Council Business Meeting

September 18, 2018

Agenda Item	Approval of a Special Procurement for OpenGov	
From	Mark Welch	Administrative Services Director
Contact	Mark.welch@ashland.or.us	

SUMMARY

The City of Ashland Administrative Services Department requests the Council, acting as the Local Contract Review Board, approve the use of a special procurement process to renew, and amend, the City's contract with OpenGov to increases the City's efficiency and public outreach efforts. This partnership provides the City an opportunity to expand upon a collaborative budgeting process, develop web pages to display the data, along with allowing for full transparency of all City Financial Records

POLICIES, PLANS & GOALS SUPPORTED

2. *Promote effective citizen communication and engagement*
2.1   Engage community in conversations about core services, desired service levels and finding mechanisms.
2.3   Evaluate existing communication tools currently in use, such as:
2.3.a   Open City Hall
2.3.e   City website
2.3.f   Expand and promote those tools that are most effective, meaningful and efficient for the public to use for understanding an issue (fact gathering), enabling participation, providing avenues for input to Council and being made aware of decisions made.
2.3.g   Repackage and make more accessible Council Communication documents to assist in informing the public on issues.

PREVIOUS COUNCIL ACTION

The City Council formed a Budget Process Ad-hoc to improve the Budget Process. During those meetings several actions were proposed to better the budget process, including producing a "Citizens' Budget Committee Training and Reference Guide" and a calendar of Budget Committee interim meetings to be held during the fiscal year on various budgetary topics.

BACKGROUND AND ADDITIONAL INFORMATION

After much consideration and a lengthy and diligent evaluation of multiple software vendors, staff reached the conclusion and made the recommendation to move forward with a contract for the OpenGov Cloud software and services for their Financial Transparency Tool. This tool allows residents, businesses and visitors to obtain in an easy to understand format, the City's financial data from FY 2006 until present, including the current budget.

OpenGov has proven to be the best long term partner for the City. Staff has been able to work with OpenGov such that their software has been discounted by over 50 percent. The OpenGov partnership is beneficial to both partners, in that OpenGov uses the City is a case study on how to be more transparent and how to utilize the tools to improve their budget tool.

CITY OF ASHLAND

About OpenGov and software

OpenGov is the leader in cloud-based tools purpose built for local government. The City has partnered with OpenGov since July 2017 and we are live with the Financial Transparency Tool that allows residents, businesses and visitors to visualize the City's financial data from FY 2006 until present, to include the current budget.

The OpenGov complete solution is the only platform that provides capabilities for every critical part of our City functions.

Currently, OpenGov has partnered with over 1,800 governments, including cities like Redding, CA, Fort Lauderdale, FL, Fremont, CA, and Ridgefield, WA.

Budgeting and Planning: The tools the OpenGov budgeting and planning software offers is not provided by the City's financial software, Munis. Munis is first and foremost a financial software, and its budget component is not easy for department staff to use and it does not lend itself to easy reporting, consolidation of information, or analytic tools related to budgeting.

The OpenGov platform will provide an end to end budget development solution that will drastically modernize and streamline the City's current process. The Budgeting and Planning tools will allow the City departments and budget staff to reduce manual and clerical efforts during the budgeting process, provide a central collaborative location to develop budget numbers and evaluate scenarios, project workforce and personnel costs, and ultimately provide the publication of the budget document. This part of the OpenGov Cloud will provide powerful analytical capability to allow us to be forward thinking in planning for the City's financial future. This software will be instrumental in providing a more collaborative approach to budgeting with the assistance of the City Council and appointed members of the Budget Committee. For example, the results of changes proposed by the Budget Committee can be input in real-time at the meeting and the effects of those changes can be easily seen.

Stories and Performance Management: The OpenGov platform will enable the City to track initiatives internally in easy to use dashboards, while providing administration and department heads the ability to see executive views of city performance. OpenGov uniquely ties together our financial and non-financial data from across the City's current systems and ties it together in a single source. OpenGov will provide internal efficiencies and streamline information sharing tied to initiatives, which will increase the ability for data-driven decision making.

