

## AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

**THIS AGREEMENT** (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter "COUNTY" or "Agency" or "Customer") and Accela, Inc. with an address at 2633 Camino Ramon, Suite 120, San Ramon, CA 94583 (hereafter "CONTRACTOR" or "Accela") wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

**WHEREAS**, COUNTY purchased CONTRACTOR's legacy product of Accela software in 2008 and has been using the software consistently in the Planning and Development Department for land use and development permits; and

**WHEREAS**, COUNTY's legacy product is reaching end-of-life for support in its current version; and

**WHEREAS**, COUNTY's Cannabis Business Licensing Office purchased CONTRACTOR's cloud-based software in 2018 to manage and track cannabis business licensing; and

**WHEREAS**, COUNTY's Planning and Development has a desire to manage and track land use and development permits using the same cloud-based software as the COUNTY's Cannabis Business Licensing Office; and

**WHEREAS**, using and maintaining the same cloud-based software is beneficial and efficient for COUNTY's business operations; and

**WHEREAS**, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

### 1. **DESIGNATED REPRESENTATIVE**

Linda Liu, Planning and Development at phone number (805) 568-2035 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Arielle Mallen at phone number (732) 600-6638 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

### 2. **NOTICES**

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery, email, or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: Linda Liu, Planning and Development, 123 E. Anapamu St, Santa Barbara, CA 93101  
([lliu@co.santa-barbara.ca.us](mailto:lliu@co.santa-barbara.ca.us))

To CONTRACTOR: Arielle Mallen, Accela Inc., 2633 Camino Ramon, Suite 120, San Ramon, CA 94583 ([amallen@accela.com](mailto:amallen@accela.com))

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

### **3. SCOPE OF SERVICES**

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

### **4. TERM**

CONTRACTOR shall commence performance no sooner than July 1, 2021 and end performance upon completion, but no later than June 30, 2022 unless otherwise directed by COUNTY or unless earlier terminated.

### **5. COMPENSATION OF CONTRACTOR**

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

### **6. INDEPENDENT CONTRACTOR**

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to reasonably verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

### **7. STANDARD OF PERFORMANCE**

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

### **8. DEBARMENT AND SUSPENSION**

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

## **9. TAXES**

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

## **10. CONFLICT OF INTEREST**

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

## **11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

CONTRACTOR shall be the owner of all intellectual property right in all documents, work product, and other materials prepared by CONTRACTOR or delivered to COUNTY during the course of performing the services (collectively, the "Deliverables"). Excluding CONTRACTOR's cloud-based software ("Accela SaaS Software"), and subject to COUNTY payment of all fees for the services, CONTRACTOR grants the COUNTY a license to use the Deliverables subject to the terms and restrictions applicable to the Subscription Agreement governing COUNTY's use of the Accela SaaS Software, as such terms apply to Accela SaaS Software. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

## **12. NO PUBLICITY OR ENDORSEMENT**

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

## **13. COUNTY PROPERTY AND INFORMATION**

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

## **14. RECORDS, AUDIT, AND REVIEW**

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such financial documents and records at any time during CONTRACTOR's regular business hours or upon

reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

#### **15. INDEMNIFICATION AND INSURANCE**

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

#### **16. LIMITATION OF LIABILITY**

EXCEPT AS IMMEDIATELY STATED IN THE BELOW PARAGRAPH, NEITHER PARTY'S AGGREGATE LIABILITY FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, SHALL EXCEED THE TOTAL AMOUNT PAID BY COUNTY HEREUNDER. IN NO EVENT SHALL EITHER PARTY OR ANY OTHER PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DELIVERING THE SERVICES BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA OR LOSS OF GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR FROM THE USE OF OR INABILITY TO USE THE SUBSCRIPTION SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY. THE FOREGOING EXCLUSIONS APPLY WHETHER OR NOT A PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, AND EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

NEITHER PARTY'S AGGREGATE LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT (i) THE INDEMNIFICATION OBLIGATIONS OF CONTRACTOR; (ii) LOSSES ARISING OUT OF THE WILLFUL MISCONDUCT, FRAUD OR GROSS NEGLIGENCE OF CONTRACTOR; (iii) LOSSES ARISING OUT OF ANY BREACH OF OBLIGATION TO COMPLY WITH LAWS; OR (iv) CLAIMS FOR PROPERTY DAMAGE OR PERSONAL INJURY SHALL EXCEED THE INSURANCE LIMITS IN EXHIBIT C.

