

SUBMITTAL TO THE FLOOD CONTROL AND
WATER CONSERVATION DISTRICT
BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM: 11.1
(ID # 25654)

MEETING DATE:

Tuesday, September 17, 2024

FROM : FLOOD CONTROL DISTRICT

SUBJECT: FLOOD CONTROL DISTRICT: Ratify and Authorize the Purchasing Agent to Issue a Purchase Order for Annual Software Maintenance and Support Renewals with OpenGov, Inc. for Stormwater Domain Subscription and OMS User Subscription for 4-Year Term, All Districts. [\$236,829 Total Cost - District Funds 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and Authorize the Purchasing Agent to Issue a Purchase Order for Annual Software Maintenance and Support Renewals with OpenGov, Inc. for Stormwater Domain Subscription and OMS User Subscription for 4-Year term without seeking competitive bids for a combined amount of \$236,829 (FY 2023-24 \$54,947; FY 2024-25 \$57,695; FY 2025-26 \$60,579; FY 2026-27 \$63,608) through June 30, 2027.

ACTION:Policy

Handwritten signature of Jason Uhley in blue ink.

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG 8/6/2024

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Jeffries and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington, Perez and Gutierrez
Nays: None
Absent: Spiegel
Date: September 17, 2024
xc: Flood

Kimberly A. Rector
Clerk of the Board
By: Deputy

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD
OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$57,695	\$60,579	\$236,829	\$0
NET COUNTY COST	\$0	\$0	\$0	\$0
SOURCE OF FUNDS: 48080--947320-523840 Computer Equipment Software. (Data Processing Fund) -100%			Budget Adjustment: No	
			For Fiscal Year: 23/24 – 26/27	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The OpenGov, Inc. Cartegraph software has served as the Riverside County Flood Control and Water Conservation District's ("District") maintenance tracking software for more than 14 years. The software allows the District to track work orders and inspections of flood control basins, channels and dams. The Stormwater Domain module of the software allows the District to effectively capture the personnel, materials and equipment costs incurred for maintenance and inspection of the District's channels, basins and dams. All of the information captured enables the District to determine how much time and materials were expended for a particular activity. The information also allows for forecasting costs and budget planning/preparation. The Stormwater Domain product provides the ability for complete customization by the District without the need for custom programming or consultant services.

Riverside County Information Technology approved H-11 #REQ0262891

Impact on Residents and Businesses

The Stormwater Domain Subscription and OMS User Subscription capture maintenance and inspection costs that allow the District to put into best practices the management of District flood control facilities that best serves the residents of Riverside County.

Additional Fiscal Information

Source of Funds:

The District is funding the software maintenance and subscription costs from its Data Processing internal service fund. Sufficient funding is available in the District's budget for FY 2024-25 and will be included in its budget for FY 2025-26 and 2026-27.

Contract History and Price Reasonableness

The cost renewal has been guaranteed through FY 2026-27 and has projected increases of 5% per year attributable to software development driven by advancement in the technology market.

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD
OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

Annual Software Maintenance and Support Cost Summary

\$54,947 (Ratify)	Fiscal Year 23/24 Stormwater Domain Subscription and OMS User Subscription
\$57,695	Fiscal Year 24/25 Stormwater Domain Subscription and OMS User Subscription
\$60,579	Fiscal Year 25/26 Stormwater Domain Subscription and OMS User Subscription
\$63,608	Fiscal Year 26/27 Stormwater Domain Subscription and OMS User Subscription
\$236,829	Total 4-Year Annual Software Maintenance and Support Cost

ATTACHMENTS:

1. Riverside County Purchasing Sole Source Justification Form – Approved
2. Riverside County Information Technology Procurement Form – Approved
3. OpenGov, Inc. Sole Source Confirmation Letter
4. OpenGov, Inc. 4-Year Cost Proposal Breakdown of Annual Software Maintenance

MW:rlp
P8/257138


Melissa Curtis, Deputy Director of Purchasing and Fleet

8/30/2024


Douglas Ordóñez Jr.