The performance data can also be presented in an easy to read format through the "Stories" component of the software. The stories component allows for a narrative to be used around financial and non-financial data. The websites are easy to build and are easy to use.

Another major potential use of the software would be the implement the City's first fully integrated and fully interactive budget document. The potential to provide budget information in a new format has the potential to improve the budget as a communication device, operational plan, financial plan as well as helping provide policy direction.

Finally, OpenGov has provided a detailed project plan to ensure a smooth rollout and support while we launch their tools. With prior experience in implementing OpenGov, the City of Ashland would launch the product to be fully available for the BN 2019/21 Budget Process.

FISCAL IMPACTS
The software would be a Central Service expenditure and allocated by the cost allocation plan.

This was not planned for in the budget document and the year one charges will be funded by not hiring the Communications Manager Position during the past fiscal year, along with not implemented all components of Munis. While it is the City Administrator's goal to fill the Communications Manager position in the future, with or without the position being filled it is staff's opinion that this software will help departments convey their financial and performance in a transparent and understandable way.

Currently the City pays $22,885 for the OpenGov's Financial Transparency Tool. The Budget and Planning and Stories and Performance Measurement tools total $36,108, bringing the grand total for all tools to $58,993 on an annual basis. There is a one-time implementation fee of $31,620 to integrate Munis and other platforms the City uses with OpenGov and to train staff on-site.

The software was demonstrated to the Department Heads who support the purchase and are willing to pay their share of the costs annually.

STAFF RECOMMENDATION
Staff recommends Council approval of the contract with OpenGov as a special procurement within the City of Ashland Purchasing Policies.

ACTIONS, OPTIONS & POTENTIAL MOTIONS
I move to approve a special procurement with OpenGov for the OpenGov Cloud Software.
I move to deny a special procurement with OpenGov for the OpenGov Cloud Software.

REFERENCES & ATTACHMENTS
OpenGov Contract

CITY OF
ASHLAND

OPENGOV

ORDER FORM

OpenGov, Inc.
955 Charter Street
Redwood City, CA 94063 USA

Quote Created: 9/5/2018
Quote prepared by: Michael McRae
Quote Expires: 9/30/2018

Customer Information

Customer Name	City of Ashland, OR	Billing Name	City of Ashland, OR
Contact Name	Mark Welch	Billing Address	20 E Main Street
Email	Mark.welch@ashland.or.us		Ashland, OR 97520
Phone	541-488-5300		United States

Order Details

Welcome to OpenGov! Thanks for using our software services.

Solution	Start Date	End Date	Annual Fee	One-Time Fee/Credit
OpenGov Transparency and Reporting & Analysis	10/1/2018	9/30/2023	$17,134.98	
CREDIT for Prepaid Unused Transparency and Reporting & Analysis Fees from 10/1/2018 through 7/30/2019	10/1/2018	7/30/2019		-$14,279.15
OpenGov Open Town Hall	10/1/2018	9/30/2023	$4,500.00	
CREDIT for Prepaid Unused Open Town Hall Fees from 10/1/2018 through 11/13/2018	10/1/2018	11/13/2018		-$542.47
OpenGov Budget Builder	10/1/2018	9/30/2023	$20,462.00	
OpenGov Workforce Planning	10/1/2018	9/30/2023	$0.00	
OpenGov Performance Measures and Story Builder	10/1/2018	9/30/2023	$15,646.00	
OpenGov ERP Integration	10/1/2018	9/30/2023	$1,250.00	
Deployment Fee *(One-Time Fee)*	10/1/2018			$31,620.00

Subscription Start Date: 10/1/2018
Billing Frequency: Annually in Advance – See Table Below

Subscription End Date: 9/30/2023
Payment Terms: Net thirty (30) days

Billing Date	Amount Due
October 1, 2018	$75,791.36
October 1, 2019	$58,992.98
October 1, 2020	$58,992.98
October 1, 2021	$58,992.98
October 1, 2022	$58,992.98

