Agreement No. _____

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND OPENGOV, INC.

This Agreement is entered into this **25th day of July, 2023**, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County" or "Customer," and **OpenGov, Inc**, hereinafter called "Contractor" or "OpenGov."

* * *

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of providing the Software Services and Professional Services set forth in Exhibit B – Payments and Rates.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1.   Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Scope of Work
Exhibit B— Payments and Rates
Exhibit C— OpenGov COTS MSA
Exhibit D – Engagement Charter
Exhibit E – Implementation Activities
Exhibit F – Technical Requirements

2.   Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B – Payments and Rates, Contractor shall provide the Software Services and Professional Services for County in accordance with the terms, conditions, and specifications set forth in this Agreement in the Exhibits. In the event of a conflict, the order of precedence shall be 1) this Agreement; 2) Exhibit C (OpenGov MSA), Exhibit B (Fees), Exhibit A (SOW).

3.   Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A – Scope of Work, County shall make payment to Contractor based on the fees and in the manner specified in Exhibit B – Payments and Rates. In no event shall County's total fiscal obligation under this Agreement

exceed **One Million Dollars ($1,000,000)**. In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration.

4.   Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from **July 25, 2023, through July 24, 2026.** The County has the option to extend the term for Software Services for additional years at the rates provided in Exhibit B; to exercise that option, County shall notify Contractor in writing at least 30 days prior to termination.

5.   Termination

This Agreement may be terminated by Contractor or by the County's Procurement Manager or his/her designee at any time without a requirement of good cause, provided that advance written notice to the other party is given at least 180 (one hundred and eighty) days prior to the due date for the annual subscription payment. In the event of such termination, all fees due prior to termination shall remain due to Contractor and all fees paid to Contractor shall be non-refundable. If either party materially breaches any term of this Agreement and fails to cure such breach within 30 days after receiving written notice by the non-breaching party, the non-breaching party may terminate this Agreement.

6.   Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

a. General Hold Harmless

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

(A) injuries to or death of any person, including Contractor or its employees/officers/agents;

(B) damage to any property of any kind whatsoever and to whomsoever belonging; or

(C) any other loss or cost resulting from the acts or omissions of Contractor and/or its officers, employees, agents, and servants.

(D) In the event of concurrent negligence (or acts or omissions) on the part of the County and Contractor, then liability for any and all claims for injuries or damages to persons and/or property that are arise out of the terms and conditions of this Agreement shall be apportioned according to the California theory of comparative fault.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

b. Intellectual Property Indemnification

Contractor owns, controls, and/or licenses and retains all right, title, and/or interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and/or other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement.

Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not

to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement, (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent, or (iii) terminate the licenses granted hereunder and provide to County a pro-rata refund for any pre-paid, unused fees paid by the County.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Except in the event of a change of control, Contractor shall not assign this Agreement, the provision of the Professional Services, or any portion thereof to a third party, nor subcontract with a third party to provide Professional Services required by Contractor under this Agreement without the prior written consent of County, which shall not be unreasonably withheld. In the event of a change of control, Contractor shall notify the County in writing. County shall have thirty (30) days from such notification to terminate the Agreement in the event that County has a reasonable justification for not contracting with the acquiring party.

9. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability

endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

> (a) Comprehensive General Liability $1,000,000
>
> (b) Non-Owned, Motor Vehicle Liability Insurance…$1,000,000
>
> (c) Technology Errors & Omissions $1,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance (except workers compensation), which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

10.   Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, regulations, and executive orders, as well as any required economic or other sanctions imposed by the United States government or under state law in effect during the term of the Agreement. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law, regulation, or executive order, the requirements of the applicable law, regulation, or executive order will take precedence over the requirements set forth in this Agreement.

The parties agree the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended are **_not_** applicable to this Agreement since the County agrees not to upload any PHI or data subject to HIPAA

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11.   Non-Discrimination and Other Requirements

a.   General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b.   Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

c.   Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to

discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60–741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor certifies that no finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall also report to the County the filing by any person in any court any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation of allegations of discrimination within seventy-five (75) days of such filing, provided that within such seventy-five (75) days such entity has not notified contractor that such charges are dismissed or otherwise unfounded. Such notification to County shall include a general description of the allegations and the nature of specific claims being asserted. Contractor shall provide County with a statement regarding how it responded to the allegations within sixty (60) days of its response and shall update County regarding the nature of the final resolution of such allegations.

The foregoing reporting obligations shall be limited to complaints regarding Contractor's employees or agents who are providing Professional Services under this Agreement.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Executive Officer, including but not limited to the following:

i.   termination of this Agreement;
ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
iii. liquidated damages of $2,500 per violation; and/or
iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Executive Officer.

To effectuate the provisions of this Section, the County Executive Officer shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

h. Compliance with Living Wage Ordinance

As required by Chapter 2.88 of the San Mateo County Ordinance Code, Contractor certifies all contractor(s) and subcontractor(s) obligated under this contract shall fully comply with the provisions of the County of San Mateo Living Wage Ordinance, including, but not limited to, paying all Covered Employees the current Living Wage and providing notice to all Covered Employees and Subcontractors as required under the Ordinance.

12. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply unless this Agreement's total value listed in the Section titled "Payments", exceeds two-hundred thousand dollars ($200,000); Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value exceeds that threshold amount.

