

STATE OF MICHIGAN  
DEPARTMENT OF MANAGEMENT AND BUDGET  
ACQUISITION SERVICES  
P.O. BOX 30026, LANSING, MI 48909  
OR  
530 W. ALLEGAN, LANSING, MI 48933

June 3, 2010

CHANGE NOTICE NO. 5  
TO  
CONTRACT NO. 071B5200293  
between  
THE STATE OF MICHIGAN  
and

NAME & ADDRESS OF VENDOR  <b>Accela Inc.</b> <b>1731 W. Walnut Ave.</b> <b>Visalia, CA 93277</b>  <b>Email: kfarmer@accela.com</b>	TELEPHONE: Kristin Farmer <b>(407) 933-5617</b>
	VENDOR NUMBER/MAIL CODE <b>(006)</b>
	BUYER/CA (517) 241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Pam Braatz and Sarah Williams <b>Licenses for Permits Plus – DLEG</b>	
CONTRACT PERIOD: From: <b>May 23, 2005</b> To: <b>May 22, 2011</b>	
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	

**NATURE OF CHANGE(S):**

Effective immediately, this contract is EXTENDED one year to May 22, 2011. All other terms and conditions remain the same.

**AUTHORITY/REASON(S):**

Approval from DTMB-Purchasing Operations and agreement from vendor.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: **\$630,425.40**

STATE OF MICHIGAN  
DEPARTMENT OF MANAGEMENT AND BUDGET  
ACQUISITION SERVICES  
P.O. BOX 30026, LANSING, MI 48909  
OR  
530 W. ALLEGAN, LANSING, MI 48933

June 17, 2009

**CHANGE NOTICE NO. 4**  
**TO**  
**CONTRACT NO. 071B5200293**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>Accela Inc.</b> <b>1731 W. Walnut Ave.</b> <b>Visalia, CA 93277</b>  <b>Email: kfarmer@accela.com</b>	TELEPHONE: Kristin Farmer <b>(407) 933-5617</b>
	VENDOR NUMBER/MAIL CODE <b>(006)</b>
	BUYER/CA (517) 241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Pam Braatz and Sarah Williams <b>Licenses for Permits Plus – DLEG</b>	
CONTRACT PERIOD: From: <b>May 23, 2005</b> To: <b>May 22, 2010</b>	
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	

**NATURE OF CHANGE(S):**

Effective immediately, this contract is **INCREASED** by \$36,498.00 to continue on going maintenance of permits plus and the boiler wireless license project (see attached). In addition, the contract end date is **CHANGED** to May 22, 2010. All other terms and conditions remain the same.

**AUTHORITY/REASON(S):**

Per Ad Board approval dated June 16, 2009, agreement from DMB-Purchasing Operations and agreement from the vendor.

**INCREASE: \$36,498.00**

**TOTAL REVISED CONTRACT VALUE: \$630,425.40**



STATE OF MICHIGAN  
DEPARTMENT OF MANAGEMENT AND BUDGET  
ACQUISITION SERVICES  
P.O. BOX 30026, LANSING, MI 48909  
OR  
530 W. ALLEGAN, LANSING, MI 48933

May 1, 2009

**CHANGE NOTICE NO. 3**  
**TO**  
**CONTRACT NO. 071B5200293**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>Accela Inc.</b> <b>1731 W. Walnut Ave.</b> <b>Visalia, CA 93277</b>  <b>Email: kfarmer@accela.com</b>	TELEPHONE: Kristin Farmer <b>(407) 933-5617</b>
	VENDOR NUMBER/MAIL CODE <b>(006)</b>
	BUYER/CA (517) 241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Pam Braatz and Sarah Williams <b>Licenses for Permits Plus – DLEG</b>	
CONTRACT PERIOD:	From: <b>May 23, 2005</b> To: <b>May 22, 2009</b>
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	

**NATURE OF CHANGE(S):**

**This CCN is issued to add the PCI Data Security requirements to the contract for State compliance.**

*PCI DATA Security Requirements*

PCI DATA Security Requirements

Contractors with access to credit/debit card cardholder data must adhere to the Payment Card Industry (PCI) Data Security requirements. Contractor agrees that they are responsible for security of cardholder data in their possession. Contractor agrees that data can ONLY be used for assisting the State in completing a transaction, supporting a loyalty program, supporting the State, providing fraud control services, or for other uses specifically required by law.

Contractor agrees to provide business continuity in the event of a major disruption, disaster or failure.

The Contractor will contact the Department of Management and Budget, Financial Services immediately to advise them of any breaches in security where card data has been compromised. In the event of a security intrusion, the Contractor agrees the Payment Card Industry representative, or a Payment Card Industry approved third party, will be provided with full cooperation and access to conduct a thorough security review. The review will validate compliance with the Payment Card Industry Data Security Standard for protecting cardholder data. Contractor agrees to properly dispose sensitive cardholder data when no longer needed. The Contractor will continue to treat cardholder data as confidential upon contract termination.

The Contractor will provide the Department of Management and Budget, Financial Services documentation showing PCI Data Security certification has been achieved. This certification must be received no later than May 30, 2009. The Contractor will advise the Department of Management and Budget, Financial Services of all failures to comply with the PCI Data Security Requirements. Failures include, but are not limited to system scans and self-assessment questionnaires. The Contractor will provide a time line for corrective action.

**All other specifications, terms and conditions remain the same.**

**Authority: DELEG, DIT, DMB and Vendor concurrence.**

**Total Contract Value Remains: \$593,927.40**

**STATE OF MICHIGAN  
 DEPARTMENT OF MANAGEMENT AND BUDGET  
 ACQUISITION SERVICES  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933**

**August 14, 2006**

**CHANGE NOTICE NO. 2  
 TO  
 CONTRACT NO. 071B5200293  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>Accela Inc.          1731 W. Walnut Ave.          Visalia, CA 93277</b>	TELEPHONE: Kristin Farmer <b>(407) 933-5617</b> VENDOR NUMBER/MAIL CODE <b>(006)</b> BUYER/CA (517) 241-7233 <b>Joann Klasko</b>
Email: <b>kfarmer@accela.com</b>	
Contract Compliance Inspector: Pam Braatz and Sarah Williams <b>Licenses for Permits Plus – DLEG</b>	
CONTRACT PERIOD: From: <b>May 23, 2005</b> To: <b>May 22, 2009</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	

**NATURE OF CHANGE(S):**

**Effective immediately, the end date is corrected from CCN#1. The date should read 5/22/2009.**

**All other specifications, terms and conditions remain the same.**

**Total Contract Value Remains: \$593,927.40**

STATE OF MICHIGAN  
 DEPARTMENT OF MANAGEMENT AND BUDGET  
 ACQUISITION SERVICES  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933

July 7, 2006

**CHANGE NOTICE 1**  
**OF**  
**CONTRACT NO. 071B5200293**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>Accela Inc.</b> <b>1731 W. Walnut Ave.</b> <b>Visalia, CA 93277</b>	TELEPHONE: Kristin Farmer <b>(407) 933-5617</b>
	VENDOR NUMBER/MAIL CODE <b>(006)</b>
	BUYER/CA (517) 241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Pam Braatz and Sarah Williams <b>Licenses for Permits Plus – DLEG</b>	
CONTRACT PERIOD: From: <b>May 23, 2005</b> To: <b>May 22, 2006</b>	
TERMS <p style="text-align: right;"><b>N/A</b></p>	SHIPMENT <p style="text-align: right;"><b>N/A</b></p>
F.O.B. <p style="text-align: right;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: right;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	

**NATURE OF CHANGE(S):**

Effective immediately, the contract has been extended to May 22, 2009 with two (2) one-year options to extend. The following is being added to the contract:

- \$126,370.00 – Elevator and Manufactured Housing and Fire Safety Programs
- \$ 90,764.00 – 3-yr maintenance for the Permits Plus
- \$180,647.20 – 3-yr wireless maintenance (handheld devices)

All other specifications, terms and conditions remain the same.

The buyer has changed to Joann Klasko.

**AUTHORITY/REASON:**

Per DIT/DLEG/DMB and vendor concurrence.

**AMOUNT OF INCREASE: \$397,781.20**

**Total Revised Contract Value: \$593,927.40**

**Quote**

**ACCELA SOFTWARE MAINTENANCE AND SUPPORT RENEWAL**

May 18, 2006

Agency: **State of Michigan**

Ms. Sandi Thorne  
State of Michigan  
Hollister Building, 1st Floor  
116 West Allegan Street  
Lansing, MI 48939

Prepared by:  
**Daniel DeHaven**  
Revenue Accountant  
Tel: (925) 560-6577, ext 172  
Fax: (925) 560-0061  
ddehaven@accela.com

The following quote for your Accela software maintenance and support services is for the period of:  
**October 1, 2006 - September 30, 2009 (3 Year Quote)**

Product Line: **PERMITS Plus**

<u>System/Peripheral</u>	<u>Existing no. of Users</u>	<u>Amount</u>	<u>Annual Term</u>
Permits Plus - Base	100	\$ 20,587.00	06-07
Client Server	100	\$ 4,393.00	06-07
Connect	100	\$ 2,441.00	06-07
Permits Plus - Base	100	\$ 22,646.00	07-08
Client Server	100	\$ 4,832.00	07-08
Connect	100	\$ 2,685.00	07-08
Permits Plus - Base	100	\$ 24,911.00	08-09
Client Server	100	\$ 5,315.00	08-09
Connect	100	\$ 2,954.00	08-09
Total Maintenance and Support Fees			\$90,764.00
Sales Tax @			0.00
<b>TOTAL QUOTE</b>			<b>\$90,764.00</b>

**Note:** If the contract is signed and received by Accela on or before June 30, 2006 Accela will limit the increase of annual maintenance to 5% per year.

This quote will change if additional user licenses or peripheral products are purchased or installed after the date of this quote.

**Terms and Conditions**

In order to continue your maintenance & support without interruption please provide Accela, Inc. with a Purchase Order for the amount due as indicated above.

The following represents Customer's irrevocable commitment to pay for the Maintenance Services:  
*(Please check the appropriate item that applies to your renewal and fax it to 925-560-0061 or email it to pholford@accela.com)*

Purchase Order attached. Please invoice us. PO# \_\_\_\_\_

It is the Agency's standard policy not to issue purchase orders. Please accept this Acceptance as authorization to invoice us for maintenance and we agree to remit payment based upon the receipt of the invoice.

Signature _____	Date _____
Printed Name _____	Title _____
Contact Phone _____	Email _____

Exceptions: \_\_\_\_\_

An invoice will be sent to you in advance of the start of the maintenance and support period. The invoice **must** be paid before that date to avoid cancellation of your maintenance & support services.





## Article 1 Attachment A: Pricing

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### 1.6 Compensation and Payment

#### 1.601 COMPENSATION AND PAYMENT

##### Accela Services Costs

- Up to 337 Hours at \$160.00 Per Hour for Implementation Assistance **\$53,920.00**  
 Includes 4 round-trip airfare-4 nights/5 days on-site per trip

Design Review/Assistance 100 hours

Development to include 8 Cases/Permits 128 hours<sup>1</sup>

##### MANUFACTURED HOUSING:

3. Manufactured Housing Community Licenses – 16 hours
4. Manufactured Housing Installer Licenses – 16 hours
5. Manufactured Housing Retailers Licenses – 16 hours

##### ELEVATORS:

6. Elevator Contractor Licenses "21" – 16 hours
7. Elevator Journeyman Licenses "22" – 16 hours
8. Elevator Inspector Certificate of Competency "20" – 16 hours
9. Elevator Installation Permits "EP" – 16 hours
10. Elevator Alteration Permits "EP" – 16 hours

Document Assistance (to include 0 documents) 0 hours<sup>2</sup>  
 (Based on 6 hours each)

Telephone/Management Support 24 hours

Project Management 85 hours

##### PERMIT HISTORY CONVERSIONS:

- Up to 370 Hours at \$185.00 Per Hour for History Conversion Assistance **\$ 68,450.00<sup>3</sup>**

Manufactured Housing :

Moho Master, Moho History MH\_History \$9,065.00

## Permits Plus System



(49 hours @ \$185/hr)

Elevators:

Master Contractor Data, Master JP Data, SM-SET, PM-SET, BI-SET, CONT-SET, IN-SET, LO-SET Master, Moho History MH_History	\$22,200.00
(120 hours @ \$185/hr)	
AC-SET, AT-SET	\$9,065.00
(49 hours @ \$185/hr)	
CO-SET, IA-SET	\$16,280.00
(88 hours @ \$185/hr)	
PT-SET	\$11,840.00
(64 hours @ \$185/hr)	

Please note that History Conversion information will be view only.