Agreement Governing this Order Form

This Order Form is entered into between OpenGov, Inc., with its principal place of business at 955 Charter Street, Redwood City, 94063 ("OpenGov"), and you, the entity identified above ("Customer"), as of the Effective Date. This Order Form includes and incorporates the OpenGov Amended and Restated Software Services Agreement dated _____ attached and incorporated herein. The Order Form and Software Services Agreement shall hereafter be referred to as the "Agreement". Unless otherwise specified above, fees for the Software Services and Professional Services shall be due and payable, in advance, on the Effective Date. By signing this Agreement, Customer acknowledges that it has reviewed, and agrees to be legally bound by, the OpenGov Terms and Conditions. Each party's acceptance of this Agreement is conditional upon the other's acceptance of the terms in the Agreement to the exclusion of all other terms.

Signatures

Customer: City of Ashland, OR   **OPENGOV, INC.**

Signature: _____   Signature: _____

Name: _____   Name: _____

Title: _____   Title: _____

Date: _____   Date: _____

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OPENGOV AMENDED AND RESTATED SOFTWARE SERVICES AGREEMENT

This Amended and Restated Software Services Agreement (this "**Agreement**") is entered into by OpenGov, Inc., a Delaware corporation with a principal place of business at 955 Charter Street, Redwood City, California 94063 ("**OpenGov**") and the customer listed on the signature block below ("**Customer**"), as of the date of last signature below (the "**Effective Date**"). This Agreement sets forth the terms under which Customer will be permitted to use OpenGov's hosted software services and supersedes in its entirety those certain Software Agreements, dated **August 1, 2017 and October 1, 2017,** between the parties.

1. **DEFINITIONS**

"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 shall not include any confidential personally identifiable information.

"Documentation" means the documentation for the Software Services at the Customer Resource Center page found at https://opengov.zendesk.com.

"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.

"Initial Term" means the initial license term specified in number of years on the Order Form, commencing on the Effective Date.

"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.

"Order Form" means OpenGov's Software Services order form that: (a) specifies the Software Services provided by OpenGov; (b) references this Agreement; and (c) is signed by authorized representatives of both parties.

"Renewal Term" means each additional renewal period, which shall be for a period of equal duration as the Initial Term, for which this Agreement is extended pursuant to Section 7.2.

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 perform the software services identified in the applicable Order Form entered into by OpenGov and Customer ("**Software Services**").

2.2 Support. 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.

2.3 Professional Services.

(a) If OpenGov or its authorized independent contractors provides professional services to Customer, such as implementation services, then these professional services will be described in a statement of work ("**SOW**") agreed to by the parties (the "**Professional Services**"). For Professional Services performed on a time and materials basis, any pre-paid Professional Services Fees must be utilized within one (1) year from the Effective Date. Any unused pre-paid Professional Services Fees shall be forfeited.

(b) Unless the SOW provides otherwise, all reasonable travel expenses incurred by OpenGov in performing the professional services will be reimbursed by Customer. Travel expenses include cost of coach airfare travel

round trip from San Francisco, California to Customer's location, reasonable hotel accommodations, ground transportation and meals.

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. 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 or otherwise commercially exploit the copy, rent, lease, distribute, assign, sell, 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 retains all right, title, and interest in the Software Services and all 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 and 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 hereby grants to Customer a non-exclusive, royalty-free license during the Term to use the Software Services.

4.2 Customer Data. Customer retains all right, title, and interest in the Customer Data and all Intellectual Property Rights therein. Customer hereby grants to OpenGov a non-exclusive, royalty-free license to, and permit its partners to, use, store, edit and reformat the Customer Data, and to use Customer Data for purposes of sales, marketing, business development, product enhancement, customer service, or for analyzing such data and publicly disclosing such analysis ("**Insights**"), provided that in all such uses Customer Data is rendered anonymous such that Customer is no longer identifiable.