13.   Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to the fees paid for the services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California. In no event shall any audit occur: (1) without giving at least three business days prior written notice (2) outside of Contractor's normal business hours, or (3) on systems where such audit may, in Contractor's sole reasonable discretion, violate its third-party confidentiality obligations.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

14.   Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

15.   Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

16. **Notices**

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title:	Jas Sandhar
Address:	455 County Center, 4th floor
Telephone:	650-363-4408
Email:	jsandhar@smcgov.org

In the case of Contractor, to:

Name/Title:	OpenGov, Inc. Attn: General Counsel
Address:	6525 Crown Blvd #41340, San Jose, CA 95160
Telephone:	(650) 336-7167
Email:	legal@opengov.com

17. **Electronic Signature**

Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

18. **Reimbursable Travel Expenses**

To the extent that this Agreement authorizes reimbursements to Contractor for travel, lodging, and other related expenses as defined in this section, the Contractor must comply with all the terms of this section in order to be reimbursed for travel.

a.   Estimated travel expenses must be submitted to authorized County personnel for advanced written authorization before such expenses are incurred. Significant differences between estimated and actual travel expenses may be grounds for denial of full reimbursement of actual travel expenses.

b.   Itemized receipts (copies accepted) for all reimbursable travel expenses are required to be provided as supporting documentation with all invoices submitted to the County.

c.   Unless otherwise specified in this section, the County will reimburse Contractor for reimbursable travel expenses for days when services were provided to the County. Contractor must substantiate in writing to the County the actual services rendered and the specific dates. The County will reimburse for travel at 75% of the maximum reimbursement amount for the actual costs of meals and incidental expenses on the day preceding and/or the day following days when services were provided to the County, provided that such reimbursement is reasonable, in light of travel time and other relevant factors, and is approved in writing by authorized County personnel.

d.   Unless otherwise specified within the contract, reimbursable travel expenses shall not include Local Travel. "Local Travel" means travel entirely within a fifty-mile radius of the Contractor's office and travel entirely within a fifty-mile radius of San Mateo County. Any mileage reimbursements for a Contractor's use of a personal car for reimbursable travel shall be reimbursed based on the Federal mileage reimbursement rate.

e.   The maximum reimbursement amount for the actual lodging, meal and incidental expenses is limited to the then-current Continental United States ("CONUS") rate for the location of the work being done (i.e., Redwood City for work done in Redwood City, San Mateo for work done at San Mateo Medical Center) as set forth in the Code of Federal Regulations and as listed by the website of the U.S. General Services Administration (available online at http://www.gsa.gov/portal/content/104877 or by searching www.gsa.gov for the term 'CONUS'). County policy limits the reimbursement of lodging in designated high cost of living metropolitan areas to a maximum of double the then-current CONUS rate; for work being done outside of a designated high cost of living metropolitan area, the maximum reimbursement amount for lodging is the then-current CONUS rate.

f.   The maximum reimbursement amount for the actual cost of airfare shall be limited to fares for Economy Class or below. Air travel fares will not be reimbursed for first class, business class, "economy-plus," or other such classes. Reimbursable car rental rates are restricted to the mid-level size range or below (i.e. standard size, intermediate, compact, or subcompact); costs for specialty, luxury, premium, SUV, or similar category vehicles are not reimbursable. Reimbursable ride-shares are restricted to standard or basic size vehicles (i.e., non-premium vehicles unless it results in a cost-saving to the County). Exceptions may be allowed under certain circumstances, such as unavailability of the foregoing options, with written approval from authorized County personnel. Other related travel expenses such as taxi fares, ride-shares, parking costs, train or subway costs, etc. shall be reimbursable on an actual-cost basis. Reimbursement of tips for taxi fare, or ride-share are limited to no more than 15% of the fare amount.

g.   Travel-related expenses are limited to: airfare, lodging, car rental, taxi/ride-share plus tips, tolls, incidentals (e.g. porters, baggage carriers or hotel staff), breakfast, lunch, dinner, mileage reimbursement based on Federal reimbursement rate. The County will not reimburse for alcohol.

h.   Reimbursement of tips are limited to no more than 15 percent. Non-reimbursement items (i.e., alcohol) shall be excluded when calculating the amount of the tip that is reimbursable.

19.   Cooperative Agreement (Piggyback)

The parties agree that because the underlying solicitation was conducted as a Cooperative (or Piggyback) Procurement, the terms and conditions of this agreement may be used by other public or governmental entities for the purpose of entering into separate agreements directly with the Contractor, if permitted by such entities' own procurement policies. County shall not be responsible for any such agreements. The term and pricing must be mutually agreed to by Contractor and such entity.

*   *   *

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Contractor: OPENGOV, INC.

DocuSigned by:

Sam Kramer
A3AFFF18117C415...
——————————————————
Contractor Signature

7/20/2023
——————————
Date

Sam Kramer
——————————————————
Contractor Name (please print)

———————————————————————————————

COUNTY OF SAN MATEO

By:

President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:

Clerk of Said Board

<u>**Exhibit A – Scope of Work**</u>

The Scope of Work (SOW) that follows is to be used as a general guide and is not intended to be a complete list of all work necessary for the implementation and contracted term of use of the OpenGov Procurement suite. The County desires to implement and subscribe to an easy to use and intuitive eProcurement software that will assist in centralizing the procurement processes in the County.

OpenGov, Inc. (herein after called "Contractor" or OpenGov") will provide the County with a cloud-based eProcurement Solution (the "Solution). The Solution will encompass:

- Vendor portal
- Solicitation development
- Purchasing
- RFx drafting, posting, submission and evaluation
- Contact development, award and management
- Dashboards
- Reports
- Training
- Support desk services
- Updates that may include additional functionality

Work performed on this Contract will be charged as stated in Exhibit B – Payments and Rates. The rates listed in Exhibit B will also be used for project revisions and additional tasks.

1. Estimated Schedule for Implementation

This project will be completed by March 2024, unless the date is revised by the agreement of both parties.

The project timeline:
- July 2023 – Agreement is executed
- July 2023 – Begin work on supplier portal
- August 2023 – Turn on vendor portal
- September 2023 – Begin data migration
- October 2023 – March 2024 – Software training
- March 2024 – Implementation tasks completed

OpenGov will schedule resources for this project upon signature of the order form. Unless specifically noted, the OpenGov assigned project manager will work with The County-assigned Project Manager to develop the project schedule for all requested deliverables under this SOW. OpenGov reserves the right to adjust the schedule based on the availability of County resources, and the timeliness of deliverables provided by the County.

The Services are currently estimated to start within two (2) weeks but no later than four (4) weeks from signatures and have an estimated end date of March 31, 2024 ("End Date") or on other dates mutually agreed to between you and OpenGov.

The typical project timelines are for illustrative purposes only and may not reflect specific use cases.

Procurement Suite Illustrative Timeline		Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7
	Enable Vendor Portal	██						
	Supplier Engagement, Evaluation, & Award Solution	██						
	Solicitation Development Solution		██	██	██			
	Contract Management Solution		██	██	██			
Procurement Suite	Onsite Training					██	██	██
Reporting and Transparency	Configure Reports					██	██	
GoLive Support	Hypercare							██
Customer is responsible for attending the kick off of each phase, providing any necessary data for each phase, participating in working sessions during active phases, and signing off on deliverables at the end of each phase.								

2. Facilities and Hours of Coverage

OpenGov will:

3.1 Perform the work under this SOW remotely, except for training which will be conducted at County facilities.

3.2 Provide the Services under this SOW during normal business hours, 8:30am to 6:00pm local time, Monday through Friday, except holidays.

3.3 Use personnel and resources located across the United States, which may also include OpenGov-trained staffing contractors to support the delivery of services.

3. Assumptions

The SOW and OpenGov estimates are based on the following key assumptions. Deviations that may arise during the proposed project will be managed through the Project Change Control Procedure, and may result in adjustments to the Project Scope, Estimated Schedule, Charges, and other terms.

3.1 The OpenGov Suites are not customized beyond current capacities based on the latest release of the software.

3.2 Individual software modules are configured based on discussions between OpenGov and the County.

3.3 Procurement Suite

    3.3.1 County will provide complete and correct boilerplate language for solicitation and contract templates within two (2) weeks immediately following the kick-off meeting.

    3.3.2 OpenGov will provide up to three (3) onsite trips for the purposes of conducting system training.

    3.3.3 OpenGov template configuration will include up to three (3) solicitation templates and up to five (5) contract templates (See Appendix B for list).

        • Samples or boilerplate language of the Invitation for Bid (IFB) and Request for Quote (RFQ) solicitations have not been provided by the County prior to the creation of this SOW. The scope and deliverables for these Solicitation types are based on OpenGov's best estimate. Actual examples received after project kickoff could result in a change order.

        • OpenGov assumes these three (3)) solicitation templates will be built based on examples collected from the customer up to fifty (50) pages in length.

3.3.4   County will provide a complete and accurate contracts log for import to OpenGov.

4. **Contractor Project Responsibilities**

   4.3   Activity 1 – Project Management

   Contractor will provide project management for the OpenGov responsibilities in this SOW. The purpose of this activity is to provide direction to the OpenGov project personnel and to provide a framework for project planning, communications, reporting, procedural and contractual activity. The project team will not be replaced without communication and approval by the County.

   This activity is composed of the following tasks:

   Planning
   * review the SOW, contract and project plan with the County's Project Manager and key stakeholders to ensure alignment and agreed upon timelines;
   * maintain project communications through the County's Project Manager;
   * establish documentation and procedural standards for deliverable Materials; and
   * assist the County's Project Manager to prepare and maintain the project plan for the performance of this SOW which will include the activities, tasks, assignments, and project milestones.

   Project Tracking and Reporting

   * review project tasks, schedules, and resources and make changes or additions, as appropriate. Measure and evaluate progress against the project plan with the County's Project Manager;

   * work with your Project Manager to address and resolve deviations from the project plan;

   * conduct regularly scheduled project status meetings; and

   * administer the Project Change Control Procedure with your Project Manager.

   Completion Criteria:
   This is an on-going activity which will be considered complete at the end of the Services

   Deliverable Materials:
   * Weekly status reports
   * Project plan
   * Project Charter
   * Risk, Action, Issues and Decisions Register (RAID)

   4.4   Activity 2 – Initialization

   * County Entity configuration
   * Incorporation of County hierarchy
   * System Administrators creation
   * Solution Blueprint creation

- Data Validation strategy confirmation

Completion Criteria:
This activity will be considered complete when:
- Customer Entity is created
- System Administrators have access to County Entity
- Solution Blueprint is presented to County

Deliverable Materials:
- Solution Blueprint
- Sign-off of Initial Draft Solution Blueprint

4.5 <u>Activity 3</u> **– OpenGov Use Cases**

Procurement Use Cases
- Automate Solicitation Development
- Enhance Supplier Engagement and Collaboratively Evaluate and Award
- Make Contract Management Centralized and Proactive

Completion Criteria:
This activity will be considered complete when:

Procurement Use Cases
- Vendor Portal is configured
- Vendor List and associated files are imported
- Solicitation Templates are configured
- Intake Request Template and Workflow are configured
- Contracts Log is imported
- Contract Templates are configured
- Vendor Reports are configured in R&T

Deliverable Materials:
- Formal sign off document

4.6 <u>Activity 4</u> **– Training**

Training will be provided in instructor-led virtual sessions or through OpenGov University Training courses. For any instructor-led virtual sessions, the class size is recommended to be 10, for class sizes larger than 10 it may be necessary to have more than one instructor.

OpenGov will organize and deliver the agreed upon three (3) in-person trainings.

Completion Criteria:
- Administrator training is provided
- Agency-wide intake training is provided
- Other trainings as mutually agreed upon in the training schedule, or via change order

Deliverable Materials:
- Formal sign off document

5. County Responsibilities

County Project Manager is responsible for:

- Managing County personnel and responsibilities for this project (for example: ensure personnel complete any self-paced training sessions, configuration, validation or user acceptance testing);
- Serving as the interface between OpenGov and County departments participating in the project;
- Administering the Project Change Control Procedure with the Project Manager;
- Participating in project status meetings;
- Obtaining and providing information, data, and decisions within five (5) business days of OpenGov's request unless the County and OpenGov agree in writing to a different response time;
- Resolving deviations from the estimated schedule, which may be caused by the County;
- Helping resolve project issues and escalating issues within the County's organization, as necessary; and
- Creating, with OpenGov's assistance, the project plan for the performance of this SOW which will include the activities, tasks, assignments, milestones and estimates.

Exhibit B – Payments and Rates

⊘ OPENGOV

OpenGov Inc.
6525 Crown Blvd #41340
San Jose, CA 95160
United States

Order Number:	Q010428	**Prepared By:**	Alex Martinez
Created On:	June 16, 2023	**Email:**	amartinez@opengov.com
Quote Expiration Date:	July 25, 2023	**Contract Term:**	36 Months
Subscription Start Date:	July 25, 2023		
Subscription End Date:	July 24, 2026		

Customer Information

Customer:	County of San Mateo, CA	**Contact Name:**	Yen Pang
Bill To/Ship To:	400 County Center	**Email:**	ypang@smcgov.org
	Redwood City, CA US	**Phone:**	650-363-4263

Order Details

Billing Frequency: Annual   **Payment Terms:** Net 30

SOFTWARE SERVICES:

Product / Service	Start Date	End Date	Subscription Fee
OpenGov Procurement	July 25, 2023	July 24, 2024	$228,470.00
OpenGov Procurement	July 25, 2024	July 24, 2025	$239,894.00
OpenGov Procurement	July 25, 2025	July 24, 2026	$251,888.00
		Total Amount	**See Billing Table**

PROFESSIONAL SERVICES:

Product / Service	Start Date	Total Amount
Professional Services Deployment - Prepaid	July 25, 2023	$101,480.00
	Services Total Amount	**$101,480.00**

Billing Amount:	Billing Date:
7/25/2023	$329,950.00 *(Annual Software Fees + Professional Services)*
7/25/2024	$239,894.00
7/25/2025	$251,888.00
7/25/2026	$264,482.40 *(Optional Renewal)*
7/25/2027	$277,706.50 *(Optional Renewal)*
7/25/2028	$291,592.00 *(Optional Renewal)*
7/25/2029	$306,171.60 *(Optional Renewal)*

Payments and Rates for option years:

Year 4: $264,482.40
Year 5: $277,706.50
Year 6: $291,592.00
Year 7: $306,171.60

Professional Services for initialization of project:

- Supplier Engagement: **16 hours**
- Solicitation Development and Templates: **48 hours**
- Onsite Training Hours (3, 3 day onsites, 2 resources): **144 hours**
- Intake Workflow & Training: **5 hours**
- Contract Management and Templates: **52 hours**
- Contract Import Prep and Data Load: **7 hours**
- Contracts training: **3 hours**
- Admin Docs: **3 hours**
- Reports and Stories: **20 hours**
- Onsite Travel Hours (2 resources, 3 trips): **60 hours**
- Project oversight: **114 hours**

472 hours at $215 for a total of **$101,480**.

Software Services for Option Years 4 - 7

Should option for additional years of Software Services be exercised, they will be charged at the following annual rates:

Optional	4th Year	$264,482
Optional	5th Year	$277,077
Optional	6th Year	$291,592
Optional	7th Year	$306,172

Additional Professional Services work up until 12/31/2023, that is requested by the County will be charged at a fixed rate **of $215/hr**. OpenGov will notify the County as to the future annual rates for Additional Professional Services in the event that such services are desired by the County.

The Services will be conducted on a pre-negotiated Fixed Price basis as specified in this Exhibit. All charges are exclusive of any applicable sales taxes.

County shall reimburse OpenGov for reasonable out-of-pocket expenses that OpenGov actually incurs in providing Professional Services and Additional Professional Services, provided that they are pre-approved by the County's Procurement Manager or its Project Manager in writing. Such expenses may include travel, lodging, and meals, subject to section 18 ("Reimbursable Travel Expenses") of the Agreement.

The foregoing payments are subject to the not-to-exceed amount provided for in Section 3 of the Agreement and any amendments thereto.

<u>**Exhibit C – OpenGov Master Service Agreement**</u>

The parties to this Master Services Agreement (this "Agreement") are OpenGov, Inc., a Delaware corporation ("OpenGov"), and the customer named in the signature block below ("Customer"). This Agreement, which becomes binding when the parties have signed it (the "Effective Date"), sets forth the terms under which Customer will be permitted to use OpenGov's hosted software services and receive professional services.

1. Definitions

   1.1. "Customer Data" means data that is provided by Customer to OpenGov pursuant to this Agreement (for example, by email or through Customer's software systems of record). Customer Data does not include any confidential personally identifiable information.

   1.2. "Documentation" means materials produced by OpenGov that provide information about OpenGov's software products and systems. Customers may access the most up-to-date Documentation on the Customer Resource Center page at opengov.zendesk.com.

   1.3. "Intellectual Property Rights" means all intellectual property rights including all past, present, and future rights associated with works of authorship, including exclusive exploitation rights, copyrights, and moral rights, trademark and trade name rights and similar rights, trade secret rights, patent rights, and any other proprietary rights in intellectual property of every kind and nature.

   1.4. "Order Form" means the document executed by the parties that specifies the Software Services that OpenGov will provide to Customer under this Agreement.

   1.5. "Term" refers to the Initial Term defined in Section 6.1 plus all Renewal Terms defined in Section 6.2.

2. Software Services, Support, and Professional Services

   2.1. Software Services. Subject to the terms and conditions of this Agreement, OpenGov will use commercially reasonable efforts to provide the commercial off-the-shelf software solutions identified in the applicable Order Form ("Software Services").

   2.2. Support and Service Levels. Customer support is available by email to support@opengov.com or by using the chat messaging functionality of the Software Services, both of which are available during OpenGov's standard business hours. Customer may report issues any time. However, OpenGov will address issues during business hours. OpenGov will provide support for the Software Services in accordance with the Support and Software Service Levels found at opengov.com/service-sla, as long as Customer is entitled to receive support under the applicable Order Form and this Agreement.

   2.3. Professional Services

      2.3.1. If OpenGov or its authorized independent contractors provides professional services to Customer, such as implementation services, then these professional services ("Professional Services") will be described in an applicable statement of work ("SOW") agreed to by the parties. Unless otherwise specified in the SOW, any pre-paid Professional Services must be

utilized within one year from the Effective Date.

3. Restrictions and Responsibilities

3.1. Restrictions. Customer may not use the Software Services in any manner or for any purpose other than as expressly permitted by the Agreement and Documentation. In addition, Customer shall not, and shall not permit or enable any third party to: (a) use or access any of the Software Services to build a competitive product or service; (b) modify, disassemble, decompile, reverse engineer or otherwise make any derivative use of the Software Services (except to the extent applicable laws specifically prohibit such restriction); (c) sell, license, rent, lease, assign, distribute, display, host, disclose, outsource, copy or otherwise commercially exploit the Software Services; (d) perform or disclose any benchmarking or performance testing of the Software Services; (e) remove any proprietary notices included with the Software Services; (f) use the Software Services in violation of applicable law; or (g) transfer any confidential personally identifiable information to OpenGov or the Software Services platform.

3.2. Responsibilities. Customer shall be responsible for obtaining and maintaining computers and third party software systems of record (such as Customer's ERP systems) needed to connect to, access or otherwise use the Software Services. Customer also shall be responsible for: (a) ensuring that such equipment is compatible with the Software Services, (b) maintaining the security of such equipment, user accounts, passwords and files, and (c) all uses of Customer user accounts by any party other than OpenGov.

4. Intellectual Property Rights; License Grants; Access to Customer Data

4.1. Software Services. OpenGov owns all interests and Intellectual Property Rights in the Software Services. The look and feel of the Software Services, including any custom fonts, graphics and button icons, are the property of OpenGov. Customer may not copy, imitate, or use them, in whole or in part, without OpenGov's prior written consent. Subject to Customer's obligations under this Agreement, OpenGov grants Customer a non-exclusive, royalty-free license during the Term to use the Software Services.

4.2. Customer Data. Customer Data and the Intellectual Property Rights therein belong to the Customer. Customer grants OpenGov and its partners (such as hosting providers) a non-exclusive, royalty-free license to use, store, edit, and reformat the Customer Data for the purpose of providing the Software Services described in the Agreement and its Exhibits. OpenGov shall not review or use Customer Data in connection with formulating a response to any Request for Proposal or other solicitation by Customer or marketing other products or services to Customer.

4.3. Access to Customer Data. Customer may download the Customer Data from the Software Services at any time during the Term, excluding during routine software maintenance periods. OpenGov has no obligation to return Customer Data to Customer.

4.4. Deletion of Customer Data. Unless otherwise requested pursuant to this Section 4.4, upon the termination of this Agreement, the Customer Data shall be deleted pursuant to OpenGov's standard data deletion and retention practices. Upon written request, Customer may request deletion of Customer Data prior to the date of termination of this Agreement. Such a request must be addressed to "OpenGov Vice President, Customer Success" at OpenGov's address for notice in Section 10.2.

4.5. Feedback. "Feedback" means suggestions, comments, improvements, ideas, or other feedback or materials regarding the Software Services provided by Customer to OpenGov, including feedback provided through online developer community forums. Customer grants OpenGov a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to use and incorporate into the Software Services and Documentation Customer's Feedback. OpenGov will exclusively own any improvements or modifications to the Software Services and Documentation based on or derived from any of Customer's Feedback including all Intellectual Property Rights in and to the improvements and modifications.

5. Confidentiality

5.1. "Confidential Information" means all confidential business, technical, and financial information of the disclosing party that is marked as "Confidential" or an equivalent designation or that should reasonably be understood to be confidential given the nature of the information and/or the circumstances surrounding the disclosure. OpenGov's Confidential Information includes, without limitation, the software underlying the Software Services, and all Documentation.

5.2. Confidential Information does not include: (a) data that the Customer has previously released to the public; (b) data that Customer would be required to release to the public upon request under applicable federal, state, or local public records laws; (c) Customer Data that Customer requests OpenGov make available to the public in conjunction with the Software Services; (d) information that becomes publicly known through no breach by either party; (e) information that was rightfully received by a party from a third party without restriction on use or disclosure; or (f) information independently developed by the Receiving Party without access to the Disclosing Party's Confidential Information.

5.3. If a party believes it is required to disclose Confidential Information by law, it must notify the other party in writing before making the disclosure in order to give the other party an opportunity to seek a protective order. Each party further agrees to use the other's Confidential Information only in connection with this Agreement. Each party further agrees to protect the other party's Confidential Information using the measures that it employs with respect to its own Confidential Information of a similar nature, but in no event with less than reasonable care.

5.4. Upon termination, each party shall return or delete any of the other party's Confidential Information in its possession.

5.5. Customer Delays; On Hold Fee.

5.5.1.1. On Hold. Excluding delays caused by a force majeure event as described in Section 10.5, if OpenGov determines that Customer's personnel or contractors are not completing Customer's responsibilities described in the applicable SOW timely or accurately, OpenGov may place the Professional Services on hold. If OpenGov places a Customer on hold, OpenGov will ensure that Customer is made aware of its obligations necessary for OpenGov to continue performing the Professional Services. Upon placing a customer on hold, OpenGov may, without penalty, suspend Professional Services to the Customer for a reasonable period and reallocate resources until the Customer has fulfilled its obligations. OpenGov shall bear no liability or otherwise be responsible for delays in the provision of the Professional Services occasioned by Customer's failure to complete Customer's responsibilities.

5.6. Consequences of Non-Payment. If Customer fails to make any payments required under any Order Form or SOW, then in addition to any other rights OpenGov may have under this Agreement or applicable law, OpenGov may temporarily suspend Customer's access to the Software Service for up to 90 days to pursue good faith negotiations before pursuing termination in accordance with Section 6.3. Customer will continue to incur and owe all applicable fees irrespective of any such Service suspension based on such Customer delinquency.

5.7. Taxes. All fees under this Agreement are exclusive of any applicable sales, value-added, use or other taxes ("Sales Taxes"). Customer is solely responsible for any and all Sales Taxes, not including taxes based solely on OpenGov's net income. If any Sales Taxes related to the fees under this Agreement are found at any time to be payable, the amount may be billed by OpenGov to, and shall be paid by, Customer. If Customer fails to pay any Sales Taxes, then Customer will be liable for any related penalties or interest, and will indemnify OpenGov for any liability or expense incurred in connection with such Sales Taxes. In the event Customer or the transactions contemplated by the Agreement are exempt from Sales Taxes, Customer agrees to provide OpenGov, as evidence of such tax exempt status, proper exemption certificates or other documentation acceptable to OpenGov.

6. Representations and Warranties; Disclaimer

6.1. By OpenGov.

6.1.1. General Warranty. OpenGov represents and warrants that it has all right and authority necessary to enter into and perform this Agreement.

6.1.2. Professional Services Warranty. OpenGov further represents and warrants that the Professional Services, if any, will be performed in a professional and workmanlike manner in accordance with the related SOW and generally prevailing industry standards. For any breach of the Professional Services warranty, Customer's exclusive remedy and OpenGov's entire liability will be the re-performance of the applicable services. If OpenGov is unable to re-perform such work as warranted, Customer will be entitled to recover all fees paid to OpenGov for the deficient work. Customer must give written notice of any claim under this warranty to OpenGov within 90 days of performance of such work to receive such warranty remedies.

6.1.3. Software Services Warranty. OpenGov further represents and warrants that for a period of 90 days after the Effective Date, the Software Services will perform in all material respects in accordance with the Documentation. The foregoing warranty does not apply to any Software Services that have been used in a manner other than as set forth in the Documentation and authorized under this Agreement. OpenGov does not warrant that the Software Services will be uninterrupted or error-free. Customer must give written notice of any claim under this warranty to OpenGov during the Term. OpenGov's entire liability for any breach of the foregoing warranty is to repair or replace any nonconforming Software Services so that the affected portion of the Software Services operates as warranted or, if OpenGov is unable to do so, terminate the license for such Software Services and refund the pre-paid, unused portion of the fee for such Software Services.

6.2. By Customer. Customer represents and warrants that (a) it has all right and authority necessary to enter into and perform this Agreement; and (b) OpenGov's use of the Customer Data

pursuant to this Agreement will not infringe, violate or misappropriate the Intellectual Property Rights of any third party.

6.3.   Disclaimer. OPENGOV DOES NOT WARRANT THAT THE SOFTWARE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE SERVICES. EXCEPT AS SET FORTH IN THIS SECTION 8, THE SOFTWARE SERVICES ARE PROVIDED "AS IS" AND OPENGOV DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

7.   Limitation of Liability

7.1.   By Type. NEITHER PARTY, NOR ITS SUPPLIERS, OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS OR EMPLOYEES, SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; OR (C) FOR ANY MATTER BEYOND A PARTY'S REASONABLE CONTROL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

7.2.   By Amount. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE, CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT EXCEED THE FEES PAID BY CUSTOMER TO OPENGOV FOR THE SOFTWARE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY. NOTWITHSTANDING THE ABOVE, OPENGOV'S LIABILITY WITH TO RESPECT TO ITS INDEMNIFICATION OBLIGATIONS SHALL NOT EXCEED THREE TIMES THE FEES PAID IN THE 12 MONTHS PRIOR TO THE CLAIM THAT GAVE RISE TO SUCH INDEMNIFICATION OBLIGATION PROVIDED THAT IF THE CLAIM ARISES AFTER THE AGREEMENT IS TERMINATED THE RELEVANT 12 MONTH PERIOD SHALL BE THE 12 MONTHS PRIOR TO TERMINATION.

7.3.   Limitation of Liability Exclusions. The limitations of liability set forth in Sections 7.1 and 7.2 above do not apply to, and each party accepts liability to the other for: (a) claims based on either party's intentional breach of its obligations set forth in Section 5 (Confidentiality), (b) and claims arising out of fraud or willful misconduct by either party and (c) Contractor's hold harmless and indemnification obligations with respect to personal injury and property damages provided for in the Agreement.

7.4.   No Limitation of Liability by Law. Because some jurisdictions do not allow liability or damages to be limited to the extent set forth above, some of the above limitations may not apply to Customer.

8.   Miscellaneous

8.1.   Anti-corruption. Neither OpenGov nor any of its employees or agents has offered or provided any illegal or improper payment, gift, or transfer of value in connection with this Agreement. The

parties will promptly notify each other if they become aware of any violation of any applicable anti-corruption laws in connection with this Agreement.

8.2.   Injunctive Relief. The parties acknowledge that any breach of the confidentiality provisions or the unauthorized use of a party's intellectual property may result in serious and irreparable injury to the aggrieved party for which damages may not adequately compensate the aggrieved party. The parties agree, therefore, that, in addition to any other remedy that the aggrieved party may have, it shall be entitled to seek equitable injunctive relief without being required to post a bond or other surety or to prove either actual damages or that damages would be an inadequate remedy.

8.3.   Force Majeure. Neither party shall be held responsible or liable for any losses arising out of any delay or failure in performance of any part of this Agreement due to any act of god, act of governmental authority, or due to war, riot, labor difficulty, failure of performance by any third-party service, utilities, or equipment provider, or any other cause beyond the reasonable control of the party delayed or prevented from performing.

8.4.   Severability; Waiver. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Any express waiver or failure to exercise promptly any right under this Agreement will not create a continuing waiver or any expectation of non-enforcement.

8.5.   Survival. The following sections of this Agreement shall survive termination: Section 5. (Confidentiality), Section 7 (Payment of Fees) where payment remains due and payable as specified in the Agreement, Section 4.4 (Deletion of Customer Data), Section 8.3 (Warranty Disclaimer), Section 9 (Limitation of Liability) and Section 10 (Miscellaneous).

Exhibit D: Engagement Charter

Communication and Escalation Procedure

Active engagement throughout the implementation process is the foundation of a successful deployment. To help assess progress, address questions, and minimize risk during the course of deployment both parties agree to the following:

- **Regular communication** aligned to the agreed upon project plan and timing.
  - OpenGov expects our customers to raise questions or concerns as soon as they arise. OpenGov will do the same, in order to be able to address items when known.
- **Executive involvement**
  - Executives may be called upon to clarify expectations and/or resolve confusion.
  - Executives may be needed to steer strategic items to maximize the value through the deployment.
- **Escalation Process**:
  - OpenGov and Customer agree to raise concerns and follow the escalation process, resource responsibility, and documentation in the event an escalation is needed to support issues raised
    - Identification of an issue impeding deployment progress, outcome or capturing the value proposition, that is not acceptable.
    - Customer or OpenGov Project Manager summarizes the problem statement and impasse.
    - Customer and OpenGov Project Managers jointly will outline solution, acceptance or schedule Executive review.
    - Resolution will be documented and signed off following Executive review.
- **Phase Sign-Off**
  - OpenGov requests sign-offs at various stages during the implementation of the project. Once the Customer has signed-off, any additional changes requested by Customer on that stage will require a paid change order for additional hours for OpenGov to complete the requested changes.

Change Order Process

This SOW and related efforts are based on the information provided and gathered by OpenGov. Customers acknowledge that changes to the scope may require additional effort or time, resulting in additional cost. Any change to scope must be agreed to in writing or email, by both Customer and OpenGov, and documented as such via a:

- *Change Order* - Work that is added to or deleted from the original scope of this SOW. Depending on the magnitude of the change, it may or may not alter the original contract amount or completion date and be paid for by Customer. Changes might include:
  - Timeline for completion
  - Sign off process
  - Cost of change and Invoice timing
  - Amending the SOW to correct an error.
  - Extension of work as the complexity identified exceeds what was expected by Customer or OpenGov.

    ○   Change in type of OpenGov resources to support the SOW.
    ○

Deliverable Materials Acceptance Procedure

Deliverable Materials as defined herein will be reviewed and accepted in accordance with the following procedure:

- The deliverable Material will be submitted to your Project Manager.
- Your Project Manager will have decision authority to approve/reject all project Criteria, Phase Acceptance and Engagement Acceptance.
- Within five (5) business days of receipt, your Project Manager will either accept the deliverable Material or provide OpenGov's Project Manager a written list of requested revisions. If OpenGov receives no response from your Project Manager within five (5) business days, then the deliverable Material will be deemed accepted. The process will repeat for the requested revisions until acceptance.
- All acceptance milestones and associated review periods will be tracked on the project plan.
- Both OpenGov and Customer recognize that failure to complete tasks and respond to open issues may have a negative impact on the project.
- For any tasks not yet complete, OpenGov and/or Customer will provide sufficient resources to expedite completion of tasks to prevent negatively impacting the project.
- Any conflict arising from the deliverable Materials Acceptance Procedure will be addressed as specified in the Escalation Procedure set forth in Appendix A-1. As set forth in the "Customer Delays" provision of the Agreement, if there are extended delays (greater than 10 business days) in Customer's response for requested information or deliverable; OpenGov may opt to put the project on an "On Hold" status. After the Customer has fulfilled its obligations, Professional Services can be resumed and the project will be taken off the "On-Hold" status.
- Putting a project "on Hold" may have several ramifications including, but not restricted, to the following:
  - Professional Services to the customer could be stopped;
  - Delay to any agreed timelines; or
  - Not having the same Professional Services team assigned.

Exhibit E: Implementation Activities
OpenGov Procurement Suite

Instance Creation

Procurement Suite		
Description	OpenGov Responsibilities	Customer Responsibilities
Website Instance Creation	OpenGov will: ● Build customer portal and upload Customer's logo.	Customer will: ● Provide logo. ● Confirm access to the Portal.

Technical Project Review

Description	OpenGov Responsibilities	Customer Responsibilities
Technical Project Review	OpenGov will: ● Provide up to one (1) two-hour working session at the beginning of the project to: 　○ Finalize list of templates 　○ Review technical requirements 　○ Provide documentation on requirements and processes OpenGov Assumptions: ● Boilerplate language will be provided within two (2) weeks immediately following the kick-off meeting.	Customer will: ● Identify relevant participants for attendance. ● Confirm deliverables. ● Gather and provide relevant data for the project.

Supplier Engagement, Evaluation and Award Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
Vendor Portal	OpenGov will: ● Enable the Vendor Portal for the Customer.	Customer will: ● Coordinate communications with Vendors to self register on the OpenGov Vendor Portal. ● Allocate resources to create the Vendor Portal. ● Ensure that Vendor Portal will be active before OpenGov begins configuration of templates or the Solicitation Development phase.
Staff Portal	OpenGov will: ● Provide training on staff hierarchy creation ● Work with County to create Single Sign On through OKTA ● Create linkage to OFAS data and transfer data	Customer Will: ● Provide OKTA information ● Provide access to OFAS
Generic Template	OpenGov will: ● Deploy generic templates ● Provide OpenGov's "Paper to Paperless Language Transition Guide" to assist transition from paper to electronic.	Customer will: ● Provide a copy of the next solicitation document. ● Provide information to complete the generic solicitation upload template including forms and an example recent solicitation. ● Provide the category code set used by the agency (NIGP, NAICS, or UNSPSC).

Solicitation Development Configuration

Description	OpenGov Responsibilities	Customer Responsibilities

Solicitation Development Solution	OpenGov will:
	● Review and confirm the Solicitation Templates and forms provided by Customer.
	● Work with Customer to design and get sign off on the first template.
	● Following the sign off of the first template, configure the remaining templates in the system.
	
	OpenGov Assumptions:
	● OpenGov will configure up to three (3) Solicitation Template(s) with standard boilerplate language:
	  ○ RFP
	  ○ IFB
	  ○ RFQ
		Customer will:
		● Provide templates with standard boilerplate language.
		● Provide forms associated with solicitation templates.
		● Provide admin documents.
		● Select the first solicitation type (usually ITB or RFP), to work with OpenGov for the design
		● Sign off on the first template before beginning the subsequent templates.
		● Validate and provide signoff on Solicitation Templates.

Intake Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
Intake Process	OpenGov will: ● Review current intake Process. ● Perform basic intake Training. ● Perform a gap analysis ● Configure "Review/ Approval" workflow defaults for each department. ● Build the Intake/Project Request Template.	Customer will: ● Provide OpenGov with any Intake/Project RequestForms (templates) in current use. ● Validate and provide signoff on Intake/ Project Request template.

Contract Management Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
Create and Manage Contracts	OpenGov will: ● Provide one (1) - one hour Overview of the Contract Management Solution to Customer's System Administrator(s). ● Provide guidance and instruction to System Administrator on creating and managing contracts.	Customer will: ● Attend scheduled System Overview ● Create and manage contract records in the system with guidance from OpenGov.
Historical and/or Active Contracts	OpenGov will: ● Provide a mapping document for the metadata of contracts to be uploaded into the system. ● Import the contract records listed in the contract log. ● Provide up to five (5) hours of consultation for populating the OpenGov contract template. OpenGov Assumptions: ● Customer will provide a complete and accurate contracts log for import to OpenGov. OpenGov clean up/correction of imported logs are not included in the scope of this project.	Customer will ● Provide contract log per the mapping document. ● Centralize all contract metadata for upload to OpenGov using the OpenGov provided template.
Contract Template Deployment	OpenGov will: ● Review & configure agreed upon contract templates. OpenGov Assumptions: ● OpenGov will configure up to five (5) Contract Template(s) with standard boilerplate language:	Customer will: ● Provide templates with standard boilerplate language. ● Validate and provide signoff on Contract templates.

	○ Standard Contract Over 200K ○ Standard Contract Under 200K ○ Standard Contract (Federal) ○ Contract Amendment Over 200K ○ Contract Amendment Under 200K	

Admin Documents and Checklist Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
Admin Documents	OpenGov will: ● Review & configure up to five (5) Admin Documents within the four standard types.	Customer will: ● Provide Admin Documents.

Reporting & Transparency

Description	OpenGov Responsibilities	Customer Responsibilities
Vendor Data Story	OpenGov will: ● Based on best practices, build out the look and feel of one (1) Vendor Summary Template. ● Create up to one (1) report using OpenGov Procurement Vendor data. ● Provide up to two (2) one hour trainings on the following: ○ Download/upload data and creating reports ○ Using report data in dashboards and stories ● Provide up to three (3) one-hour working sessions to answer Customer questions on Story Configuration.	Customer will: ● Provide logo and branding colors to OpenGov. ● Validate and sign off on Vendor Story Template. ● Create Report Views in the Report for use in the Vendor Stories. ● Complete the Vendor Story by adding Customer content: ○ Narrative ○ OpenGov Report Views ○ Images ○ Data not in OpenGov ● Create any additional Reports and Report Views needed. ● Attend working sessions ● Make Stories public and Publish Vendor Stories.

Working Sessions and Trainings

Description	OpenGov Responsibilities	Customer Responsibilities
Procurement Working Sessions	OpenGov will: ● Assign practice exercises to Customer to gain familiarization. ● Assist Customer during first real-life solicitation posting, and opening (if during deployment). ● Respond to questions regarding configured system functionality.	Customer will: ● Complete practice exercises to gain familiarization. ● Identify internal Admin Users & security permissions for all other users.
OpenGov University	OpenGov will: ● Provide access to OpenGov University online training courses intended to teach users on the basics of OpenGov.	Customer will: ● Review training courses.

Procurement Training	OpenGov will:
	● Provide up to three (3) onsite trips to cover training on system functionality. Topics include:
	  ○ Creating Bids with Generic Templates
	  ○ Live Bid Management & Vendor Experience
	  ○ Evaluation and Awarding
	  ○ Writing Solicitations using templates
	  ○ Contract Document Developer Tools
	  ○ Intake Training and Workflow
		Customer will:
		● Attend training sessions as scheduled by the Project Manager and agreed to in the Project Plan.
		● Provide a facility for a minimum of fifty (50) people with laptop access for the onsite trainings.

Exhibit F: Technical Requirements

OpenGov Procurement Suite

Procurement Suite	
Description	Technical Requirements
Logo	.png or .jpg file - At least 300KB but not larger than 500KB
Vendor List	- Single Flat file .csv or .xlsx format
Historical/Active Contracts	- Single Flat file .csv or .xlsx format
Sample Documents or Templates with boilerplate language	PDF or Word format
Intake/Project Request Templates	PDF or Word format
Admin Documents	PDF or Word format
Technology Requirements	- Application must be Security Assertion Markup Language (SAML) compliant and Administration console must integrate with the County's Identity Management Platform (Okta). - Multifactor authentication must be enabled for anyone logging into the web portal - Access permissions must allow for privileges to be assigned to individuals as well as groups in the support of "roles" - Ensure sitewide SSL and enable HTTP Strict Transport Security - Vendor must include periodic platform scan to protect against SQL injection and DoS exploits and testing APIs for potential exploits - Platform must utilize administrative and security controls including performance monitoring, logging, and event monitoring as well as provide network defenses such as auditing capabilities and vulnerability testing/scanning - Provide for a process that includes patching, security fixes, and updates - Customer Data shall only be accessible by the County and its authorized third parties and no other OpenGov customer and kept within the United States including hosting

	● Vendor provides a disaster recovery plan including securely backing up and restoring data