Public Sector’s Telephone Support Will be Available to Customer in Connection with the Provision of Maintenance:** Unless otherwise noted in Exhibit 1, support hours are Monday through Friday, 7:00 A.M. to 6:00 P.M. Customer’s Local Time within the continental United States, excluding holidays (“5x11”).
- II. Targeted Response Times.** With respect to SunGard Public Sector’s Maintenance obligations, SunGard Public Sector will use diligent, commercially reasonable efforts to respond to Notifications from Customer relating to the Baseline Component Systems/Custom Modifications identified in Exhibit 1 of this Agreement in accordance with the following guidelines with the time period to be measured beginning with the first applicable SunGard Public Sector “Telephone Support” hour occurring after SunGard Public Sector’s receipt of the Notification:

As a Case is reviewed, the level of priority may change based upon the reviewers findings. SunGard Public Sector will make every effort to resolve issues as soon as possible. This does not guarantee that a resolution to any Case will be found in any specific time frame. However, the following does provide a general guideline.

<b>Priority</b>	<b>Description</b>	<b>TARGET Initial Response Goal</b>	<b>TARGET Resolution Goal</b>
<b>Urgent</b> 1	A support issue shall be considered <b>Urgent</b> when it produces a Total System Failure; meaning SunGard OSSI licensed programs are not performing a process that has caused a complete work stoppage.	In most situations, the acknowledgement of an issue is immediate with a case number being assigned in the original call. In those situations where response is not immediate, our maximum response goal is 45 minutes.	Although resolution times vary depending on the exact issue and customer environment, SunGard Public Sector will immediately work to resolve an urgent issue and if the issue is not resolved within 4 hours, provide a preliminary resolution plan that details the steps necessary to understand and possibly resolve the issues within our maximum resolution goal of 18 hours.
<b>Critical</b> 2	A support issue shall be considered <b>Critical</b> when a critical failure in operations occurs; meaning SunGard OSSI licensed programs are not performing a critical process and prevents the continuation of basic operations. Critical problems do not have a workaround. This classification does not apply to intermittent problems.	In most situations, the acknowledgement of an issue is immediate with a case number being assigned in the original call. In those situations where response is not immediate, our maximum response goal is 90 minutes.	SunGard Public Sector will immediately work to resolve a critical issue and if the issue is not resolved within 3 business days, provide a preliminary resolution plan that details the steps necessary to understand and possibly resolve the issues within our maximum resolution goal of 7 business days.

<p><b>Non-Critical</b> 3</p>	<p>A support issue shall be considered <b>Non-Critical</b> when a non-critical failure in operations occurs; meaning SunGard OSSI licensed programs are not performing non-critical processes, but the system is still usable for its intended purpose or there is a workaround.</p>	<p>Respond within four hours of the issue being reported.</p>	<p>Resolve a Non-Critical issue within 180 business days in a scheduled service pack or release.</p>
<p><b>Minor</b> 4</p>	<p>A support issue will be considered <b>Minor</b> when the issue causes minor disruptions in the way tasks are performed, but does not affect workflow or operations. This may include cosmetic issues, general questions, and how to use certain features of the system.</p>	<p>Respond within twenty-four hours of the issue being reported.</p>	<p>May be scheduled in a future service pack or release.</p>

**\*Response Goal** -Measured from the moment a Case number is created to the point where progress is made toward the resolution of the Case.

**\*Resolution Goal** -Measured from the moment a Case number is created to the point where both parties agree the Case is resolved.