THE CITY OF BLUE ISLAND
COOK COUNTY, ILLINOIS

RESOLUTION
NUMBER 2018-028

A RESOLUTION APPROVING A CONTRACT WITH MUNICIPAL SYSTEMS, INC. AND AUTHORIZING THE MAYOR AND CITY CLERK TO SIGN THE CONTRACT.

DOMINGO F. VARGAS, Mayor
Randy Heuser, City Clerk

DEXTER JOHNSON	GEORGE POULOS
LETICIA VIEYRA	FRED BILOTTO
NANCY RITA	KEVIN DONAHUE
TOM HAWLEY	ALECIA SLATTERY
BILL FAHRENWALD	JANICE OSTLING
CANDACE CARR	JAIRO FRAUSTO
KENNETH PITTMAN	NANCY THOMPSON

Aldermen

RESOLUTION NO. <u>2018-028</u>

A RESOLUTION APPROVING A CONTRACT WITH MUNICIPAL SYSTEMS, INC. AND AUTHORIZING THE MAYOR AND CITY CLERK TO SIGN THE CONTRACT

WHEREAS, the City of Blue Island has the authority to contract and be contracted with pursuant to 65 ILCS 5/2-2-12;

WHEREAS, the City plans to enter into a contract with Municipal Systems, Inc. (MSI) to provide services and computer software for the City to operate its Administrative Building Code, Municipal Ordinance Violation Enforcement and Municipal Offense Systems, in accordance with the terms of the Contract attached hereto as Exhibit A;

WHEREAS, the appropriate city officials have considered and reviewed the Contract attached as Exhibit A and find the same to be in the best interests of the City;

NOW AND THEREFORE, BE IT RESOLVED by the City Council of the City of Blue Island, Cook County, Illinois, as follows:

SECTION 1: AGREEMENT FORM AND TERMS AUTHORIZED

The terms and conditions as shown in the contract, attached as Exhibit A to this Resolution, are hereby approved.

SECTION 2: AUTHORIZATION OF AGENT TO EXECUTE AND ACT IN ACCORDANCE WITH AGREEMENT

The City Council further authorizes the Mayor or his designee and the City Clerk to execute the Contract and any and all documentation that may be necessary to carry out the intent of this Resolution. The officers, employees, and/or agents of the City shall take all action necessary or reasonably required by the City to carry out, give effect to, and consummate the intent of this Resolution.

SECTION 3: EFFECTIVE DATE

This resolution shall be in full force and effect upon its passage and approval as required by law.

(Intentionally left blank)

**ADOPTED** this **25th** day of **September, 2018,** pursuant to a roll call vote as follows:

	YES	NO	ABSENT	PRESENT	ABSTAIN
Alderman Hawley	X				
Alderman Poulos	X				
Alderman Vieyra	X				
Alderman Bilotto	X				
Alderman Rita	X				
Alderman Donahue	X				
Alderman Carr	X				
Alderman Slattery	X				
Alderman Ostling	X				
Alderman Pittman	X				
Alderman Johnson	X				
Alderman Frausto	X				
Alderman Thompson	X				
Alderman Fahrenwald	X				
Mayor Vargas					
TOTAL	14				

APPROVED by the Mayor on **September 25, 2018.**
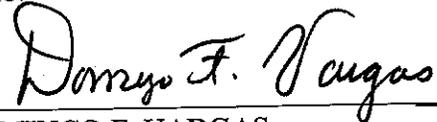
DOMINGO F. VARGAS
MAYOR OF THE CITY OF BLUE ISLAND,
COUNTY OF COOK AND STATE OF ILLINOIS

ATTESTED and **Filed** in my office this
25th day of **September, 2018.**
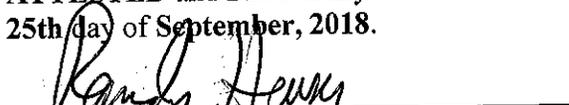
RANDY HEUSER
CITY CLERK

STANDARD TERMS AND CONDITIONS

(Administrative Building Code, Municipal Ordinance Violation Enforcement, and Municipal Offense System)
Municipal Systems, Inc.

