

*SunGard Public Sector Inc. Application Service Provider Agreement*Effective Date (copy from signature page): 3-31-09

## CUSTOMER NAME AND ADDRESS:

City of Fresno  
2600 Fresno Street  
Fresno, CA 93721

(Customer named above is hereinafter referred to as "Customer")

This Application Service Provider Agreement (the "Agreement"), is made and entered into by and between SunGard Public Sector Inc. ("SunGard Public Sector") and Customer on the day and year written following the execution hereof by SunGard Public Sector.

SunGard Public Sector and Customer agree that all services to be provided by SunGard Public Sector to Customer hereunder shall be furnished only under the terms and conditions of this Agreement and any "Schedule A - Order Form". Unless otherwise stated in any "Schedule A - Order form", all terms and conditions stated in this Agreement remain in effect. The terms of this Agreement and any "Schedule A - Order Form" shall control notwithstanding any contrary provision of any purchase order used by Customer to effect the furnishing of any software or services by SunGard Public Sector to Customer.

**1. Definition of Terms.** As used herein:

- 1.1. "Application(s)" means the software system(s) to which Customer has requested access and paid therefor, listed on Schedule A - Order Form, including, but not limited to, all computer programs and related documentation, and any modifications thereto.
- 1.2. "Conversion" means the process by which Customer data is transformed to a usable SunGard Public Sector operational format. Conversion is an optional, not mandatory, service offered by SunGard Public Sector.
- 1.3. "Customer" means the City of Fresno, CA, its elected and appointed officials, officers, agents, employees. Third party consultants engaged by Customer who have a need to know, and who have been pre-approved by SunGard Public Sector, and who, prior to obtaining access to the ASP Environment or any SunGard Public Sector Applications, have executed an SunGard Public Sector-approved non-disclosure agreement;
- 1.4. "Documentation" means the on-line and hard copy functional and technical specifications that SunGard Public Sector provides for an Application, and that describe the functional and technical capabilities of the Application in question.
- 1.5. "Effective Date" means the date on which SunGard Public Sector executes this Agreement.
- 1.6. "Host Computer Systems" means SunGard Public Sector's hardware and software, located on SunGard Public Sector's premises, which is maintained and supported by SunGard Public Sector and utilized to provide the Access services hereunder.
- 1.7. "Implementation" means the processes by which Customer prepares Customer's operating procedures and personnel for transition to the Applications. Customer is primarily responsible for the preparation of its personnel and procedures, assisted by SunGard Public Sector as provided for herein. Implementation is a part of Start-Up Assistance.
- 1.8. "Schedule A - Order Form" means an attachment to this Agreement, which is a supplement to this Agreement for all purposes. Unless otherwise stated in any Schedule A - Order Form, all terms and conditions stated in this Agreement shall remain in effect.
- 1.9. "Standards Sheet" means an attachment to Schedule A - Order Form, which provides the most current information supplemental to this Agreement, such as hours of operation and support and Customer hardware requirements.
- 1.10. "Start-Up Assistance" means the combination of Implementation and Training services.
- 1.11. "Training" means the classes held by SunGard Public Sector to instruct Customer in the use of the Applications. Training is a part of Start-Up Assistance.
- 1.12. "Unplanned Downtime" means the ASP Environment is unavailable for a period of time greater than eight (8) consecutive hours. Unplanned Downtime does not include downtime for planned upgrades and maintenance or issues related to the internet and/or Customer's network.

**2. Access Services and Start-Up Assistance.** SunGard Public Sector agrees to provide access to the Applications (hereafter referred to as "Access") requested by Customer on Schedule A - Order Form (or any supplemental or replacement Schedule A) for the number of terminals indicated so long as Customer is current in its payment obligations hereunder. Customer agrees to pay the fees for Access ("Access Fees") as provided on Schedule A - Order Form. Customer agrees that Customer's Access to the Applications shall be for Customer's sole use and not for any third party.

