

**SERIAL 15042 CI ACCELA SOFTWARE LICENSE SUPPORT AND MAINTENANCE
AGREEMENT**

DATE OF LAST REVISION: July 22, 2015

CONTRACT END DATE: June 29, 2020

CONTRACT PERIOD THROUGH JUNE 29, 2020

TO: All Departments

FROM: Office of Procurement Services

SUBJECT: Contract for **ACCELA SOFTWARE LICENSE SUPPORT AND MAINTENANCE
AGREEMENT**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **July 30, 2015**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Chief Procurement Officer
Office of Procurement Services

BW/mm
Attach

Copy to: Office of Procurement Services
Joy Rich, Planning and Development



COMPETITION IMPRACTICABLE CONTRACT

SERIAL 15042-CI

This Contract is entered into this 24th day of June, 2015 by and between Maricopa County ("County"), a political subdivision of the State of Arizona, and Accela, Inc., a California corporation ("Contractor") for the purchase of application software maintenance and professional services.

1.0 CONTRACT TERM:

- 1.1 This Contract is for a term of five (5) years, beginning on the 30th day of June, 2015 and ending the 29th day of June, 2020.
- 1.2 The County may, at its option and with the agreement of the Contractor, renew the term of this Contract for additional annual terms up to a maximum of five (5) years. The County shall notify the Contractor in writing of its intent to extend the Contract term at least sixty (60) calendar days prior to the expiration of the original contract term, or any additional term thereafter.

2.0 FEE ADJUSTMENTS:

- 2.1 Any request for a fee adjustment must be submitted sixty (60) days prior to the current Contract expiration. Annual maintenance fees will increase not more than five percent (5%) from the maintenance fees from the previous annual term.

3.0 PAYMENTS:

- 3.1 As consideration for performance of the duties described herein, County shall pay Contractor the sum(s) stated in Exhibit "A."
- 3.2 Payment shall be made upon the County's receipt of a properly completed invoice.

3.3 INVOICES:

- 3.3.1 The Contractor shall submit in a manner acceptable to the County one (1) legible copy of their detailed invoice before payment(s) can be made. At a minimum, the invoice must provide the following information:

- Company name, address and contact
- County bill-to name and contact information
- Contract serial number
- County purchase order number
- Invoice number and date
- Payment terms
- Date of service or delivery
- Quantity
- Contract Item number(s)

- Description of service provided
- Pricing per unit of service
- Freight (if applicable)
- Extended price
- Mileage w/rate (if applicable)
- Total Amount Due

3.3.2 Problems regarding billing or invoicing shall be directed to the County as listed on the Purchase Order.

3.3.3 Payment shall be made to the Contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After Contract Award the Contractor shall complete the Vendor Registration Form located on the County Department of Finance Vendor Registration Web Site (<http://www.maricopa.gov/Finance/Vendors.aspx>).

3.3.4 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

3.4 APPLICABLE TAXES:

3.4.1 **Payment of Taxes:** The Contractor shall pay all applicable taxes.

3.4.2 **State and Local Transaction Privilege Taxes:** Maricopa County is subject to all applicable state and local transaction privilege taxes. To the extent any state and local transaction privilege taxes apply to sales made under the terms of this contract it is the responsibility of the seller to collect and remit all applicable taxes to the proper taxing jurisdiction of authority.

3.4.3 **Tax Indemnification:** Contractor and all subcontractors shall pay all Federal, state, and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold Maricopa County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

3.5 TAX: (SERVICES)

No tax shall be levied against labor. It is the responsibility of the Contractor to determine any and all taxes and include the same in proposal price.

3.6 STRATEGIC ALLIANCE for VOLUME EXPENDITURES (\$AVE):

3.6.1 The County is a member of the \$AVE cooperative purchasing group. \$AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the \$AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of \$AVE may access a contract resulting from a solicitation issued by the County. If you **do not** want to grant such access to a member of \$AVE, **please so state** in your proposal. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this Request for Proposal.