**TRAINING**

- Training at User site \$2,000.00 Per Day - Two days \$ 4,000.00<sup>4</sup>
- Manufactured Housing and Elevator divisions - 2 day of onsite user training to train both divisions together due to the similarity of their business practices.

**TOTAL IMPLEMENTATION \$126,370.00<sup>5</sup>**

**NOTES:**

- <sup>1</sup>This estimated assistance may increase or decrease depending on complexity. This agreement includes unique screen and script development to include a maximum of three (3) sub-types. This is not to limit the number of sub-types that may be used in reporting, but only those requiring special processing consideration. Production of additional sub-type development will require additional Implementation assistance priced at the prevailing rates.
- <sup>2</sup>Please note that Accela has not estimated document assistance. If assistance is needed, a separate estimate will be provided.
- <sup>3</sup>The User will assist Accela in the data conversion efforts. The User will supply all preliminary data mapping, file formats, data relationships and descriptions of the data field contents in Microsoft Access format. As an alternative, if MS Access format cannot be delivered, data files can be supplied in ASCII fixed length, comma separated values (csv), or delimited format records.
- <sup>4</sup>This estimate reflects 2 days of training. If multiple sessions are necessary, additional training days will be required. The Agency should contribute the following:
  - a. Provide an Overhead Projector and Overhead Screen (or white wall)



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## Article 1 Attachment B: Organizational Chart and Personnel

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### Accela Engagement Team

Roles	Person(s)	Phone / Email
Regional Services Manager	Betsy Higgins 4160 Dublin Blvd., Suite 128 Dublin CA 94568	Tel: Email: bhiggins@accela.com
Project Manager	Matt Hart	Tel: Email: mhart@accela.com
Implementation Specialist	Jim Balliet	Tel: Email: jballiet@accela.com

Resumes are provided where requested in the States RFP.



## Permits Plus System



- b. Dedicate an uninterrupted area to facilitate the training class
  - c. The number of attendees should not exceed the number of workstations that the Agency has set-up for training.
  - d. All attendees should review the training CD provided by Accela prior to attending training.
- <sup>5</sup>Payment Terms: 50% of assistance is due upon receipt of purchase order or contract. Remaining 50% is due upon delivery. Travel expenses are included in total project cost. All billing terms are Net 30.
  - This is a Time and Materials proposal. Accela's good faith estimate of the number of hours of effort needed to complete the work is just an estimate and is not a guarantee. All actual project hours worked will be billed on a Time and Materials basis, regardless if more or less hours are needed to complete the Services. Just as there is no CAP on the number of hours available to Accela to complete the work, there is no guarantee that Accela will need to work the number of hours estimated to complete the Services. - Other consulting and onsite assistance is available at our prevailing rates. Overtime above 8 hours per day or 40 hours per week may be billed at 1 ½ times the prevailing rate. Please note that no time has been allocated above to work more than 8 hours per day or 40 hours per week.
  - This quote supersedes any previous written or verbal estimates for product and installation services.
  - These costs are valid for 90 days based on the last revision date. After the 90-day period, all prices are subject to change. This quote supersedes any previous written or verbal estimate for products and installation services. To procure the above-mentioned services, please submit a purchase order or contract referencing the above estimate number to the attention of Andrew Paredes. In order to expedite the process, feel free to submit authorization via fax to (925) 828 4452 or by email to [aparedes@accela.com](mailto:aparedes@accela.com). Please note that if faxing a purchase order, please fax both front and back and send the original purchase order in the mail.

**Schedule of Fees – This table breaks down into greater detail the services priced above.**

Services	Rate	Quantity	Services Fees
Professional Services — Design Review and Assistance	\$160	100 Hours (Estimated)	\$16,000.00
Professional Services — Case/Permit Development for Manufactured Housing Community Licenses	\$160	16 Hours (Estimated)	\$2,560.00
Professional Services — Case/Permit Development for Manufactured Housing Installer Licenses	\$160	16 Hours (Estimated)	\$2,560.00
Professional Services — Case/Permit Development for	\$160	16 Hours (Estimated)	\$2,560.00

## Permits Plus System



Manufactured Housing Retailer Licenses			
Professional Services — Case/Permit Development for Elevator Contractor Licenses ("21")	\$160	16 Hours (Estimated)	\$2,560.00
Professional Services — Case/Permit Development for Elevator Journeyman Licenses ("22")	\$160	16 Hours (Estimated)	\$2,560.00
Professional Services — Case/Permit Development for Elevator Inspector Certificate of Competency ("20")	\$160	16 Hours (Estimated)	\$2,560.00
Professional Services — Case/Permit Development for Elevator Installation Permits ("EP")	\$160	16 Hours (Estimated)	\$2,560.00
Professional Services — Case/Permit Development for Elevator Alteration Permits ("EP")	\$160	16 Hours (Estimated)	\$2,560.00
Professional Services — Telephone Management Support	\$160	24 Hours (Estimated)	\$3,840.00
Professional Services — Project Management	\$160	85 Hours (Estimated)	\$13,600.00
Professional Services — History Conversion for Manufactured Housing Moho Master and Moho History MH_History (View Only)	\$185	49 Hours (Estimated)	\$9,065.00
Professional Services — History Conversion for Elevators Master Contractor Data, Master JP Data, SM-SET, PM-SET, BI-SET, CONT-SET, IN-SET, LO-SEToho Master, and Moho History MH_History (View Only)	\$185	120 Hours (Estimated)	\$22,200.00
Professional Services — History Conversion for Elevators AC-SET and AT-SET (View Only)	\$185	49 Hours (Estimated)	\$9,065.00
Professional Services — History Conversion for Elevators CO-SET and IA-SET (View Only)	\$185	88 Hours (Estimated)	\$16,280.00

Permits Plus System



Professional Services — History Conversion for Elevators PT-SET (View Only)	\$185	64 Hours (Estimated)	\$11,840.00
Training Services <sup>4</sup>	\$2000 Per Day	2 Days	\$4,000.00
<b>Total of Services Fees</b>			<b>\$126,370.00</b>

**\*All quotes in this SOW represent Accela's good faith estimate to complete the Services described above. All rates quoted in the Table: Schedule of Fees above, apply only to Services specified in this SOW.**

**Material changes to the Scope of Services, for any reason, will require the completion of a Change Order, signed by both parties, prior to the commencement of the work.**

**Invoicing and Payment Terms**

Invoices for Services and expenses shall be generated at a minimum frequency of once per month. Services and expenses will be invoiced based on time and materials, and expenses, and billed according to **Table: Schedule of Fees**. Payment Terms: 50% of assistance is due upon receipt of purchase order or contract. Remaining 50% is due upon delivery. Travel expenses are included in total project cost. All billing terms are Net 30.

Agency agrees to pay all invoices upon receipt and is responsible for all applicable taxes associated with these Services. Accela reserves the right to discontinue the provision of Services under this SOW in the event that Agency fails to continue to make timely payment of fees and expenses due hereunder.



## Article 1 Attachment C: Labor Rates

Services	Rate
Professional Services — Design Review and Assistance	\$160
Professional Services — Case/Permit Development for Manufactured Housing Community Licenses	\$160
Professional Services — Case/Permit Development for Manufactured Housing Installer Licenses	\$160
Professional Services — Case/Permit Development for Manufactured Housing Retailer Licenses	\$160
Professional Services — Case/Permit Development for Elevator Contractor Licenses ("21")	\$160
Professional Services — Case/Permit Development for Elevator Journeyman Licenses ("22")	\$160
Professional Services — Case/Permit Development for Elevator Inspector Certificate of Competency ("20")	\$160
Professional Services — Case/Permit Development for Elevator Installation Permits ("EP")	\$160
Professional Services — Case/Permit Development for Elevator Alteration Permits ("EP")	\$160
Professional Services — Telephone Management Support	\$160
Professional Services — Project Management	\$160
Professional Services — History Conversion for Manufactured Housing Moho Master and Moho History MH_History (View Only)	\$185
Professional Services — History Conversion for Elevators Master Contractor Data, Master JP Data, SM-SET, PM-SET, BI-SET, CONT-SET, IN-SET, LO-SEToho Master, and Moho History MH_History (View Only)	\$185

## Permits Plus System



Professional Services — History Conversion for Elevators AC-SET and AT-SET (View Only)	\$185
Professional Services — History Conversion for Elevators CO-SET and IA-SET (View Only)	\$185
Professional Services — History Conversion for Elevators PT-SET (View Only)	\$185
Training Services	\$2000 Per Day



## Article 1 Attachment D: Deliverables

### Work Description

Description
<p><b>Deliverable 1: Composition / Activity/ Permit Summary</b></p> <p><b>Definition:</b> Accela will deliver the following Eight (8) composition/activity/permit types. Accela will review existing procedures in interview sessions development of these specified composition/activity/permit types.</p> <p>Manufactured Housing</p> <ol style="list-style-type: none"> <li>1) Manufactured Housing Community Licenses</li> <li>2) Manufactured Housing Installer Licenses</li> <li>3) Manufactured Housing Retailer Licenses</li> </ol> <p>Elevators</p> <ol style="list-style-type: none"> <li>4) Elevator Contractor Licenses "21"</li> <li>5) Elevator Journeyman Licenses "22"</li> <li>6) Elevator Inspector Certificate of Competency "20"</li> <li>7) Elevator Installation Permits "EP"</li> <li>8) Elevator Alteration Permits "EP"</li> </ol> <p><b>Agency Obligations:</b></p> <ul style="list-style-type: none"> <li>• Arrange the time and qualified people for these interviews that are critical to the project success</li> <li>• Provide complete and accurate information in a timely manner.</li> <li>• Provide information and data in the format specified by Accela</li> </ul> <p><b>Acceptance Criteria:</b> These composition/activity/permit types will be accepted when Agency agrees that all requirements, objectives, and scope has been appropriately defined in the composition/activity/permit types, and an appropriate sign-off, see Attachment A, has occurred by the Agency.</p> <p><b>Deliverable 2: Permit History Conversion</b></p> <p><b>Definition:</b> Accela has identified history conversions for the following files.</p> <ol style="list-style-type: none"> <li>1) Manufactured Housing Moho Master and, Moho History MH_History (View Only)</li> <li>2) Elevators Master Contractor Data, Master JP Data, SM-SET, PM-SET,</li> </ol>



BI-SET, CONT-SET, IN-SET, LO-SEToho Master, and Moho History  
MH\_History (View Only)

- 3) Elevators AC-SET and AT-SET (View Only)
- 4) Elevators CO-SET and IA-SET (View Only)
- 5) Elevators PT-SET (View Only)

**Agency Obligations:**

- Arrange the time and qualified people for these interviews that are critical to the project success
- Provide complete and accurate information in a timely manner.
- Provide information and data in the format specified by Accela

**Acceptance Criteria:** These documents will be accepted when Agency agrees that all requirements, objectives, and scope has been appropriately defined in the documents, and an appropriate sign-off, see Attachment A, has occurred by the Agency.

**Deliverable 3: Test & Train**

**Definition:**

Training Services comprise two (2) day of on-site training for Customer's Manufactured Housing and Elevator divisions, which will be trained together, owing to the similarity of their respective business practices. Accela, along with a cross-functional team representing the involved departments will test the composition/activity/permit types with the specified subtypes in the Agency's TEST environment. As a result of the testing, Accela and Agency will make adjustments to the composition/activity/permit types with the specified subtypes as deemed necessary by the team. Accela will conduct Training as the parties validate that the Prototype works as desired by the Agency. It is also recommended that the Agency create any User Manuals that they wish to empower their users with during this time.

**Delivery Format:** This will be delivered to the Agency on appropriate Agency environment.

**Agency Obligations:**

- Arrange the time and qualified people for the training and testing that are critical to the project success
- Provide complete and accurate information in a timely manner.
- Provide information and data in the format specified by Accela

**Acceptance Criteria:** This deliverable will be accepted when the composition/activity/permit types with the specified subtypes and documents are deployed in a Beta/Support Release, and appropriate sign-off, see Attachment A, has occurred by the Agency.

