



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		10/25/2010		
Department:		Technology Services		
Department Head		David Stephens		
Agenda Coordinator (include phone #): <b>Amy Powell X7342</b>				
<b>CAPTION</b>				
<b>A Resolution of the City Council of the City of Plano, Texas approving an agreement between the City of Plano and SunGard Public Sector Inc., a sole source vendor, for the maintenance and support of H.T.E. software applications in the amount of \$126,498; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</b>				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: <b>2010-11</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	2,495,189	0	<b>2,495,189</b>
Encumbered/Expended Amount	0	-352	0	<b>-352</b>
This Item	0	-126,498	0	<b>-126,498</b>
BALANCE	0	2,368,339	0	<b>2,368,339</b>
<b>FUND(s):     TECHNOLOGY SERVICES FUND (066)</b>				
<b>COMMENTS:</b> Funds are included in the 2010-11 Technology Services approved budget. The remaining balance will be used throughout the year for other maintenance agreements.				
<b>STRATEGIC PLAN GOAL:</b> Maintenance and software support agreements relate to the City's Goal of "Service Excellence".				
<b>SUMMARY OF ITEM</b>				
Technology Services recommends Council approve this Resolution for Sungard Public Sector, in the amount of \$126,498, for a premier support services agreement. Maintenance and support for the Sungard HTE Inc. is only available from one source, Sungard HTE, Inc., and therefore, is exempt from competitive bid as provided for in Section 252.022(a) (7) of the Texas Local Government Code..				
List of Supporting Documents: Staff Memo, Resolution, and Maintenance Agreement.			Other Departments, Boards, Commissions or Agencies	

## **Memorandum**

**Date:** September 15, 2010

**To:** David Stephens, Director of Technology Services

**From:** Danny Housewright, Systems and Programming Manager

**Subject:** Annual Maintenance for SunGard Public Sector Applications

We have received the annual renewal of maintenance and support for the SunGard Public Sector (SPS) software applications that various City Departments use. These applications are essential to the business operations of Customer and Utility Services, Building Inspections, Property Standards, and Environmental Waste Services. Inquiry access to information stored in the SPS applications is used by a number of departments across the city. Therefore, the continuation of maintenance and support of these applications is very important to the City of Plano.

This maintenance and support can come only from SPS since they do not allow any third party companies to maintain or modify any code. In fact, our software license agreements would become invalid if the City or any other source made any changes to SPS programs. Therefore, SPS is a sole source provider of these services.

Annual maintenance and support with SPS is necessary in order to receive help in resolving issues with the SPS software applications and to continue to receive upgrades and enhancements to the SPS products.

**A Resolution of the City Council of the City of Plano, Texas approving an agreement between the City of Plano and SunGard Public Sector Inc., a sole source vendor, for the maintenance and support of H.T.E. software applications in the amount of \$126,498; authorizing its execution by the City Manager or, his authorized designee; and providing an effective date.**

**WHEREAS**, the City Council of the City of Plano has been presented with a renewal maintenance agreement from SunGard Public Sector Inc. for maintenance and support of H.T.E. software applications used by various City Departments in an amount not to exceed \$126,497.72 for the first year, a substantial copy of which is attached hereto and incorporated herein as Exhibit "A" (hereinafter called "Agreement"); and

**WHEREAS**, the City Council finds that the maintenance and support for the H.T.E. software applications is only available from one source, SunGard Public Sector Inc., and, therefore, is exempt from competitive bid as provided for in Section 252.022(a)(7) of the Texas Local Government Code; and

**WHEREAS**, upon full review and consideration of the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, a Deputy City Manager should be authorized to execute it on behalf of the City of Plano.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:**

**Section I.** The City Council of the City of Plano, Texas, hereby finds and determines that maintenance and support for the H.T.E. software applications used by various City departments is available from only one source, and, therefore, exempt from competitive bid or proposal as provided for in Section 252.022(a)(7) of the Texas Local Government Code.