3.7 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPA's)

3.7.1 County currently holds ICPA's with numerous governmental entities throughout the State of Arizona. These agreements allow those entities, with the approval of the Contractor,

to purchase their requirements under the terms and conditions of the County Contract at Contractor's then-current list fees. Please indicate on Attachment A, your acceptance or rejection regarding such participation of other governmental entities. Your response will not be considered as an evaluation factor in awarding a contract

4.0 AVAILABILITY OF FUNDS:

- 4.1 The provisions of this Contract relating to payment for services shall become effective when funds assigned for the purpose of compensating the Contractor as herein provided are actually available to County for disbursement. The County shall be the sole judge and authority in determining the availability of funds under this Contract. County shall keep the Contractor fully informed as to the availability of funds.
- 4.2 If any action is taken by any state agency, Federal department or any other agency or instrumentality to suspend, decrease, or terminate its fiscal obligations under, or in connection with, this Contract, County may amend, suspend, decrease, or terminate its obligations under, or in connection with, this Contract. In the event of termination, County shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services are performed in accordance with the provisions of this Contract. County shall give written notice of the effective date of any suspension, amendment, or termination under this Section, at least ten (10) days in advance.

5.0 DUTIES:

- 5.1 The Contractor shall perform all duties stated in Exhibit "B", or as otherwise directed by written agreement by the Procurement Officer.
- 5.2 During the Contract term, County may provide Contractor's personnel with adequate workspace for consultants and such other related facilities as may be required by Contractor to carry out its contractual obligations.

6.0 TERMS and CONDITIONS:

6.1 INDEMNIFICATION:

To the fullest extent permitted by law, and to the extent that claims, damages, losses or expenses are not covered and paid by insurance purchased by the Contractor, the Contractor shall defend indemnify and hold harmless the County (as Owner), its agents, representatives, agents, officers, directors, officials, and employees from and against all claims, damages, losses, and expenses (including, but not limited to attorneys' fees, court costs, expert witness fees, and the costs and attorneys' fees for appellate proceedings) arising out of, or alleged to have resulted from the negligent acts, errors, omissions, or mistakes relating to the performance of this Contract.

Contractor's duty to defend, indemnify, and hold harmless the County, its agents, representatives, agents, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss, or expense that is attributable to bodily injury, sickness, disease, death or injury to, impairment of, or destruction of tangible property, including loss of use resulting there from, caused by negligent acts, errors, omissions, or mistakes in the performance of this Contract, but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, any one directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the sole negligence of County.

6.2 INSURANCE.

Contractor, at its own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of B++ 6. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County. All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the discretion of County, constitute a material breach of this Contract. Contractor's insurance shall be primary insurance as to General Liability and Auto, and any insurance or self-insurance maintained by Contractor shall not contribute to it. Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies. The insurance policies may provide coverage that contains deductibles or self-insurance retentions. Such deductible and/or self-insurance retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insurance retention. County reserves the right to request and to receive, within 30 business days, certified copies of any or all of the herein required insurance policies and/or endorsements. County shall not be obligated, however, to review such policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of, County's right to insist on strict fulfillment of Contractor's obligations under this Contract. Contractor's General Liability insurance policies required by this Contract shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds. Contractor's insurance policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against Lessor, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work performed or services provided.

6.2.1 **Commercial General Liability.**

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 Products/Completed Operations Aggregate, and \$4,000,000 General Aggregate Limit. The policy shall include coverage for premises liability, bodily injury, personal injury, products and completed operations, and shall not contain any provisions which would serve to limit third party action over claims. There shall be no endorsement or modifications of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

6.2.2 **Workers' Compensation.**

Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

Contractor waives all rights against County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor and its subcontractors pursuant to this Contract.

6.2.3 **Professional Liability.**

Contractor shall maintain Professional Liability insurance which will provide coverage for any and all acts arising out of the work or services performed by the Contractor under the terms of this Contract, with a limit of not less than \$1,000,000 for each claim, and \$3,000,000 aggregate claims.

- 6.2.4 **Evidence of Insurance Coverage. Prior to AWARD** and commencement of work, under this Contract, Contractor shall furnish County with the following: (1) Certificates of Insurance in a form acceptable to County, or formal endorsements as required by this Contract as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify the Contract number and title. In the event any insurance policies required by this Contract are written on a “claims made” basis, coverage shall extend for one year past completion of the term of Contractor’s work or services as evidenced by annual Certificates of Insurance.