**Accela Project Administration**

Accela Project Management helps ensure the Services are planned and executed in accordance with the Scope of Services defined in this SOW. Accela generally provides the following Project Administration Services as a part of an engagement:

**Project Administration Services**

- Project Management
- Design Review and Assistance
- Telephone Management Support
- Change Order Management
- Issue Management and Escalation
- Issue Log Management
- Resources Management
- Meetings Management
- Services Review and Advice
- Risk Management

STATE OF MICHIGAN  
DEPARTMENT OF MANAGEMENT AND BUDGET  
ACQUISITION SERVICES  
P.O. BOX 30026, LANSING, MI 48909  
OR  
530 W. ALLEGAN, LANSING, MI 48933

May 20, 2005

NOTICE  
OF  
CONTRACT NO. 071B5200293  
between  
THE STATE OF MICHIGAN  
and

NAME & ADDRESS OF VENDOR  <b>Accela Inc. 1731 W. Walnut Ave. Visalia, CA 93277</b>	TELEPHONE: Kristin Farmer <b>(407) 933-5617</b>
	VENDOR NUMBER/MAIL CODE <b>(006)</b>
	BUYER/CA (517) 373-1455 <b>Laura Gyorkos</b>
Contract Compliance Inspector: Pam Braatz <b>Licenses for Permits Plus - DLEG</b>	
CONTRACT PERIOD:	From: <b>May 23, 2005</b> To: <b>May 22, 2006</b>
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	

The terms and conditions of this Contract are those of [REQ #084R5200312](#) this Contract Agreement and the vendor's quote dated [January 24, 2005](#). In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: \$196,146.20

**STATE OF MICHIGAN  
 DEPARTMENT OF MANAGEMENT AND BUDGET  
 ACQUISITION SERVICES  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933**

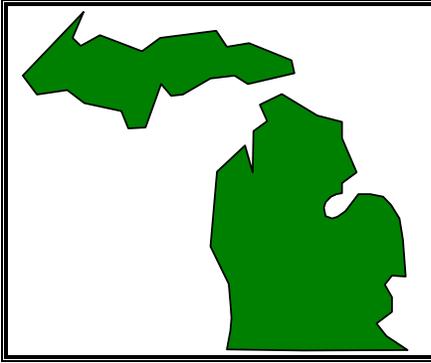
**CONTRACT NO. 071B5200293  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>Accela Inc.          1731 W. Walnut Ave.          Visalia, CA 93277</b>	TELEPHONE: Kristin Farmer <b>(407) 933-5617</b> VENDOR NUMBER/MAIL CODE <b>(006)</b> BUYER/CA (517) 373-1455 <b>Laura Gyorkos</b>
Contract Compliance Inspector: Pam Braatz <p style="text-align: center;"><b>Licenses for Permits Plus - DLEG</b></p>	
CONTRACT PERIOD: From: <b>May 23, 2005</b> To: <b>May 22, 2006</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION: <b>The terms and conditions of this Contract are those of <a href="#">REQ #084R5200312</a> this Contract Agreement and the vendor's quote dated <a href="#">January 24, 2005</a>. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.</b>  <b>Estimated Contract Value: \$196,146.20</b>	

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the [REQ No.084R5200312](#). Orders for delivery of equipment will be issued directly by the [Department of Labor & Economic Growth](#) through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

<b>FOR THE VENDOR:</b>  _____ <p style="text-align: center;"><b>Accela Inc.</b> Firm Name</p> _____ <p style="text-align: center;">Authorized Agent Signature</p> _____ <p style="text-align: center;">Authorized Agent (Print or Type)</p> _____ <p style="text-align: center;">Date</p>	<b>FOR THE STATE:</b>  _____ <p style="text-align: center;">Signature  <b>Laura Gyorkos, CPPB</b></p> _____ <p style="text-align: center;">Name/Title  <b>Commodities Division, Acquisition Services</b></p> _____ <p style="text-align: center;">Division</p> _____ <p style="text-align: center;">Date</p>
---	--



**STATE OF MICHIGAN**  
**Department of Management and Budget**  
**Acquisition Services**

Contract No. [071B5200293](#)  
[Boiler Hand Held Application](#)

Buyer Name: [Laura Gyorkos](#)  
Telephone Number: [517-373-1455](#)  
E-Mail Address: [gyorkosl@michigan.gov](mailto:gyorkosl@michigan.gov)



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- Appendix A – License Agreement
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- Appendix C - Deliverables and Compensation
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**Article 1 – Statement of Work (SOW)**

**1.0 Project Identification**

**1.001 PROJECT REQUEST**

To have boiler inspectors perform inspections and input data using computer technology.

**1.002 BACKGROUND**

Bureau of Construction Codes and Fire Safety (BCCFS) is responsible for the administration of the Construction Code Act, the Building Officials Registration Act, electrical, mechanical and plumbing laws, as well as the boiler and elevator programs. The bureau issues permits and provides inspections in the area of building, boiler, electrical, elevator, mechanical, and plumbing. Inspections and monitoring visits are also performed on-site at pre-manufactured unit facilities.

The bureau is responsible for examination and licensing in the boiler, electrical, elevator, mechanical, and plumbing fields and investigates consumer complaints against licensees.

BCCFS uses a program called Permits' Plus to issue permits and licenses for various construction disciplines and to manage construction inspections. The data collection is currently being done by a program called InspecTrack from Selectron Technologies, Inc, formally M-track. This specialty program runs on Panasonic Toughbook computers. Data is collected on the job site and directly entered. At the end of the day the Permits' Plus data base connects by telephone to the hand held computers and collects recent inspection information as well as downloads the schedule of future inspections. To save money and increase efficiency, the bureau is going to switch to the inspection module within Permits' Plus. This will allow the bureau to work with one vendor for permitting and inspections.

**1.1 Scope of Work and Deliverables**

**1.101 IN SCOPE**

BCCFS is ready to proceed with the design of the Boiler hand held program. Boiler Division has unique business requirements that require modifications for the boiler collection of field inspections. This request is to design and implement the system using the inspection module from Permits' Plus.

**1.102 OUT OF SCOPE**

Reserved

**1.103 TECHNICAL ENVIRONMENT**

Product Requirements – Is a prerequisite that an Accela Wireless 5.0 customer must have one of the following Accela permit systems to which Accela Wireless 5.0 interfaces:

- Accela Automation version 5.0
- KivaClassic server or KivaNet version 7.2
- Permits Plus version 5.0.10 (BCCFS uses this application)
- Tidemark Advantage version 3.3

Hardware requirements for handheld device:

Wireless laptop or Tablet PC – Pentium III or better, 128 MB RAM or more, at least 100 MB HDD space, Wireless card (Not necessary if a customer wants to use the Accela Wireless Client in a purely off-line/store-and-forward mode)

Software requirements for handheld device:

Accela Wireless 5.0 Client, .NET Framework 1.1, Windows XP or Windows 2000

Application Server requirements:

Pentium \*\*\* 1.4 HGz or better, 512 MB RAM or more, 2 X 18.2 GB SCSI HDD or more, 2 X 10/100/1000 NICS.

Development database – dleg\_tst1, production database – Permits' Plus (cbccpp)9i) and test environment – dleg\_qa1]



**1.104 WORK AND DELIVERABLE**

Contractor shall provide Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

See Appendix B – Accela Wireless Self-Hosted.mpp. (Start and Finish dates will need to be updated in agreement with the state and Accela).

**1.2 Roles and Responsibilities**

**1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES**

The Bureau of Construction Codes & Fire Safety is requesting Paul Rose as the Accela project person. Paul has worked with the bureau on many previous implementations. Paul has an excellent understanding of the bureaus processes. Paul would be responsible for the implementation of Boiler Wireless and will train the bureaus project manager.

The agency requests Paul Rose to perform installation, training and all other required services.

**1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES**

The designated Agency/DIT Project Manager is:

Pam Braatz  
 Michigan Department of Information Technology  
 Woodlake Circle, Suite 116, 1<sup>st</sup> floor  
 2501 Woodlake Circle  
 Okemos, MI 48864  
 517-241-9345  
 517-241-9570  
 pbraat@michigan.gov

Pam Braatz will be the bureaus Agency Project Manager. Pam is an IT person assigned to BCCFS and is responsible for the Permits' Plus program used by BCCFS to enter permits. Permits' Plus is a module provided by Accela that interfaces with Accela Wireless.

**1.203 OTHER ROLES AND RESPONSIBILITIES**

Reserved

**1.3 Project Plan**

**1.301 PROJECT PLAN MANAGEMENT**

Resources and Assignments	Start	Finish	Work
Unassigned	10/4/2004 8:00	12/10/2004 17:00	48 hrs
Conference call to start Project	10/4/2004 8:00	10/4/2004 17:00	8 hrs
Onsite visit to Agency to Install/Configure Software	12/6/2004 8:00	12/10/2004 17:00	40 hrs
Accela	10/1/2004 8:00	2/11/2005 17:00	376 hrs
Agency Signs Agreement	10/1/2004 8:00	10/1/2004 17:00	8 hrs
Go over Timeline	10/4/2004 8:00	10/4/2004 17:00	8 hrs
Contact names/phone/email information provided for Network/Telecommunications & Application Specialists	10/4/2004 8:00	10/4/2004 17:00	8 hrs
Network Security Diagrams emailed and discussed	10/4/2004 8:00	10/4/2004 17:00	8 hrs
Accela Wireless Implementation Information MS Word document emailed and discussed	10/4/2004 8:00	10/4/2004 17:00	8 hrs



Schedule onsite trip to install server software for testing	11/22/2004 8:00	11/22/2004 17:00	8 hrs
Travel to client site	12/6/2004 8:00	12/6/2004 17:00	8 hrs
Install Subscription Server software and test connectivity from web	12/7/2004 8:00	12/7/2004 12:00	4 hrs
Install Application Server software and test connectivity to databases	12/7/2004 13:00	12/7/2004 17:00	4 hrs
Configure Accela Wireless and load several test Agency devices	12/8/2004 8:00	12/9/2004 17:00	16 hrs
Initial training for Agency support staff for testing	12/10/2004 8:00	12/10/2004 17:00	8 hrs
Travel from client site	12/10/2004 8:00	12/10/2004 17:00	8 hrs
Accela finalize Accela Wireless parameters based on Agency testing	12/13/2004 8:00	1/21/2005 17:00	240 hrs
Travel to client site	2/7/2005 8:00	2/7/2005 17:00	8 hrs
Training Session(s) for Inspectors	2/8/2005 8:00	2/8/2005 17:00	8 hrs
Training Session(s) for Inspectors	2/9/2005 8:00	2/9/2005 17:00	8 hrs
Training Session(s) for Inspectors	2/10/2005 8:00	2/10/2005 17:00	8 hrs
Travel from client site	2/11/2005 8:00	2/11/2005 17:00	8 hrs
Agency	10/1/2004 8:00	2/14/2005 17:00	680 hrs
Agency Signs Agreement	10/1/2004 8:00	10/1/2004 17:00	8 hrs
Go over Timeline	10/4/2004 8:00	10/4/2004 17:00	8 hrs
Contact names/phone/email information provided for Network/Telecommunications & Application Specialists	10/4/2004 8:00	10/4/2004 17:00	8 hrs
Network Security Diagrams emailed and discussed	10/4/2004 8:00	10/4/2004 17:00	8 hrs
Accela Wireless Implementation Information MS Word document emailed and discussed	10/4/2004 8:00	10/4/2004 17:00	8 hrs
Agency determines server requirements and provides hardware	10/12/2004 8:00	10/25/2004 17:00	80 hrs
Agency configures the AW Subscription Server to be accessed via the internet and internal network	11/2/2004 8:00	11/15/2004 17:00	80 hrs
Agency configures the AW Application Server to be accessed by the Accela Wireless Subscription Server	11/2/2004 8:00	11/15/2004 17:00	80 hrs
Agency configure the AW Application Server for access to the Permits backend database	11/2/2004 8:00	11/19/2004 17:00	112 hrs
Schedule onsite trip to install server software for testing	11/22/2004 8:00	11/22/2004 17:00	8 hrs
Initial training for Agency support staff for testing	12/10/2004 8:00	12/10/2004 17:00	8 hrs
Agency tests Accela Wireless from test support site	12/13/2004 8:00	1/21/2005 17:00	240 hrs
Training Session(s) for Inspectors	2/8/2005 8:00	2/8/2005 17:00	8 hrs
Training Session(s) for Inspectors	2/9/2005 8:00	2/9/2005 17:00	8 hrs
Training Session(s) for Inspectors	2/10/2005 8:00	2/10/2005 17:00	8 hrs
Agency Go Live	2/14/2005 8:00	2/14/2005 17:00	8 hrs



**1.302 REPORTS**

A bi-weekly progress report must be submitted to the Agency Project Manager through the life of this project. This report may be submitted with the billing invoice. Each bi-weekly progress report must contain the following:

1. **Hours:** Indicate the number of hours expended during the past two weeks, and the cumulative total to date for the project. Also state whether the remaining hours are sufficient to complete the project.
2. **Accomplishments:** Indicate what was worked on and what was completed during the current reporting period.

**1.4 Project Management**

**1.401 ISSUE MANAGEMENT**

Reserved

**1.402 RISK MANAGEMENT**

Reserved

**1.403 CHANGE MANAGEMENT**

Reserved

**1.5 Acceptance**

**1.501 CRITERIA**

The following criteria will be used by the State to determine Acceptance of the Services and/or Deliverables provided under this SOW.