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

4.4 Feedback. Customer hereby grants to 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 Each party (the "**Receiving Party**") agrees not to disclose any Confidential Information of the other party (the "**Disclosing Party**") without the Disclosing Party's prior written consent, except as provided below. The Receiving Party further agrees: (a) to use and disclose the Confidential Information only in connection with this Agreement; and (b) to protect such Confidential Information using the measures that Receiving Party employs with respect to

its own Confidential Information of a similar nature, but in no event with less than reasonable care. Notwithstanding the above, the Receiving Party may disclose Confidential Information to the extent required by law or court order, provided that prior written notice of such required disclosure and an opportunity to oppose or limit disclosure is given to the Disclosing Party.

5.2 "**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 (including the terms of the applicable Software Agreement). OpenGov's Confidential Information includes, without limitation, the software underlying the Software Services and all Documentation.

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

6. PAYMENT OF FEES

6.1 Fees; Invoicing; Payment; Expenses.

(a) Fees. The fees for the Software Services for the Initial Term and any Renewal Term ("**Software Services Fees**") and the fees for Professional Services ("**Professional Services Fees**") are set forth in the applicable Order Form. Software Services Fees and Professional Services Fees shall hereafter be referred to as "**Fees**".

(b) Inflation Adjustment. OpenGov shall increase the Fees payable for the Software Services during any Renewal Term by 4% each year of the Renewal Term.

(c) Invoicing and Payment. OpenGov will invoice the Customer according to the Billing Frequency listed on the Order Form. Customer shall pay all invoices according to the Payment Terms listed on the Order Form.

(d) Travel Expenses. Unless the SOW provides otherwise, OpenGov will invoice Customer for travel expenses incurred in connection with each SOW as they are incurred. Customer shall pay all such valid invoices within thirty (30) days of receipt of invoice. Each invoice shall include receipts for the travel expenses listed on the invoice.

6.2 Credit Card Customers. Customer will provide OpenGov with valid credit card information and promptly notify OpenGov of any changes necessary to charge the credit card at billing@opengov.com. Please update your credit card information when necessary. The provision of credit card information to OpenGov authorizes OpenGov to charge the credit card for all applicable Fees plus a 3% credit card processing fee. OpenGov processes credit card payments through a secure third party processing partner and does not take receipt of credit card information itself.

6.3 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 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.

7. TERM & TERMINATION

7.1 Term. Subject to compliance with all terms and conditions, the term of this Agreement shall commence on the Effective Date and shall continue until the Subscription End Date specified on the Order Form (the "**Initial Term**").

7.2 Renewal. Unless either party terminates this Agreement in writing no less than thirty (30) days before the end of the Initial Term, this Agreement shall renew for another period of the same duration as the Initial Term (the Renewal Term and together with the Initial Term, the "**Term**").

7.3 Termination. If either party materially breaches any term of this Agreement and fails to cure such breach within thirty (30) days after notice by the non-breaching party (ten (10) days in the case of non-payment), the non-breaching party may terminate this Agreement immediately upon notice.

7.4 Effect of Termination.

(a) In General. Upon termination or expiration of this Agreement: (a) Customer shall pay in full for all Software Services and Professional Services performed up to and including the effective date of termination, (b) all Software Services provided to Customer hereunder shall immediately terminate; and (c) each party shall return to the other party or, at the other party's option, destroy all Confidential Information of the other party in its possession.

(b) Deletion of Customer Data. If Customer requests deletion of its Customer Data in writing prior to the date of termination or expiration of this Agreement, then OpenGov will permanently and irrevocably delete Customer Data, excluding any Insights, stored by its cloud hosting provider within ten (10) days of the date of termination or expiration of this Agreement. Such request must be addressed to "OpenGov Vice President, Customer Success" at OpenGov's address for notice described at Section 10.