The General Liability insurance policies required by this Contract shall name **COUNTY**, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

The General Liability policies required hereunder shall contain a waiver of transfer of rights of recovery (subrogation) against **COUNTY**, its agents, representatives, officers, directors, officials and employees for any claims arising out of **CONTRACTOR’S** work or service.

- 6.2.5 Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County by Contractor.

6.3 **FORCE MAJEURE.**

- 6.3.1 Neither party shall be liable for failure of performance, nor incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Contract if such delay or failure is caused by events, occurrences, or causes beyond the reasonable control and without negligence of the parties. Such events, occurrences, or causes will include Acts of God/Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, riots, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, lockout, blockage, embargo, labor dispute, strike, interruption or failure of electricity or telecommunication service.
- 6.3.2 Each party, as applicable, shall give the other party notice of its inability to perform and particulars in reasonable detail of the cause of the inability. Each party must use best efforts to remedy the situation and remove, as soon as practicable, the cause of its inability to perform or comply.
- 6.3.3 The party asserting *Force Majeure* as a cause for non-performance shall have the burden of proving that reasonable steps were taken to minimize delay or damages caused by foreseeable events, that all non-excused obligations were substantially fulfilled, and that the other party was timely notified of the likelihood or actual occurrence which would justify such an assertion, so that other prudent precautions could be contemplated.
- 6.3.4 The County shall reserve the right to terminate this Contract and/or any applicable order or contract release purchase order upon non-performance by Contractor. The County shall reserve the right to extend the Contract and time for performance at its discretion.

6.4 **WARRANTY OF SERVICES:**

- 6.4.1 The Contractor warrants that all services provided hereunder will conform to the requirements of the Contract, including all descriptions, specifications and attachments made a part of this Contract. County’s acceptance of services or goods provided by the Contractor shall not relieve the Contractor from its obligations under this warranty.

6.4.2 Contractor further warrants that it will commence and complete the maintenance obligations described in this Contract in a good and workmanlike manner, consistent with the practices and standards of care generally-accepted within and expected of Contractor's industry, to ensure that the operation of the maintained software products does not materially differ from documented specifications. Contractor may make repeated efforts within a reasonable time period to resolve maintenance requests. When a maintenance request cannot be resolved, County's exclusive remedy will be damages in an amount equal to the total of maintenance fees paid to Contractor for the defective or non-conforming software products for the twelve (12) calendar months immediately preceding County's maintenance request. Services corrected by the Contractor shall be subject to all the provisions of this Contract in the manner and to the same extent as services originally furnished hereunder.

6.5 UNCONDITIONAL TERMINATION FOR CONVENIENCE:

Maricopa County may terminate the resultant Contract for convenience by providing sixty (60) calendar days advance notice to the Contractor.

6.6 TERMINATION FOR DEFAULT:

The County may, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

6.6.1 Deliver the supplies or to perform the services within the time specified in this contract or any extension;

6.6.2 Make progress, so as to endanger performance of this contract; or

6.6.3 Perform any of the other provisions of this contract.

6.6.4 The County's right to terminate this contract under these subparagraph may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the County) after receipt of the notice from the Procurement Officer specifying the failure.

6.6.5 Either party may terminate if the other party materially breaches this Contract and, after receiving a written notice describing the circumstances of the default, fails to correct the breach within thirty (30) calendar days. Upon any termination or expiration of this Contract, all rights granted to County are cancelled and revert to Contractor.

6.7 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel any Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S § 38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

6.8 CONTRACTOR LICENSE REQUIREMENT:

6.8.1 The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of

existing and future Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same..

6.9 SUBCONTRACTING:

6.9.1 The Contractor may not assign to another Contractor or Subcontract to another party for performance of the terms and conditions hereof without the written notice to the County. All correspondence authorizing subcontracting must reference the Bid Serial Number and identify the job project. Notwithstanding, Contractor may assign its rights and obligations hereunder for purposes of financing or pursuant to corporate transactions involving the sale of all or substantially all of its stock or assets.

6.10 AMENDMENTS:

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Office of Procurement Services shall be responsible for approving all amendments for Maricopa County.