This Agreement made and entered into this 25th day of September, 20 18, by and between Municipal Systems, Inc., an Illinois corporation with principal offices situated at 7330 College Dr., Suite 108, Palos Heights, IL 60463, (hereinafter referred to as MSI), and **CITY of BLUE ISLAND, IL** an incorporated Municipality of the State of Illinois with Village offices situated at **13051 Greenwood Ave, Blue Island, IL** (hereinafter referred to as "THE MUNICIPALITY").

WITNESSETH

WHEREAS, the Legislature of the State of Illinois has enacted certain statutes, allowing a municipality to exercise enforcement power including but not limited to, all locally established ordinance violations, Building and Zoning violations (Code), Parking and Compliance violations.

WHEREAS, the Legislature of the State of Illinois has enacted statutes allowing a municipality to establish a system of administrative hearings for violations of ordinances and regulations concerning its "Code"; and

WHEREAS, THE MUNICIPALITY is incorporated under the Laws of the State of Illinois and empowered under these statutes to enact ordinances and regulations, impose fines for violations thereof and to establish a system of administrative hearings for violations of ordinances and regulations; and

WHEREAS, THE MUNICIPALITY desires to implement its authority under 65 ILCS 5/11-31.1, 65 ILCS 5/1-2.1; and 625 ILCS 5/11-208.3

WHEREAS, MSI has the knowledge, experience and expertise as well as computer software to assist THE MUNICIPALITY in implementing an effective administrative hearing system; and

WHEREAS, it is contemplated THE MUNICIPALITY will generate additional revenues and compliance through an effective administrative hearing system,

NOW, THEREFORE, in consideration of the mutual and several promises and covenants herein contained, the parties do hereby agree as follows:

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ARTICLE I
General Terms

1.01   THE MUNICIPALITY agrees to utilize MSI as the exclusive provider of the service and computer software for the implementation of an administrative hearing system (the "System") for the adjudication of Code violations as allowed by State Statutes and to pay MSI in accordance with the terms and conditions hereinafter set forth.

1.02   MSI agrees to provide specified services and computer software to THE MUNICIPALITY in accordance with the terms and conditions hereinafter set forth.

1.03   The term of this Agreement shall commence on the first day set forth above and shall continue until the end of the thirty-sixth billing month, as that term is defined in this Agreement. ~~Unless written notice of termination is given by either party to the other at least ninety (90) days prior to expiration of the initial term or any extended term, this Agreement shall remain in effect for additional extended terms of twelve (12) months.~~ THE PARTIES MAY AGREE TO EXTEND THE TERMS OF THIS AGREEMENT BY SIGNING A WRITTEN EXTENSION AGREEMENT.   **ARTICLE II**
Terms and Conditions

2.01   For and in consideration of payments to be made by THE MUNICIPALITY as described in ARTICLE III of this Agreement, MSI agrees to provide:

    2.01.1   COMPUTER SOFTWARE (the "Software"): as more particularly set forth herein:

        2.01.1.1 LICENSE: In consideration of the software license below, MSI grants to THE MUNICIPALITY a non-exclusive, non-transferable license to use the object code for the standard or network program identified below. **THIS LICENSE IS NOT TRANSFERABLE TO ANY OTHER PROCESSOR NOR MAY IT BE SUBLICENSED WITHOUT WRITTEN AUTHORIZATION FROM MSI.**

LICENSE	SOFTWARE	PROGRAM	VERSION
	(ABC) Administrative Building Code	Web Based	01V
	(ABC) Administrative Building Code	Web Based	01V
	(MOS) Municipal Offense System	Web Based	01V

        2.01.1.2   WARRANTY: MSI warrants, that during the term of the Agreement and any extended term, the software supplied hereunder will perform substantially in accordance with the representations set forth in this Agreement and the Software's System Users' Manual. Should the software fail to meet those requirements, MSI shall replace the defective software. This warranty shall not cover software errors or nonconformities resulting from (i) modifications of the software by THE MUNICIPALITY or a third party, (ii) THE MUNICIPALITY's negligence or fault, (iii) hardware malfunction, or (iv) THE MUNICIPALITY's failure to use the System for its intended purpose. **MSI EXPRESSLY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS**

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FOR A PARTICULAR PURPOSE. FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, MSI SHALL NOT BE LIABLE HEREUNDER FOR ANY CONSEQUENTIAL OR SECONDARY DAMAGES. MSI'S ONLY OBLIGATION HEREUNDER IS TO REPLACE DEFECTIVE SOFTWARE.