- 2.1. **Hours of Operation.** SunGard Public Sector shall publish its hours of operation on the Standards Sheet and shall keep Customer apprised of any changes thereto.
- 2.2. **Improvements and Changes.** SunGard Public Sector will install upgrades, new software releases and enhancements, error corrections, upgrades to third party operating system software, and upgrades to hardware, as necessary, for the Host Computer Systems.
- 2.3. **Start-Up Assistance.** SunGard Public Sector will provide Start-Up Assistance to Customer and Customer agrees to pay to SunGard Public Sector the Start-Up Fees as provided on Schedule A - Order Form. SunGard Public Sector's most current information with regard to Start-Up Assistance is published on SunGard Public Sector's Standards Sheet. Customer agrees to reimburse SunGard Public Sector for actual, reasonable travel and living expenses incurred by or on behalf of SunGard Public Sector and its personnel in furnishing the Start-Up Assistance. Any such travel and living expenses shall be billed by SunGard Public Sector to Customer on a monthly basis and governed by the SunGard Public Sector Travel Policy.
- 2.4. **Optional Conversion Services.** At Customer's option, SunGard Public Sector will provide Conversion services. If Customer elects Conversion services, Customer shall provide data to SunGard Public Sector in a compatible format acceptable to SunGard Public Sector, and on media specified by SunGard Public Sector.

**3. Term of Agreement.** This Agreement is effective on the Effective Date. The initial term of this Agreement ("Initial Term") shall begin on the Effective Date and shall continue for the period stated on the Schedule A - Order Form, executed on even date herewith, beginning after the date the initial Monthly Access Fee is due. The Initial Term shall be for a period of Sixty (60) months after the date the initial Monthly Fee is due under that certain Schedule A - Order Form executed on even date herewith. At the end of the Initial Term, Services will be provided on a year-to-year basis provided the Customer exercises the option and pays the then current Monthly Access Fee.

4. **Charges for Services.**

- 4.1. Customer agrees to pay SunGard Public Sector Access and Start-Up Fees in accordance with Schedule A - Order Form. No more frequently than once per year, SunGard Public Sector shall have the right to adjust the Monthly Access Fees. For the Term of this Agreement only, any increase in monthly Access fees shall be limited to no more than 3% compared to the preceding year's fees. SunGard Public Sector may adjust other fees at any time. Travel and living expenses actually incurred in prior months for which SunGard Public Sector is seeking reimbursement shall be invoiced monthly.
- 4.2. Amounts payable to SunGard Public Sector hereunder are payable in full without deduction, or set off, and are net of all sales, use or other taxes or duties. Customer shall duly and timely pay all taxes and duties, however designated, levied or based upon amounts payable to SunGard Public Sector hereunder (exclusive of United States Federal, state or local taxes based upon the net income of SunGard Public Sector). Customer agrees to indemnify and hold SunGard Public Sector harmless from any such taxes or duties which any federal, state or local taxing authority requires SunGard Public Sector to pay on Customer's behalf. It shall be Customer's obligation after payment by Customer to challenge the applicability of any tax if it so desires.
- 4.3. Customer shall pay for any data communications telephone services. If Customer requires special telephone line configurations due to unique equipment or data requirements, SunGard Public Sector reserves the right to charge for analysis and design of such special configurations.
- 4.4. SunGard Public Sector may, after having provided Customer with ten (10) days advance written notice, deny Access to Customer until all required payments due to SunGard Public Sector are received. The provisions of this Subsection 4.4 shall not operate as a waiver of any other remedies SunGard Public Sector may have.

5. **SunGard Public Sector's Obligations.** To assist Customer in accessing and using the Applications hereunder, SunGard Public Sector will:

- 5.1. provide all equipment, software, including changes, updates, and modifications thereto, and services necessary for operation and maintenance of SunGard Public Sector's Host Computer Systems;
- 5.2. provide efficient communication accessibility to the Host Computer Systems;
- 5.3. provide information regarding data back-up procedures, security, and other functions as reasonably requested by Customer;
- 5.4. operate and maintain the Applications and allow Customer access and use thereof. If third party software is included in or with the Applications, SunGard Public Sector will identify separate access or use restrictions or additional payment obligations associated therewith in Schedule A;
- 5.5. provide Start-Up Assistance described in Schedule A pursuant to Section 2 hereof;
- 5.6. offer Conversion services;
- 5.7. provide Application support and system support; and
- 5.8. publish system availability and support hours as well as host targeted response time and shall provide Customer with not less than 30 days advance notice of changes.
- 5.9. provide and maintain a high-availability Disaster Recovery facility such that Customer will experience no more than a maximum of 8 consecutive hours during which SunGard Public Sector does not meet the standards in the Attachment A Standards Sheet to the Schedule A - Order Form. Any Unplanned Downtime which result in SunGard Public Sector's use of its Disaster Recovery facility shall not cause an increase in the amounts specified in any supplemental Schedule A-Order Form(s).

6. **Customer's Obligations.** In order to enable SunGard Public Sector to perform its obligations hereunder, and as a condition precedent to SunGard Public Sector's obligations to perform hereunder, Customer shall:

- 6.1. within ten (10) days following the execution of this Agreement, designate a primary and a secondary contact, including telephone numbers and e-mail addresses;
- 6.2. exercise all due diligence in the performance of its obligations hereunder in connection with the Start-Up activities and subsequent access to and use of the Applications;
- 6.3. develop and implement proper audit controls, balancing procedures, operation methods and sufficient procedures to satisfy its requirements for data security, accuracy of input, and verification of output, including security access control for Customer's users of the Applications; and
- 6.4. adhere to hardware and communications requirements as published in the Standards Sheet;
- 6.5. in the course of Customer's daily operations, input data, perform balancing activities, generate reports, maintain data integrity; and be responsible for ensuring the input data is accurate and meets the standard specifications provided by SunGard Public Sector for such data;
- 6.6. maintain documents of original entry, source data and other backup media sufficient for file and input data re-creation in order to mitigate against the possibility of loss of input data and Customer data maintained by SunGard Public Sector;
- 6.7. use standard forms as required by SunGard Public Sector; and
- 6.8. provide for Internet connectivity.

7. **Indemnification, Warranties and Limitation of Liability.**

- 7.1. SunGard Public Sector warrants that it is the owner of all Applications used in the performance of services hereunder, or is an authorized licensee with the right to engage in the delivery of such services, and such software or licenses thereto have been lawfully acquired by SunGard Public Sector and do not knowingly infringe on any proprietary rights of another.
- 7.2. SunGard Public Sector will, at its expense, defend the Customer against any claim that SunGard Public Sector's Application(s) infringe a U. S. patent or copyright, and SunGard Public Sector will pay all costs, damages and attorneys' fees that a court finally awards as a result of such claim. This indemnification is not limited in dollar amount for direct damages, but does not include consequential damages.
- 7.3. SunGard Public Sector warrants that the Application(s) will perform in substantial compliance with SunGard Public Sector's then current documentation. SunGard Public Sector warrants that in the provision of services hereunder, SunGard Public Sector will use employees, agents or contractors who are adequately trained and who possess the requisite skills and professional knowledge to provide assistance in utilizing the Applications.
- 7.4. In the event an Application is found to not substantially conform to its then-current documentation, Customer shall so advise SunGard Public Sector and SunGard Public Sector shall diligently pursue resolution of the discrepancy between the Application and its documentation.

7.5. Except for SunGard Public Sector's obligation to indemnify the Customer under infringement action: noted in Section 7.2 of this Agreement, IN NO EVENT SHALL SUNGARD PUBLIC SECTOR BE LIABLE TO CUSTOMER FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING UNDER THIS AGREEMENT. SunGard Public Sector will indemnify, defend and hold Customer harmless from and against any and all claims asserted against Customer by a third party for liability, losses and damages for death, or bodily injury, or damage to tangible physical property, to the extent proximately caused by the negligent acts or omissions of SunGard Public Sector. SunGard Public Sector's obligations under this indemnification are expressly conditioned on the following: (i) Customer must promptly notify SunGard Public Sector of any such claim; (ii) Customer must in writing grant SunGard Public Sector sole control of the defense of any such claim and of all negotiations for its settlement or compromise (if Customer chooses to or is required by law to represent its own interests in any such action, Customer may do so at its own expense, but such representation must not prejudice SunGard Public Sector's right to control the defense of the claim and negotiate its settlement or compromise); and (iii) Customer must cooperate with SunGard Public Sector to facilitate the settlement or defense of the claim.