6.11 ADDITIONS/DELETIONS OF PROFESSIONAL SERVICE:

6.11.1 The County reserves the right to add and/or delete materials and professional services to a Contract. Excluding maintenance services described in Exhibit B, if a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price and as mutually agreed upon by the parties. If additional materials or services are required from a Contract, prices for such additions will be negotiated between the Contractor and the County.

6.11.2 The County reserves the right of final approval on proposed staff for all Task Orders for supplemental professional services. Also, upon request by the County that an individual be removed, the Contractor will endeavor to accommodate the request within a reasonable time period with a person of comparable, or superior, background and experience as approved by the County.

6.12 VALIDITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of the Contract.

6.13 SEVERABILITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

6.14 RIGHTS IN DATA:

The County shall have the use of data and reports resulting from a Contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to a Contract and to the performance thereunder.

6.15 NON-DISCRIMINATION:

CONTRACTOR agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf which is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, CONTRACTOR

shall not discriminate against any employee, client or any or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

6.16 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

6.16.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor

6.21.1.1 is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

6.21.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

6.21.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

6.21.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.

6.16.2 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

6.17 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:

6.17.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.

6.17.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 6.17.1 of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

6.18 INFLUENCE

As prescribed in MC1-1202 of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct may be grounds for Disbarment or Suspension under MC1-902.

An attempt to influence includes, but is not limited to:

- 6.18.1 A Person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type valuable contribution or subsidy,
- 6.18.2 That is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.

If a Person attempts to influence any employee or agent of Maricopa County, the Chief Procurement Officer, or his designee, reserves the right to seek any remedy provided by the Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.

6.19 ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW:

- 6.19.1 In accordance with section MCI 371 of the Maricopa County Procurement Code the Contractor agrees to retain all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest. The County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.
- 6.19.2 If the Contractor's books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.
- 6.19.3 If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance. The course of action to address the disallowance shall be at sole discretion of the County, and may include either an adjustment to future invoices, request for credit, request for a check or deduction from current billings Submitted by the Contractor by the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the Contractor by issuing a check payable to Maricopa County.

6.20 AUDIT DISALLOWANCES:

If at any time, County determines that a cost for which payment has been made is a disallowed cost, such as overpayment, County shall notify the Contractor in writing of the disallowance. County shall also state the means of correction, which may be but shall not be limited to adjustment of any future claim submitted by the Contractor by the amount of the disallowance, or to require repayment of the disallowed amount by the Contractor.

6.21 OFFSET FOR DAMAGES;

In addition to all other remedies at Law or Equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance of the contract.

6.22 PUBLIC RECORDS:

Under Arizona law, all Offers submitted and opened are public records and must be retained by the Records Manager at the Office of Procurement Services. Offers shall be open to public inspection and copying after Contract award and execution, except for such Offers or sections thereof determined to contain proprietary or confidential information. by the Office of Procurement Services. If an Offeror believes that information in its Offer or any resulting Contract should not be released in response to a public record request under Arizona law, the Offeror shall indicate the specific information deemed confidential or proprietary and submit a statement with its offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise from disclosure. The Records Manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code.

6.23 PRICES:

Contractor warrants that Contractor's list prices extended to County under this Contract are no higher than those list prices provided to any other customer for these or similar services.

6.24 INTEGRATION:

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

6.25 RELATIONSHIPS:

In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, co-employee, partnership, principal and agent, or joint venture between the County and the Contractor.

6.26 GOVERNING LAW:

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in Maricopa County Superior Court or in the United States District Court for the District of Arizona, sitting in Phoenix, Arizona

6.27 ORDER OF PRECEDENCE:

In the event of a conflict in the provisions of this Contract and Contractor's maintenance agreement, if applicable, the terms of this Contract shall prevail.