7.5 Survival. The following sections of this Agreement shall survive termination: Section 5 (Confidentiality), Section 6 (Payment of Fees), Section 7.4(b) (Deletion of Customer Data), Section 8.3 (Warranty Disclaimer), Section 9 (Limitation of Liability) and Section 10 (Miscellaneous).

8. REPRESENTATIONS AND WARRANTIES; DISCLAIMER

8.1 By OpenGov.

(a) General Warranty. OpenGov represents and warrants that: (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) the Professional Services, if any, will be performed in a professional and workmanlike manner in accordance with the related statement of work 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 all such work as warranted, Customer will be entitled to recover all fees paid to Contractor for the deficient work. County must make any claim under the foregoing warranty to Contractor in writing within ninety (90) days of performance of such work in order to receive such warranty remedies.

(b) Software Services Warranty. OpenGov further represents and warrants that for a period of ninety (90) days, 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. Any claim submitted under this Section 8.1(b) must be submitted in writing 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.

8.2 By Customer. Customer represents and warrants that (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) 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.

8.3 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

9.1 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 SUCH PARTY'S REASONABLE CONTROL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

9.2 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 (OR, IN THE CASE OF CUSTOMER, PAYABLE) FOR THE SOFTWARE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY.

9.3 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) claim arising out of fraud or willful misconduct by either party and (c) either party's unauthorized use, distribution, or disclosure of the other party's intellectual property.

9.4 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

10.1 Logo Use. OpenGov shall have the right to use and display Customer's logos and trade names for marketing and promotional purposes in connection with OpenGov's website and marketing materials, subject to Customer's trademark usage guidelines provided to OpenGov.

10.2 Notice. Ordinary day-to-day operational communications may be conducted by email, live chat or telephone communications. However, for notices required by the Agreement (in Sections where the word "notice" appears) the parties must communicate more formally in a writing given by personal delivery, by pre-paid first-class mail or by overnight courier to the address specified in the most recent Order Form (or such other address as may be specified in writing in accordance with this Section).

10.3 Anti-corruption. OpenGov has not offered or provided any bribe, kickback, illegal or improper payment, gift, or thing of value to any Customer personnel in connection with the Agreement, other than reasonable gifts and entertainment provided Customer in the ordinary course of business. If OpenGov become aware of any violation of the above restriction then OpenGov shall promptly notify Customer.

10.4 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.

10.5 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,

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utilities, or equipment provider, or any other cause beyond the reasonable control of the party delayed or prevented from performing.

10.6 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. There are no third-party beneficiaries to this Agreement.

10.7 Assignment. Except as set forth in this Section, neither party shall assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations to a third party without the other party's prior written consent, which consent shall 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: (i) its corporate affiliate; or (ii) 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 shall inure to the benefit of and bind each party's permitted assigns and successors.

10.8 Independent Contractors. No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other party in any respect.

10.9 Attorneys' Fees. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.

10.10 Governing Law and Jurisdiction. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions. Exclusive jurisdiction for litigation of any dispute, controversy or claim arising out of or in connection with this Agreement shall be only in the Federal or State court with competent jurisdiction located in San Mateo County, California, and the parties hereby submit to the personal jurisdiction and venue therein.

10.11 Complete Agreement. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement. No modification of this Agreement will be binding, unless in writing and signed by an authorized representative of each party.

Signatures

Customer: City of Ashland, OR

OPENGOV, INC.

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

Statement of Work

City of Ashland, OR

OpenGov Cloud Implementation

Created By Sally Steel-Ginis
SOW Creation Date 09/05/18

CONFIDENTIAL

1. Objective

1.1. Summary

This Statement of Work ("SOW") identifies services that OpenGov, Inc. ("OpenGov") will perform for City of Ashland, OR ("Customer"). This SOW is subject to, and hereby incorporates by reference, the terms and conditions contained in the Software Subscription Agreement (the "Agreement") to which it is attached Customer and OpenGov.