#### **17. NONDISCRIMINATION**

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

#### **18. NONEXCLUSIVE AGREEMENT**

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

## **19. NON-ASSIGNMENT**

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

## **20. TERMINATION**

- A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.
1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
  2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
  3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice ("Termination Notice") if such default or material breach is not remedied by CONTRACTOR within thirty (30) days of written notice to CONTRACTOR of such default or material breach ("Notice of Default or Material Breach"). Upon receipt of Termination Notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the Termination Notice is received by CONTRACTOR, unless the Termination Notice directs otherwise.
- B. By CONTRACTOR. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.
- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other COUNTY property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR.

## **21. SECTION HEADINGS**

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

## **22. SEVERABILITY**

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

## **23. REMEDIES NOT EXCLUSIVE**

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

## **24. TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement and each covenant and term is a condition herein.

## **25. NO WAIVER OF DEFAULT**

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

## **26. ENTIRE AGREEMENT AND AMENDMENT**

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

## **27. SUCCESSORS AND ASSIGNS**

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

## **28. COMPLIANCE WITH LAW**

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

**29. CALIFORNIA LAW AND JURISDICTION**

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

**30. EXECUTION OF COUNTERPARTS**

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

**31. AUTHORITY**

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

**32. SURVIVAL**

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

**33. PRECEDENCE**

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

(Signatures on following page.)

7/16/21

Agreement for Services of Independent Contractor between the **County of Santa Barbara** and Accela, Inc.


**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective on the date executed by COUNTY ("Effective Date").

**ATTEST:**

Mona Miyasato  
County Executive Officer  
Clerk of the Board

By:   
Deputy Clerk


**COUNTY OF SANTA BARBARA:**

By:   
Chair, Board of Supervisors

Date: 6/22/2021

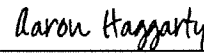
**RECOMMENDED FOR APPROVAL:**

Planning & Development

DocuSigned by:  
  
84A1E2CE48D248C  
By: \_\_\_\_\_  
Department Head

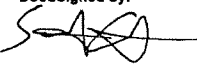
**CONTRACTOR:**

Accela, Inc.

DocuSigned by:  
  
D0418020282418A  
By: \_\_\_\_\_  
Authorized Representative  
Name: Aaron Haggarty  
Title: Chief Legal Officer

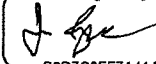
**APPROVED AS TO FORM:**

Michael C. Ghizzoni  
County Counsel

DocuSigned by:  
  
D0A627A89DD64A5  
By: \_\_\_\_\_  
Deputy County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

Betsy Schaffer, CPA  
Auditor-Controller

DocuSigned by:  
  
B9D7C9FF7A414AE...  
By: \_\_\_\_\_  
Deputy

**APPROVED AS TO FORM:**

Risk Management

DocuSigned by:  
  
D3DB8526E16E47E  
By: \_\_\_\_\_  
Risk Management



## EXHIBIT A

### STATEMENT OF WORK

#### INTRODUCTION

This Statement of Work ("SOW") dated 4/6/2021 sets forth the scope and definition of the project-based professional services (collectively, the "Services") to be provided by Accela, Inc., its affiliates and/or agents ("Accela" or "CONTRACTOR") to County of Santa Barbara, CA ("Agency" or "Customer" or "COUNTY").

This statement of work represents a Fixed Fee based engagement in accordance with Exhibit B.

#### SCOPE OF SERVICES

Accela will provide services to the Agency for migrating the Accela on-premise Land Management instance to the Accela Cloud based on the materials provided by the Agency in the SaaS Migration Questionnaire.

