

COUNCIL MEETING
February 28, 2012

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the City Council:

SUBJECT: Communications and Information Technology – Approve annual maintenance agreement for Permit Plan/Business License/Interactive Voice Response (IVR) software.

Expenditure: \$80,137.51

RECOMMENDATION

Recommendation of the Information Technology Director that City Council approve a renewal of the annual software maintenance agreement with Accela, Inc. (C90-134) for the support and maintenance of the Tidemark Advantage Permit Plan/Business License/IVR system in the amount of \$80,137.51.

Funding

Funding is available through the Communications and Information Technology Department's operating budget.

BACKGROUND

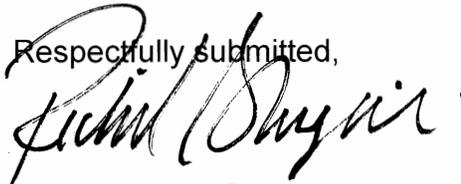
City Council authorized the purchase of a new Permit Issuance System with Permit Tracking System software (August 11, 1998), the purchase and implementation of the Tidemark Business License module (September 11, 2001), Interactive Voice Response (IVR) integration software licenses (December 12, 2003), and wireless inspector field module (June 5, 2007) from Accela, Inc., (formerly known as Tidemark Computer Systems, Inc). The Tidemark Advantage system supports the operations of the City's permits and licensing functions. The City completed the Accela wireless implementation for building regulation inspectors in November 2007.

Expansion of the Accela wireless inspector field units is on hold pending capital project approval. The migration of the Business License module to the New World financial system is completed. The Permit application is currently undergoing a review to determine whether to upgrade or replace the software.

ANALYSIS

The annual software maintenance and support covers the period of July 1, 2012, through June 30, 2013. Accela is offering a 6% discount, or \$5,115.16, if the City pays by March 9, 2012. Without the discount, the software maintenance and support would be \$85,252.67. Accela's maintenance and support provide the City with fixes to errors, updates, and enhancements contained in new releases. The services provided under maintenance and support are proprietary to Accela; therefore, the City cannot receive updates and enhancements from any other source. Services provided under maintenance are critical to keeping the system running smoothly with minimal downtime. Due to the business support functions of the Tidemark Advantage systems, it is recommended that the City Council approve the purchase of annual software maintenance and support from Accela, Inc.

Respectfully submitted,



RICHARD SHIGAKI

Information Technology Director

CONCUR:



LeRoy Jackson
City Manager

Attachment:

- A) Contract C90-134 dated 1-15-1990
- B) Accela Invoice #PF-MR053018 dated 2-07-2012

AGREEMENT

THIS AGREEMENT is made and entered into in Torrance, California, this 15TH day of JANUARY, 1990, by and between the CITY OF TORRANCE, a municipal corporation, hereinafter referred to as "City", and TIDEMARK COMPUTER SYSTEMS, INC., a Washington corporation, hereinafter referred to as "Consultant".

RECITALS:

- A. The City has a need for specialized expertise in developing and implementing a computerized permit management system.
- B. The Consultant represents that it has the expertise to provide said services as set forth in this Agreement.

AGREEMENT:1. PURPOSE

To provide the City with a computerized permit management system.

Original

COPY

C90-134

2. SERVICES TO BE PERFORMED BY CONSULTANT

A. Consultant shall perform the services set forth in Exhibit 1 attached hereto and incorporated herein by this reference.

B. Consultant shall provide all products as set forth in Exhibit 1.

C. Time is of the essence in the performance of this Agreement. Consultant shall complete all services as set forth in Exhibit 1. The project shall be completed within five (5) months after the date of written authorization to proceed is issued by the City.

3. SERVICES TO BE PERFORMED BY CITY

A. The City shall provide and perform all services and products as set forth in Exhibit 1.

B. City shall designate a project coordinator for work performed pursuant to this Agreement.

4. PAYMENT

A. Consultant shall be paid for all services performed as described in Exhibit 1, including all expenses and products delivered, pursuant to this Agreement in an amount not to exceed Fifty-one Thousand Two Hundred Twenty Dollars (\$51,220).

B. Consultant shall submit billings for all payments as shown in Exhibit 1. City shall make payment within thirty (30) days of receipt of Consultant's billing less ten percent (10%) retention as set forth in Exhibit 1. In no event shall City be responsible for the payment of billings submitted by Consultant if City is unable to verify that all services performed and products delivered have been provided.

C. Consultant shall notify the project coordinator of the date of completion of the project in writing. Within thirty (30) working days after the date of completion of the project, City shall inspect and accept or reject the project. Such acceptance shall not be unreasonably withheld by City. If the project is rejected, City shall specify,

in writing, the terms and conditions of this Agreement which the City has determined have not been met, and shall allow Consultant a reasonable period of time to correct such deficiencies.

The ten percent (10%) retention provided in Exhibit 1 shall be paid to Consultant within thirty (30) days of acceptance of the project by City.

5. TERMINATION

The obligation of the City to the Consultant is contingent upon satisfactory performance by the Consultant of all its obligations under this Agreement. In the event that the Consultant fails to perform any material obligation required of it by this Agreement, the City may refuse to provide any further payment thereunder and/or terminate this Agreement by giving written notice of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination.

Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damage sustained by the City by virtue of any breach of this Agreement by the Consultant.

6. INDEPENDENT CONTRACTOR

Consultant is, and shall at all times remain as to the City, a wholly independent contractor. Consultant shall not at any time, nor in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the City except as expressly provided in this Agreement.

7. INDEMNITY AND INSURANCE

Throughout the term of this Agreement and any and all Maintenance Agreements relating thereto, Consultant shall provide the indemnity and insurance provisions as set forth herein.

A. Consultant agrees to indemnify, defend, and hold City harmless from and against any and all liability arising out of the negligence, other than the negligent errors or negligent omissions, of Consultant, its agents, employees or representatives, in the performance of duties under this Agreement.

Consultant agrees to indemnify, defend and hold the City harmless from and against any and all liability

arising out of the negligent errors or negligent omissions of Consultant, its agents, employees or representatives in the performance of duties under this Agreement. Provided, however, in no event shall the liability of Consultant for negligent errors or omissions exceed the compensation paid to Consultant pursuant to this Agreement. In no event, however, shall this paragraph limit the insurance requirements and coverage of the City as set forth in paragraph B(4) below.

B. Consultant shall maintain during the life of the Agreement the following minimum public liability and property damage insurance to cover claims for injuries, including accidental death, as well as from claims for property damages which may arise from the performance of work under the Agreement. Limits of liability for such insurance are as follows:

- (1) Comprehensive general liability insurance, including personal injury

liability, blanket contractual liability, and broad form property damage liability. The combined single limit for bodily injury and property damage shall be not less than One Million Dollars (\$1,000,000).

- (2) Automobile bodily injury and property damage liability insurance covering owned, non-owned, rented and hired cars. The combined single limit for bodily injury and property damage shall be not less than One Million Dollars (\$1,000,000).
- (3) Statutory workers' compensation and employer's liability insurance as required by the state having jurisdiction.
- (4) Professional liability insurance coverage damage resulting from errors and omissions of Consultant. The limit of liability shall not be less than One Million Dollars (\$1,000,000).

- (5) With the exception of the workers' compensation and professional liability policy, each policy or policies shall name the City, the City Council, each member thereof, and each officer and employee of the City as an additional insured. Said policy or policies shall be obtained from an insurer which is rated in Best's Insurance Guide, latest edition, as a Class X or better insurer.
- (6) Said policy or policies shall also contain a provision that no termination, cancellation or change of coverage or of insured or additional insured shall be effective until after thirty (30) days notice thereof has been given in writing to City. Such insurance shall be considered primary coverage. Consultant shall give to City prompt and timely notice of claim made or suit instituted arising out of Consultant's operations hereunder.

(7) Said policy or policies shall be primary and non-contributory with any insurance available to City.

8. COMPLIANCE WITH STATUTES AND REGULATIONS

Consultant shall comply with all federal, state and local statutes, rules, regulations and orders affecting the services and products provided under this contract.

9. PROPRIETY INFORMATION

A. The parties recognize that Permit Plan is proprietary permit processing software copyrighted by the Consultant. Consultant hereby grants the City a non-exclusive license to use the software installed pursuant to this Agreement on a single file server at the City. Consultant shall retain ownership and all rights to the software. In the event that the City ceases using Permit Plan for any reason, all software installed pursuant to this Agreement shall be destroyed by City or returned immediately to Consultant.

B. The City shall not permit the Permit Plan software, manuals or supporting materials to be copied,

in whole or in part, and shall be liable to Consultant for any losses incurred as the result of any unauthorized reproduction, in whole or in part, of Permit Plan which occurs while the software subject to this Agreement is in the possession and control of the City.

10. NOTICE

Whenever it shall be necessary for either party to serve notice on the other respecting this Agreement, such notice shall be served by personal delivery or by verified mail to the following addresses, unless and until different addresses may be furnished in writing by either party to the other, and such notice shall be deemed to have been served within seventy-two (72) hours after the same has been deposited in a United States Post Office by certified mail or has been delivered personally, and shall be a valid and sufficient service of notice for all purposes:

CITY: Kathy Peyton-Jenno
Information Systems
City of Torrance
3031 Torrance Blvd.
Torrance, CA 90503

CONSULTANT: Tidemark Computer System, Inc.
2815 Second Avenue, Suite 290
Seattle, Washington 98121

11. ASSIGNMENT

These terms and conditions and the Agreement to which they are attached are binding on the heirs, successors, and assigns of the parties hereto. The Agreement is not to be assigned by either the City or Consultant without prior written consent of the other.

12. INTEGRATION

These terms and conditions and the Agreement to which they are attached represent the entire understanding of the City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. The Agreement may not be modified or altered except in writing signed by both parties.

13. JURISDICTION

This Agreement shall be administered and interpreted under the laws of California. Jurisdiction of litigation arising

from the Agreement shall be in that state. If any part of the Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

THE CITY OF TORRANCE, a
Municipal Corporation

TIDEMARK COMPUTER SYSTEMS,
INC., a Washington corporation

By Katy Seissert
Mayor of City of Torrance

By Jane M. Glass
Jane M. Glass, Vice-President

ATTEST:

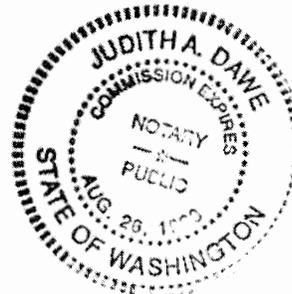
John A. Bramhall
City Clerk

APPROVED AS TO FORM:

KENNETH L. NELSON
City Attorney

By [Signature]

las/42



Judith Ann Dawe
My Residence —
Enumclaw, WA.

NOTES:

(1) The above costs include travel and per diem for the trips our staff will make to your agency to do the systems analysis, installation, and training for PERMIT*PLAN. Six site visits of 2-3 days each are anticipated during the development, installation, and training process.

(2) At the end of the first year's support period an annual maintenance agreement is required to provide for continued maintenance, support, and updates. The cost of the annual maintenance agreement for PERMIT*PLAN is 1% per month of the **Total Installed Cost** of the PERMIT*PLAN system. If the total installed cost of the system increases by the addition of modules to PERMIT*PLAN, the annual maintenance will increase accordingly. Tidemark is willing to guarantee that the current maintenance rate of 1% per month will not change for a period of four (4) years beginning with the System Acceptance Date.

(3) This cost item was calculated based on converting 36,000 parcel records (512 bytes per record).

(4) This Cost Summary is valid for a period of 90 days from the cover date, October 31, 1990.

7.0 IMPLEMENTATION SCHEDULE

We estimate that it will take approximately 150 days (5 months) to complete the design, installation, and training for your PERMIT*PLAN system. We believe this time frame is necessary to allow sufficient time for the systems analysis, design review, change cycles, and the installation and training. We may be able to shorten this time frame by combining installation activities if it does not compromise the quality of the installation.

An Implementation Schedule and a Payment Schedule are attached.



INVOICE

Remit To:

Accela, Inc.
774375
4375 Solutions Center
Chicago, IL 60677- 4003

Invoice No.	PF-MR053018
Invoice Date:	2/7/2012
Due Date:	3/9/2012

Bill To:

Torrance, Ca - City of
Attn: Ryan Lee
3031 Torrance Blvd.

Torrance, Ca 90503-5015

Ship To:

Torrance, Ca - City of
Attn: Ryan Lee
3031 Torrance Blvd.

Torrance, Ca 90503-5015

Purchase Order No.

2012000957

Payment Terms

Net 31 Days

Item Number	Description	Quantity	Unit Price	Ext. Price
AD_MAINT_ADVANTAGE	AD_MAINT_ADVANTAGE	50		\$ 42,347.94
AD_MAINT_ADVANTAGE	AD_MAINT_ECONNECT	50		\$ 14,116.60
AD_MAINT_ADVANTAGE	AD_MAINT_DESIGNER	1		\$ 5,083.97
AD_MAINT_ADVANTAGE	AD_MAINT_CASHIER	5		\$ 3,059.65
AD_MAINT_ADVANTAGE	AD_MAINT_IVR	10		\$ 2,933.73
AD_MAINT_ADVANTAGE	AD_MAINT_ACCELA WIRELESS, EST. 11838	15		\$ 17,710.78
	The Maintenance Fees are for the period: July 1, 2012 to June 30, 2013			
	PAYMENT FOR THE DISCOUNTED TOTAL MUST BE RECEIVED BY ACCELA, INC. BY MARCH 9, 2012 OR ELSE THE FULL TOTAL OF THE RENEWAL FEES ARE DUE AND PAYABLE IN THE AMOUNT OF <u>\$85,252.67</u>			

Please direct invoice inquiries to
Accounts Receivable at (925) 659-3275
or accountsreceivable@accela.com

Wire Payment Instructions

Wells Fargo Bank
For credit to: Accela, Inc.
Account: 412-1765507
ABA: 121000248

Subtotal	\$ 85,252.67
Tax	\$ -
Trade Disc.	\$ (5,115.16)
TOTAL	\$ 80,137.51