OpenGov will enable and support the Customer to deliver on the Scope of Work outlined below. The objective of this Statement of Work (SOW) is to define the scope, activities, roles and responsibilities, and timeline necessary to successfully execute this deployment project. This project aims to implement the OpenGov Cloud for the Customer to enable effective and accountable governing. This SOW defines the scope and deliverables for a successful implementation of the OpenGov Budget Builder, Workforce Planning, Performance Measures and Stories.

2. Scope

2.1. Project Scope

The project scope includes the following services and deliverables. Any items not specifically included in scope will be considered out of scope.

OpenGov will provide Professional Services to implement the full OpenGov Cloud solution, which includes the the OpenGov Budget Builder, Workforce Planning, Performance Measures and Stories solutions.

2.2. Deliverables

Standard Budgeting & Planning Deployment Package	
Product Setup	**Budget Builder** ● 1 customer-specific chart of accounts ● 1 budget milestones report ● 1 budget to actuals report **Workforce Planning** ● Initial configuration based on customer provided documentation and cost elements ● Data formatting and loading ● 1 authorized position list report ● 1 total compensation detail report

Training	- Administrator Training - Training to departments - Training to council and/or agency management, etc.
Project Scope	- Project support to "Budget Kick-off" - Project continues until Adopted Budget (includes Budget Development and Budget Approval). - Weekly/bi-weekly calls - Submitted proposal review - Budget milestone data support - Budget end user assistance - Training and presentation prep - Proposal creation assistance - Workforce: Administrator training on maintenance and scenario building
Prepaid Hours	164

Stories - Deployment

Product Setup	2 story conceptualizing sessions 2 Stories
Training	- Administrator Training 1 training session for department heads/analysts/leadership
Prepaid Hours	20

Performance Measures Deployment

Product Setup	2 strategic initiative dashboards from OpenGov list 2 KPI tiles per initiative (and corresponding reports) - Up to 4 datasets
Training	Administrator Training
Prepaid Hours	20

Total Deployment Project Hours	
Prepaid Hours	204

2.3. Assumptions

- Hours estimated above are for deployment of outlined deliverables. Any additional hours may be utilized for additional professional services activities dictated by the customer. Should the Customer run out of hours and additional Professional Service activities are need, the Customer will need to purchase additional hours.

3. Schedule

OpenGov will schedule resources for this project upon signature of this SOW. Unless specifically noted, the OpenGov assigned project manager (as identified below or such alternate designated by OpenGov, the "OpenGov Project Manager") will work with Customer 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 OpenGov resources and the deliverables provided by Customer.

4. Project Organization

4.1. Project Team

OpenGov

OpenGov will assign a Project Manager (the "OpenGov Project Manager") upon execution of the SOW. The OpenGov Project Manager will coordinate any additional resources needed from OpenGov.

Customer

Customer will assign a project manager (the "Customer Project Manager") and technical resource prior to project kick-off. The Customer Project Manager will be the primary contact person at Customer and will coordinate all Customer resources needed to complete the project. It is anticipated that there areas of need will be in Finance, Data Gathering, and the IT department.

4.2. Project Responsibilities

The project responsibilities for each organization are outlined below:

OpenGov

1. Manage delivery of in-scope items in coordination with Customer.
2. Make available deliverables to Customer project team for review and verification.

3. Provide relevant technical details and documentation for data requirements for Customer's environment.
4. Keep Customer Project Manager informed of project progress and communicate any issues relating to the project in a timely manner.
5. Establish documentation and procedural standards for the project.
6. Review and administer project change control, as described in Section 5, Change Control Procedures.
7. Ensure that all meetings and training sessions are attended by OpenGov personnel, as scheduled.

8. Budget Builder files are exported as .xlsx. OpenGov may assist in formatting that file, but cannot convert files to any other file types

Customer

1. Make available a representative to serve as the primary contact for OpenGov Project Manager to coordinate project activities.
2. Make available appropriate representatives with the authority to review and approve deliverables produced during the project.
3. Make available appropriate Subject Matter Experts (SME) to support the project needs, test integrations and provide Customer environment specific technical details.
4. Setup firewall rules to allow incoming requests from OpenGov's proxy over HTTP/HTTPS to Customer systems.
5. Communicate any issues relating to the project to OpenGov Project Manager in a timely manner.
6. Provide acceptance of deliverables and Project in a timely manner.