See Attachment Accela Wireless Self-Hosted Implementation.

**1.502 FINAL ACCEPTANCE**

Final Acceptance is when the project is completed and functions according to the requirements. Any intermediate acceptance of sub-Deliverables does not complete the requirement of Final Acceptance.

**1.6 Compensation and Payment**

State shall pay Contractor an amount not to exceed \$195,146.20 dollars for the performance of all activities necessary for or incidental to the performance of work as set forth in this SOW. Authorized Services and Price List as follows:

Payment will be made on a fixed priced basis for maintenance and licenses, and time and materials basis for services. All invoices should reflect actual work completed by payment date, and must be approved by the Agency Project Director prior to payment. Payment will be made on an ongoing basis based on the number of hours expended, if the Agency Project Manager deems work is progressing satisfactorily. In the event it is necessary for contractual staff to travel for this project, prior written approval must be obtained by the state's project manager.

**1.7 Additional Terms and Conditions Specific to this SOW**

The state will not pay for travel expenses, travel time, parking, meals, mileage, etc.

Details regarding the statement of work can be located in Appendix A – Statement of Work.



## 1.8 Knowledge Transfer

Accela will make reasonable efforts to provide knowledge transfer for Agency as specific Agency roles participate in the development, configuration and deployment of the system. While Accela cannot guarantee any particular expertise for Agency staff, Agency will make reasonable efforts to transfer as much knowledge as possible to Agency staff throughout the Services both onsite and offsite. Agency acknowledges that their staff needs to be actively involved throughout the entire duration of Services for this to be successful.

## 1.9 Maintenance Support

### 1. Scope of Maintenance

#### 1.1 Maintenance Services

- 1.1.1 Telephone Support Accela will provide Customer with a telephone number to contact the Customer Resource Center (CRC), Accela's live technical support facility, which is available from 6:00 a.m. until 6:00 p.m. Pacific time Monday through Friday, excluding Accela's observed holidays.
- 1.1.2 E-Mail Support Accela will provide Customer with one or more electronic mail addresses to which Customer may submit routine or non-critical support requests, which Accela will address during its regular business hours.
- 1.1.3 Online Support Accela will provide Customer with access to archived software updates and other technical information in Accela's online support databases, which are continuously available.
- 1.1.4 Remote Support When required to properly resolve a maintenance request, Accela will provide remote assistance to Customer via the WebEx™ Meeting Center environment or another mutually-acceptable remote communications method.
- 1.1.5 On-Site Support If Customer does not wish for Accela to resolve its maintenance requests remotely, Accela will provide on-site assistance to Customer at Accela's then-current time-and-materials rates. In addition to these charges, Customer will compensate Accela for associated airfare, lodging, rental transportation, meals, and other incidental expenses as such expenses accrue.
- 1.1.6 Software Updates Accela will provide revisions of and enhancements to maintained software products to Customer as such updates are generally-released by Accela.

#### 1.2 Maintenance Limitations

- 1.2.1 Limitations Generally The following are not covered by this MA, 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 Accela-maintained software products;
  - b) Services required due to software corrections, customizations, or modifications not developed or authorized by Accela;
  - c) Services required by Customer to be performed by Accela outside of Accela's usual working hours;
  - d) Services required due to external factors including, but not necessarily limited to, Customer's use of software or hardware not authorized by Accela;
  - e) Services required to resolve or work-around conditions which cannot be reproduced in Accela's support environment;
  - f) Services which relate to tasks other than maintenance of Customer's existing implementation and configuration of the Accela-maintained software products including, but not necessarily limited to, enhancing or adapting such products for specific operating environments;
  - g) Services requested by Customer to implement software updates provided by Accela pursuant to this MA; and
  - h) New or additional applications, modules, or functionality released by Accela during the term of this MA.



- 1.2.2 Legacy Releases Accela 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”. Accela 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 Accela are not provided pursuant to this MA, but may be separately available at rates and on terms which may vary from those described herein.



## **Article 2 – General Terms and Conditions**

### **2.0 Introduction**

#### **2.001 GENERAL PURPOSE**

The Contract is for changes to Boiler Hand Held devices for the State of Michigan. Orders will be issued directly to the Contractor by various State Agencies on the Purchase Order Contract Release Form.

#### **2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR**

The Contract is issued by Acquisition Services, State of Michigan, Department of Management and Budget, hereinafter known as Acquisition Services, for the Department of Information Technology, hereinafter known as **DIT**. Where actions are a combination of those of Acquisition Services and the State agencies, the authority will be known as the State.

Acquisition Services is the sole point of contact in the State with regard to all procurement and contractual matters relating to the commodities and/or services described herein. Acquisition Services is the only office authorized to negotiate, change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Acquisition Services will remain the **SOLE POINT OF CONTACT** throughout the procurement process.

**Contractor proceeds at its own risk if it takes negotiation, changes, modification, alterations, amendments, clarification, etc., of the specifications, terms, or conditions of the contract from any individual or office other than Acquisition Services and the listed contract administrator**

All communications covering this procurement must be addressed to contract administrator indicated below:

Department of Management and Budget  
Acquisition Services  
[Attn: Laura Gyorkos](mailto:gyorkosl@michigan.gov)  
2nd Floor, Mason Building  
P.O. Box 30026  
Lansing, Michigan 48909  
[\(517\) 373-1455](tel:5173731455)  
[gyorkosl@michigan.gov](mailto:gyorkosl@michigan.gov)

#### **2.003 NOTICE**

Any notice given to a party under this Contract must be written and shall be deemed effective, if addressed to such party as addressed below upon (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

#### **2.004 CONTRACT TERM**

The term of this Contract will be for **one (1) year** and will commence with the issuance of a Contract. This will be approximately **May 23, 2005 through May 22, 2006**.

**Extension.** At the sole option of the State, the contract may also be extended. Contractor performance, quality of products, price, cost savings, and the contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Acquisition Services to exercise an option year.



Written notice will be provided to the Contractor within **60 days**, provided that the State gives the Contractor a preliminary written notice of its intent to extend at least **60 days** before the contract expires. The preliminary notice does not commit the Government to an extension. If the Government exercises this option, the extended contract shall be considered to include this option clause.

## **2.005 GOVERNING LAW**

The Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. By signing this agreement, vendor consents to personal jurisdiction in the state of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

## **2.006 APPLICABLE STATUTES**

The following statutes, rules, and laws are applicable to the performance of this contract; some statutes are reflected in the clauses of this contract. This list is NOT exhaustive.

MI Uniform Commercial Code (MIUCC) MCL 440. (All sections unless otherwise altered by agreement)

MI OSHA MCL §§ 408.1001 – 408.1094

Freedom of Information Act (FIOA) MCL §§ 15.231, et seq.

Natural Resources and Environmental Protection Act MCL §§ 324.101, et seq.

MI Consumer Protection Act MCL §§ 445.901 – 445.922

Laws relating to wages, payments of wages, and fringe benefits on state projects MCL §§ 408.551 – 408.558, 408.471 – 408.490, 1965 PA 390.

Department of Civil Service Rules and regulations

Elliot Larsen Civil Rights Act MCL §§ 37.2201, et seq.

Persons with disabilities Civil Rights Act MCL §§ 37.1101, et seq.

MCL §§ 423.321, et seq.

MCL § 18.1264 (law regarding debarment)

Davis-Bacon Act (DBA) 40 USCU § 276(a), et seq.

Contract Work Hours and Safety Standards Act (CWHSSA) 40 USCS § 327, et seq.

Business Opportunity Act for Persons with Disabilities MCL §§ 450.791 – 450.795

Rules and regulations of the Environmental Protection Agency

Internal Revenue Code

Rules and regulations of the Equal Employment Opportunity Commission (EEOC)

The Civil Rights Act of 1964, USCS Chapter 42

Title VII, 42 USCS §§ 2000e et seq.

The Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.

The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.

The Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626, et seq.

The Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.

The Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.

Pollution Prevention Act of 1990 (PPA) 42 U.S.C. §13106

Sherman Act, 15 U.S.C.S. § 1 et seq.

Robinson-Patman Act, 15 U.S.C.S. § 13 et. seq.

Clayton Act, 15 U.S.C.S. § 14 et seq.

## **2.007 RELATIONSHIP OF THE PARTIES**

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.



**2.008 HEADINGS**

Captions and headings used in the Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of this Contract.

**2.009 MERGER**

This document constitutes the complete, final, and exclusive agreement between the parties. All other prior writings and negotiations are ineffective.

**2.010 SEVERABILITY**

Each provision of the Contract shall be deemed to be severable from all other provisions of the Contract and, if one or more of the provisions of the Contract shall be declared invalid, the remaining provisions of the Contract shall remain in full force and effect.

**2.011 SURVIVORSHIP**

Any provisions of the Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of the Contract for any reason.

**2.012 NO WAIVER OF DEFAULT**

The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term or any other term of the Contract.

**2.013 PURCHASE ORDERS**

Orders for delivery of commodities and/or services may be issued directly by the State Departments through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. Contractor is asked to reference the Purchase Order Number on all invoices for payment.

**2.1 Vendor/Contractor Obligations**

**2.101 ACCOUNTING RECORDS**

The Contractor and all subcontractors shall maintain all pertinent financial and accounting records and evidence pertaining to the Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan. Financial and accounting records shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three years from expiration date and final payment on the Contract or extension thereof.

**2.102 NOTIFICATION OF OWNERSHIP**

The Contractor shall make the following notifications in writing:

1. When the Contractor becomes aware that a change in its ownership or officers has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify Acquisition Services within 30 days.



2. The Contractor shall also notify the Acquisition Services within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

The Contractor shall:

1. Maintain current, accurate, and complete inventory records of assets and their costs;
2. Provide Acquisition Services or designated representative ready access to the records upon request;
3. Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership or officer changes; and
4. Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership or officer change.

### 2.103 SOFTWARE COMPLIANCE

The vendor warrants that all software for which the vendor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure year 2000 compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

### 2.104 IT STANDARDS

1. EXISTING TECHNOLOGY STANDARDS. The Contractor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at <http://michigan.gov/dit>.
2. PM METHODOLOGY STANDARDS. The State has adopted a standard documented Project Management Methodology (PMM) for use on all Information Technology (IT) based projects. This policy is referenced in the document titled "Project Management Methodology" – DMB Administrative Guide Procedure 1380.02 issued June 2000. Vendors may obtain a copy of this procedure, as well as the State of Michigan Project Management Methodology, from the Department of Information Technology's website at <http://www.michigan.gov/projectmanagement>.

The contractor shall use the State's PPM to manage State of Michigan Information Technology (IT) based projects. The Requesting agency will provide the applicable documentation and internal agency processes for the methodology. If the vendor requires training on the methodology, those costs shall be the responsibility of the vendor, unless otherwise stated.

3. ADHERENCE TO PORTAL TECHNOLOGY TOOLS. The State of Michigan, Department of Information Technology, has adopted the following tools as its Portal Technology development efforts:



- Vignette Content Management and personalization Tool
- Inktomi Search Engine
- E-Pay Payment Processing Module
- Websphere Commerce Suite for e-Store applications

**Vendors must use the Portal Technology Tools to implement web content management and deployment efforts for agencies. Tools used for web-based application development must work in conjunction with Vignette and Inktomi. The interaction with Vignette and Inktomi must be coordinated with the Department of Information Technology, Enterprise Application Services Office, e-Michigan Web Development team.**

Under special circumstances vendors that are compelled to use alternate tools must submit an exception request to the Department of Information Technology, Enterprise Application Services Office, e-Michigan Web Development team, for evaluation and approval of each alternate tool prior to proposal evaluation by the State.

**2.105 PERFORMANCE AND RELIABILITY EVALUATION (PARE)**

When the State requires that a performance and reliability evaluation (PARE) is to be performed, the standard of performance for the PARE will be closely monitored during the acceptance period.

In the event that the PARE is for components only, all references to systems (processors) should be changed to components.

**The Performance and Reliability Evaluation will consist of two phases.**

PHASE I

The first phase shall be comprised of a specification compliance review of the equipment listed on the ordering documents. Such equipment shall be checked for total compliance with all required specifications of the RFQ. In the event that the State determines that any component or feature of the delivered equipment or software does not comply with the mandatory specifications of the RFQ, the State shall so notify the Contractor, allowing 14 calendar days for rectification by the Contractor. Should the Contractor be unable to rectify the deficiency, the State reserves the right to cancel the ordering document. Should the equipment and software pass the specification conformance review, the equipment shall enter Phase II of the PARE.

PHASE II

- a. Determination of System Readiness
  - 1) Prior to the PARE, a committee of three persons will be formed to evaluate the system's performance on a daily basis. The committee will consist of one Contractor representative and two State personnel.
  - 2) The PARE will begin on the installation dates when the Contractor certifies that the equipment is ready for use by the State.

b. During the PARE:

All rerun times resulting from equipment failure and preventive maintenance shall be excluded from the performance hours.



- 1) All reconfiguration and reload time shall be excluded from the performance hours.
- 2) If files are destroyed as a result of a problem with Contractor equipment and must be rebuilt, the time required to rebuild the files will be considered "down-time" for the system.
- 3) If the Contractor requests access to failed equipment and the State refuses, then such maintenance will be deferred to a mutually agreeable time and the intervening time will not count against the PARE.
- 4) A functional benchmark demonstration will be run for the PARE Committee to confirm that the installed system is capable of performing the same functions that were demonstrated. This run must be completed to the satisfaction of the PARE Committee.

STANDARD OF PERFORMANCE

- a. The performance period (a period of thirty consecutive calendar days) shall commence on the installation date, at which time the operational control becomes the responsibility of the State. It is not required that one thirty day period expire in order for another performance period to begin.
- b. If each component operates at an average level of effectiveness of 95 percent or more for a period of 30 consecutive days from the commencement date of the performance period, it shall be deemed to have met the State's standard of performance period. The State shall notify the Contractor in writing of the successful completion of the performance period. The average effectiveness level is a percentage figure determined by dividing the total operational use time by the total operational use time plus associated down-time. In addition, the equipment shall operate in substantial conformance with the Contractor's published specifications applicable to such equipment on the date of this Agreement. Equipment added by amendment to this contract shall operate in conformance with the Contractor's published specifications applicable to such equipment at the time of such amendment.
- c. During the successful performance period, all rerun time resulting from equipment failure and preventive maintenance time shall be excluded from the performance period hours. All reconfigurations and reload time shall be excluded from the performance hours. Equipment failure down-time shall be measured by those intervals during the performance period between the time that the Contractor is notified of equipment failure and the time that the equipment is returned to the State in operating condition.
- d. During the successful performance period, a minimum of 80 hours of operational use time on each component will be required as a basis for computation of the average effectiveness level. However, in computing the effectiveness level, the actual number of operational use hours shall be used when in excess of the minimum stated above.
- e. No more than one hour will accrue to the performance hours during any one wall-clock hour.
- f. Equipment shall not be accepted by the State and no charges will be paid by the State until the standard of performance is met.
- g. When a system involves on-line machines, which are remote to the basic installation, the required effectiveness level shall apply separately to each component in the system.
- h. Promptly upon successful completion of the performance period, the State shall notify the Contractor in writing of acceptance of the equipment and authorize the monthly payments to begin on the first day of the successful performance period.



- i. If successful completion of the performance period is not attained within 90 days of the installation date, the State shall have the option of terminating the Contract, or continuing the performance tests. The State's option to terminate the contract shall remain in effect until such time as a successful completion of the performance period is attained. The Contractor shall be liable for all outbound preparation and shipping costs for contracted items returned under this clause.
- j. The PARE will be complete when the equipment has met the required effectiveness level for the prescribed time period.

**2.106 PREVAILING WAGE**

The rates of wages and fringe benefits to be paid each class of individuals employed by the Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this contract in privity of contract with the Contractor shall not be less than the wage rates and fringe benefits established by the Michigan Department of Consumer and Industry Service, Bureau of Safety and Regulation, Wage/Hour Division schedule of occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term Contractor shall include all general contractors, prime contractors, project managers, trade contractors, and all of their contractors or subcontractors and persons in privity of contract with them.

The Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this contract in privity of contract with the Contractor shall keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in the contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Consumer and Industry Services, the office responsible for enforcement of the wage rates and fringe benefits. You shall keep an accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with this contract. This record shall be available to the State upon request for reasonable inspection.

If any trade is omitted from the list of wage rates and fringe benefits to be paid to each class of individuals by the Contractor, it is understood that the trades omitted shall also be paid not less than the wage rate and fringe benefits prevailing in the local where the work is to be performed.

**2.107 PAYROLL AND BASIC RECORDS**

Payrolls and basic records relating to the performance of this contract shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

The Contractor shall submit a copy of all payrolls to the Contract Administrator upon request. The payrolls submitted shall set out accurately and completely all of the information required to be maintained as indicated above.

The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors upon request from the Contract Administrator



The Contractor or subcontractor shall permit the Contract Administrator or representatives of the Contract Administrator or the State of Michigan to interview employees during working hours on the job.

If the Contractor or subcontractor fails to submit required records or to make them available, the Contract Administrator may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment.

**2.108 COMPETITION IN SUB-CONTRACTING**

The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

**2.109 CALL CENTER DISCLOSURE**

Vendor and/or all subcontractors involved in the performance of this contract providing call or contact center services to the State of Michigan must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information shall be a material breach of this agreement.

**2.2 Contract Performance**

**2.201 TIME IS OF THE ESSENCE**

Contractor/Vendor is on notice that time is of the essence in the performance of this contract. Late performance will be considered a material breach of this contract, giving the State a right to invoke all remedies available to it under this contract.

**2.202 CONTRACT PAYMENT SCHEDULE**

All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the Contract Administrator and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Acquisition Services, Department of Management & Budget. This activity will occur only upon the specific written direction from Acquisition Services.

**2.203 POSSIBLE PROGRESS PAYMENTS**

The Government may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

**2.204 POSSIBLE PERFORMANCE-BASED PAYMENTS (Actual performance rendered)**

**2.205 ELECTRONIC PAYMENT AVAILABILITY**

Electronic transfer of funds is available to State contractors. Vendors are encouraged to register with the State of Michigan Office of Financial Management so the State can make payments related to this Contract electronically at [www.cpexpress.state.mi.us](http://www.cpexpress.state.mi.us).

**2.206 PERFORMANCE OF WORK BY CONTRACTOR**

Reserved.



## 2.3 Contract Rights and Obligations

### 2.301 INCURRING COSTS

The State of Michigan is not liable for any cost incurred by the Contractor prior to signing of the Contract. The State fiscal year is October 1st through September 30th. The Contractor(s) should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations. Total liability of the State is limited to terms and conditions of the Contract.

### 2.302 CONTRACTOR RESPONSIBILITIES

The Contractor will be required to assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, the Contract must include a list of subcontractors, including firm name and address, contact person and a complete description of work to be subcontracted. The State reserves the right to approve subcontractors and to require the Contractor to replace subcontractors found to be unacceptable. The Contractor is totally responsible for adherence by the subcontractor to all provisions of the Contract. Any change in subcontractors must be approved by the State, in writing, prior to such change.

### 2.303 ASSIGNMENT AND DELEGATION

The Contractor shall not have the right to assign this Contract, to assign its rights under this contract, or delegate any of its duties or obligations under the Contract to any other party (whether by operation of law or otherwise), without the prior written consent of the State. Any purported assignment in violation of this Section shall be null and void. Further, the Contractor may not assign the right to receive money due under the Contract without the prior written consent of the Director of Acquisition Services.

The Contractor shall not delegate any duties or obligations under the Contract to a subcontractor other than a subcontractor named and approved in the bid unless the Director of Acquisition Services has given written consent to the delegation.

**Bidder must obtain the approval of the Director of Acquisition Services before using a place of performance that is different from the address that bidder provided in the bid.**

### 2.304 TAXES

Sales Tax: For purchases made directly by the State of Michigan, the State is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

Federal Excise Tax: The State of Michigan may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the State's exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

The State's Tax Exempt Certification is available for vendor viewing upon request to the Contract Administrator.

### 2.305 INDEMNIFICATION

#### General Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents,



from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

1. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the Contractor or any of its subcontractors under this Contract.
2. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in the Contract;
3. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Contractor is required to insure against as provided for in this Contract;
4. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;
5. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its subcontractors in its or their capacity as an employer of a person.

#### Patent/Copyright Infringement Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.



### Code Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor's breach of the No Surreptitious Code Warranty.

### Indemnification Obligation Not Limited

In any and all claims against the State of Michigan, or any of its agents or employees, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its subcontractors under worker's disability compensation acts, disability benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in sub clauses, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other sub clause.

### Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and affect notwithstanding the expiration or early termination of the Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

### Indemnification Procedures

The procedures set forth below shall apply to all indemnity obligations under this Contract.

- (a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to so notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.
- (b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the Defense; (ii) Contractor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Contractor shall periodically advise the State about the status and progress of the defense and shall obtain the prior written approval of the State before entering into any settlement of such claim or ceasing to defend against such claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan governmental or public law. Notwithstanding the foregoing, the State may retain control of the defense and settlement of a claim by written notice to Contractor given within ten (10) days after the State's receipt of Contractor's information requested by the State pursuant to clause (ii) of this paragraph if the State determines that Contractor has failed to demonstrate to the reasonable satisfaction of the State Contractor's financial ability to carry out its defense and indemnity obligations under this



Section. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State pursuant to this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

- (c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State shall have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor shall promptly reimburse the State for all such reasonable costs and expenses.

### **2.306 LIMITATION OF LIABILITY**

Except as set forth herein, neither the Contractor nor the State shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; to Contractor's indemnification obligations (2.305); or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

The State's liability for damages to the Contractor shall be limited to the value of the Contract.

### **2.307 CONTRACT DISTRIBUTION**

Acquisition Services shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Acquisition Services.

### **2.308 FORM, FUNCTION, AND UTILITY**

If the Contract is for use of more than one State agency and if the good or service provided under this Contract do not meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the good or service from another source.

### **2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION**

For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the bidder hereby assigns, sells and transfers to the State of Michigan all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this State pursuant to this transaction.

### **2.310 RESERVED**

### **2.311 TRANSITION ASSISTANCE**

If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, the Contractor must provide for up to **180 days** after the expiration or cancellation of this Contract, all reasonable transition assistance requested by the State, to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance.



The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance.

### 2.312 WORK PRODUCT

Work Products shall be considered works made by the Contractor for hire by the State and shall belong exclusively to the State and its designees, unless specifically provided otherwise by mutual agreement of the Contractor and the State. If by operation of law any of the Work Product, including all related intellectual property rights, is not owned in its entirety by the State automatically upon creation thereof, the Contractor agrees to assign, and hereby assigns to the State and its designees the ownership of such Work Product, including all related intellectual property rights. The Contractor agrees to provide, at no additional charge, any assistance and to execute any action reasonably required for the State to perfect its intellectual property rights with respect to the aforementioned Work Product.

Notwithstanding any provision of this Contract to the contrary, any preexisting work or materials including, but not limited to, any routines, libraries, tools, methodologies, processes or technologies (collectively, the "Development Tools") created, adapted or used by the Contractor in its business generally, including any and all associated intellectual property rights, shall be and remain the sole property of the Contractor, and the State shall have no interest in or claim to such preexisting work, materials or Development Tools, except as necessary to exercise its rights in the Work Product. Such rights belonging to the State shall include, but not be limited to, the right to use, execute, reproduce, display, perform and distribute copies of and prepare derivative works based upon the Work Product, and the right to authorize others to do any of the foregoing, irrespective of the existence therein of preexisting work, materials and Development Tools, except as specifically limited herein.

The Contractor and its subcontractors shall be free to use and employ their general skills, knowledge and expertise, and to use, disclose, and employ any generalized ideas, concepts, knowledge, methods, techniques or skills gained or learned during the course of performing the services under this Contract, so long as the Contractor or its subcontractors acquire and apply such information without disclosure of any confidential or proprietary information of the State, and without any unauthorized use or disclosure of any Work Product resulting from this Contract.

### 2.313 PROPRIETARY RIGHTS

#### A. Software Ownership

##### **Ownership of Work Product by State.**

All Deliverables shall be owned by the State and shall be considered works made for hire by the Contractor for the State. The State shall own all United States and international copyrights, trademarks, patents or other proprietary rights in the Deliverables.

**Vesting of Rights.** With the sole exception of any preexisting licensed works identified in Appendix [X], the Contractor shall assign, and upon creation of each Deliverable automatically assigns, to the State, ownership of all United States and international copyrights, trademarks, patents, or other proprietary rights in each and every Deliverable, whether or not registered by the Contractor, insofar as any such Deliverable, by operation of law, may not be considered work made for hire by the Contractor for the State. From time to time upon State's request, the Contractor and/or its personnel shall confirm such assignment by execution and delivery of the assignments, confirmations of assignment, or other written instruments as the State may request. The State shall have the right to obtain and hold in its own name all copyright, trademark, and patent registrations and other evidence of rights that may be available for Deliverables.