- Import/upgrade of SQL DBs (up to 3 environments: Support, Test, Production)
- Assistance migrating 4 specific interfaces:
  - GIS
  - Finance
  - Credit Card Payment Adapter
  - EDMS
- Migration of up to 325 Crystal reports
  - The parcel history report will be modified to run from an on premise. Crystal server utilizing data from Enhanced Reporting Database (ERD) and on premise SQL server table(s) with historic data
- Up to 20 hour of issue resolution and testing assistance
- Go live planning and cutover assistance

#### Products

The following Accela products are in scope for this Project:

- *Asset Management*
- *Land Management*
- *License and Case Management*
- *Service Request*
- *Accela Citizen Access*
- *Accela GIS*
- *Accela Mobile Office (ACA)*

Accela will perform a migration of the customer's on-premise Accela environments using SQL Server (up to 3 environments: Support, Test, Production) to the Accela SaaS platform.

#### Steps:

1. Customer provides an updated backup of the SQL databases for the environments to be migrated
2. Perform the database migration (Accela, Jetspeed, AGIS, ACA and ADS databases as required)
  - a. Copy database to Accela site
  - b. Execute preparation and remediation scripts; drop any custom objects
  - c. Load into Accela SQL instance
3. Execute validation scripts to confirm the schema
4. Provision tenant instance in Accela SaaS

5. Update environment specific data in the databases
6. Start Accela services and validate the system is functional i.e. login, search, create records, etc.
7. Execute automated test tool to ensure proper system functionality
8. Customer performs migration validation
9. Remediate any data issues found from the migration
10. Provide the customer with a backup of the revised SQL DB
11. Migrate and Test integrations
  - o Repoint service endpoints to new URLs
  - o Adjust firewall rules and network topologies as necessary
  - o Update interface EMSE scripting dependences for Azure compatibility
12. Migrate and update Crystal reports (maximum of 325)
  - o Import reports into the Accela SaaS environment
  - o Update reports to remove dependencies on custom objects (stored procedures, functions)
  - o Modify the parcel history report to run from a county Crystal server and utilize both ERD and historic data from a county SQL server
  - o Facilitate customer testing and remediate any issues found resulting from migration
13. Final go-live/roll back decision

## **OUT OF SCOPE**

Any Coding, conversion or additional services not specifically described in this document is the responsibility of Agency.

## **PROJECT ASSUMPTIONS**

### **GENERAL PROJECT ASSUMPTIONS**

- Agency will provide the necessary tools, accounts, and permissions that will enable Accela to access the Agency's internal network for remote installation and testing. This access must be provided through industry standard tools such as Virtual Private Network (VPN). Failure to provide this access in a timely fashion will result in a project delay. Such a delay will result in a Change Order.
- Agency will ensure that Accela resources have access to a Dev or Test version of the 3<sup>rd</sup> party systems for interface development. All interfaces will be developed against 1 (one), agreed upon version of the 3<sup>rd</sup> party system.
- The agency will include the Enhanced Reporting Database with Accela SaaS license subscription.
- Agency will provide an on-premise Crystal Server and SQL Server for hosting the parcel history report. Accela will modify the report to run on this infrastructure and connect to the ERD.

The project is estimated to take 24 weeks. The projected start date for the Project is forty-five (45) calendar days after mutual acceptance and signature of this SOW.

Upon completion of the work defined above, this contract will be closed.

## **PROJECTS PUT ON HOLD**

It is understood that sometimes Agency priorities are revised requiring the Agency to place the Accela implementation on hold. The Agency must send a formal written request sent to Accela to put the project on hold. Delays of 2 weeks or more that have a tangible impact to Accela's resource plan are subject to change order.

If an Agency-based delay puts the project on hold for more than 90 days, Accela reserves the right to terminate the contract and negotiate new terms. If an Agency-based delay puts the project on hold past the termination period, Accela reserves the right to terminate the contract at the time of the delay. After that time, Accela can choose to cancel the rest of the Statement of Work. To finish the project will require a new Statement of Work at new pricing as agreed upon by both parties through a written amendment to the Agreement in accordance with Section 26.