**Section II.** The Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and to be in the best interest of the City of Plano and its citizens, is hereby in all things approved.

**Section III.** The City Manager or, in his absence, a Deputy City Manager, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement attached hereto as Exhibit "A" .

**Section IV.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 25th day of October, 2010.

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

**SUNGARD PUBLIC SECTOR INC. SUPPORT SERVICES AGREEMENT  
CONTRACT NO. PLAN-101017**

This SunGard Public Sector Inc. Support Services Agreement (“Agreement”) is entered into by and between **SunGard Public Sector Inc. (SunGard Public Sector)**, a Florida Corporation, with its principal place of business at: 1000 Business Center Drive, Lake Mary, Florida 32746;

and

**City of Plano  
(Customer),**

with its principal place of business at  
P.O. Box 860279  
Plano, TX 75086-0279

1.

<b>Schedule of Licensed Programs Covered Under this Agreement</b>	<b>Support Services Fee for Initial Term October 1, 2010 - September 30, 2011</b>
Qrep End User - CG (4)	\$ 1,248.00
BP Voice Response Selectron Interface - VI	\$ 1,799.20
Click2Gov Core Module - K1	\$ 1,367.60
Click2Gov BP Module - K3	\$ 3,796.00
Click2Gov Wireless BP - KB	\$ 2,943.20
NAVI - Customer Information Systems - CX	\$ 27,820.00
NAVI - Cash Receipts - CR	\$ 5,876.00
NAVI - Building Permits - BP	\$ 10,051.60
NAVI - Code Enforcement - CE	\$ 6,120.40
NAVI - Land/Parcel Management - LX	\$ 6,229.60
NAVI - Work Orders/Facilities Management - WF	\$ 17,154.80
QRep Catalogs (CXJ,LXJ,CRJ,WFJ,BPJ) - CJ (5)	\$ 1,612.00
NAVI - Document Management Services - DX	\$ 1,055.60
NAVI - Contact Management - CZ	\$ 12,230.40
Click2Gov CRT - KF	\$ 4,232.80
QRep Administrator - CG (3 Users)	\$ 936.00
Retrofit Modifications (41) - MI	\$ 4,100.00
QRep End User - CG (8 Users)	\$ 2,496.00
CIS Voice Reponse Selectron - V2	\$ 1,929.20
Delinquency Call Out Listing Interface - DL	\$ 634.40
CIX IVR Credit Card Interface - CY	\$ 634.40
GTG LG Centralized Address Manager - LC	\$ 2,085.32
GTG Looking Glass Viewer Web (20 Units)	\$ 2,564.80
GTG GIS (15 Users)	\$ 2,780.40
Electronic Learning Pass (HELP) Card	\$ 4,800.00
<b>Total</b>	<b>\$ 126,497.72</b>

2. **TERM.** The Term of this Agreement shall be per the above schedule (“Initial Term”). This Agreement can be renewed for successive one (1) year terms by payment of the then-current annual Support Services Fee. SunGard Public Sector will invoice Customer when the Support Services Fees are due.
3. **SUPPORT SERVICES.** For so long as Customer has purchased Support Services and is current in its payments to SunGard Public Sector, Customer shall be entitled to receive, and SunGard Public Sector agrees to provide, the following services which are hereinafter referred to as “Support Services” for the Licensed Programs listed in Paragraph 1 hereof:

- 3.1 **Program Fix Service.** Customer shall promptly report to SunGard Public Sector any errors or defects in the Licensed Program's which prevents the Licensed Programs from operating substantially in accordance with their documentation and shall further provide such information as may be required by SunGard Public Sector to replicate such errors or defects. Customer agrees to provide dial-in access to Customer's computer in order for SunGard Public Sector to investigate reported errors or defects. SunGard Public Sector will address any such replicable errors or defects with an effort commensurate with their severity and will deliver to Customer a remedial release or workaround as it becomes available. In the event the problem Customer reported as an error or defect was in fact not in the Licensed Programs, then Customer shall pay SunGard Public Sector, at SunGard Public Sector's then current list price therefor, for time spent as a result of Customer's report.
- 3.2 **Software Upgrades and Updates.** Customer shall receive, at no additional cost, upgrades and updates to the Licensed Programs which are generally made available at no cost by SunGard Public Sector to customers who have purchased Support Services. Customer shall receive one original of any upgrade or update to the Licensed Programs delivered hereunder in electronic form or on media, according to the general form of distribution implemented by SunGard Public Sector. Customer agrees that any upgrades or updates provided by SunGard Public Sector shall be held by Customer upon all of the terms and shall be subject to all of the conditions contained in the license agreement granting Customer the right to use the Licensed Programs.
- 3.3 **Telephone Support.** SunGard Public Sector shall make available a toll free telephone support line, twenty-four (24) hours a day, seven (7) days per week, for use by Customer's representatives who shall have received training on the Licensed Programs and who shall be relatively proficient in the operation of the Licensed Programs.
- 3.4 **Exclusions.** Support Services do not include on-site services nor Licensed Programs that are not at the latest release level or the level immediately prior to the latest release, or for which Customer has not installed all distributed corrective code, or Licensed Programs that have been modified or customized, or that have been damaged by negligence, misuse, use with inappropriate software or equipment or by other external causes.

#### 4. **SUPPORT SERVICES FEES.**

- 4.1 Support Services Fees for the Initial Term hereof are as provided in Paragraph 1, and are due and payable upon execution of this Agreement.
- 4.2 Support Services Fees for Renewal Terms are due and payable prior to the first day of the Renewal Term, and are subject to change upon each renewal date.
- 4.3 Support Services Fees stated herein do not include sales (or equivalent) taxes. Taxes due, if any, will be added to Customer's invoice.
- 4.4 Support Services Fees are not refundable in whole or in part, except in the event of Customer's termination for cause as provided in Paragraph 9.3 hereof.

#### 5. **MODIFICATION MAINTENANCE SERVICES.** For so long as Customer has purchased Modification Maintenance Services and is current in its payments to SunGard Public Sector under this Agreement, Customer shall be entitled to receive, and SunGard Public Sector agrees to provide, the following service:

- 5.1 **Modified Program Compatibility.** For each non Licensed Program in library SunGard Public Sector MOD that was written by SunGard Public Sector or any Licensed Program 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.

#### 6. **MODIFICATION MAINTENANCE FEES.**

- 6.1 Modification Maintenance Fees are determined on an annual basis. This determination is based upon the number of modified programs prior to each renewal period multiplied by the then current rate charged per program.
- 6.2 Modification Maintenance Fees are not refundable in whole or in part.

7. **WARRANTIES AND REMEDIES.** SunGard Public Sector warrants that the Support Services provided under this Agreement shall be performed professionally, in a workmanlike manner and by employees with appropriate skills and expertise. Except as provided in this paragraph, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, IN THE EVENT HTE BREACHES THIS WARRANTY, IS TO TERMINATE THIS AGREEMENT PURSUANT TO THE TERMS OF PARAGRAPH 9 BELOW.
8. **LIMITATION OF LIABILITY.** SunGard Public Sector's liability to Customer for any losses or damages, whether direct or indirect, arising out of this Agreement, shall not exceed the Support Services Fees paid for the Initial Term or Renewal Term then in effect. In no event shall SunGard Public Sector be liable for any indirect, special, or consequential damages, or economic loss in connection with, or arising out of, this Agreement.
9. **TERMINATION.** This Agreement may be terminated as follows:
  - 9.1 Upon Customer's failure to renew this Agreement at the expiration of the Initial Term or any Renewal Term.
  - 9.2 By SunGard Public Sector, if Customer fails to pay Support Services Fees on or before the due date, then this Agreement shall terminate if non-payment continues for more than ten (10) days after receipt of notice in writing from SunGard Public Sector to Customer of such non-payment setting forth the sum then due and how such sum was determined.
  - 9.3 Except as provided in Paragraph 9.2 hereof, by the non-breaching party, in the event this Agreement is breached by a party and that party fails to cure the breach within thirty (30) days after having been given written notice thereof.
  - 9.4 If Customer terminates this Agreement and subsequently desires to reinstate Support Services, SunGard Public Sector's then-current policy with regard to reinstatement shall apply.
10. **GENERAL TERMS. Choice of Law/Dispute Resolution.** This Agreement shall be governed by laws of the State of Florida. 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, 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 Seminole County, Florida for resolution of all disputes in connection with this Agreement.