6.28 INCORPORATION OF DOCUMENTS:

The following are to be attached to and made part of this Contract:

6.28.1 Exhibit A, Pricing;

6.28.2 Exhibit B, Maintenance Services; and

6.28.3 Exhibit C, Office of Procurement Services Contractor Travel and Per Diem Policy.

NOTICES:

All notices given pursuant to the terms of this Contract shall be addressed to:

For County:

Maricopa County
Office of Procurement Services
ATTN: Contract Administration
320 West Lincoln Street
Phoenix, Arizona 85003-2494

For Contractor:
Accela, Inc.
Attn: Contract Administration
2633 Camino Ramon, Suite 500
San Ramon, CA 94583

6.29 CONFIDENTIALITY

6.29.1 DEFINITION OF CONFIDENTIAL INFORMATION

“Disclosing Party” and “Recipient” refer respectively to the party which discloses information and the party to which information is disclosed in a given exchange. Either Contractor or County may be deemed Disclosing Party or Recipient depending on the circumstances of a particular communication or transfer of information. “Confidential Information” means all disclosed information relating in whole or in part to non-public data, proprietary data compilations, computer source codes, compiled or object codes, scripted programming statements, byte codes, or data codes, entity-relation or workflow diagrams, financial records or information, client records or information, organizational or personnel information, business plans, or works-in-progress, even where such works, when completed, would not necessarily comprise Confidential Information. The foregoing listing is not intended by the Parties to be comprehensive, and any information which Disclosing Party marks or otherwise designates as “Confidential” or “Proprietary” will be deemed and treated as Confidential Information. Information which qualifies as “Confidential Information” may be presented to Recipient in oral, written, graphic, and/or machine-readable formats. Regardless of presentation format, such information will be deemed and treated as Confidential Information. Notwithstanding, the following specific classes of information are not “Confidential Information” within the meaning of this Section:

- a) information which is in Recipient’s possession prior to disclosure by Disclosing Party;
- b) information which is available to Recipient from a third party without violation of this Contract or Disclosing Party’s intellectual property rights;
- c) information disclosed pursuant to Subsection 7.4 below;
- d) information which is in the public domain at the time of disclosure by Disclosing Party, or which enters the public domain from a source other than Recipient after disclosure by Disclosing Party;
- e) information which is subpoenaed by governmental or judicial authority; and
- f) information subject to disclosure pursuant to a state’s public records laws.

6.29.2 CONFIDENTIALITY TERM

The obligations described in this Section commence on the Effective Date and will continue until two (2) years following any termination or expiration of this Contract (“Confidentiality Term”).

6.29.3 CONFIDENTIALITY OBLIGATIONS

During the Confidentiality Term, Recipient will protect the confidentiality of Confidential Information using the same degree of care that it uses to protect its own

information of similar importance, but will in any case use no less than a reasonable degree of care to protect Confidential Information. Recipient will not directly or indirectly disclose Confidential Information or any part thereof to any third party without Disclosing Party's advance express written authorization to do so. Recipient may disclose Confidential Information only to its employees or agents under its control and direction in the normal course of its business and only on a need-to-know basis. In responding to a request for Confidential Information, Recipient will cooperate with Disclosing Party, in a timely fashion and in a manner not inconsistent with applicable laws, to protect the Confidential Information to the fullest extent possible.

6.29.4 PUBLICITY

During the term of this Contract, including the term of any amendment hereto, Contractor may publicly disclose its ongoing business relationship with County. Such disclosures may indicate County's identity and the Contractor product(s) and services provided or contracted to be provided to County, but may not expressly or impliedly indicate County's endorsement of Contractor's products or services without County's prior written authorization.

IN WITNESS WHEREOF, this Contract is executed on the date set forth above.

CONTRACTOR



AUTHORIZED SIGNATURE

John J. Alves, CFO

PRINTED NAME AND TITLE

2633 Camino Ramon, Ste 500, San Ramon CA 94583

ADDRESS

May 21, 2015

DATE

MARICOPA COUNTY



CHAIRMAN, BOARD OF SUPERVISORS

JUL 06 2015

DATE

ATTESTED:

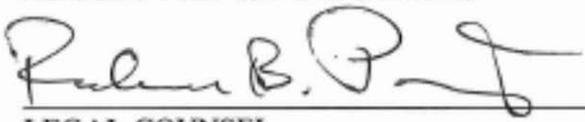


CLERK OF THE BOARD 062415

JUL 06 2015

DATE

APPROVED AS TO FORM:



LEGAL COUNSEL

Jun 23, 2015

DATE

EXHIBIT A
PRICING

SERIAL: 15042-CI
 NIGP CODE: 92045
 RESPONDENT NAME: Accela, Inc.
 VENDOR NUMBER : W000003328
 ADDRESS: 2633 Camino Ramon, Suite 500
 San Ramon, CA 94583
 P.O. ADDRESS: _____
 TELEPHONE NUMBER: (925)659.3200
 FACSIMILY NUMBER: (925)659-3201
 WEB SITE: www.accela.com
 REPRESENTATIVE: Contract Administrator
 REPRESENTATIVE E-MAIL: contractsadmin@accela.com

YES NO REBATE

WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE FROM THIS CONTRACT: [X] []

WILL ACCEPT PROCUREMENT CARD FOR PAYMENT: [] [X]

WILL OFFER REBATE (CASH OR CREDIT) FOR UTILIZING PROCUREMENT CARD: [] [X] _____ %
 (Payment shall be made within 48 hours of utilizing the Purchasing Card)

PAYMENT TERMS: NET 30

MAINTENANCE FEES:

Deliverables	Fees
First-Term Annual Maintenance for Accela® Land Management Department Site License	\$245,828.96
First-Term Annual Maintenance for Accela Service Request™ Department Site License	\$37,852.50
First-Term Annual Maintenance for Accela GIS™ Department Site License	\$44,110.30
First-Term Annual Maintenance for Accela Mobile Office™ Department Site License	\$75,004.36
First-Term Annual Maintenance for Accela Citizen Access™ (Population Based)	\$12,570.41
Total of Fees	\$415,366.52
Second-Term Annual Maintenance for Accela Land Management Department Site License	\$253,203.83
Second-Term Annual Maintenance for Accela Service Request Department Site License	\$38,988.08
Second-Term Annual Maintenance for Accela GIS Department Site License	\$45,433.60
Second-Term Annual Maintenance for Accela Mobile Office Department Site License	\$77,254.49
Second-Term Annual Maintenance for Accela Citizen Access (Population Based)	\$12,947.52
Total of Fees	\$427,827.52
Third-Term Annual Maintenance for Accela Land Management Department Site License	\$260,799.94
Third-Term Annual Maintenance for Accela Service Request Department Site License	\$40,157.72
Third-Term Annual Maintenance for Accela GIS Department Site License	\$46,796.61
Third-Term Annual Maintenance for Accela Mobile Office Department Site License	\$79,572.13
Third-Term Annual Maintenance for Accela Citizen Access (Population Based)	\$13,335.95
Total of Fees	\$440,662.35
Fourth-Term Annual Maintenance for Accela Land Management Department Site License	\$268,623.94
Fourth-Term Annual Maintenance for Accela Service Request Department Site License	\$41,362.45
Fourth-Term Annual Maintenance for Accela GIS Department Site License	\$48,200.51
Fourth-Term Annual Maintenance for Accela Mobile Office Department Site License	\$81,959.29
Fourth-Term Annual Maintenance for Accela Citizen Access (Population Based)	\$13,736.02
Total of Fees	\$453,882.22

Fifth-Term Annual Maintenance for Accela Land Management Department Site License	\$276,682.66
Fifth-Term Annual Maintenance for Accela Service Request Department Site License	\$42,603.32
Fifth-Term Annual Maintenance for Accela GIS Department Site License	\$49,646.53
Fifth-Term Annual Maintenance for Accela Mobile Office Department Site License	\$84,418.07
Fifth-Term Annual Maintenance for Accela Citizen Access (Population Based)	\$14,148.11
Total of Fees	\$467,498.68

First-Term Annual Maintenance fees cover the maintenance period of June 30, 2015 to June 29, 2016 and are due on June 30, 2015.

Second-Term Annual Maintenance fees cover the maintenance period of June 30, 2016 to June 29, 2017 and are due on June 30, 2016.

Third-Term Annual Maintenance fees cover the maintenance period of June 30, 2017 to June 29, 2018 and are due on June 30, 2017.

Fourth-Term Annual Maintenance fees cover the maintenance period of June 30, 2018 to June 29, 2019 and are due on June 30, 2018.

Fifth-Term Annual Maintenance fees cover the maintenance period of June 30, 2019 to June 29, 2020 and are due on June 30, 2019.

In the event that County extends the period of this Contract for an additional annual term by paying to Contractor the maintenance fees associated with said term, the annual fees will not increase by more than 5 percent (5%) over the previous year’s fees.

ADDITIONAL CONSULTING TIME & MATERIALS LABOR:

Accela shall provide additional services as may be requested from time-to-time by the County, on a time and materials rate of \$185/hour for services performed in 2015, \$190/hour for services performed in 2016, \$195/hour for services performed in 2017, and \$200/hour for services performed in 2018 through 2020. As actual services are identified by the County, the parties shall mutually agree upon a statement of work.

EXHIBIT B
MAINTENANCE SUPPORT

1.0 SCOPE OF MAINTENANCE

1.1 MAINTENANCE COVERAGE

These maintenance terms are intended for the exclusive benefit of County and Contractor; nothing herein will be construed to create any benefits, rights, or responsibilities in any other parties. Commencing on _____ and continuing through _____, Contractor will provide the following maintenance and support for the Software:

- a) Contractor will provide County with a telephone number to contact the Customer Resource Center (CRC), Contractor's live technical support facility, which is available from 4:00 a.m. until 6:00 p.m. Pacific time Monday through Friday, excluding Contractor's observed holidays.
- b) Contractor will provide County with one or more electronic mail addresses to which County may submit routine or non-critical support requests, which Contractor will address during its regular business hours.
- c) Contractor will provide County with access to archived software updates and other technical information in Contractor's online support databases, which are continuously available.
- d) When required to properly resolve a maintenance request, Contractor will provide remote assistance to County via the WebEx™ Meeting Center™ environment or another mutually-acceptable remote communications method.
- e) If County does not wish for Contractor to resolve its maintenance requests remotely, Contractor will provide on-site assistance to County at Contractor's then-current time-and-materials rates. In addition to these charges, County will compensate Contractor for associated airfare, lodging, rental transportation, meals, and other incidental expenses as such expenses accrue.
- f) Contractor will provide revisions of and enhancements to maintained software products to County as such updates are generally-released by Contractor.
- g) Services required due to the operation of interfaces between the Contractor-maintained software products and other software products or systems, even where such interfaces were provided or implemented by

1.2 MAINTENANCE LIMITATIONS

1.2.1 LIMITATIONS GENERALLY

The following are not covered by these terms, but may be separately available at rates and on terms which may vary from those described herein:

- a) Services required due to misuse of the Contractor-maintained software products;
- b) Services required due to software corrections, customizations, or modifications not developed or authorized by Contractor;
- c) Services required by County to be performed by Contractor outside of Contractor's usual working hours;

- d) Services required due to external factors including, but not necessarily limited to, County's use of software or hardware not authorized by Contractor;
- e) Services required to resolve or work-around conditions which cannot be reproduced in Contractor's support environment;
- f) Services which relate to tasks other than maintenance of County's existing implementation and configuration of the Contractor-maintained software products including, but not necessarily limited to, enhancing or adapting such products for specific operating environments;
- g) Services requested by County to implement software updates provided by Contractor pursuant to these terms; and
- h) New or additional applications, modules, or functionality released by Contractor during the term hereof.

1.2.2 LEGACY RELEASES

Contractor will provide maintenance support for the current release of each of its maintained software applications and for the release immediately preceding such current release. All other releases are deemed to be "Legacy Releases". Contractor will respond to maintenance requests concerning Legacy Releases only using currently-available information. Services requiring additional research, engineering-level support, or coding or programming by Contractor will not be provided pursuant to these terms, but may be separately available at rates and on terms which may vary from those described herein.

1.3 MAINTENANCE WARRANTY

Contractor will commence and complete the maintenance obligations described in these terms in a good and workmanlike manner, consistent with the practices and standards of care generally-accepted within and expected of Contractor's industry, to ensure that the operation of the maintained software products does not materially differ from documented specifications. Contractor may make repeated efforts within a reasonable time period to resolve maintenance requests. When a maintenance request cannot be resolved, County's exclusive remedy will be damages in an amount equal to the total of maintenance fees paid to Contractor for the defective or non-conforming software products; where these terms has a multi-year term, such amount will be equal to the total of the maintenance fees paid to Contractor for the defective or non-conforming software products for the twelve (12) calendar months immediately preceding County's maintenance request. Contractor provides no warranty whatsoever for any third-party hardware or software products. Third-party applications which utilize or rely upon the Software may be adversely affected by remedial or other actions performed pursuant to these terms; Contractor bears no liability for and has no obligation to remedy such effects. Except as set forth herein, Contractor provides all maintenance "as is" without express or implied warranty of any kind regarding the character, function, capabilities, or appropriateness of such services or deliverables.