B. *Source Code Escrow*

- (a) Definition. "Source Code Escrow Package" shall mean:
- (i) A complete copy in machine-readable form of the source code and executable code of the Licensed Software, including any updates or new releases of the product;
  - (ii) A complete copy of any existing design documentation and user documentation, including any updates or revisions; and/or
  - (iii) Complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. Such instructions shall include precise identification of all compilers, library packages, and linkers used to generate executable code.
- (b) Delivery of Source Code into Escrow. Contractor shall deliver a Source Code Escrow Package to the Escrow Agent, pursuant to the Escrow Contract, which shall be entered into on commercially reasonable terms subject to the provisions of this Contract within thirty (30) days of the execution of this Contract.
- (c) Delivery of New Source Code into Escrow. If at anytime during the term of this Contract, the Contractor provides a maintenance release or upgrade version of the Licensed Software, Contractor shall within ten (10) days deposit with the Escrow Agent, in accordance with the Escrow Contract, a Source Code Escrow Package for the maintenance release or upgrade version, and provide the State with notice of the delivery.
- (d) Verification. The State reserves the right at any time, but not more than once a year, either itself or through a third party contractor, upon thirty (30) days written notice, to seek verification of the Source Code Escrow Package.
- (e) Escrow Fees. The Contractor will pay all fees and expenses charged by the Escrow Agent.
- (f) Release Events. The Source Code Escrow Package may be released from escrow to the State, temporarily or permanently, upon the occurrence of one or more of the following:
- (i) The Contractor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under bankruptcy or insolvency law, whether domestic or foreign;
  - (ii) The Contractor has wound up or liquidated its business voluntarily or otherwise and the State has reason to believe that such events will cause the Contractor to fail to meet its warranties and maintenance obligations in the foreseeable future.
  - (iii) The Contractor voluntarily or otherwise discontinues support of the provided products or fails to support the products in accordance with its maintenance obligations and warranties.
- (g) Release Event Procedures. If the State desires to obtain the Source Code Escrow Package from the Escrow Agent upon the occurrence of an Event in Section 6, then:
- (i) The State shall comply with all procedures in the Escrow Contract.
  - (ii) The State shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with this Contract.



- (iii) If the release is a temporary one, then the State shall promptly return all released materials to Contractor when the circumstances leading to the release are no longer in effect.
- (h) License. Upon release from the Escrow Agent pursuant to an event described in Section 6, the Contractor automatically grants the State a non-exclusive, irrevocable license to use, reproduce, modify, maintain, support, update, have made, and create Derivative Works. Further, the State shall have the right to use the Source Code Escrow Package in order to maintain and support the Licensed Software so that it can be used by the State as set forth in this Contract.
- (i) Derivative Works. Any Derivative Works to the source code released from escrow, which are made by or on behalf of the State, shall be the sole property of the State. The State acknowledges that its ownership rights are limited solely to the Derivative Works and do not include any ownership rights in the underlying source code.

#### 2.314 WEBSITE INCORPORATION

State expressly states that it will not be bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

### 2.4 Contract Review and Evaluation

#### 2.401 CONTRACT COMPLIANCE INSPECTOR

Upon receipt at Acquisition Services of the properly executed Contract Agreement(s), the person named below will be allowed to oversee the Contract performance on a day-to-day basis during the term of the Contract. However, overseeing the Contract implies **no authority to negotiate, change, modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such Contract(s). That authority is retained by Acquisition Services.** The Contract Compliance Inspector for this project is:

Melanie Ashley  
Department of Information Technology  
Contracts and Procurement Services  
7285 Parsons Dr.  
Operations Center 1SC  
Lansing, MI 48913  
[Maashle@michigan.gov](mailto:Maashle@michigan.gov)  
517-636-6407  
fax: 517-636-6303

#### 2.402 PERFORMANCE REVIEWS

Acquisition Services in conjunction with the [DIT](#) may review with the Contractor their performance under the Contract. Performance reviews shall be conducted quarterly, semi-annually or annually depending on Contractor's past performance with the State. Performance reviews shall include, but not limited to, quality of products/services being delivered and provided, timeliness of delivery, percentage of completion of orders, the amount of back orders, status of such orders, accuracy of billings, customer service, completion and submission of required paperwork, the number of substitutions and the reasons for substitutions, and other requirements of the Contract.

Upon a finding of poor performance, which has been documented by Acquisition Services, the Contractor shall be given an opportunity to respond and take corrective action. If corrective action is not taken in a reasonable amount of time as determined by Acquisition Services, the Contract may be canceled for default.



Delivery by the Contractor of unsafe and/or adulterated or off-condition products to any State agency is considered a material breach of Contract subject to the cancellation provisions contained herein.

**2.403 AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS**

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of the Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.

**2.5 Quality and Warranties**

**2.501 PROHIBITED PRODUCTS**

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Acquisition Services has approved a change.

**2.502 RESERVED**

**2.503 RESERVED**

**2.504 GENERAL WARRANTIES (goods)**

*Warranty of Merchantability* – Goods provided by vendor under this agreement shall be merchantable. All goods provided under this contract shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the vendor or on the container or label.

*Warranty of fitness for a particular purpose* – When vendor has reason to know or knows any particular purpose for which the goods are required, and the State is relying on the vendor's skill or judgment to select or furnish suitable goods, there is a warranty that the goods are fit for such purpose.

*Warranty of title* – Vendor shall, in providing goods to the State, convey good title in those goods, whose transfer is right and lawful. All goods provided by vendor shall be delivered free from any security interest, lien, or encumbrance of which the State, at the time of contracting, has no knowledge. Goods provided by vendor, under this agreement, shall be delivered free of any rightful claim of any third person by of infringement or the like.

**2.505 CONTRACTOR WARRANTIES**

The Contract will contain customary representations and warranties by the Contractor, including, without limitation, the following:

1. The Contractor will perform all services in accordance with high professional standards in the industry;
2. The Contractor will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services;
3. The Contractor will use its best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the State;
4. The Contractor will use its best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance;



5. The Contractor will perform the services in a manner that does not infringe the proprietary rights of any third party;
6. The Contractor will perform the services in a manner that complies with all applicable laws and regulations;
7. The Contractor has duly authorized the execution, delivery and performance of the Contract;
8. The Contractor is capable in all respects of fulfilling and shall fulfill all of its obligations under this contract.
9. The contract appendices, attachments, and exhibits identify all equipment and software services necessary for the deliverable(s) to perform and operate in compliance with the contract's requirements.
10. The Contractor is the lawful owner or licensee of any Deliverable licensed or sold to the state by Contractor or developed by Contractor under this contract, and Contractor has all of the rights necessary to convey to the state the ownership rights or license use, as applicable, of any and all Deliverables.
11. If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to such items as set forth in this Contract, Contractor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
12. The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter this contract, on behalf of Contractor.
13. The Contractor is qualified and registered to transact business in all locations where required.
14. Neither the Contractor nor any Affiliates, nor any employee of either, has, shall have, or shall acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.
15. All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the ITB or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse changes in the business, properties, financial condition, or results of operations of Contractor. All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, it true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

#### **2.506 STAFF**

The State reserves the right to approve the Contractor's assignment of Key Personnel to this project and to recommend reassignment of personnel deemed unsatisfactory by the State.



The Contractor shall not remove or reassign, without the State's prior written approval any of the Key Personnel until such time as the Key Personnel have completed all of their planned and assigned responsibilities in connection with performance of the Contractor's obligations under this Contract. The Contractor agrees that the continuity of Key Personnel is critical and agrees to the continuity of Key Personnel. Removal of Key Personnel without the written consent of the State may be considered by the State to be a material breach of this Contract. The prohibition against removal or reassignment shall not apply where Key Personnel must be replaced for reasons beyond the reasonable control of the Contractor including but not limited to illness, disability, resignation or termination of the Key Personnel's employment.

## 2.507 SOFTWARE WARRANTIES

### (a) Performance Warranty

The Contractor represents and warrants that Deliverables, after Final Acceptance, will perform and operate in compliance with the requirements and other standards of performance contained in this Contract (including all descriptions, specifications and drawings made a part of the Contract) for a period of ninety (90) days. In the event of a breach of this warranty, Contractor will promptly correct the affected Deliverable(s) at no charge to the State.

### (b) No Surreptitious Code Warranty

The Contractor represents and warrants that no copy of licensed Software provided to the State contains or will contain in any Self-Help Code or any Unauthorized Code as defined below. This warranty is referred to in this Contract as the "No Surreptitious Code Warranty."

As used in this Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than the licensee of the software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

As used in this Contract, "Unauthorized Code" means any virus, Trojan horse, spyware, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code.

In addition, Contractor will use up-to-date commercial virus detection software to detect and remove any viruses from any software prior to delivering it to the State.

### (c) Calendar Warranty

The Contractor represents and warrants that all software for which the Contractor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure calendar year rollover compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive



data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

(d) Third-party Software Warranty

The Contractor represents and warrants that it will disclose the use or incorporation of any third-party software into the Deliverables. At the time of Delivery, the Contractor shall provide in writing the name and use of any Third-party Software, including information regarding the Contractor's authorization to include and utilize such software. The notice shall include a copy of any ownership agreement or license that authorizes the Contractor to use the Third-party Software.

## **2.508 EQUIPMENT WARRANTY**

To the extent Contractor is responsible under this Contract for maintaining equipment/system(s), Contractor represents and warrants that it will maintain such equipment/system(s) in good operating condition and will undertake all repairs and preventive maintenance in accordance with the applicable manufacturer's recommendations for the period specified in this Contract.

The Contractor represents and warrants that the equipment/system(s) shall be in good operating condition and shall operate and perform to the requirements and other standards of performance contained in this Contract, when installed, at the time of Final Acceptance by the State, and for a period of one (1) year commencing upon the first day following Final Acceptance.

Within (7) seven business days of notification from the State, the Contractor shall adjust, repair or replace all equipment that is defective or not performing in compliance with the Contract. The Contractor shall assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

The Contractor shall provide a toll-free telephone number to allow the State to report equipment failures and problems to be remedied by the Contractor.

The Contractor agrees that all warranty service it provides under this Contract shall be performed by original equipment manufacturer (OEM) trained, certified and authorized technicians.

The Contractor shall act as the sole point of contact for warranty service. The Contractor warrants that it shall pass through to the State any and all warranties obtained or available from the original equipment manufacturer, including any replacement, upgraded, or additional equipment warranties.

## **2.509 PHYSICAL MEDIA WARRANTY**

Contractor represents and warrants that each licensed copy of the Software provided by the Contractor is free from physical defects in the media that tangibly embodies the copy. This warranty does not apply to defects discovered more than thirty (30) days after that date of Final Acceptance of the Software by the State. This warranty does not apply to defects arising from acts of Excusable Failure. If the Contractor breaches this warranty, then the State shall be entitled to replacement of the non-compliant copy by Contractor, at Contractor's expense (including shipping and handling).

## **2.6 Breach of Contract**

### **2.601 BREACH DEFINED**

Failure to comply with articles, sections, or subsections of this agreement, or making any false statement in this agreement will be considered a material breach of this agreement giving the state authority to invoke any and all remedies available to it under this agreement.



In addition to any remedies available in law and by the terms of this contract, if the Contractor breaches Sections 2.508, 2.509, or 2.510, such a breach may be considered as a default in the performance of a material obligation of this contract.

## **2.602 NOTICE AND THE RIGHT TO CURE**

In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

## **2.603 EXCUSABLE FAILURE**

1. Neither party shall be liable for any default or delay in the performance of its obligations under the Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under the Contract (either itself or through another contractor); injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans. In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.
2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected services from an alternate source, and the State shall not be liable for payments for the unperformed services under the Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of the Contract so affected and the charges payable hereunder shall be equitably adjusted to reflect those services canceled; or (c) the Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. The Contractor will not have the right to any additional payments from the State as a result of any excusable failure occurrence or to payments for services not rendered as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its subcontractors will not relieve the Contractor of its obligations under the Contract except to the extent that a subcontractor is itself subject to any excusable failure condition described above and the Contractor cannot reasonably circumvent the effect of the subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

## **2.7 Remedies**

### **2.701 CANCELLATION**

The State may cancel this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents, and employees for any of the following reasons:



1. Material Breach by the Contractor. In the event that the Contractor breaches any of its material duties or obligations under the Contract, which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of cancellation to the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the State by law or equity, the Contractor shall be responsible for all costs incurred by the State in canceling the Contract, including but not limited to, State administrative costs, attorneys fees and court costs, and any additional costs the State may incur to procure the services required by this Contract from other sources. All excess re-procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise included in the Contract.

In the event the State chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

In the event this Contract is cancelled for cause pursuant to this section, and it is therefore determined, for any reason, that the Contractor was not in breach of contract pursuant to the provisions of this section, that cancellation for cause shall be deemed to have been a cancellation for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in the Contract for a cancellation for convenience.

2. Cancellation For Convenience By the State. The State may cancel this Contract for its convenience, in whole or part, if the State determines that such a cancellation is in the State's best interest. Reasons for such cancellation shall be left to the sole discretion of the State and may include, but not limited to (a) the State no longer needs the services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the State. The State may cancel the Contract for its convenience, in whole or in part, by giving the Contractor written notice 30 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.
3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.
4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Contractor's business integrity.



5. Approvals Rescinded. The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

## 2.702 RIGHTS UPON CANCELLATION

**Termination Assistance.** If this Contract (or any Statement of Work issued under it) is terminated for any reason prior to completion, Contractor agrees to provide for up to six (6) months after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. Such termination assistance shall be at no additional charge to the State if the termination is for Contractor's Default pursuant to Section 2.602; otherwise the State shall compensate Contractor for such termination assistance on a time and materials basis in accordance with the Amendment Labor Rates identified within this Contract agreement.

## 2.703 LIQUIDATED DAMAGES

Reserved.

## 2.704 STOP WORK

1. The State may, at any time, by written stop work order to the Contractor, require that the Contractor stop all, or any part, of the work called for by this Contract for a period of up to 90 days after the stop work order is delivered to the Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this section. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either:
  - a) Cancel the stop work order; or
  - b) Cancel the work covered by the stop work order as provided in the cancellation section of this Contract.
2. If a stop work order issued under this section is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
  - a) The stop work order results in an increase in the time required for, or in the Contractor's costs properly allocable to the performance of any part of this Contract; and
  - b) The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
3. If the stop work order is not canceled and the work covered by the stop work order is canceled for reasons other than material breach, the State shall allow reasonable costs resulting from the stop work order in arriving at the cancellation settlement.



4. If a stop work order is not canceled and the work covered by the stop work order is canceled for material breach, the State shall not allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.

An appropriate equitable adjustment may be made in any related contract of the Contractor that provides for adjustment and is affected by any stop work order under this section. The State shall not be liable to the Contractor for loss of profits because of a stop work order issued under this section.

**2.705 SUSPENSION OF WORK**

The Contract Administrator may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contract Administrator determines appropriate for the convenience of the Government.

If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contract Administrator in the administration of this contract, or (2) by the Contract Administrator's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

A claim under this clause shall not be allowed:

- (1) For any costs incurred more than 20 days before the Contractor shall have notified the Contract Administrator in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and
- (2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

**2.8 Changes, Modifications, and Amendments**

**2.801 APPROVALS**

The Contract may not be modified, amended, extended, or augmented except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

**2.802 TIME EXTENTIONS**

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of performance as described in the statement of work. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

**2.803 MODIFICATION**

Acquisition Services reserves the right to modify this contract at any time during the contract term. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be performed, addition or deletion of tasks to be performed, addition or deletion of items, and/or any other modifications deemed necessary. Any changes in pricing proposed by the Contractor resulting from the proposed changes are subject to



acceptance by the State. Changes may be increases or decreases. IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.

**The State reserves the right to add an item(s) that is not described on the item listing and is available from the Contract vendor.** The item(s) may be included on the Contract, only if prior written approval has been granted by Acquisition Services.

#### **2.804 AUDIT AND RECORDS UPON MODIFICATION**

DEFINITION: records includes books, documents, accounting procedures and practices, and other data, regardless of whether such items are in written form, electronic form, or in any other form

Contractor shall be required to submit cost or pricing data with the pricing of any modification of this contract to the Contract Administrator in Acquisition Services. Data may include accounting records, payroll records, employee time sheets, and other information the state deems necessary to perform a fair evaluation of the modification proposal. Contract Administrator or authorized representative of the state shall have the right to examine and audit all of the contractor's records, including computations and projections, related to:

1. The proposal for modification;
2. The discussions conducted on the proposal, including those related to negotiation;
3. Pricing of the modification; or
4. Performance of the modification.

Contractor shall make available at its office at all reasonable times the materials described in the paragraphs above.

If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

#### **2.805 CHANGES**

- (a) The Contract Administrator may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes:
  - (1) In the specifications (including drawings and designs);
  - (2) In the method or manner of performance of the work;
  - (3) In the Government-furnished facilities, equipment, materials, services, or site; or
  - (4) Directing acceleration in the performance of the work.
- (a) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contract Administrator that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contract Administrator written notice stating:
  - (1) The date, circumstances, and source of the order; and
  - (2) That the Contractor regards the order as a change order.
- (b) Except as provided in this clause, no order, statement, or conduct of the Contract Administrator shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.



**3.00 LIABILITY INSURANCE**

**A. Insurance**

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Contractor’s performance of services under the terms of this Contract, whether such services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The Contractor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain pursuant to this Contract.

All insurance coverage provided relative to this Contract/Purchase Order is PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.

The insurance shall be written for not less than any minimum coverage specified in this Contract or required by law, whichever is greater.

The insurers selected by Contractor shall have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. Companies that have been approved to do business in the State shall issue all policies of insurance required in this Contract.

See [www.michigan.gov/cis](http://www.michigan.gov/cis)

Where specific limits are shown, they are the minimum acceptable limits. If Contractor’s policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits.

Before both parties sign the Contract or before the purchase order is issued by the State, the Contractor must furnish to the Director of Acquisition Services, certificate(s) of insurance verifying insurance coverage (“Certificates”). The Certificate must be on the standard “accord” form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) shall contain a provision indicating that coverage afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Acquisition Services, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Acquisition Services, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State’s sole option, result in this Contract’s termination.

The Contractor is required to pay for and provide the type and amount of insurance checked **below**:

1. Commercial General Liability with the following minimum coverage:

\$2,000,000	General Aggregate Limit other than Products/Completed Operations
\$2,000,000	Products/Completed Operations Aggregate Limit
\$1,000,000	Personal & Advertising Injury Limit
\$1,000,000	Each Occurrence Limit
\$500,000	Fire Damage Limit (any one fire)



The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

2. If a motor vehicle is used to provide services or products under this Contract, the Contractor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Contractor's business for bodily injury and property damage as required by law.

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If a self-insurer provides the applicable coverage, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Any certificates of insurance received must also provide a list of states where the coverage is applicable.

The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision shall not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

4. Employers liability insurance with the following minimum limits:

\$100,000	each accident
\$100,000	each employee by disease
\$500,000	aggregate disease

5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of one million dollars (\$1,000,000.00) with a maximum deductible of fifty thousand dollars (\$50,000.00).
6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars (\$10,000,000.00), which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.
7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars (\$3,000,000.00) each occurrence and three million dollars (\$3,000,000.00) annual aggregate.
8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of such office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to the replacement value thereof, where such office space and its contents are under the care, custody and control of Contractor. Such policy shall cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State shall be endorsed on the policy as a loss payee as its interests appear.

**B. Subcontractors**

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section. Subcontractor(s) shall fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

**C. Certificates of Insurance and Other Requirements**

Contractor shall furnish to the Office of Acquisition Services certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds, but only to the extent of liabilities assumed by Contractor as set forth in Indemnification Section of this Contract, under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

**Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.**

**4.00 WORKPLACE DISCRIMINATION**

The Contractor represents and warrants that in performing services for the State pursuant to this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental handicap or disability. The Contractor further agrees that every subcontract entered into for the performance of any Contract or purchase order resulting here from will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2201, et seq., and the Persons With Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, et seq., and any breach thereof may be regarded as a material breach of the Contract or purchase order.

Vendor hereby represents that in performing this contract it will not violate The Civil Rights Act of 1964, USCS Chapter 42, including, but not limited to, Title VII, 42 USCS §§ 2000e et seq.; the Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.; or The Age Discrimination in Employment Act of 1967



(ADEA), 29 USCS §§ 621, 623 et seq.; the Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626 et seq.; the Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.; or the Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.

\_\_\_\_\_ (Initial)

**5.00 LABOR RELATIONS**

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, et seq., the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an **unfair labor practice** compiled pursuant to Section 2 of the Act. A Contractor of the State, in relation to the Contract, shall not enter into a Contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to Section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Contractor as an employer, or the name of the subcontractor, manufacturer or supplier of the Contractor appears in the register.

The Contractor represents and warrants that the company does not appear in the current register of employers failing to correct an unfair labor practice.

\_\_\_\_\_ (Initial)



**APPENDIX A - LICENSE AGREEMENT**

**Deliverables and Compensation**

<b>Software Products</b>	<b>User Licenses</b>	<b>License Fees</b>
Accela Wireless™ Remote Access Server (RAS) License	1	\$34,995.00
Accela Wireless User Licenses	110	\$79,960.00 <sup>1</sup>
<b>Total of License Fees</b>		<b>\$</b>

<sup>1</sup> Total of 110 user licenses comprises the following: ten (10) user licenses included at no additional charge with Accela Wireless RAS License; forty (40) additional user licenses purchased at a per-license rate of \$1,999.00, for a total of \$79,960.00 in additional fees; and sixty (60) user licenses provided at no charge as a replacement for, and not in addition to, Customer’s existing implementation of Accela Wireless software.

All License Fees are fixed price deliverables for which payment is due upon signing.



**APPENDIX B - SERVICES AGREEMENT**

Professional Services Accela will provide the implementation services.

Services	Services Fees
Implementation Services for Accela Wireless™	\$25,615.00 <sup>1</sup>
<b>Total of Services Fees</b>	

<sup>1</sup> Total number of services hours not to exceed eighty (80), to be billed on a time-and-materials basis at a rate of \$250.00 per hour. Number of hours and quoted amount represent good-faith estimates of anticipated services required, made by Accela based upon available information; any additional implementation services required will be charged to Customer at Accela's then-current hourly consulting rates. Accela will not proceed with any such additional work without prior, written, and specific Customer authorization.



**APPENDIX C - DELIVERABLES AND COMPENSATION**

<b>Application</b>	<b>User Licenses</b>	<b>Maintenance Fees</b>
Accela Wireless™	110 <sup>1</sup>	\$54,576.20 <sup>2</sup>
	<b>Total of Maintenance Fees</b>	<b>\$</b>

- <sup>1</sup> One (1) Accela Wireless Remote Access Server (RAS) License is maintained herewith, but is not separately-priced for maintenance purposes.
- <sup>2</sup> Includes maintenance charges for all user licenses, including licenses provided to Customer at no charge and at no additional charge.

All Maintenance Fees are fixed price deliverables for which payment is due upon signing.



LEADING THE WAY

## **Statement of Work**

### **Customized Accela Services**

*Accela is a leading developer of integrated software, web-based and wireless solutions for state and local governments. We provide agencies with products and services that reduce workload, increase efficiencies and automate processes, while providing citizens and businesses with easier, more convenient access to government services. Accela has more than two decades of experience developing and installing government applications for permitting, licensing, planning, code enforcement, public works and more. Today, Accela provides software products and services to over 500 government agencies all over the U.S., as well as in Canada and Puerto Rico.*

*Accela's customized services help state and local governments deploy tailored applications and solutions -- providing comprehensive analysis, design, development and deployment services.*

#### **Prepared for:**

**State of Michigan  
2501 Woodlake Circle, Suite 116  
Okemos, MI 48864**

**Project Name: State of Michigan Accela Wireless Implementation  
Date: January 18, 2005**

*Submitted by:*  
**Edward Ausherman  
VP, Account Services Manager**



Corporate Guidelines:  
Documentation Cover Sheet and Table of Contents Instructions

Effective **G**overnment **S**olutions for your citizens and staff

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**Introduction**

This Statement of Work (“SOW”) dated October 7, 2004 sets forth a scope and definition of the consulting/professional services, work and/or project (collectively, the “Services”) to be provided by Accela, Inc. (“Accela”) to the City Sterling Heights, Michigan (“Agency”). This SOW is a subsidiary document to the License and Services agreement (“Agreement”) between the parties, and shall remain unchanged and in full force and effect.

**Contact Information**

Company Information	Company Contact
State of Michigan 2501 Woodlake Circle, Suite 116 Okemos, MI 48864	<p style="text-align: center;"><b>Primary Contact</b></p> Pam Braatz 2501 Woodlake Circle, Suite 116 / PO Box 30254 Lansing, MI Okemos, MI 48864 (517) 241-9345 <a href="mailto:pbraat@michigan.gov">pbraat@michigan.gov</a>
	<p style="text-align: center;"><b>Billing Contact</b></p> Name: Title: Address: City, State, Zip: Phone: Fax: E-Mail:

Accela Information	Accela Contact
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<p><b>Accela, Inc</b>                  Accela Headquarters                  4160 Dublin Blvd., Suite 128                  Dublin, CA 94568                  Tel: 925-560-6577                  Fax: 925-560-6570  <a href="http://www.accela.com/">http://www.accela.com/</a></p>	<p><b>Services Executive / Director</b>                  Edward Ausherman                  VP, Account Services Manager                  1731 W. Walnut Ave.                  Visalia, CA 93277                  559-627-1959 x128                  559-627-4906                  eausherman@accela.com</p> <p><b>Sales Account Manager</b>                  Sean Morgan                  Regional Account Manager                  4160 Dublin Blvd., Suite 128                  Dublin, CA 94568                  978-692-2339                  978-392-9666                  smorgan@accela.com</p>
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**Services Description**

The following information provided is in response to Agency’s request for a Wireless solution provided by Accela, Inc.