9/12/2024


Aaron Gettis, Chief of Deputy County Counsel

9/5/2024



MEMORANDUM
RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

251970

DATE: July 20, 2023

FROM: Jason Uhley, General Manager-Chief Engineer
TO: Board of Supervisors/Purchasing Agent
VIA: Samuel Cox, Buyer II, 951.955.0097 or ext. 50097
SUBJECT: Sole Source Procurement
Request for OpenGov: Annual Renewal of the Cartegraph OMS
Storm Water Domain Subscription and OMS User Subscription

EEQ
7/20/2023

The below information is provided in support of my Department requesting approval for a sole or single source. (Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole or single source.)

- 1. Supplier being requested: OPENGOV
2. Vendor ID: 0000119454
3. [X] Single Source [X] Sole Source
4. Have you previously requested and received approval for a sole or single source request for this vendor for your department?
4a. Was the request approved for a different project?
5. Supply/Service being requested: Annual renewal of the Cartegraph OMS - Storm Water Domain Subscription and OMS User Subscription.
6. Unique features of the supply/service being requested from this supplier.

Re: Sole Source Procurement

Request for OpenGov: Annual Renewal of the Cartegraph OMS Storm Water Domain Subscription and OMS User Subscription

based costs is important to the District so we can determine how much time and materials were expended for a particular activity. The information is used when forecasting costs, budget planning/preparation and billings. The Stormwater Domain product offers an innovative and unique technology that allows for complete customization of any screen, any field and any report to meet the District's particular needs without the need for custom programming or consultant services. This feature is not offered by any other vendor. With this system, we also keep track of incoming complaints from the public regarding our facilities.

- 7. **Reasons why my Department requires these unique features from the vendor and what benefit will accrue to the county:** We are renewing the annual maintenance for the Cartegraph Management System, which will allow us to track our inspections, personnel, material and equipment costs which is unique to the type of work the District has been established to do. The Cartegraph software provides the District with the ability to track and report on all of our facilities in a large and yet detailed and comprehensive manner.
- 8. **Period of Performance:** From Fiscal Year 2023-2024 to Fiscal Year 2026-2027 (total number of years)

Is this an annually renewable contract? No Yes

Is this a fixed-term agreement: No Yes

(A fixed-term agreement is set for a specific amount of time; it is not renewed annually. Ensure multi-year fixed-term agreements include a cancellation, non-appropriation of funds, or refund clause. If there is no clause(s) to that effect, then the agreement must be submitted to the Board for approval. No exemptions shall apply.)

- 9. **Identify all costs for this requested purchase. In addition, please include any single or sole source amounts previously approved and related to this project and vendor in the section designated below for current and future fiscal years. You do not need to include previous fiscal year amounts. If approval is for multiple years, ongoing costs must be identified below. If annual increases apply to ongoing costs such as CPI or other contract increases, provide the estimated annual cost for each consecutive year. If the annual increase may exceed the Purchasing Agent's authority, Board approval must be obtained. (Note: ongoing costs may include but are not limited to subscriptions, licenses, maintenance, support, etc.)**

Description:	FY 23/24	FY 24/25	FY 25/26	FY 26/27
One-time Costs:	\$54,947.40	\$57,694.77	\$60,579.51	\$63,608.49
Maintenance and Support				
Ongoing Costs:				
Previous SSJ Approved Amounts:				
Total Costs				\$236,830.17

- 10. **Price Reasonableness:** The cost increase is about 10% higher than previous years because of upgraded software that we are now using. Historically, the cost increase has been about 3-5% annually. The District finds these cost to be fair and reasonable. RCIT APPROVED H-11 REQ#0262891

Board of Supervisors/Purchasing Agent

July 20, 2023

Re: Sole Source Procurement

Request for OpenGov: Annual Renewal of the Cartegraph OMS

Storm Water Domain Subscription and OMS User Subscription

11. Projected Board of Supervisor Date (if applicable): _____

(Draft Form 11s, service agreement and or quotes must accompany the sole source request for Purchasing Agent approval.)

Edwin Quinonez

Edwin Quinonez

7/20/2023

Department Head Signature
(or designee)

Print Name

Date

The section below is to be completed by the Purchasing Agent or designee.

Purchasing Department Comments:

Approve

Approve with Condition/s

Disapprove

Condition(s):

Approved; with cost not to exceed FY limitations noted above.

Not to exceed:

One-time \$ _____

Annual Amount \$ _____ / per fiscal year through _____ (date) (If Annual Amount Varies each FY)

FY _____ : \$ _____
FY _____ : \$ _____
FY _____ : \$ _____
FY _____ : \$ _____
FY _____ : \$ _____

Meghan Hahn

7/20/23

24-024

Purchasing Agent

Date

Approval Number

(Reference on Purchasing Documents)

Lee, Lisa

From: IT Service Desk <rivcoitprod@service-now.com>
Sent: Wednesday, July 19, 2023 3:56 PM
Subject: Policy H-11, Technology Procurement for FLOOD - Approved by all Bure

Request: REQ0262891
Policy H-11 Technology Procurement request for FLOOD has been Approved by all Bureaus.

Ref:MSG14146109



6525 Crown Blvd. #41340
San Jose, CA 95160

July 11, 2023

Samuel Cox
Buyer II
Riverside County Flood Control and Conservation District, CA
1955 Market Street
Riverside, CA 92501

RE: Sole Source Developer of Cartegraph Software

Dear Samuel,

I wanted to take this opportunity to verify in writing Cartegraph Systems LLC of 3600 Digital Drive, Dubuque, Iowa 52003 (a wholly owned subsidiary of OpenGov, Inc.) is the sole source developer of the applications in the Cartegraph Software Suite.

Cartegraph Systems LLC is the sole company who can provide the Cartegraph Operations Management Software (OMS) Suite, SEMS Technology and InVision. This software is solely licensed, designed and developed by Cartegraph Systems LLC. These items plus Cartegraph Shared Cloud Hosting cannot be purchased from any other source. Implementation Services refer to the training, consultation, and configuration of Cartegraph OMS and must be performed exclusively by Cartegraph Systems LLC.

As we strive to assist your organization in increasing efficiency, accountability and transparency, please feel free to contact me via email at dgilbert@opengov.com if further information is needed.

Sincerely,

Dalton Gilbert
Account Executive



OpenGov Continues Expansion with Acquisition of Operations and Asset Management Leader Cartegraph to Address the Growing Demand for Infrastructure Improvements

SAN JOSE, Calif. (July 27, 2022) - [OpenGov](#), the leader in modern cloud software for our nation's cities, counties, and state agencies, expands its industry-leading government cloud solutions with the acquisition of Cartegraph, the leader in cloud software for public agency operations and infrastructure asset management.

"With this acquisition, we are bringing together two incredible, mission-driven teams to meet the needs of the public sector, now and for the future," said OpenGov Co-founder and CEO Zac Bookman. "There has never been a better time to modernize our nation's governments, and we have been investing to grow the OpenGov Cloud to ensure that every government leader has the best solutions to serve the critical needs of their (and our) communities. We are thrilled to welcome Cartegraph and its team of outstanding employees and innovative local government customers to the OpenGov family!"

Local government modernization has been rapidly accelerating over the past few years, driven by a "perfect storm" of forces – from workforce changes, and the rise of ransomware attacks, to a massive inflow of federal stimulus funds, and increasing demand for digital services.

Legacy technology is aging out and cloud software is on the rise because it enables connected workflows and access to critical data. America's infrastructure challenges, in particular, are at the forefront of this digital transformation, due in part to the \$1.2 trillion [Infrastructure Investment and Jobs Act](#). To effectively manage this unprecedented level of spending, local governments need a purpose-built government cloud solution like Cartegraph.

Over the past 10 years, OpenGov has built modern, cloud software to serve the budgeting and planning; permitting, licensing, and code enforcement; procurement and solicitation development; financial management; and reporting and transparency needs of local and state governments.

Meanwhile, Cartegraph has developed a powerful suite of public agency operations and infrastructure management solutions, including asset and work management tools for public

OpenGov
6525 Crown Blvd #41340
San Jose, CA 95160
(650) 336-7167



works, utilities, parks, and facilities teams. By bringing together these solutions, OpenGov can more effectively serve the key strategic functions of governments.

"We couldn't be more excited about joining OpenGov," said Josh Mallamud, Cartegraph CEO. "As we sought a partner for the next chapter of Cartegraph's growth, we looked for a team with three key components: aligned vision and values, a commitment to customer success and building modern cloud-first solutions, and a desire to accelerate our current, exceptional momentum through increased investment. OpenGov delivers on all accounts. With a phenomenal team, the right technology architecture, the resources to invest in Cartegraph's accelerated growth and software development, and a clear commitment to this market for decades to come, OpenGov is the perfect place for the Cartegraph team to continue to grow."

For this transaction, Cartegraph, a Pamlico Capital portfolio company, was represented by William Blair. OpenGov, with new investment from Cox Enterprises, was represented by Shea & Company. This announcement refers to a definitive agreement between OpenGov and Cartegraph, subject to customary conditions and regulatory approval and is expected to close in the third quarter of 2022.

About OpenGov

[OpenGov](#) is the leader in modern cloud software for our nation's cities, counties, and state agencies. With a mission to power more effective and accountable government, OpenGov serves more than 1,600 agencies across the U.S. and is built exclusively for the unique budgeting, procurement, and citizen services needs of the public sector. The OpenGov Cloud makes organizations more collaborative and efficient and enables best-in-class communication with stakeholders and community.

About Cartegraph

[Cartegraph](#) builds safer, more resilient and sustainable communities through better stewardship of buildings and critical infrastructure. It offers powerful, intuitive SaaS solutions that help government agencies, utilities, and educational institutions manage their physical assets and associated operations. With Cartegraph software, users optimize the life of their infrastructure, deploy maintenance resources efficiently, and increase productivity to drive high-performance operations.

For more information, visit cartegraph.com.

OpenGov
6525 Crown Blvd #41340
San Jose, CA 95160
(650) 336-7167



PO# 713

OpenGov Inc.
PO Box 41340
San Jose, CA 95160
United States

Quote Number: OG-00CA8047
Created On: 3/15/2023
Order Form Expiration: 7/18/2023
Subscription Start Date: 7/19/2023
Subscription End Date: 7/18/2027

Prepared By: Audrey Helle
Email: ahelle@opengov.com
Contract Term: 48 Months

Customer Information

Customer: Riverside County Flood Control and Water CNSV Dist, CA
Bill To/Ship To: 1955 Market Street
Riverside, California 92501
United States

Contact Name: Samuel Cox
Email: scox@rivco.org

Order Details

Billing Frequency: Annually in Advance
Payment Terms: Net Thirty (30) Days

SOFTWARE SERVICES:

Product / Service	Start Date	End Date	Annual Fee
Enterprise Asset Management <i>OMS User (10 Users), OMS Plus, Stormwater Domain, On-Premise Fee, Orange Advantage</i>	7/19/2023	7/18/2024	\$54,947.40
Enterprise Asset Management <i>OMS User (10 Users), OMS Plus, Stormwater Domain, On-Premise Fee, Orange Advantage</i>	7/19/2024	7/18/2025	\$57,694.77
Enterprise Asset Management <i>OMS User (10 Users), OMS Plus, Stormwater Domain, On-Premise Fee, Orange Advantage</i>	7/19/2025	7/18/2026	\$60,579.51
Enterprise Asset Management <i>OMS User (10 Users), OMS Plus, Stormwater Domain, On-Premise Fee, Orange Advantage</i>	7/19/2026	7/18/2027	\$63,608.49

Annual Subscription Total: See Billing Table

Billing Table:

Billing Date	Amount Due
July 19, 2023	\$54,947.40
July 19, 2024	\$57,694.77
July 19, 2025	\$60,579.51
July 19, 2026	\$63,608.49

Order Form Legal Terms

Welcome to OpenGov! This Order Form is entered into between OpenGov, Inc. ("OpenGov"), and you, the entity identified above ("Customer"), effective as of the date of the last signature below. This Order Form incorporates the OpenGov Master Services Agreement ("MSA") available at <https://opengov.com/terms-of-service/master-services-agreement/>. If professional services are purchased, the applicable Statement of Work ("SOW") is also incorporated. The Order Form, MSA, and, if applicable, the SOW are the full "Agreement". Unless otherwise specified above, fees for the Software Services and Professional Services shall be due and payable, in advance, 30 days from receipt of the invoice. By signing this Agreement, Customer acknowledges that it has reviewed, and agrees to be legally bound by the Agreement. Each party's acceptance of this Agreement is conditional upon the other's acceptance of the Agreement to the exclusion of all other terms.

Riverside County Flood Control and Water CNSV Dist, CA

OpenGov, Inc.

Signature:
Name: SAMUEL COX
Title: Buyer II
Date: 7/19/23

Signature: _____
Name: _____
Title: _____
Date: _____

OpenGov Master Services Agreement

This Master Services Agreement (this "Agreement") is between OpenGov, Inc., a Delaware corporation ("OpenGov"), and a party procuring OpenGov's services ("Customer"). This Agreement sets forth the terms under which Customer will be permitted to use OpenGov's hosted software services and receive professional services. Each Customer will execute an Order Form, which becomes binding when the parties sign it (the "Effective Date").

1. Definitions

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.
2. "Documentation" means materials produced by OpenGov that provide information about OpenGov's software products and systems.
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.
4. "Order Form" means the document(s) separately executed by the parties or attached as an Exhibit, that specifies the Software Services that OpenGov will provide to Customer under this Agreement.
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

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"). Software Services do not include any pre-release features, functionality, and/or software that Customer elects to use while they are in beta.
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.

3. Professional Services

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, which is incorporated by reference. Unless otherwise specified in the SOW, any pre-paid Professional Services must be utilized within one year from the Effective Date.
2. Relevant travel expenses are provided in the SOW. Any other travel expenses related to the performance of the Professional Services shall be pre-approved by and reimbursed by Customer.

3. **Restrictions and Responsibilities**

1. **Restrictions.** Customer may not use the Software Services in any manner or for any purpose other than as expressly permitted by the Agreement. 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, including but not limited to load testing, or stress testing; (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.
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

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.
2. **Customer Data.** Customer Data and the Intellectual Property Rights therein belong to Customer. Customer grants OpenGov and its partners (such as hosting providers) a non-exclusive, royalty-free license to use, store, edit, and reformat Customer Data for the purpose of providing the Software Services. Customer further agrees that OpenGov and its partners may use aggregated, anonymized Customer Data for purposes of product enhancement, customer service, and data analysis. Insights gleaned from aggregated, anonymized Customer Data will belong to OpenGov.
3. **Access to Customer Data.** Customer may download Customer Data from the Software Services at any time during the Term, excluding during routine software maintenance periods.
4. **Deletion of Customer Data.** Unless otherwise requested pursuant to this Section 4.4, upon the termination of this Agreement, Customer Data shall be deleted pursuant to OpenGov's standard data deletion and retention practices, which is to delete Customer Data 45 days after termination or expiration of the Agreement. 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.
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 Feedback into the Software Services and Documentation. 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**

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.
2. Confidential Information does not include: (a) data that 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.
3. Each party agrees to obtain prior written consent before disclosing any of the other party's Confidential Information. 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. If a party is required to disclose Confidential Information by law or court order, they must notify the other party in writing before making the disclosure to give the other party an opportunity to oppose or limit the disclosure.

6. **Term and Termination**

1. Initial Term. This Agreement begins on the Effective Date and ends on the date the subscription ends ("Initial Term"), according to the Order Form, unless sooner terminated pursuant to Section 6.3.
2. Renewal. This Agreement shall automatically renew for another period of the same duration as the Initial Term (each one is a new "Renewal Term") unless either party notifies the other party of its intent not to renew this

- Agreement in writing no less than 30 days before the end of the then-current term.
3. Termination for Cause. 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.
 4. Termination for Non-Appropriation. For any term after the first full year of this Agreement, Customer may terminate this Agreement if it does not appropriate funds to continue this Agreement in a future fiscal year by providing notice in writing no less than 30 days before the end of the then-current term. Such termination shall be effective upon the expiration of the then-current term. To invoke termination under this section, Customer must use good faith efforts to secure the appropriate funds for the next year's fees.
 5. Effect of Termination. Upon termination of this Agreement pursuant to Section 6: (a) Customer shall pay in full for all Software Services and Professional Services for the then-current annual term, (b) OpenGov shall stop providing Software Services and Professional Services to Customer; and (c) each party shall (at the other party's option) return or delete any of the other party's Confidential Information in its possession.

7. **Payment of Fees**

1. Fees; Invoicing; Payment; Expenses.
 1. Fees. Fees for Software Services and for Professional Services are set forth in the applicable Order Form, and OpenGov will invoice Customer accordingly. Customer agrees to pay invoices within 30 days. Invoices are deemed received when OpenGov emails them to Customer's designated billing contact. Obligations to pay fees are non-cancelable, and payments are non-refundable.
 2. Annual Software Price Adjustment. OpenGov shall increase the fees for the Software Services during any Renewal Term by 5% each year or as otherwise agreed upon in the applicable renewal Order Form.
 3. Travel Expenses. OpenGov will invoice Customer for travel expenses provided in the SOW or Order Form as they are incurred. Customer shall pay all such valid invoices within 30 days of receipt of invoice. Receipts shall be provided for the travel expenses listed on the invoice.
2. 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, (a) Customer will owe a late interest penalty of the maximum rate permitted by law and (b) If Customer's account remains delinquent (with respect to payment of an undisputed invoice) for 10 days after receipt of a delinquency notice from OpenGov, which may be provided via email to Customer's designated billing contact, 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's delinquency.
3. 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 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.

8. Representations and Warranties; Disclaimer

1. By OpenGov.
 1. General Warranty. OpenGov represents and warrants that it has all right and authority necessary to enter into and perform this Agreement.
 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, OpenGov will re-perform 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 the completion of

Professional Services pursuant to the applicable SOW to receive such warranty remedies.

3. **Software Services Warranty.** OpenGov further represents and warrants that for the Term, 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 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 within 90 days of Customer discovering the defect. For any breach of the Software Services warranty, OpenGov will repair or replace any nonconforming Software Services so that the affected portion of the Software Services operates as warranted. If OpenGov is unable to do so, Customer may terminate the license for such Software Services and will be entitled to recover all fees paid to OpenGov for the deficient Software Services.

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

9. Limitation of Liability

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.

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.
3. Limitation of Liability Exclusions. The limitations of liability set forth in Sections 9.1 and 9.2 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) claims arising out of fraud or willful misconduct by either party and (c) either party's infringement of the other party's Intellectual Property Rights.
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.

10. **Miscellaneous**

1. Logo Use. OpenGov shall have the right to use and display Customer's logos and trade names for marketing and promotional purposes in OpenGov's website and marketing materials, subject to Customer's trademark usage guidelines provided to OpenGov.
2. Notice. Ordinary day-to-day operational communications may be conducted by email, live chat or telephone. For notices required by the Agreement the parties must communicate more formally in a writing sent via USPS certified mail and via email. OpenGov's addresses for notice are: legal@opengov.com with a mailed copy to OpenGov, Inc., 660 3rd Street, Suite 100, San Francisco, CA 94107.
3. 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.
4. 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.
5. 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, other than payment obligations, 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.
 6. 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.
 7. Survival. The following sections of this Agreement shall survive termination: Section 5. (Confidentiality), Section 7 (Payment of Fees), Section 4.4 (Deletion of Customer Data), Section 8.3 (Warranty Disclaimer), Section 9 (Limitation of Liability) and Section 10 (Miscellaneous).
 8. Assignment. There are no third-party beneficiaries to this Agreement. Except as set forth in this Section 10.8, neither party may assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations to a third party without the other party's written consent, which consent may not be unreasonably withheld, conditioned, or delayed. Either party may assign, without such consent but upon written notice, its rights and obligations under this Agreement to its corporate affiliate or to any entity that acquires all or substantially all of its capital stock or its assets related to this Agreement, through purchase, merger, consolidation, or otherwise. Any other attempted assignment shall be void. This Agreement will benefit and bind permitted assigns and successors.
 9. Independent Contractors. This Agreement does not create an agency, partnership, joint venture, or employment relationship, and neither party has any authority to bind the other.
 10. Governing Law and Jurisdiction. This Agreement will be governed by the laws of Customer's jurisdiction, without regard to conflict of laws principles. The parties submit to personal jurisdiction and venue in the courts of Customer's jurisdiction.
 11. Complete Agreement. OpenGov has made no other promises or representations to Customer other than those contained in this Agreement. Any additional or different terms in a purchase order or click-

through agreement are expressly rejected by the Parties and are void. Any modification to this Agreement must be in writing and signed by an authorized representative of each party.