EXHIBIT C
CONTRACTOR TRAVEL AND PER DIEM POLICY

- 1.0 All contract-related travel plans and arrangements shall be prior-approved by the County Contract Administrator.
- 2.0 Lodging, per diem and incidental expenses incurred in performance of Maricopa County/Special District (County) contracts shall be reimbursed based on current U.S. General Services Administration (GSA) domestic per diem rates for Phoenix, Arizona. Contractors must access the following internet site to determine rates (no exceptions): www.gsa.gov
 - 2.1 Additional incidental expenses (i.e., telephone, fax, internet and copying charges) shall not be reimbursed. They should be included in the contractor's hourly rate as an overhead charge.
 - 2.2 The County will not (under no circumstances) reimburse for Contractor guest lodging, per diem or incidentals.
- 3.0 Commercial air travel shall be reimbursed as follows:
 - 3.1 Coach airfare will be reimbursed by the County. Business class airfare may be allowed only when preapproved in writing by the County Contract Administrator as a result of the business need of the County when there is no lower fare available.
 - 3.2 The lowest direct flight airfare rate from the Contractors assigned duty post (pre-defined at the time of contract signing) will be reimbursed. Under no circumstances will the County reimburse for airfares related to transportation to or from an alternate site.
 - 3.3 The County will not (under no circumstances) reimburse for Contractor guest commercial air travel.
- 4.0 Rental vehicles may only be used if such use would result in an overall reduction in the total cost of the trip, not for the personal convenience of the traveler. Multiple vehicles for the same set of travelers for the same travel period will not be permitted without prior written approval by the County Contract Administrator.
 - 4.1 Purchase of comprehensive and collision liability insurance shall be at the expense of the contractor. The County will not reimburse contractor if the contractor chooses to purchase these coverage.
 - 4.2 Rental vehicles are restricted to sub-compact, compact or mid-size sedans unless a larger vehicle is necessary for cost efficiency due to the number of travelers. (NOTE: contractors shall obtain pre-approval in writing from the County Contract Administrator prior to rental of a larger vehicle.)
 - 4.3 County will reimburse for parking expenses if free, public parking is not available within a reasonable distance of the place of County business. All opportunities must be exhausted prior to securing parking that incurs costs for the County. Opportunities to be reviewed are the DASH; shuttles, etc. that can transport the contractor to and from County buildings with minimal costs.
 - 4.4 County will reimburse for the lowest rate, long-term uncovered (e.g. covered or enclosed parking will not be reimbursed) airport parking only if it is less expensive than shuttle service to and from the airport.
 - 4.5 The County will not (under no circumstances) reimburse the Contractor for guest vehicle rental(s) or other any transportation costs.
- 5.0 Contractor is responsible for all costs not directly related to the travel except those that have been pre-approved by the County Contract Administrator. These costs include (but not limited to) the following: in-room movies, valet service, valet parking, laundry service, costs associated with storing luggage at a hotel,

fuel costs associated with non-County activities, tips that exceed the per diem allowance, health club fees, and entertainment costs. Claims for unauthorized travel expenses will not be honored and are not reimbursable.

- 6.0 Travel and per diem expenses shall be capped at 15% of project price unless otherwise specified in individual contracts.

ACCELA, INC., 2633 CAMINO RAMON, SUITE 500, SAN RAMON, CA 94583

PRICING SHEET: 92045

Terms:	NET 30
Vendor Number:	W000003328 X
Telephone Number:	925/659-3275
Fax Number:	925/569-3281
Contact Person:	John J. Alves
E-mail Address:	contractsadmin@accela.com
Certificates of Insurance	Required
Contract Period:	To cover the period ending June 29, 2020.