**Purpose**

Working in conjunction with Agency, Accela will perform Services as defined in this SOW on fixed price basis to help Agency implement the following:

- Provide an Agency hosted Wireless solution
- Set-Up of client hardware for Inspection devices
- Training of inspectors
- Accela Project Administration as necessary

All Deliverables associated with these Services are described in the Work Description Section.

**Knowledge Transfer**

Accela will make reasonable efforts to provide knowledge transfer for Agency as specific Agency roles participate in the development, configuration and deployment of the system. While Accela cannot guarantee any particular expertise for Agency staff, Agency will make reasonable efforts to transfer as much knowledge as possible to Agency staff throughout the Services both onsite and offsite. Agency acknowledges that their staff needs to be actively involved throughout the entire duration of Services for this to be successful.

**Change Orders**

In the event that Agency or Accela requests the execution of a Change Order to Services contracted for in this SOW, the parties shall cooperate to evaluate the impact of such potential

changes and the change in fees, if applicable. The parties may amend the scope and fees of such Services by execution of a Change Order by the parties.

### Assumptions

- Agency and Accela will review their responsibilities before work begins to ensure that Services can be satisfactorily completed.
- Agency will provide Accela with reasonable access to its equipment, systems, personnel, and facilities to the extent needed to complete the Services.

### Work Description

Description
<p style="color: red;"><u><i>Deliverable 1: Prepare Test Environment, Install and Configure Software (Agency Hosted Wireless Solution)</i></u></p> <p><b>Definition:</b></p> <ol style="list-style-type: none"> <li>1. Create Test Environment of Permitting System (<i>Agency Responsibility</i>)</li> <li>2. Upgrade Inspection Module (if needed) (<i>Agency Responsibility</i>)</li> <li>3. Input Guide Sheets and Standard Comments (<i>Agency Responsibility</i>)</li> <li>4. Configure Inspection Module for User Groups (<i>Agency Responsibility</i>)</li> <li>5. Install and configure Subscription Server (<i>Accela Responsibility</i>)</li> <li>6. Install Application Server and Configure for Test/Production Environment (<i>Accela Responsibility</i>)</li> <li>7. Test Wireless Client (<i>Accela Responsibility</i>)</li> <li>8. Support Site Complete (<i>Accela Responsibility</i>)</li> </ol> <p style="color: red;"><u><i>Deliverable 2: Review Accela Wireless with Agency</i></u></p> <p><b>Definition:</b></p> <ol style="list-style-type: none"> <li>1. Review Site Configuration and Business Analysis (<i>Agency/Accela Responsibility</i>)</li> <li>2. Guidesheets and Standard Comments Reviewed and Accepted (<i>Agency/Accela Responsibility</i>)</li> <li>9. Review and Customize Labels and Additional Data Items (If Required) (<i>Accela Responsibility</i>)</li> <li>3.</li> <li>4. Train on Installation of Wireless Client (<i>Agency/Accela Responsibility</i>)</li> <li>5. Train on Configuration of Wireless Client (<i>Agency/Accela Responsibility</i>)</li> <li>6. Train-the-Trainer for Accela Wireless (<i>Agency/Accela Responsibility</i>)</li> <li>7. Train the Inspectors (<i>Agency/Accela Responsibility</i>)</li> <li>8. Finalize Production Rollout (<i>Agency/Accela Responsibility</i>)</li> <li>9. Agency Ready for Implementation (<i>Agency/Accela Responsibility</i>)</li> </ol> <p style="color: red;"><u><i>Deliverable 3: Prepare Production Site</i></u></p> <p><b>Definition:</b></p> <ol style="list-style-type: none"> <li>1. Upgrade Inspection Module (If Needed) (<i>Agency Responsibility</i>)</li> <li>2. Upgrade Client Workstations for Permitting System (<i>Agency</i>)</li> </ol>

<p><b><i>Responsibility</i></b></p> <ol style="list-style-type: none"> <li>3. Upgrade Permitting System Database (<b><i>Agency Responsibility</i></b>)</li> <li>4. Verify Configuration of Subscription Server (<b><i>Accela Responsibility</i></b>)</li> <li>5. Convert Guidesheets from Support (<b><i>Accela Responsibility</i></b>)</li> <li>6. Configure Inspection Module for User Groups (<b><i>Agency Responsibility</i></b>)</li> <li>7. Test Wireless Client (<b><i>Accela Responsibility</i></b>)</li> <li>8. Production Site Complete (<b><i>Accela Responsibility</i></b>)</li> </ol>
<p><b><u>Accela Project Administration</u></b></p> <p>Accela Project Management helps ensure the Services are planned and executed in accordance with the Scope of Services defined in this SOW. Accela generally provides the following Project Administration Services as a part of an engagement:</p> <p><b><u>Project Administration Services</u></b></p> <ul style="list-style-type: none"> <li>• Change Order Management</li> <li>• Issue Management and Escalation</li> <li>• Issue Log Management</li> <li>• Status Reports</li> <li>• Project Workspace Management</li> <li>• Project Plan Management</li> <li>• Resources Management</li> <li>• Meetings Management</li> <li>• Services Review and Advice</li> <li>• Risk Management</li> </ul>

### **Acceptance**

The Services contracted for in this SOW will be considered Accepted when all Deliverables defined in the Work Description Section have been Accepted by Agency as defined for each Deliverable.

### **Resources and Location of Work**

#### **Work Location**

Services contracted for, under this SOW may be performed at the locations listed in Table 1: Work Location.

**Table 1: Work Location**

Agency Work Location(s)	Accela Work Location(s)
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<p>State of Michigan 2501 Woodlake Circle, Suite 116 Okemos, MI 48864</p>	<p><b>Accela Corporate Headquarters</b> 4160 Dublin Blvd., Suite 128 Dublin CA, 94568 Tel: 925-560-6577 Fax: 925-560-6570 Restrictions: none</p> <p><b>West Coast Division</b> 1731 West Walnut Ave Visalia, CA 93277 Tel: 559-627-1959 Fax) 559-627-4906 Restrictions: none</p> <p><b>Any Accela Division Offices or as required by Accela</b></p>
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**Accela Resources**

Agency hereby acknowledges and agrees that it is engaging Accela Professional Services roles (“Roles”), as defined in Table 2: Accela Engagement Team, and not specific resources (i.e., individuals). All decisions relating to the staffing of specific resources to Roles shall be at Accela’s discretion and are subject to change. Accela will make reasonable efforts to staff resources for this SOW in a timely manner. A list of the specific resources staffed to Roles for this SOW as of the date of execution of this SOW is set forth in Table 2: Accela Engagement Team. Agency further acknowledges and agrees that Accela shall have the right to use third parties to fulfill its obligations hereunder (including but not limited to assigning third parties to Roles). For the purposes of this SOW, all references to Accela or its employees shall be deemed to include such third parties. Agency agrees to provide Accela with Ten(10) business days notice of its desire to remove or replace a resource assigned to a Role.

**Table 2: <sup>1</sup>Accela Engagement Team**

<b>Roles</b>	<b>Person(s)</b>	<b>Phone / Email</b>
VP, Account Services Manager	Edward Ausherman	Tel: 559-627-1959 x115 Email: eausherman@accela.com
Project Manager	tbd	Tel: Email:
Implementation Specialist	tbd	Tel: Email:

**Agency Resources**

<sup>1</sup> Accela will provide qualified staff experienced in a combination of management, deployment and configuration of Accela software, best practices, and general technologies.

Agency must provide the following personnel to work together with the Accela Engagement Team for these Services and that Agency will make available additional resources as needed for the Services to be successful. In addition, Agency will provide all necessary technical resources to make appropriate modifications within any Agency systems wishing to integrate with any Accela systems. These resources must be proficient in Agency coding/development environment and tools, to make the required changes to their software to enable integration and must be available during the timeframe of these Services. Additionally, Agency should identify 3 – 5 users of the system to be trained as “evangelists/trainer” for the new system.

Roles	Person(s)	Phone / Email
<p><b>Executive Sponsor:</b></p> <p>Represents Agency Senior Management, approves these Services, and acts as senior point of escalation within Agency.</p>	<p>name title</p>	<p>Tel: Cell: Email:</p>
<p><b>Project Manager:</b></p> <p>Dedicated to work with the Accela Project Manager to meet the objectives of these Services. This person should have day-to-day responsibility for overseeing the Accela implementation from the Agency perspective. The Project Manager should review any project plans or schedules, ensure execution of Agency tasks, and secure commitment and co-operation from other departments of Agency when needed. This person will function as a single point of contact for Accela. The Project Manager will be responsible for defining and managing the processes associated with carrying out the objectives of the Services for Agency-side work.</p>	<p>name title</p>	<p>Tel: Cell: Email:</p>
<p><b>Technology Manager:</b></p> <p>Represent the interests of Agency’s technology executive and operations departments. The Technology Manager must be able to represent Agency’s technology needs and requirements.</p>	<p>name title</p>	<p>Tel: Cell: Email:</p>
<p><b>Business Manager:</b></p> <p>Represents the interests of the Agency’s business executive and department(s). Will validate requirements, design and sign off on user acceptance.</p>	<p>name title</p>	<p>Tel: Cell: Email:</p>
<p><b>End User:</b></p> <p>Represents the needs and interests of the intended everyday users of the Accela system. The user need not have any particular technology expertise.</p>	<p>name title</p>	<p>Tel: Cell: Email:</p>

<p>The End User(s) must have day-to-day familiarity with, and responsibility for, the business process that will be enhanced through the use of the Accela system and the kinds of information that will be stored in the Accela system. Inclusion of representatives from all departments using the system is encouraged.</p>		
<p><b>Stakeholder:</b>  Represents those individuals, over and above those already named, who have played an active role in evaluating and purchasing Accela software, and/or who can accurately represent the information needs of major user groups at an executive level. Stakeholder(s) may or may not be everyday users of the system once it is deployed.</p>	<p>name title</p>	<p>Tel: Cell: Email:</p>

### Pricing Summary

As set forth in the Agreement, Agency shall compensate Accela and Agency will be billed for all Services, performed at all Work Locations, on a milestone basis as described in **Table 3: Schedule of Fees**. These hourly rates are subject to change. If these rates change, Accela will provide Company with notice of the change in advance.

### Payments

**Table 3: Schedule of Payments**

Milestone Payment	Amount
<p>Milestone 1 100% of total server software, additional licenses, and maintenance costs are due upon letter of acceptance or purchase order.</p>	<p>\$ 114,955.00</p>
<p>Milestone 2 50% of total installation services are due upon letter of acceptance or purchase order.</p>	<p>\$ 12,807.50</p>
<p>Milestone 3 Remaining 50% of total installation services are due upon delivery.</p>	<p>\$ 12,807.50</p>
<p><b>Services Estimate</b></p>	<p><b>\$ 140,570.00</b></p>
<p><b>*Total Services Estimate + Expenses</b></p>	<p><b>\$ 25,615.00</b></p>

**\*All quotes in this SOW represent Accela’s good faith estimate to complete the Services described above. All payments quoted in Table 3: Schedule of Fees above, apply only to Services specified in this SOW.**

**Material changes to the Scope of Services, for any reason, will require the completion of a Change Order, signed by both parties, prior to the commencement of the work.**

**Invoicing and Payment Terms**

Invoices for Services and expenses shall be generated as outlined in Table 3: Schedule of Payments. Expenses may be invoiced separately.

Agency agrees to pay all invoices upon receipt and is responsible for all applicable taxes associated with these Services. Accela reserves the right to discontinue the provision of Services under this SOW in the event that Agency fails to continue to make timely payment of fees and expenses due hereunder.

**Signature**

**Agency acknowledges that it has read this SOW, understands it and agrees to be bound by its terms and conditions. Further, Agency agrees that this SOW, including all documents and change orders referred to herein and attached hereto, constitutes the entire agreement of the parties on the subject matter hereof and supercedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter hereof. The parties agree that this Agreement cannot be altered, amended or modified, except in writing that is signed by an authorized representative of both parties.**

Accepted By: <b>&lt;Agency&gt;</b>  <i>&lt;Be sure to replace “Agency” in this situation with the actual Agency name, like City of Dublin... &gt;</i>	Accepted By: <b>Accela, Inc.</b>
By:	By:
Print Name:	Print Name:
Title:	Title:
Date:	Date:

