

AGREEMENT

1. **Parties**

<p>ACCELA Accela, Inc. 2633 Camino Ramon, Suite 500 San Ramon, California 94583 Attention: Contracts Administration T: 925.659.3200 F: 925.407.2722 e-Mail: contractsadmin@accela.com</p>	<p>CUSTOMER City of Missoula, Montana 435 Ryman Street Missoula, Montana 59802 Attention: Carl Horton T: 406.552.6141, Option 5, 5 F: N/A e-Mail: chorton@ci.missoula.mt.us</p>
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2. **Effective Date** Provided that Customer signs and returns this Agreement to Accela **no later than September 15, 2015**, this Agreement is effective as of August 20, 2015 ("Effective Date").

3. **Deliverables and Compensation** Customer has opted to move from the State of Montana ("State") hosted environment to self-hosted. Upon the Effective Date, Accela software licenses and associated maintenance that were previously acquired by Customer, or by the State on Customer's behalf and hosted by the State, under the Building Codes One-Stop ePermit System Contract between State of Montana and Accela, are assigned to Customer. In order to self-host the Accela software licenses, Customer is acquiring Accela Land Management™ Server License, Accela GIS™ Server License, Accela Mobile Office™ Server License, and Accela Citizen Access™ Server License and Modules. Customer is relinquishing 5 named user licenses of Accela Asset Management™, 20 named user licenses of Accela Land Management, 5 named user licenses of Accela Service Request™, 45 named user licenses of Accela GIS, and 15 named user licenses of Accela Mobile Office. The resulting server software and total number of named user licenses is reflected under Maintenance and Support Deliverables.

License Deliverables	Quantity	Fees
Accela Land Management Server Software (Includes 5 Named Users)	1	\$27,495.00
Accela GIS Server Software (Includes 5 Named Users)	1	\$ 5,499.00
Accela Mobile Office Server Software (Includes 5 Named Users)	1	\$ 24,995.00
Accela Citizen Access Module Fee	4	\$ 21,996.00
Accela Citizen Access Server Software	1	\$ 5,499.00
Accela Citizen Access Population Fee (Based Upon 69,122 Population)	1	\$ 2,764.88
Total of License Fees		\$88,248.88
Maintenance and Support Deliverables ^A	Quantity	Fees
First-Term Annual Maintenance For Accela Asset Management (Server and 25 Named Users)	25	\$9,439.95
First-Term Annual Maintenance For Accela Land Management (Server and 90 Named Users)	90	\$25,889.29
First-Term Annual Maintenance For Accela Licensing & Case Management™ (Server and 35 Named Users)	35	\$12,460.73
First-Term Annual Maintenance For Accela Service Request (Server and 25 Named Users)	25	\$3,394.88
First-Term Annual Maintenance For Accela GIS (Server and 100 Named Users)	100	\$7,538.33
First-Term Annual Maintenance For Accela Mobile Office (Server and 20 Named Users)	20	\$8,397.38
First-Term Annual Maintenance For Accela Citizen Access (Server, 4 Modules Based Upon Population 69,122)	1	\$6,051.98
Total of Maintenance Fees		\$73,172.55

A Maintenance is effective as of the date of Customer's signature and will continue for a period of five (5) years. Customer may elect to continue its maintenance coverage for additional annual terms by paying to Accela the fees associated with such terms when these are due. During the initial five year term and thereafter, maintenance fees will not increase by more than five percent (5%) from the maintenance fees for the preceding term. Should Customer fail to renew its maintenance coverage or pay the applicable fees, Accela reserves the right to withhold all support. If Customer resumes maintenance coverage after one or more periods without such coverage, Customer will pay an amount equivalent to one hundred ten percent (110%) of all maintenance fees attributable to the period(s) without coverage, as such fees are calculated based upon pricing in effect at the time of resumption of maintenance coverage.

4. Terms and Conditions

- 4.1. License and Maintenance Fees are due upon signing.
- 4.2. Customer will be invoiced for all amounts as they become due; the payment terms of all invoices are net thirty (30) days from the date of the invoice. Accela may, at its discretion, suspend work, including but not limited to professional or maintenance services, until payments for all past-due billings have been paid in full by Customer.
- 4.3. The software products ("Software") listed above are protected under the laws of the United States and the individual states and by international treaty provisions. Accela retains full ownership in the Software and grants to Customer a limited, nonexclusive, nontransferable license to use the Software, subject to the following terms and conditions:
 - 4.3.1 Customer may make backup copies of the Software only to protect against destruction of the Software. Customer may copy Accela's documentation for internal use by Customer's employees.
 - 4.3.2 Customer may not make any form of derivative work from the Software, although Customer may develop additional or alternative functionality for the Software using tools and/or techniques licensed to Customer by Accela.
 - 4.3.3 Customer may not obscure, alter, or remove any confidentiality or proprietary rights notices.
 - 4.3.4 Customer is liable to Accela for any losses incurred as the result of unauthorized reproduction or distribution of the Software which occur while the Software is in Customer's possession or control.
 - 4.3.5 Customer may use the Software only to process transactions relating to properties within both its own geographical and political boundaries and may not sell, rent, assign, sublicense, lend, or share any of its rights under this Agreement.
 - 4.3.6 The Software may be installed on one or more computers but may not be used by more than the number of users for which the Customer has User Licenses.
 - 4.3.7 Customer is entitled to receive the Software compiled (object) code and is licensed to use any data code produced through implementation and/or normal operation of the Software; Customer is not entitled to receive source code for the Software. Customer may not decompile or reverse-engineer the Software.
 - 4.3.8 All rights not expressly granted to Customer are retained by Accela.
 - 4.3.9 Accela warrants that it has full power and authority to grant this license and that, as of the effective date of this Agreement, the Software does not infringe on any existing intellectual property rights of any third party. If a third party claims that the Software does infringe, Accela may, at its sole option, secure for Customer the right to continue using the Software or modify the Software so that it does not infringe. Accela shall have the sole right to conduct the defense of any legal action and all negotiations for its settlement or compromise. Accela has no obligation for any claim based upon a modified version of the Software, unless the modification was performed by Accela, or the combination or operation of the Software with any product, data, or

apparatus not provided by Accela. Accela provides no warranty whatsoever for any third-party hardware or software products.

- 4.3.10 The Software will be delivered and made available to Customer for electronic download from Accela's File Transfer Protocol ("FTP") site.

4.4. Maintenance Services

- 4.4.1 Telephone Support Accela will provide Customer with a telephone number to contact Accela Customer Support, Accela's live technical support facility, which is available from 4:00 a.m. until 6:00 p.m. Pacific time Monday through Friday, excluding Accela's observed holidays.
- 4.4.2 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.
- 4.4.3 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.
- 4.4.4 Remote Support When required to properly resolve a maintenance request, Accela will provide remote assistance to Customer via a web conferencing environment or another mutually-acceptable remote communications method.
- 4.4.5 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.
- 4.4.6 Software Updates Accela will provide revisions of and enhancements to maintained software products to Customer as such updates are generally-released by Accela. Software updates will be delivered or made available to Customer for electronic download from Accela's File Transfer Protocol ("FTP") site.

- 4.5 Maintenance Limitations Generally The following are not covered by this Agreement, but may be separately available at rates and on terms which may vary from those described herein:

- 4.5.1 Services required due to misuse of the Accela-maintained software products;
- 4.5.2 Services required due to software corrections, customizations, or modifications not developed or authorized by Accela;
- 4.5.3 Services required by Customer to be performed by Accela outside of Accela's usual working hours;
- 4.5.4 Services required due to external factors including, but not necessarily limited to, Customer's use of software or hardware not authorized by Accela;
- 4.5.5 Services required due to the operation of interfaces between the Accela-maintained software products and other software products or systems, even where such interfaces were provided or implemented by Accela;
- 4.5.6 Services required to resolve or work-around conditions which cannot be reproduced in Accela's support environment;
- 4.5.7 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;
- 4.5.8 Services requested by Customer to implement software updates provided by Accela pursuant to this Agreement; and
- 4.5.9 New or additional applications, modules, or functionality released by Accela during the term of this Agreement.