2.01.1.3   UPGRADES: Software upgrades to the program or programs provided under the terms of the Agreement shall be provided to THE MUNICIPALITY at no additional cost when those upgrades are made available generally to MSI's customers. New programs are not considered an upgrade and may be offered at an additional cost. Failure of THE MUNICIPALITY to accept upgrades when offered will void MSI's obligation to provide support services as required in Article 2.01.3.

2.01.2   TRAINING: Training for employees of THE MUNICIPALITY as may initially be required to allow said employees to operate the computer software supplied by MSI as specified below:

Provided	Description	Estimated Hours
1	ABC/MOVE/MOS Training	30
	TOTAL:	30

2.01.2.1   If during the period of this Agreement or any extended term, THE MUNICIPALITY requests additional training, or training after initial implementation of the System, MSI will charge THE MUNICIPALITY at the current hourly rate as specified for training in Article 2.01.3 below. The rates are valid for the initial 36 month term of this Agreement. Thereafter, the then prevailing current rates as established by MSI shall apply.

2.01.3   SUPPORT to THE MUNICIPALITY for the specified software in this Agreement shall include those services necessary to cause said software to perform in conformance with the warranty provided for in Article 2.01.1.2. In the event that service is provided for what is determined to be a problem which is not covered by the warranty, THE MUNICIPALITY shall pay for the services rendered as an extra cost according to the rates set forth in Article 2.01.3.1:

Software warranty support costs during the initial term of this Agreement and any extended term are covered by the monthly compensation as set forth in Articles III and IV, below. Costs for support services not covered by warranty and any additional services requested by THE MUNICIPALITY shall be charged in accordance with the following, during the initial term and at MSI's then prevailing rates during any extended terms.

DESCRIPTION OF SERVICES		COST	
1. Customer Telephone Support		Included	
2. Customer Training/Implementation Services		$175.00 per hour	
3. Technical Specialist		$195.00 per hour	
4. Programming Service		$195.00 per hour	
5. Travel - Mileage Rate	(Includes travel time)	$.75 cents per mile round trip	(travel time included)

2.01.3.2 Initial installation shall include installation of the software on current network nodes currently using MSI software. Installation of additional nodes, past the initial installation set-up shall be an extra cost and provided in accordance with the rates set forth in Article 2.01.3.1.

2.01.4 SOFTWARE SYSTEM USERS' MANUALS, sample forms and reports.

2.01.5 SPECIFICATIONS FOR SUPPLIES needed or required, it being understood that THE MUNICIPALITY need not purchase supplies from or through MSI, but any supplies obtained from sources other than MSI or MSI designated suppliers must meet all specifications as are set forth by MSI.

2.01.6 MSI COVENANTS AND WARRANTS that it has the full power and authority to license the use of the computer software set forth in subsection (1) above.

2.01.7 ENVIRONMENTAL SOFTWARE necessary to operate the program software.

2.02 For and in consideration of MSI providing THE MUNICIPALITY with the afore stated services and computer software, THE MUNICIPALITY hereby covenants and warrants that it has or will:

2.02.1 ENACT A MUNICIPAL ORDINANCE providing for the regulation of Code violations within the geographical boundaries of THE MUNICIPALITY as allowed by IL State Statutes, and the assessment of fines and other sanctions for such Code violations.