7.6. The provisions of this Section shall survive termination or expiration of this Agreement for any claims.

7.7. THE PROVISIONS HEREOF ARE IN LIEU OF ALL WARRANTIES, EXPRESS OR IMPLIED AND WHETHER OF MERCHANTABILITY, FITNESS OR OTHERWISE. THE REMEDIES HEREIN CONTAINED ARE EXCLUSIVE AND CUSTOMER WAIVES ALL OTHER REMEDIES.

**8. Confidentiality of Customer's Information.**

8.1. SunGard Public Sector acknowledges that Customer regards as confidential and as a proprietary asset any information or materials that come to the attention of SunGard Public Sector by reason of (a) the presence of SunGard Public Sector's agents, employees, or representatives at Customer's site, or (b) SunGard Public Sector furnishing services to Customer in connection with this Agreement (such information, materials, and records collectively being referred to as "Customer's Confidential or Proprietary Information").

8.2. SunGard Public Sector agrees to safeguard Customer's Confidential or Proprietary Information by holding it in strict confidence, disclosing it only to those employees, agents or contractors who have a need to know in order to provide Access as agreed upon. In the event that a subpoena or other legal process that in any way concerns Customer's Confidential and Proprietary Information is served upon SunGard Public Sector, then SunGard Public Sector agrees to notify Customer in the most expeditious fashion possible following receipt of such subpoena or other legal process, and SunGard Public Sector will reasonably cooperate with Customer, as requested by Customer, to contest the legal validity of such subpoena or other legal process (provided that Customer agrees to pay any expense SunGard Public Sector incurs in so doing).

8.3. SunGard Public Sector agrees to take all reasonable steps to prevent the disclosure, publication or dissemination of Customer's Confidential or Proprietary Information to any other person or entity, except where and to the extent specifically required by law.

8.4. The provisions of this Section shall survive termination or expiration of this Agreement.

9. **Security of Customer's Data; Access to SunGard Public Sector's Facility.** SunGard Public Sector will provide data security procedures which will include backup of all magnetically stored data kept or processed for Customer using the Applications, in a reasonable manner determined by SunGard Public Sector in keeping with generally accepted industry practices. SunGard Public Sector shall notify Customer within 24 hours of a security breach that exposed or potentially exposed Customer's data. Upon Customer's written request, SunGard Public Sector shall provide Customer with a copy of the complete magnetic media backup of Customer's data. The tape shall be sent to Customer on magnetic media for auditing by Customer. Tapes for auditing will be provided no more frequently than once per 12 month period and require a 30 day notice. Customer shall pay SunGard Public Sector's then current fee for creation and delivery of the tape. Upon reasonable notice and during regular business hours, Customer may request admission to SunGard Public Sector's facility. SunGard Public Sector will not unreasonably refuse such access. Any non-SunGard Public Sector personnel who are granted access to SunGard Public Sector's facility shall comply with the physical security procedures instituted by SunGard Public Sector.

10. **Credit Toward In-house Licensing.** As used in this Paragraph 10, "In-house Licensing" means procuring through SunGard Public Sector's standard license agreement, the right for Customer to run a copy of the Applications that are owned by SunGard Public Sector for Customer's use only, on hardware owned or leased by Customer at a facility which is owned or controlled by Customer. In the event Customer desires to run the Applications owned by SunGard Public Sector in-house (and has not previously procured a license for such in-house use), SunGard Public Sector will discount Customer's in-house licensing fees for the Applications owned by SunGard Public Sector by an amount equal to one percent (1%) of the licensing fees for each month Customer uses Access services, up to a maximum discount of sixty percent (60%). In order to qualify for said credit, Customer must not be in breach hereof, must have provided termination notice pursuant to the terms of this Agreement, must enter into SunGard Public Sector's standard license agreement, and must have paid all fees required to be paid to SunGard Public Sector. Maintenance and support services for the Applications that are owned by SunGard Public Sector will be available to Customer (and are recommended by SunGard Public Sector) under the terms of SunGard Public Sector's standard maintenance agreement. In the event SunGard Public Sector terminates this Agreement pursuant to Section 16.3 hereof, SunGard Public Sector shall provide the Applications owned by SunGard Public Sector to Customer for In-house Licensing at no additional charge for license fees, provided however that Customer enters into SunGard Public Sector's standard license agreement; Customer pays any fees required to be paid to SunGard Public Sector under this Agreement; and Customer is not in breach of this Agreement.

11. **Existing Products.** For products listed as "Existing Products (Currently Licensed)" (Licensed Programs) and any Third Party Products of which Customer has licensed under a previous agreement and which are included under any supplemental Schedule A-Order Forms to this Agreement, Customer shall retain the right to run a copy of the Licensed Program(s) on hardware owned or leased by Customer at a facility which is owned or controlled by Customer. Customer acknowledges that should they run a copy of the Licensed Program(s), maintenance services for said Licensed Program(s) will not be provided under this Agreement. Should Customer desire to receive maintenance services they will be required to enter into a separate software maintenance agreement with SunGard Public Sector.

12. **Contingency Planning.** The parties' responsibilities with respect to contingency planning will be as follows:

12.1. SunGard Public Sector will develop, maintain and, as necessary in the event of a disaster, execute a disaster recovery plan (the "SunGard Public Sector Plan") for SunGard Public Sector's hardware and Applications.

12.2. SunGard Public Sector will provide to Customer such information as may be reasonably required for Customer to assure that Customer's disaster recovery plan is compatible with the SunGard Public Sector Plan.

12.3. Each party will be responsible for the training of its own personnel as required in connection with all applicable contingency planning activities.

13. **Record Retention.** It is Customer's sole responsibility to ensure that its records and data meet its retention requirements. SunGard Public Sector will provide, as a standard, record retention for a period of three (3) years. If Customer requests, SunGard Public Sector will provide longer record retention to Customer at SunGard Public Sector's then-current fees for such service.

14. **Customer Insurance Responsibility.** Customer desires to obtain insurance protection against any loss incurred due to loss of input data during transmission or delivery or from errors resulting from defects in, or malfunctions of, the mechanical or electronic equipment used by Customer, Customer may do so at Customer's expense and SunGard Public Sector agrees to cooperate with Customer in obtaining such insurance.

15. **Intellectual Property.**

15.1. All computer programs, including the Applications, related documentation, written procedures, copies of transcripts, and similar items are proprietary to and shall be considered trade secrets and confidential information of SunGard Public Sector or SunGard Public Sector's vendors. Except as required by law, Customer agrees that it will not disclose to any third party at any time (either during or after termination of this Agreement) any trade secrets or any other secrets or confidential information learned by Customer in connection with this Agreement. All documentation shall be returned to SunGard Public Sector upon termination of this Agreement. All original input data items remain the property of Customer and will be returned pursuant to Customer's instructions. Customer shall retain or destroy all original input documentation and other documentation in accordance with its own procedures.

15.2. The provisions of this Section shall survive termination or expiration of this Agreement.

16. **Termination.**

16.1. Customer may terminate this Agreement for cause in the event that SunGard Public Sector materially or repeatedly defaults in the performance of any of its duties and obligations under this Agreement, subject to the following: (i) Customer shall provide written notice to SunGard Public Sector of its intent to terminate this Agreement, specifying in detail the cause for the default (hereinafter a "Material Default Notice"); (ii) upon receipt of a Material Default Notice, SunGard Public Sector shall promptly commence curing the specified default (or demonstrate that the default did not occur), provided that the period of time to cure the default (the "Cure Period") shall not exceed ninety (90) calendar days, if the cause cannot reasonably be cured within the aforesaid Cure Period, the parties may extend the cure period by mutually agreeing upon a reasonable plan and program for curing the cause); (iii) if the cause is not cured within the prescribed or agreed upon Cure Period, Customer party may then immediately terminate this Agreement by providing a written notice to the other, stating the cause for termination, and such notice shall not require a cure period.

16.2. **Termination for Convenience.** After the first twelve (12) months following the date the initial Monthly Access Fee is due, Customer will additionally have the right to terminate this Agreement for convenience, by providing SunGard Public Sector with written notice of such termination for convenience at least one hundred and eighty (180) days prior to the effective date of such termination for convenience. Customer notice of termination shall specify the date of termination. Customer will be required to pay all Monthly Access Fees through the date of termination.

16.3. If after any termination or expiration of this Agreement Customer converts to a different vendor's applications, SunGard Public Sector will provide, upon payment of SunGard Public Sector's then-current standard deconversion fee, reasonable assistance and documentation for such deconversion in order to assist Customer in removing its information and placing said information in SunGard Public Sector's standard format for input to the other vendor's applications. In the event Customer requests a non-standard deconversion, SunGard Public Sector shall be entitled to receive compensation for consultation, software and documentation provided to assist in the deconversion on a time and materials basis at the standard prevailing rate then charged by SunGard Public Sector for such services.

17. **Choice of Law/Dispute Resolution/Attorney's Fees.** This Agreement shall be governed by laws of the State of California. Prior to either party commencing any legal action under this Agreement, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other. Each party hereto agrees to submit to the personal jurisdiction and venue of the state and/or federal courts in or for Fresno County, California for resolution of all disputes in connection with this Agreement. In the event it is necessary for either party to enforce any of the provisions of this Agreement by or through an attorney at law, the prevailing party, as determined by the court, shall be entitled to a judgment against the other party for all costs of such enforcement, including without limitation, reasonable attorneys' fees incurred in such enforcement, whether incurred before trial, at trial, or at any appellate level.

18. **Notices.** Any notice, request, demand, or other communication required or permitted hereunder will be given in writing, communication charges prepaid, to the party to be notified. All communications will be deemed given when received. The addresses for the parties for the purposes of such communication are:

If to Customer:

To the address shown on Page 1 of this Agreement.

If to SunGard Public Sector:

SunGard Public Sector Inc.  
1000 Business Center Drive  
Lake Mary, Florida 32746  
ATTENTION: Contracts/Legal Counsel

A party may change its address only upon written notice to the other party in which case this Agreement will be deemed to have been so modified.

19. **Force Majeure.** Neither party shall be in default by reason of any failure in the performance of this Agreement if such failure arises out of causes beyond its reasonable control. Such causes may include, but are not limited to, acts of God, acts of the public enemy, acts of the party whose performance is not sought to be excused, fires, flood, weather, epidemics, quarantine restrictions, strikes, freight embargoes, failure of transmission or power supply, mechanical difficulties with equipment which could not have been reasonably forecasted or provided for, or other causes beyond its sole control. The party so affected will resume performance as soon as practicable after the force majeure event terminates.

**Assignment.** Neither party may assign this Agreement or any related Schedule A - Order Form, or any of its rights and obligations under this Agreement or any related Schedule A - Order Form, without prior written consent of the other party. However, the following will not be considered "assignment" for purposes of this Agreement: SunGard Public Sector's assignment of this Agreement or of any SunGard Public Sector rights under this Agreement to SunGard Public Sector's successor by merger or consolidation or to any person or entity that acquires all or substantially all of its assets.

20. **Contractual Documents.** This Agreement, along with its Schedule A - Order Form, the Standards Sheet, and supplements or modifications thereto, contains the complete agreement between the parties with respect to the subject matter hereof. No additional representations, agreements or modifications or amendments to this Agreement hereafter made by a party shall be binding upon either party unless in writing and signed by Customer and accepted in writing by an authorized officer of SunGard Public Sector at its offices in Lake Mary, Florida.


**IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year shown opposite their respective signature below:**

CITY OF FRESNO,  
a municipal corporation

SUNGARD PUBLIC SECTOR INC.,  
a Florida Corporation

By: Carolyn T. Hogg Date: 3/31/09

By: Ronald E. Goodrow Date: 03/04/09

Signature: 

Signature: 

Title: CHIEF INFORMATION OFFICER

Print Name/Title:  
**Ronald E. Goodrow  
Exec.VP, SunGard Public Sector Inc**

ATTEST:  
REBECCA E. KLISCH  
City Clerk

By: Cindy Bruer 3/31/09  
Deputy Date

APPROVED AS TO FORM:  
JAMES C. SANCHEZ  
City Attorney

By:  3/19/09  
Senior Deputy Date  
Nancy A. Alger

Addresses:

Licensee:  
City of Fresno - Information Services  
Attn: Eddie Hughes, IS Manager  
2600 Fresno Street, Room 1059  
Fresno, CA 93721-3624  
Phone: (559) 621-7169  
FAX: (559) 488-1021

Licensor:  
SunGard Public Sector Inc  
Attn: Contracts/Legal Counsel  
1000 Business Center Drive  
Lake Mary, FL 32708 Phone: (800) 727-8088  
FAX: (407) 304-1045

# SUNGARD® PUBLIC SECTOR

## Supplement to the SunGard Public Sector Inc. Application Service Provider Agreement Schedule A - Order Form

This Schedule A - Order Form, together with its Attachments, is entered into under the terms and conditions of the SunGard Public Sector Inc. Application Service Provider Agreement of even date herewith (Agreement), between **SunGard Public Sector Inc. (SunGard Public Sector)** and **City of Fresno, CA (Customer)**. Unless otherwise stated below, all terms and conditions as stated in the Agreement shall remain in effect.

Customer Name: City of Fresno, CA

Agreement Number: FRES-090229-1

	Yes	No
Initial Order Form	X	
Replacement Order Form		X
Replaces Order Dated		

1. **Initial Term:** Begins March 31, 2009 and expires Sixty (60) months from the date the initial Monthly Access Fee is due under this Schedule A – Order Form.

2. **Application Groups:** Start-Up Fees and Monthly Access Fees

	Applications and/or Services	Start-Up Fee	Monthly Access Fee
<b>Existing Products (Currently Licensed)</b>	<b>NavilLine:</b> Customer Information System (CX), Cash Receipts (CR), Land/Parcel Management (LX), Code Enforcement (CE), Building Permits (BP), Planning & Engineering (PZ), Business Licenses (OL), Accounts Receivable (MR), Click2Gov Core Module (K1), Click2Gov Customer Information System Module (K2), Click2Gov Building Permits Module (K3), Building Permits/Voice Response IVR Interface (V1), Customer Information System Voice Response Interface IVR (V2), Customer Information System IVR - Credit Card Interface (CY), Document Management Services (DX), QRep Catalogs (BP, CE, CR, CX, LX, OL, PZ, MR)	\$ 20,681.00	\$ 9,691.00
<b>3rd Party Products (Currently Licensed)</b>	QRep Admin (1 User) - CG Admin, QRep End User (9 Users) - CG	Included in Start-Up Fee	Included in Monthly Access Fee
<b>Retrofit Maintenance <sup>1</sup></b>	88 objects	Included in Start-Up Fee	734.00
<b>Hardware Allocation</b>	VPN Concentrator Option to include management and configuration of VPN tunnel, Click2Gov hardware and software will be hosted and managed by SunGard Public Sector	Included in Start-Up Fee	Included in Monthly Access Fee
<b>Services</b>	Start-up, Implementation, HELP Card, Disaster Recovery Plan for SunGard Public Sector applications	Included in Start-Up Fee	Included in Monthly Access Fee
<b>Test Environment</b>	Creation of a Test Environment and up to 2 data refreshes per year; On demand refresh - one time fee of \$600 with appropriate planning time (requires a minimum of 10 business day advance notice)	Included in Start-Up Fee	Included in Monthly Access Fee
	<b>Subtotal:</b>	<b>\$ 20,681.00</b>	<b>\$ 10,425.00</b>
<b>Concurrent Sessions - Monthly Access Fees</b>			
<b>40</b>	ASP LPAR Environment	-	6,000.00
	<b>System Total:</b>	<b>20,681.00</b>	<b>16,425.00</b>

\*Start-Up Fee is based on use of SunGard Public Sector's Standard ASP Implementation Methodology.

\*\*Number of Concurrent Sessions listed above used in the calculation for the Monthly Access Fees. Changes to the number of Concurrent Sessions may impact the Monthly Access Fee.

**3. Payment Terms:**

Start-Up Fee: Due upon execution of this Order Form.

Monthly Access Fee: The initial Monthly Access Fee will be due March 31, 2009. Subsequent Monthly Access Fees will be due on the first of the month thereafter. Monthly Access Fees will be invoiced in advance on a monthly basis for a term of Sixty (60) months at the rates listed below.

Months 1 – 12	\$16,425.00 per month or \$197,100.00 per year;
Months 13 – 24	\$16,918.00 per month or \$203,016.00 per year;
Months 25 – 36	\$17,426.00 per month or \$209,112.00 per year;
Months 37 – 48	\$17,949.00 per month or \$215,388.00 per year;
Months 49 – 60	\$18,487.00 per month or \$221,844.00 per year;

Following the initial term, Services will be provided on a year-to-year basis provided the Customer exercises the option and pays the then current Monthly Access Fee.

**Note:**

<sup>1</sup> Following the execution of this Schedule A-Order Form, any Retrofit Modifications provided by SunGard Public Sector will be added to the next annual renewal period, pursuant to Section 6 below.

<sup>2</sup> Monthly Access Fees listed above are for the Applications and Services listed in this Schedule A-Order Form only.

Travel and Living Expenses: Travel and living expenses are in addition to the prices quoted above and will be invoiced as incurred and shall be governed by the SunGard Public Sector Corporate Travel and Expense Reimbursement Policy. Travel and living expenses actually incurred in prior months for which SunGard Public Sector is seeking reimbursement, shall also be invoiced monthly.

- 4. Maintenance Credit:** A credit in the amount of the unused pro-rata portion of maintenance paid by Customer shall be applied toward Customers Monthly Access Fee. The unused portion of paid maintenance will consist of the pro-rata amount unused as of March 31, 2009. Pursuant to the existing Software Support Services Agreement between the parties, Customer has been invoiced annual maintenance for the above listed products in the Existing Products (Currently Licensed), Existing Third Party (Currently Licensed) and Retrofit Maintenance section(s) in the amount of \$111,425.00 for the period of May 1, 2008 through April 30, 2009 and \$7,500.00 for Combined Technical Services for the period June 1, 2008 through May 31, 2009.
- 5. Maintenance Termination:** Upon commencement of billing for the Monthly Access Fee, both parties agree that the current maintenance billing for the above listed applications in the "Existing Products (Currently Licensed)" and "Existing Third Party (Currently Licensed)" section(s) shall terminate. SunGard Public Sector shall continue to provide Customer with maintenance of these products on Customer's hardware until the transition to the ASP Environment is complete, at which time maintenance of these applications on Customer's hardware will be terminated.
- 6. Modification Retrofits.** For each non-standard Application in library HTEMOD that was written by SunGard Public Sector or any Application that has had custom modifications performed by SunGard Public Sector at the Customer's request, SunGard Public Sector will perform all necessary programming to ensure that the program is compatible with each new software release, version, or program temporary fix made available by SunGard Public Sector. Fees for Modification Retrofits to be maintained are determined on an annual basis. This determination is based upon the number of modified objects prior to the beginning of each annualized ASP Term multiplied by the then current rate charged per object.
- 7. Hardware:** Customer is responsible for providing the DMS Server. The DMS Server shall reside at Customers site for ease of management. The Click2Gov Server shall reside at SunGard Public Sector's Lake Mary office. The Click2Gov Server is owned by SunGard Public Sector and is not the property of the Customer. The VPN Concentrator Option includes a router, which will be provided by SunGard Public Sector to Customer. The router is, and shall remain, the property of SunGard Public Sector.

The terms and conditions contained in this Schedule A – Order Form, including the prices, will be honored as set forth herein, provided this Schedule A – Order Form is fully executed by March 31, 2009.

The attached Standards Sheet (Attachment A) and Support Services Requirements (Attachment B) are applicable to the services ordered above.