

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

March 26, 2024

FROM

**LYNN FYHRLUND, Chief Information Officer, Innovation and Technology Department
MARK WARDLAW, Director, Land Use Services**

SUBJECT

Agreements with Accela, Inc. for Cloud Migration Services, Software as a Service Licensing and Cloud Services

RECOMMENDATION(S)

1. Approve the Subscription Services **Agreement No. 24-251** with Accela, Inc., including non-standard terms, for software and licensing effective March 26, 2024, until expiration of any subscription periods set forth in an order governed by the Subscription Services Agreement.
2. Approve Statement of Work (**Agreement No. 24-252**) with Accela, Inc. to perform cloud migration services, in an amount not-to-exceed \$235,000 for the period March 26, 2024 through March 25, 2025.
3. Approve the Order Form (**Agreement No. 24-253**) with Accela, Inc. for Countywide purchases of Accela Software as a Service licensing and cloud services, in the amount not-to-exceed \$6,400,000, for the period of April 15, 2024 through April 14, 2029.
4. Authorize the Purchasing Agent to approve future Purchase Orders for purchase amounts as authorized by County Policy, not to exceed the aggregate amount of \$6,400,000 for the period of April 15, 2024 through April 14, 2029.
5. Authorize the Chief Information Officer or Assistant Chief Information Officer to approve amendments to the Accela, Inc. Subscription Services Agreement and to execute Change Orders to the Statement of Work if needed for additional services, provided that such amended terms or Change Orders will not substantively modify the terms of the original agreement or Statement Work, or increase the total not-to-exceed amount of \$235,000, subject to review by County Counsel.
6. Direct the Chief Information Officer or Assistant Chief Information Officer to transmit any updates to the Subscription Services Agreement, and Change Orders to the Statement of Work with Accela, Inc., to the Clerk of the Board of Supervisors within 30 days of execution.
7. Authorize the Auditor-Controller/Treasurer/Tax Collector to post budget adjustments in the amount of \$492,629 to the 2023-24 Land Use Services budget for the purchase of Accela, Inc. Software as a Service licensing and cloud services, as detailed in the Financial Impact section.

(Presenter: Lynn Fyhrlund, Chief Information Officer, 388-5501)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

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Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). The one-time cost of \$235,000 for the Statement of Work (SOW) for the migration from the Accela, Inc. (Accela) On-Premise Civic Platform solution to Software as a Service (SaaS), will be funded by the opportunity funds allocated as part of the 2023-24 budget to be utilized to pursue innovations in technology and business practices. Half of this payment is due upon execution of the SOW and the other half is due upon migration completion. Sufficient appropriation for the first half of this payment is included in the County Administrative Office 2023-24 budget, and the remaining half of this payment will be included in the applicable future recommended budget.

The estimated five-year cost for SaaS licensing and cloud services is \$5,503,264, of the total \$6,400,000 requested with the Accela Order Form. The remaining not-to-exceed amount of \$896,736 will allow the County to add additional SaaS licensing, as needed, during the five-year period. Departments that utilize Accela through the SaaS are responsible for ensuring there is adequate appropriation within their respective annual departmental budgets for the licenses and services. The five-year costs of licensing and services, for the departments utilizing Accela and any additional SaaS licensing, for the period of April 15, 2024 through April 14, 2029, are as follows:

Department/Agency/Other	Licensing Costs
County Administrative Office	\$60,310
County Fire	\$964,956
Economic Development Agency	\$75,387
Innovation and Technology	\$105,542
Land Use Services	\$2,533,009
Public Health	\$135,697
Public Works	\$1,568,053
Special Districts	\$60,310
Additional SaaS Licensing	\$896,736
Total	\$6,400,000

The following adjustments are requested within the 2023-24 Land Use Services budget for the purchase of Accela SaaS licensing and cloud services:

Fund Center	Commitment Item	Description	Action	Amount
6910001000	51001010	Regular Salary	Decrease	\$492,629
6910001000	52002115	Computer Software Expense	Increase	\$492,629

Sufficient appropriation is included in the remaining department's 2023-24 budgets and will be included in future recommended budgets for all departments.

BACKGROUND INFORMATION

The Accela On-Premise Civic Platform (Platform) solution has been utilized by various County departments since 2014 for online permitting, licensing, code enforcement, service request management, and data tracking services. Specifically, Accela's Platform brings together a host of pre-built solutions for County services, including building, planning, business licensing,

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environmental health, and fire safety. Through the Accela Platform, individuals can submit land development, building, and other permitting applications to the County; and review plans, upload documents into the system, check the status of an application, view project updates, and pay fees online.

In August 2023, the Innovation and Technology Department (ITD) was notified by Accela that effective June 30, 2025, the Platform will reach its end of life and will no longer be supported and maintained by Accela, including the development and distribution of updates, service packs, and patches. The solution to continue to offer online services to County constituents through Accela is to migrate to Accela SaaS, which is a robust and scalable cloud-based platform that offers more products and services to the County and online users.

With the current Platform, the County has been utilizing an older version of the Accela product while Accela SaaS launches two new major releases each year. Migrating to SaaS will provide the County with up-to-date functionality and features providing enhanced reliability and redundancy so that staff and the public receive consistent availability of data and services. Accela's SaaS is considered an all-inclusive product with licensing, support, maintenance, cloud hosting, infrastructure, hardware, operating systems, database, and security services. In addition, as part of the SaaS, the County will benefit from enhanced turn-around time from Accela for any critical issues reported with a response time of one hour versus the current response time of up to 24 hours, thus minimizing downtime for staff and users alike. Accela's SaaS also includes single sign-on and built-in Power Business Intelligence reporting that enables County users to interact with the data via live analytical dashboards that facilitate business decisions in real time. Lastly, with SaaS migration, the County will be assigned a SaaS Application Services team for the first year to ensure a smooth and successful transition to the new platform.

The Accela Subscription Services Agreement (SSA) is Accela's standard commercial contract, which includes terms that differ from the standard County contract and omits certain County standard contract terms. While the parties negotiated certain contract terms to County standards, Accela would not agree to all County standard terms. The non-standard and missing terms include the following:

1. If the County uses the Subscription Services in any application or environment where failure could cause personal injury, loss of life, or other substantial harm, the County assumes any associated risks and will indemnify Accela and hold it harmless against those risks.
 - The County standard contract does not include any indemnification or defense by the County of a contractor.
 - Potential Impact: By agreeing to indemnify Accela, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited, or expense limited could be brought against Accela without such limitations and the County would be responsible to defend and reimburse Accela for costs, expenses, and damages, which could exceed the total SSA amount.
2. The term of the SSA is indefinite. Accela provides the services set forth in the Statements of Work under the terms of the SSA, but the term of the SSA is set by orders for cloud service subscriptions. Subscription periods begin as specified in an order and continue for the specified term, unless terminated earlier in accordance with the SSA. In addition, unless otherwise specified in an order, all subscription services automatically renew for additional subscription periods equal to the expiring subscription period, unless either party gives the

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other at least 60 days' notice of non-renewal before the end of the relevant subscription period. Subscription orders may only be cancelled or terminated early by the County for an uncured breach or the bankruptcy or insolvency of Accela.

- County Policy 11-06SP does not permit indefinite term or automatically renewing contracts unless approved by the Board of Supervisors.
- Potential Impact: There is no end term to the SSA and the County is indefinitely bound to the terms and conditions of the SSA until giving advanced notice of non-renewal or until Accela fails to cure a breach of the SSA after being notified by the County of the breach.

ITD recommends approval of the Accela SSA, and SOW, to migrate the current Accela On-Premise Civic Platform to the new Accela SaaS platform for improved technology, user access, and services. Authorization is requested for the Chief Information Officer or Assistant Chief Information Officer to approve amendments to the SSA, identified in Recommendation No. 1, and to execute Change Orders to the SOW, identified in Recommendation No. 2, if needed for additional services, subject to review by County Counsel, provided that such amended terms or Change Orders will not substantively modify the terms of the SSA or SOW, or increase the total not-to-exceed amount of \$235,000, which will reduce potential delays with the migration services process. Additionally, ITD recommends authorizing the Purchasing Agent to issue Purchase Orders to Accela for Accela SaaS licensing for each participating County department in an aggregate amount not-to-exceed \$6,400,000 for a period of five years in amounts as authorized by County Policy.

PROCUREMENT

The County has been utilizing Accela since 2014 and it continues to meet the needs of the County. Accela is the owner of the proprietary software and is the only source available to complete the platform migration. To switch to another solution would be cost prohibitive as each department that utilizes Accela has invested significant time and resources into utilizing the solution and training staff. Switching to a new vendor and system would require extensive time and effort to transition data between systems and would possibly result in the potential loss of historical data. Additionally, implementing a new system would require many hours of staff training. Purchasing supports this non-competitive procurement as Accela is the software developer and provides the maintenance and licensing for the Accela platforms.

The SSA, including non-standard terms, and the SOW, will be used to accompany individual future Purchase Orders with Accela for SaaS licensing and cloud services for each participating department, as necessary, per County Policy 11-04, Procurement of Goods, Supplies, Equipment, and Services, provided that Accela does not substantively modify the terms of the Agreements.

REVIEW BY OTHERS

This item has been reviewed by Auditor-Controller/Treasurer/Tax Collector (Charlene Huang, Auditor-Controller Manager, 382-7022) on March 14, 2024; County Counsel (Bonnie Uphold, Supervising Deputy County Counsel, 387-5455) on February 23, 2024; Purchasing (Ariel Gill, Supervising Buyer, 387-2070) on February 23, 2024; Risk Management (Gregory Ustaszewski, Staff Analyst II, 386-9008) on December 20, 2023; Finance (Iliana Rodriguez, Administrative Analyst, 387-4205) on March 15, 2024; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on March 15, 2024.

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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY  _____
DATED: March 26, 2024



cc: IT - McClane w/agrees
Contractor - c/o IT w/agree
File - w/agree
CCM 03/26/2024