- 4.6. 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 will not be provided pursuant to this Agreement, but may be separately available at rates and on terms which may vary from those described herein.
- 4.7. As required, Customer agrees to provide Accela with appropriate access to Customer's facilities, personnel, data systems, and other resources. Customer acknowledges that the Professional Services described in this Agreement is cooperative in nature and that Customer must complete its designated tasks in a timely manner in order for Accela to proceed with and complete the Professional Services. Customer delays during the implementation period may have adverse collateral effects on Accela's overall work schedule. Although Accela will use its best efforts to immediately resume work following such a delay, Customer acknowledges that schedules for the Professional Services may be delayed by more than the number of days delayed by Customer. Customer agrees that if additional time is required to complete the Professional Services because of Customer delays, such time will be charged to Customer at Accela's then-current time-and-materials rates.
- 4.8. During the term of this Agreement, Accela may publicly disclose its ongoing business relationship with Customer. Such disclosures may indicate Customer's identity and the Accela product(s) and services provided or contracted to be provided to Customer, but may not expressly or impliedly indicate Customer's endorsement of Accela's products or services without Customer's prior written authorization.
- 4.9. Accela provides no warranty whatsoever for any third-party hardware or software products. Third-party applications which utilize or rely upon the Software may be adversely affected by remedial or other actions performed pursuant to this Agreement; Accela bears no liability for and has no obligation to remedy such effects. Except as set forth herein, Accela provides all Application and Professional Services "as is" without express or implied warranty of any kind regarding the character, function, capabilities, or appropriateness of such services or deliverables. To the extent not offset by its insurance coverage and to the maximum extent permitted by applicable laws, in no event will Accela's cumulative liability for any general, incidental, special, compensatory, or punitive damages whatsoever suffered by Customer or any other person or entity exceed the fees paid to Accela by Customer during the twelve (12) calendar months immediately preceding the circumstances which give rise to such claim(s) of liability, even if Accela or its agents have been advised of the possibility of such damages.
- 4.10. If either party is delayed in its performance of any obligation under this Agreement due to causes or effects beyond its control, that party will give timely notice to the other party and will act in good faith to resume performance as soon as practicable.
- 4.11. This Agreement is governed by the laws of the State of Montana.
- 4.12. Within ten (10) business days following termination of this Agreement by either Party, Customer will remove all copies of the Software from those computer system which it owns or controls and will destroy all media which contain copies of the Software or portions thereof. Customer will certify said removal and destruction to Accela within fifteen (15) business days following termination of this Agreement.
- 4.13. Accela may assign its rights and obligations hereunder for purposes of financing or pursuant to corporate transactions involving the sale of all or substantially all of its stock or assets.

- 4.14. Either party may terminate if the other party materially breaches this Agreement and, after receiving a written notice describing the circumstances of the default, fails to correct the breach within thirty (30) calendar days. Customer may terminate this Agreement at any time upon thirty (30) days' written notice. Upon any termination or expiration of this Agreement, all rights granted to Customer are cancelled and revert to Accela.
- 4.15. If any particular provision of this document is determined to be invalid or unenforceable, that determination shall not affect the other provisions which shall be construed in all respects as if the invalid or unenforceable provision were omitted.

ACCELA

CUSTOMER

By: _____
Signature

By: _____
Signature

Print Name

Print Name

Its _____
Title

Its _____
Title

Dated: _____

Dated: _____

END OF DOCUMENT