## **ADMINISTRATION**

In order to make a change to the scope of Services in this SOW, and subject to the Disclaimers below, Agency must submit a written request to Accela specifying the proposed changes in detail. Accela will submit to Agency an estimate of the charges and the anticipated changes in the delivery schedule that will result from the proposed change in the Services. Accela will continue performing the Services in accordance with the SOW until the parties agree in writing on the change in scope of work, scheduling, and fees therefore. Any change to the Services will be agreed to by the parties in writing prior to implementation of the change in Services through an amendment to this Agreement in accordance with Section 26. If Accela's effort changes due to changes in timing, roles, responsibilities, assumptions, scope, etc. or if additional support hours are required, an amendment will be created that details these changes, and impact to project and cost (if any). Any amendment will be signed by Accela and Agency prior to commencing any activities defined in the amendment. Standard blended rate for Accela resources is \$250 per hour.

Accela makes no warranties in respect of the Services described in this SOW except as set out in the Agreement. Any configuration of or modification to the Product that can be consistently supported by Accela via APIs, does not require direct database changes and is capable of being tested and maintained by Accela will be considered a "Supported Modification". Accela's obligations and warranties in respect of its Services, Products, and maintenance and support, as set out in the Agreement between Accela and Agency, does not extend outside the Supported Modifications or to any Agency manipulation of implemented scripts, reports, interfaces and adaptors.

In the event Agency requires significant changes to this SOW (including cumulative revisions across any one or more amendments) which Accela reasonably determines (a) is a material modification of the nature or scope of Services as initially contemplated by the Parties under this SOW and/or (b) is significantly outside the Supported Modifications, Accela may, upon no less than thirty (30) days' notice to Agency, suspend or terminate this SOW. In the event of any such termination or suspension, the parties will work together in finalizing agreed-upon Deliverables.

**EXHIBIT B**

**PAYMENT ARRANGEMENTS**  
**Periodic Compensation at Selected Milestones**

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed **\$150,000.00**.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY.
- C. Upon completion of the work for each milestone and/or delivery to COUNTY of item(s) specified below, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed in accomplishing each milestone. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.

Percentage of Total Contract Amount	Milestone Description	Maximum Amount Chargeable
50%	Contract Execution	\$75,000.00
50%	Project Completion	\$75,000.00

The final milestone payment above shall not be made until all services have been completed and item(s) as specified in **EXHIBIT A** have been delivered and found to be satisfactory.

- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.
- E. There is no provision for travel expenses or travel time for this project because this project does not require onsite resources. Travel will not be conducted unless an Amendment to this Agreement is completed inclusive of travel expense terms and conditions, is signed prior to travel commencing.

**Exhibit C**  
**Indemnification and Insurance Requirements**  
**(For Professional Contracts)**

**INDEMNIFICATION**

CONTRACTOR agrees to indemnify, defend and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors, or omissions of any person or entity and will pay for any costs (including but not limited to attorneys' fees) and damages incurred by COUNTY on account of any claim except where such indemnification is prohibited by law, provided that COUNTY provides: (a) CONTRACTOR notice of such claim as soon practical and in no event later than would reasonably permit CONTRACTOR to respond to such claim, (b) reasonable cooperation to CONTRACTOR, at CONTRACTOR's expense, in the defense and/or settlement of such claim, and (c) CONTRACTOR exclusive control of the defense, litigation, and settlement of such claim, except that COUNTY is entitled to (i) regular updates on proceeding status; (ii) employ its own counsel, at its own expense, and participate in the defense; (iii) retain control of the defense, at its own expense, of any portion of the claim to the extent that any principles of County government or public law, or issues involving COUNTY employees, are involved or challenged; and (iv) the right to consent (not to be unreasonably withheld, delayed, or conditioned) to the settlement entry of any judgment of any claim, action or proceeding, involving direct payment by COUNTY to a third party. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

CONTRACTOR warrants that any Deliverables and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Deliverables or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims.

This Exhibit C states the entire obligation of CONTRACTOR with respect to Contractor's indemnification obligation under this Agreement.

**NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS**

CONTRACTOR shall notify COUNTY immediately in the event of any damage to property or third-party claim arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

**INSURANCE**

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (GGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal

- & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** (SO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
  3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
  4. **Professional Liability** (Errors and Omissions) Insurance appropriate to the CONTRACTOR's profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

**B. Other Insurance Provisions**

The insurance policies are to contain or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respect to the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation of Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".

7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured or insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
  - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
  - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
  - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the COUNTY.