**Binding Agreement.** The individual signing this Agreement for Customer warrants that he/she has been duly authorized to bind Customer to all rights, duties, remedies, obligations and responsibilities hereunder and that the Agreement is a valid and binding obligation of Customer.

**Assignment.** This Agreement and the rights, title, and interest herein, may not be assigned or transferred by Customer without the prior written consent of SunGard Public Sector, which consent may be withheld. SunGard Public Sector may assign its rights, title and interest herein by providing prior written notice to Customer.

**Successors Bound.** The terms and conditions of this Agreement shall extend and inure to the benefit and be binding on the respective successors and permitted assigns of Customer and SunGard Public Sector.

**Force Majeure.** Neither party shall be held responsible for failure to fulfill its obligations under this Agreement due to causes beyond its reasonable control.

**Severability.** If any term or provision of this Agreement or the application thereof to any entity, person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to entities, persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**Notices.** Any notice provided for herein shall be in writing and sent by registered or certified mail, postage prepaid, addressed to the party for which it is intended at the address set forth on the first page of the Agreement or to such other address as either party shall from time to time indicate in writing. Any notice given pursuant to this paragraph shall be deemed given when received or five (5) calendar days from the date of the mailing, whichever occurs first.

**Headings.** Numbered topical headings, articles, paragraphs, subparagraphs or titles in this Agreement are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms hereof.

**Non-Hiring Statement.** During the term of this Agreement and for a period of twenty-four (24) months after the termination of this Agreement, the Customer may not offer to hire or in any way employ or compensate any of the employees of SunGard Public Sector or persons who have been employed by SunGard Public Sector within the immediate past twenty-four (24) months without prior written consent of SunGard Public Sector.

**Non-waiver.** Waiver of any breach or default hereunder shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.

**Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to Support Services, and there are no representations, conditions, warranties, or collateral agreements, expressed or implied, statutory or otherwise, with respect to this Agreement other than as contained herein. This Agreement supersedes all previous communications, representations or agreements, either written or oral, between the parties. This Agreement may not be modified or supplemented in any way except by written agreement signed by persons authorized to sign agreements on behalf of Customer and of SunGard Public Sector. Preprinted conditions which vary from the terms and conditions herein, and which are contained in any purchase order or other document submitted hereafter by Customer, are of no force or effect.

**AFFIDAVIT OF NO PROHIBITED INTEREST**

Contractor acknowledges and represents it is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Contract voidable. Contractor has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit A.

The parties, each acting with due authority, have executed this Agreement by setting forth their respective signatures:

**CITY OF PLANO, TX**

**SUNGARD PUBLIC SECTOR INC.**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A**

**AFFIDAVIT OF NO PROHIBITED INTEREST**

I, the undersigned declare and affirm that no person or officer of SunGard Public Sector Inc., (herein "Contractor") is either employed by the City of Plano or is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

I further understand and acknowledge that the existence of a prohibited interest at any time during the term of this contract will render the contract voidable.

SUNGARD PUBLIC SECTOR INC.

Name of Contractor

By: \_\_\_\_\_

Signature

\_\_\_\_\_

Print Name

\_\_\_\_\_

Title

\_\_\_\_\_

Date

STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

**SUBSCRIBED AND SWORN TO** before me this \_\_\_\_ day of

September 2010.

\_\_\_\_\_

Notary