2.02.2 ENACT A MUNICIPAL ORDINANCE providing for the establishment of a system of administrative adjudication of Code violations under 65 ILCS 5/11-31.1-2, 65 ILCS 5/1-2.1, and Parking and Compliance violations under 625 ILCS 5/11-208.3 or any other applicable Law, within the geographical boundaries of THE MUNICIPALITY. Should MSI update or change the software which it provides, and THE MUNICIPALITY does not adopt necessary amendments to its ordinance, or THE MUNICIPALITY adds violation areas not supported by MSI's software, MSI shall not be responsible for support services or any deficiencies in the administrative adjudication system caused by inconsistencies between the ordinance and the software.

202.3 MANAGE ITS SYSTEM'S FIREWALL settings to allow access to the remote web database by its personal computers and workstations. MSI shall have no liability or responsibility resulting from the Municipality's failure to properly manage said firewall settings.

2.02.4 PROVIDE SUFFICIENT PERSONNEL, as may be required to operate and/or manage the System.

2.02.5 COMPENSATE MSI FOR the use of the System during the term of this Agreement.

2.02.6 The Municipality understands and agrees that the Software is "web-based", and that all of the Municipality's access to and storage of its data relative to the use of the Software for its Administrative Hearing System shall be through a website procured by MSI. Therefore, the Municipality must have high speed (not dial-up) access to the internet; and must have computer software and hardware which meet the following minimum specifications:

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<u>Web Based Environment</u>

–	Client:	Windows 2000 SP 4 or higher/Windows XP SP 2 or higher/Windows Vista, Windows 7.
--	RAM:	Windows 2000/XP - 512 MB or higher. Windows Vista 1GB or higher.
–	Broadband:	DSL or higher.

Note: Failure to meet the above minimum hardware requirements by THE MUNICIPALITY will void the MSI warranty for the Software as more particularly set forth in Article 2.01.1.2 above

ARTICLE III
Compensation

3.01 THE MUNICIPALITY agrees to make a monthly payment of $1,458 for the first 12 **months** to MSI for installation of software, initial training, software license, warranty, and support, as set forth in Article 2.01, for period of 36 billing months, as that term is defined below.

For months **13-36**, the monthly amount shall be $1,600

<u>The monthly fee includes:</u>

MSI Administrative Adjudication modules:

- MOS- Parking and Compliance violations
- MOVE- Local Ordinance violations
- ABD – Property Related violations

Parking exemption module

Mobile ticketing (squad laptops and Smart phones for P & C tickets)

Additional fees:

     LEADS Server set-up – one-time charge   **$1,500**

3.01.1 Once MSI performs its obligation to install the software necessary to begin operation of the System, the obligation of THE MUNICIPALITY to pay the Monthly Amount shall commence. Any Monthly Amounts paid by THE MUNICIPALITY prior to the commencement of the billing months shall not affect the length of the term of this Agreement.

3.01.2 Billing for extra services provided to THE MUNICIPALITY shall occur at the end of the month in which they are rendered and shall be due with that month's monthly amount or extension monthly amount, as the case may be.

3.01.3 Payments to MSI shall be due not later than 45 days after the last day of each month for which a payment is due. A late payment of 1.0% per month shall be added for any amount remaining unpaid after the 45th day, *PROVIDED MSI SENDS NOTICE TO THE MUNICIPALITY THAT IT IS ASSESSING THE LATE PAYMENT PENALTY AND SETS FORTH THE REASON FOR THE PENALTY.*

3.01.4 In the event that THE MUNICIPALITY is under contract with Municipal Collection Services, Inc. ("MCSI") for collection of overdue fines for violations processed through the system, the revenues collected by MCSI shall not be subject to a percentage of revenue under a revenue share agreement.

ARTICLE IV
Software License; Extension

4.01   In the event that THE MUNICIPALITY chooses to extend the term of the Agreement for one or more 12 month periods, the terms of payment shall be as follows:

Extension Monthly Amount : $1,600

4.01.1   Such payments shall be timely and THE MUNICIPALITY acknowledges and agrees that continued use of the software or the providing of services without prompt payment therefore is a violation of the license to use the software.

ARTICLE V
Termination

5.01   THE MUNICIPALITY acknowledges and agrees that MSI will have substantially performed its initial obligations under this Agreement upon the installation of the computer software system within facilities of THE MUNICIPALITY and the completion of training for designated municipal employees.

5.02   It is agreed that THE MUNICIPALITY may terminate this Agreement upon written notice to MSI of its non-compliance with the terms of this Agreement and upon MSI's failure to cure the default (non-compliance) within thirty (30) days of the date written notice is received from THE MUNICIPALITY. In the event THE MUNICIPALITY terminates the Agreement due to MSI's failure to cure the default, no further payments past the effective date of termination will be due to MSI.

5.03   In addition to any other remedies of MSI hereunder or under applicable law, MSI may terminate this Agreement upon written notice to THE MUNICIPALITY of its non-compliance with the terms of the Agreement and upon THE MUNICIPALITY's failure to cure the default (non-compliance) within thirty (30) days of the date written notice is received from MSI. MSI's termination of this Agreement shall not affect any other rights or remedies of MSI, including the right to bring an action for unpaid amounts due hereunder, actions for injunctive relief and actions for damages incurred by MSI as a result of any breach of this Agreement by THE MUNICIPALITY.

5.04   Upon termination of this Agreement, the License shall terminate and the System and all software and other intellectual property comprising the System, including all upgrades and modifications thereto and all information and ideas which are of value primarily in connection with this System shall be immediately returned to MSI by THE MUNICIPALITY.

ARTICLE VI
Software Use and Authorization

6.01   THE MUNICIPALITY is granted a license to use the Software set forth in Article II only so long as THE MUNICIPALITY complies with the terms of this Agreement.

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6.02   THE MUNICIPALITY further covenants and warrants not to in any manner, directly or indirectly, copy, convey, transfer or allow the unauthorized use of any of the Software for which a license use is granted under this Agreement. Any such action or attempted action on the part of THE MUNICIPALITY shall be sufficient grounds for MSI to obtain equitable relief preventing same, without bond or notice to THE MUNICIPALITY.

6.03   If THE MUNICIPALITY does not make the payments required by this Agreement, all software used under the terms of this Agreement shall be returned immediately to MSI. Failure to return the software shall be sufficient grounds for MSI to obtain equitable relief without bond or notice to THE MUNICIPALITY to effect return thereof. The System, all software, object codes, source codes, upgrades, enhancements and other intellectual property rights pertaining thereto, including patents and copyrights, constitute the sole and exclusive property of MSI.

6.04   All confidential or proprietary information disclosed by MSI to THE MUNICIPALITY shall be held in trust and confidence by THE MUNICIPALITY at all times during the terms of this Agreement and for two (2) years thereafter. THE MUNICIPALITY shall take all reasonable precautions, but not less than those employed to protect its own confidential and proprietary information, to prevent any confidential information of MSI from being divulged to or used by third persons.

6.05   During the term of this Agreement, THE MUNICIPALITY shall not directly or through active assistance to any third parties develop substitute or competitive software products or systems which perform the same or substantially similar functions to those performed by the System. Nothing in this Section is intended to prevent THE MUNICIPALITY from investigating or purchasing an alternative solution.

ARTICLE VII
Damages

7.01   With regard to the installation, service and support of the Software by MSI; MSI shall have no liability with respect to its obligations under this Addendum or otherwise for consequential, exemplary, special, incidental or punitive damages even if it has been advised of the possibility of such damages. In any event, the liability of MSI to THE MUNICIPALITY, for any reason and upon any cause of action, shall be limited to the lesser of the amount paid to MSI by THE MUNICIPALITY under this Addendum or $1,000.00. This limitation applies to all causes of action in the aggregate, including without limitation to breach of contract, breach of warranty, negligence, strict liability, misrepresentations, and other torts. Both parties understand and agree that the remedies and limitations herein allocate the risks of product and service non-conformity between the parties as authorized by the Uniform Commercial Code and of other applicable laws. The fees herein reflect, and are set in reliance upon, this allocation of risk and the exclusion of consequential damages set forth in this Addendum.

ARTICLE VIII
Website

8.01   While MSI will use reasonable efforts to provide maximum uptime for the website to be used, it is agreed and understood that there will be downtime for the website due to planned and unplanned maintenance and repair of the website; and due to conditions beyond the control of MSI. THE MUNICIPALITY agrees that MSI shall have no liability for downtime of the website unless caused by MSI's own willful conduct.

8.02 THE MUNICIPALITY will have up to 20 gigabytes of storage resources at the website at no additional cost. In the event that THE MUNICIPALITY exceeds 20 gigabytes of data storage, additional charges will be assessed as additional compensation to MSI, based on the increased charges to MSI from its website host.

8.03 With regard to the website access to be provided by MSI: (a) MSI shall have no liability for unauthorized access to, or alteration, theft or destruction of, the website or THE MUNICIPALITY's data files, programs or information through accident, fraudulent means or devices, and (b) MSI shall have no liability with respect to MSI's obligations under this Agreement or otherwise for consequential, exemplary, special, incidental, or punitive damages even if MSI has been advised of the possibility of such damages. In any event, the liability of MSI to THE MUNICIPALITY for any reason and upon any cause of action shall be limited to the lesser of the amount actually paid to MSI by THE MUNICIPALITY under this Agreement or $1,000.00. This limitation applies to all causes of action in the aggregate, including without limitation to breach of contract, breach of warranty, negligence, strict liability, misrepresentations, and other torts. The fees herein reflect, and are set in reliance upon, this allocation of risk and the exclusion of consequential damages set forth in this Agreement.

ARTICLE IX
Agreement Modification

9.01 This Agreement may be modified only in writing, executed by both parties.

ARTICLE X
Miscellaneous Provisions

10.01 This Agreement shall be governed by and interpreted in accordance with the Laws of the State of Illinois. Any dispute arising out of this Agreement shall be instituted in the United States District Court for the Northern District of Illinois or in the Cook County, Illinois Circuit Courts.

10.02 This Agreement shall not be construed more strongly against the party responsible for its preparation.

10.03 ~~In the event that either party retains attorneys to enforce its rights under the terms of this Agreement, the prevailing party in any litigation shall be reimbursed for their reasonable attorneys' fees and other costs associated with enforcement and litigation.~~ DELETED IN ITS ENTIRETY.

10.04 The Model Ordinance and training provided by MSI are intended to comply with existing state law and designed to be consistent therewith. However, MSI does not warrant that the Model Ordinances and training are legally sufficient and THE MUNICIPALITY should determine for itself, prior to adoption, that the same comply with existing law.

10.05 This Agreement and the Addendums attached hereto, represent the entire Agreement between the parties. The parties agree that THE MUNICIPALITY and MSI are acting as separate and independent entities and neither party is partner, joint venturer, agent, or employee of the other.

10.06 The parties shall not be liable for any delay in the performance of their obligations hereunder if such delay is caused by causes beyond the reasonable control of the parties, including, without limitation, any act of God or force majeure, or revolution, terrorist act, riot, commotion or any applicable governmental or judicial law, regulation, order or decree.

ARTICLE XI
Notices

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Any and all notices required hereunder shall be by certified mail - return receipt requested - and shall be deemed properly given and received mailing to the parties at the address listed below.

MUNICIPALITY:

CITY of BLUE ISLAND
13051 Greenwood Ave
Blue Island, IL 60406

MSI:

MUNICIPAL SYSTEMS, INC.
7330 College Drive, Suite 108
Palos Heights, IL 60463

ARTICLE XII
Approval

IN WITNESS WHEREOF the parties have hereunto set their respective hands and seals the day and date first above written.

CITY OF BLUE ISLAND, IL
MUNICIPALITY

By:

_____
Mayor/President (PRINT)

_____
Mayor/President (SIGNATURE)

Attested:

_____
Clerk (PRINT)

_____
Clerk (SIGNATURE)

Date: _____

MUNICIPAL SYSTEMS, INC
An Illinois corporation

By:

_____
Michael C. Regan
Chief Executive Officer (PRINT)

_____
Chief Executive Officer (SIGNATURE)

Attested:

_____
Frank Leoni
Secretary (PRINT)

_____
Secretary (SIGNATURE)

Date: _____