7. Customer will be responsible for any infrastructure required to access OpenGov, and will maintain relevant non-OpenGov software licenses and infrastructure needed for this project i.e. accounting system licenses. Please note, OpenGov software is optimized for Google Chrome.
8. The Customer will be responsible for ensuring that all meetings and training sessions are attended by personnel, as scheduled.

4.3. Implementation Methodology

OpenGov uses an iterative methodology, with a focus on rapid implementation of a configured system. This methodology requires a degree of focus from the Customer and collaboration between both parties to complete work products in a timely manner.

1. **Initiate Phase**

a. **Key Activities:** Discovery, Design Sessions, Solution Document Review
b. **Key Work Products:** Data Inventory, Functional Model Build, Solution Document
c. **Summary:** The Initiate Phase is the first step of the implementation project. The purpose of this phase is to define the success criteria of the project, make design decisions based on the functional model build, and begin gathering data that needs to be loaded into the OpenGov platform. At the end of the Phase, a Solution Document will be created that outlines how the solutions will be implemented.

2. **Configure Phase**
   a. **Key Activities:** Application and Solution Configuration, Data Load
   b. **Key Work Products:** Peer Review
   c. **Summary:** The Configure Phase consists of application configuration, and solution configuration as defined in the Solution Document. OpenGov will also load the data gathered in the Initiate Phase from the Customer to use for unit testing purposes. The Phase ends with a Peer Review done by an OpenGov Subject Matter Expert to confirm that the solution follows OpenGov best practices.

3. **Validate Phase**
   a. **Key Activities:** User Acceptance Testing, Data Confirmation
   b. **Key Work Products:** Test Scripts, Test Acceptance
   c. **Summary:** The Validate Phase starts with a review of the entire solution with the Customer project team to confirm that all project elements have been implemented. Once that process has completed, the Customer will execute test scripts and validate that data is being represented accurately in the solution. If any issues are found, they will be logged and the OpenGov team will assess the issue and resolve as needed. The Phase ends with the Acceptance of test results by the Customer.

4. **Deploy Phase**
   a. **Key Activities:** Administrator Training, Go Live Support, Transition to Customer Success Manager and Technical Support
   b. **Key Work Products:** Project Documentation, Project Acceptance
   c. **Summary:** The purpose of the Deploy phase is to complete the Admin Training process, provide Go Live Support, and begin Transition activities to close the project. Post Go Live Support is technical assistance with the project team and issue resolution for the solution during the two week period after Go Live. Once this period has passed, the Project team will begin working on transition activities to the Customer, the CSM, and the Customer Technical Support Function. The Project closes upon the

acceptance of the project and a brief survey to provide feedback about the experience.

5. Change Control Procedures

No amendments, changes or other modifications to this SOW will be effective without a written project change order, in the form attached hereto as Appendix 1 (a "Project Change Order"). The Project Change Order will describe the change, the rationale for the change, and specify any change in the charges, estimated schedule, or other terms. The terms of a mutually agreed upon Project Change Order will prevail over those of this SOW or any previous Project Change Orders. Such Project Change Order may require additional charges, which will be set forth in the Project Change Order.

6. Fees and Expenses

6.1. Fees and Payment Terms

All fees and expenses will be paid in accordance with the Order Form to which this SOW is attached.

6.2. Travel Expenses

All rates and fees are exclusive of work-related travel, living and other expenses. Customer will be billed for actual expenses as incurred.

1. Appendix 1

Project Change Order

Customer:

Project:

Date
Requested:

Requested by:

Reason for Change

Scope of Change

Project Impact (Schedule and Cost)

Approvals	
OpenGov	**Customer**
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date: