



County of El Paso Agenda Item Details

Item Title: Budget and Finance Department - OpenGov Software-End User License Agreement (2024-0887)

Submitted By: Melissa Carrillo, Deputy County Administrator

Department: County Operations

Department Phone Number: 915-546-2162

Subject: Approve and authorize the County Judge to sign the OpenGov End User License Agreement with OpenGov, Inc for the use of OpenGov hosted software services through September 30, 2026, in the amount of \$25,000. Funding is available in GF-BUDGET-CONTR SVC-GEN. (Contract No. 2024-0887)

Background: Under this project, OpenGov will deliver cloud-based solutions (detailed list in "Exhibit 1" pg. 8-9 of SOW). This agreement will extend the professional services to provide support to the department in its efforts to improve and enhance the public facing dashboard and engagement tools. This service was included in the original contract approved May 22, 2023; however, this item will extend the professional services support for one (1) additional year from the moment it is signed.

This agreement has been reviewed and approved by County Attorneys' Office under Contract No. 2024-0887.

The Budget & Finance Department strives to ensure fiscal transparency and accountability, and to promote the linkage of the budget process with the Strategic Plan of the Commissioners Court. To achieve these goals, in 2023 the Commissioners Court approved a contract with OpenGov to utilize their transparency platform to provide a higher level of public transparency and public engagement with regard to the annual adopted budgets and allocations through the aid of technology. This software will also streamline the budget process, track grants and capital projects more effectively.

Fiscal Impact: Fiscal Impact Historical
N/A

Fiscal Impact Projected

The cost of this agreement is \$25,000.00; funding is available in GF-BUDGET-CONTR SVC-GEN.

Long Account Number: COGF-1000-0000000-431-10-11180-0001-00000-601404- Amount: \$25,000.00

Budget or Unbudgeted Match:

Recommendation:

Approve and authorize the County Judge to sign the OpenGov End User License Agreement with OpenGov, Inc for the use of OpenGov hosted software services through September 30, 2026, in the amount of \$25,000. Funding is available in GF-BUDGET-CONTR SVC-GEN. (Contract No. 2024-0887)

Prior Action:

05/01/2023 - Approve the Purchase of OpenGov Budgeting and Planning, Reporting and Transparency, and Forms & Workflows Software for the County of El Paso using DIR Contract DIR-TSO-4227 awarded to Vertosoft, LLC of Leesburg, Virginia for total amount of \$978,501.67.

04/13/2023 - Purchasing approved on April 13, 2023. Funding is available in CIP23-BUDGET-IT SOFTWARE-CTY.

Strategic Plan:

Goal:

null

Objective:

Strategic Plan Information:

**Estimated Time Needed
For This Item:**

OpenGov End User License Agreement

Texas DIR Contract DIR-CPO-5327

This End User License Agreement (this "Agreement") is made between OpenGov, Inc., a Delaware corporation ("OpenGov"), and a party procuring OpenGov's services ("Customer") through Vertosoft, LLC, an authorized reseller ("Reseller"). This Agreement sets forth the terms under which Customer may use OpenGov's hosted software services and receive professional services, subject to DIR Contract DIR-CPO-5327 ("DIR-CPO-5327"). For purposes of clarity, OpenGov and Customer are parties to a Software Services Agreement through DIR-TSO-4227 with a termination date of September 30, 2026, under County Contract No. 2023-0368 ("Software Services Agreement"). The Software Services Agreement will remain in full force and effect through its termination date and neither this Agreement, the SOW, nor the Quote, will supersede the terms of the Software Services Agreement, unless the Parties otherwise choose to terminate the Software Services Agreement by written agreement.

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.
- 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. "Purchase Order" means the document used between the Reseller and Customer to purchase specified OpenGov services.
- 1.5. "Party" (or "Parties") refers to OpenGov and/or Customer. For the avoidance of doubt, Reseller is not a Party to this Agreement.
- 1.6. "Subscription Term" means the period from the start date of the Software Services specified on the first Purchase Order to the last end date of the Software Services specified on any Purchase Order.

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

Purchase Order (“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, or Work Product as defined DIR-CPO-5327, Appendix A, Section 5.1.1.

- 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 Purchase Order and this Agreement.
- 2.3. Professional Services. If OpenGov or its authorized independent contractors provides professional services to Customer through Reseller, such as implementation services, then OpenGov will specify the professional services (“Professional Services”) in an applicable statement of work (“SOW”) which is incorporated herein by reference. Unless otherwise specified in a SOW, any pre-paid professional services must be utilized within one year from the start of the Subscription Term.

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. 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.
- 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 Subscription Term to use the Software Services.
- 4.2. 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.
- 4.3. Access to Customer Data. Customer may download Customer Data from the Software Services at any time during the Subscription Term, excluding during routine software maintenance periods.
- 4.4. 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.
- 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 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

- 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 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. 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

- 6.1. Subscription Term. This Agreement commences on the start date of the Purchase Order and continues until the last end date of the Software Services specified on the Purchase Order, unless sooner terminated pursuant to Section 6.3.
- 6.2. Renewal. This Agreement will renew if Customer enters another Purchase Order for the Software Services and/or additional Professional Services before the end of the Subscription Term.
- 6.3. Termination.
 - 6.3.1. Termination for Non-Appropriation. Customer may terminate this Agreement for non-appropriation pursuant to DIR-CPO-5327, Appendix A, Section 11.2.1.1.
 - 6.3.2. Termination for Convenience. Customer may terminate this Agreement for convenience pursuant to DIR-CPO-5327, Appendix A, Section 11.2.3.
 - 6.3.3. Termination for Cause. Customer may terminate this Agreement for Cause pursuant to DIR-CPO-5327, Appendix A, Section 11.2.4.2. OpenGov may terminate this Agreement if Customer materially

breaches any term of this Agreement and fails to cure such breach within 30 days after receiving written notice by OpenGov.

- 6.4. 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 in the Purchase Order. If required under Section 8.1.2 or 8.1.3 OpenGov shall make refunds to Reseller, (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. See DIR Contract DIR-CPO-5327, Appendix A, Sections 11.2.6—Customer Rights Under Termination, and 11.2.7—Vendor or Order Fulfiller Rights Under Termination.

7. Payment of Fees

Fees for Software Services are due at the beginning of each year of the Subscription Term, and Customer must timely pay all applicable fees to Reseller to avoid interruption of the Software Services. Fees for Professional Services are due in advance, unless indicated otherwise in the Purchase Order.

8. Representations and Warranties; Disclaimer

- 8.1. By OpenGov.
- 8.1.1. General Warranty. OpenGov represents and warrants that it has all right and authority necessary to enter into and perform this Agreement.
- 8.1.2. 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, 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 for the deficient work to Reseller. 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.
- 8.1.3. 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 Reseller will be entitled to recover all fees paid to OpenGov for the deficient Software Services.

- 8.2. 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.
- 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 A 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 FOR THE SOFTWARE SERVICES UNDER THE APPLICABLE PURCHASE ORDER 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) 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.
- 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. Upon Customer's prior written consent, 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.
- 10.2. 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: OpenGov, Inc., 660 3rd Street, Suite 100, San Francisco, CA 94107 and legal@opengov.com.
- 10.3. 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.
- 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 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.
- 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.
- 10.7. 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).

- 10.8. **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 or as allowed by DIR-CPO-5327, Appendix A, Section 4.4(B). Any other attempted assignment shall be void. This Agreement will benefit and bind permitted assigns and successors.
- 10.9. **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.
- 10.10. **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.
- 10.11. **Complete Agreement.** OpenGov has made no other promises or representations to Customer other than those contained in this Agreement and those required by DIR-CPO-5327. In the event of a conflict, the terms of DIR-CPO-5327 shall prevail. 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.

El Paso, TX

Signature _____
Name _____
Title _____
Date _____

OpenGov, Inc.

DocuSigned by:
Sam Kramer
A3AFF418147C415...
Signature _____
Name Sam Kramer
Title SVP, Finance
Date 12/16/2024



1602 Village Market Blvd SE, Suite 320
Leesburg, VA20175 USA

Cage Code: 7QV38
UEI Number Y7D5MXRU2839
DUNS# 080431574
Federal Tax ID: 81-3911287
Business Size: Small Business

Date: 7/26/2024, 5:13 PM

Phone: 571 707-4130
Fax: 571-291-4119
Email: sales@vertosoft.com

Vertosoft Contact: Carly Moore
Phone: (540) 998-8361
Email: carly.moore@vertosoft.com

OpenGov Quote for County of El Paso, TX

Contract: TX-DIR: DIR-CPO-5327

Quote #: Q-07198
Expires On: 12/19/2024

Ship To
County of El Paso, TX
Jessica Garza
j.garza@epcounty.com

Quote For:
Name:
Company: County of El Paso, TX
Email:
Phone:

PAYMENT TERMS	DELIVERY METHOD	PAYMENT METHOD	VERTOSOFT CUST ID	SUPPLIER REF #
Net 30	Electronic	Check/ACH/Credit Card		

Overall POP Start Date: 12/16/2024

Overall POP End Date: 12/15/2025

PART #	DESCRIPTION	QTY	UNIT PRICE	EXTENDED
OPGV-HAIA-B500750M-RR-1Y	Budgeting & Planning - Managed Services: Boost - Between \$500-750 Million - 1Y	1.00	\$25,000.00	\$25,000.00
TOTAL:				\$25,000.00

Quote Terms

By purchasing the products and services described in this order form, the Customer is expressly agreeing to the End User License Agreement which is incorporated herein by reference.

Taxes: Sales tax shall be added at the time of an invoice, unless a copy of a valid tax exemption or resale certificate is provided.

Credit Card Orders: Additional fees may apply if paying by credit card.

All Purchase Orders must include: End User Name, Phone Number, Email Address, Purchase Order Number, Government Contract Number or Our Quote Number, Bill-To and Ship-To Address (Cannot ship to a PO Box), Period of Performance (if applicable), and a Signature of a duly Authorized Representative.



Statement of Work

County of El Paso, TX

Creation Date: 12/16/2024
Document Number: PS-06309.2
Created by: Sidney Barnes

TABLE OF CONTENTS

OpenGov Statement of Work	3
1. Project Scope	3
2. Adjustments to the Project Scope, Estimated Schedule, Charges and other Terms	3
3. Project Delivery	3
4. Project Understanding	3
5. OpenGov Responsibilities	4
6. Project Tracking and Reporting	4
7. Communication and Escalation Procedure	5
8. Customer Responsibilities	5
9. Customer's Project Manager	6
10. Acceptance Procedure	6
11. Estimated Schedule	7
12. Estimated Project Timeline	7
13. Change Order Process	7
Exhibit 1: Implementation Activities	8

OpenGov Statement of Work

This Statement of Work (“SOW”) identifies services that OpenGov will perform for County of El Paso, TX (“Customer”) pursuant to the order for OpenGov Professional Services. This SOW may not be modified or amended except in a written agreement signed by a duly authorized representative of each party. The [OpenGov Responsibilities](#) section of this document can be found in [Exhibit 1: Implementation Activities](#). Any additional services or support not detailed in Section 4 Project Scope, the Quote, the End User License Agreement, or DIR-CPO-5327 will be considered out of scope. For purposes of clarity, OpenGov and Customer are parties to a Software Services Agreement through DIR-TSO-4227 with a termination date of September 30, 2026, under County Contract No. 2023-0368 (“Software Services Agreement”). The Software Services Agreement will remain in full force and effect through its termination date and neither this SOW, the Quote, nor the OpenGov End User License Agreement will supersede the terms of the Software Services Agreement, unless the Parties otherwise choose to terminate the Software Services Agreement by written agreement.

1. Project Scope

Under this project, OpenGov will deliver cloud based solutions (detailed list in [“Exhibit 1”](#)). OpenGov's estimated charges and schedule are based on performance of the activities listed in the [“OpenGov Responsibilities”](#) section below. Deviations that arise during the project will be managed through the procedure described in [Exhibit 1](#).

2. Adjustments to the Project Scope, Estimated Schedule, Charges and other Terms

Adjustments to the deliverables in [Exhibit 1](#) may include charges on a time-and-materials or fixed-fee basis using OpenGov’s standard rates.

3. Project Delivery

3.1. OpenGov will perform the work under this SOW remotely unless explicitly identified below.

3.2. OpenGov will use personnel and resources located across the United States, and may also include OpenGov-trained implementation partners to support the delivery of services.

4. Project Understanding

4.1. Deviations that arise during the proposed project will be managed through the [Change Order Process](#) and may result in adjustments to the Project Scope, Estimated Schedule, Charges, and/or other terms.

4.2. The OpenGov Suites are not customized beyond current capacities based on the latest release of the software. Implementation of any custom modification or integration developed by OpenGov; Customer internal staff; or any third-party is not included in the scope of this project unless specifically listed in [Exhibit 1](#).

4.3. Customer is responsible for providing appropriate time and resources to the project to meet deliverables as outlined in the project plan.

4.4. Data conversion services from other software system(s) or sources are not included in the scope of this project unless specifically listed in [Exhibit 1](#).

5. OpenGov Responsibilities

5.1. OpenGov will provide project management for the OpenGov responsibilities in this SOW. This provides direction to OpenGov project personnel and a shared framework for project planning, communications, reporting, procedural and contractual activity.

5.2. OpenGov will review the Project Plan with Customer's Project Manager and key stakeholders to ensure alignment on agreed upon timelines.

5.3. OpenGov will maintain project communications through Customer's Project Manager.

5.4. OpenGov will establish documentation and procedural standards for deliverable materials.

5.5. OpenGov will assist Customer'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 identified in [Exhibit 1](#).

6. Project Tracking and Reporting

6.1. OpenGov will review project tasks, schedules, and resources and make changes or additions, as appropriate. OpenGov will measure and evaluate progress against the Project Plan with Customer's Project Manager.

6.2. OpenGov will work with Customer's Project Manager to address and resolve deviations from the Project Plan.

6.3. OpenGov will conduct regularly scheduled project status meetings.

6.4. OpenGov will administer the [Change Order Process](#) with the Customer's Project Manager.

6.6. Deliverable Sign-Off: OpenGov requests Sign-Offs at various deliverables during the implementation of the project. Once the Customer has signed-off on a deliverable, any additional changes requested by Customer on that deliverable will require a paid change order for additional hours for OpenGov to complete the requested changes.

7. Communication and Escalation Procedure

7.1. 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:

7.1.1. Regular communication aligned to the agreed upon Project Plan and timing.

7.1.2. 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.

7.2. Executive involvement

7.2.1. Executives may be called upon to clarify expectations and/or resolve confusion.

7.2.2. Executives may be needed to steer strategic items to maximize the value through the deployment.

7.3. Escalation Process

7.3.1. Identification of an issue impeding deployment progress or outcome, that is not acceptable.

7.3.2. Customer or OpenGov Project Manager summarizes the problem statement and impasse.

7.3.3. Customer and OpenGov Project Managers jointly outline solution acceptance and OpenGov Project Manager will schedule an Executive Review Meeting, if necessary.

7.3.4. Resolution will be documented and signed off.

8 . Customer Responsibilities

8.1. The completion of the proposed scope of work depends on the full commitment and participation of Customer's management and personnel. The Customer's Project Manager should have access to the appropriate Customer Subject Matter Expert personnel needed for the successful implementation of the project. The responsibilities listed in this section are in addition to the responsibilities specified in the Agreement and are to be provided at no charge to OpenGov. OpenGov's performance is predicated upon the following responsibilities being managed and fulfilled by Customer. Delays in performance of these responsibilities may result in a change order and/or delay of the completion of the project.

8.2. Provide the required data to OpenGov within five (5) days of the requests being made from the OpenGov Project Manager. The Customer will be responsible for any potential charges from third parties to access and provide the data.

8.3. Maintain the same format and access to data on an ongoing basis. Any changes to the underlying data or data source may require a change order or charge in the future.

9. Customer's Project Manager

- 9.1. Create, with OpenGov's assistance, the Project Charter for the performance of this SOW which will include the activities, tasks, assignments, milestones and estimates.
- 9.2. Manage Customer personnel and responsibilities for this project (for example: ensure personnel complete any self-paced training sessions, configuration, validation or user acceptance testing).
- 9.3. Identify and assign Subject Matter Experts (SME).
- 9.4. Serve as the communication liaison between OpenGov and Customer representatives participating in the project.
- 9.5. Participate in project status meetings.
- 9.6. Obtain and provide information, data, and decisions within ten (10) business days of OpenGov's request unless Customer and OpenGov agree in writing to a different response time.
- 9.7. Resolve deviations from the estimated schedule.
- 9.8. Help resolve project issues and escalate issues within Customer's organization, as necessary.
- 9.9. Administer the [Change Order Process](#) with the Project Manager, if applicable.

10. Acceptance Procedure

- 10.1. The completed items in Exhibit 1 will be submitted to the Customer's Project Manager.
- 10.2. Customer's Project Manager will have decision authority to approve/reject all Project Criteria, Phase Acceptance and Engagement Acceptance.
- 10.3. Within five (5) business days of receipt, the Customer's 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 the Customer's 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.
- 10.4. All acceptance milestones and associated review periods will be tracked on the Project Plan.
- 10.5 Both OpenGov and Customer recognize that failure to complete tasks and respond to open issues may have a negative impact on the Project.
- 10.6. 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.
- 10.7. Excluding delays caused by a force majeure event, if OpenGov in good faith reasonably 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 after providing a

minimum of seven days written notice to Customer. 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 in the on hold notice. Upon placing a customer on hold, OpenGov may, without penalty, suspend Professional Services to the Customer 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.

11. Estimated Schedule

11.1. OpenGov will schedule resources after the signature of the order form is received. Unless specifically noted, the OpenGov assigned Project Manager will work with Customer Project Manager to develop the Project Charter for all requested deliverables under this SOW. OpenGov reserves the right to adjust the schedule based on the availability of OpenGov resources and/or Customer resources, and the timeliness of deliverables provided by the Customer.

11.2. The Services are currently estimated to start within two (2) weeks but no later than four (4) weeks from signatures on Order Forms.

12. Estimated Project Timeline

12.1. Activities listed in Exhibit 1 will be delivered on an annual basis. The project plan will be agreed upon by the OpenGov and Customer Project Manager.

13. Change Order Process

13.1. This SOW and related efforts are based on the information provided and gathered by OpenGov. Customer acknowledges 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, by both Customer and OpenGov, and documented as such via a Change Order. No verbal agreement will be binding on OpenGov or Customer.

13.2. A Change Order is defined as 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. Changes might include but are not limited to:

14.2.1. Timeline for completion

14.2.2. Sign off process

14.2.3. Cost of change and/or invoice timing

14.2.4. Amending the SOW to correct an error

14.2.5 Extension of work as the complexity identified exceeds what was expected by Customer or OpenGov

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

13.3. The approval process for a Change Order is as follows:

14.3.1. Identification and documentation of a need for modification to the scope of the project as defined in the Statement of Work and any subsequent change orders.

14.3.2. A Change Order is created and Customer and OpenGov review. The Customer will then provide Sign-off..

14.3.3. Change Order is incorporated into the Statement of Work and implemented.

Exhibit 1: Implementation Activities

Online Budget Book New Year Set up

OpenGov will:

- Review existing Online Budget Book templates and table of contents.
- Update reports and set up publications for the customer to add content.
- Export final version to PDF.
- Provide training on:
 - Create and use Account Summary Reports for the Online Budget Book.
 - Create and edit Publications.

Customer will:

- Add Customer content including: narrative, images, and data.
- Sign off on PDF.

Monthly Integration Health Checkup

OpenGov will:

- Review the current integration and use of integrated data.
- Consult on best practices or areas of concern to optimize the use of integrated data in OpenGov.

Customer will:

- Identify an IT resource, if needed.

In-depth New Admin Training

OpenGov will:

- Provide training to System Administrators on how to:
 - Maintain the OpenGov Chart of Accounts.
 - Upload and manage data for reporting.
 - Create and share Reports, Dashboards, Stories, and Topics.
 - Use and copy Online Budget Book Templates.

Customer will:

- Download recorded trainings

Department User Training

OpenGov will:

- Provide up to four (4) one-hour Department User Trainings including the following topics:
 - Upload and manage data for reporting
 - Create and share Reports, Dashboards, Stories, and Topics.

Customer will:

- Invite relevant users to the training
- Download recorded training

Dedicated Training on New Features

OpenGov will:

- Provide training on OpenGov's new features on a quarterly basis.

Customer will:

- Participate in training sessions.

Consulting Hours

OpenGov will:

- Provide up to twenty (20) additional consulting hours. The hours can be used for topics such as:
 - Guidance on Best Practices
 - Additional Training
 - Setting up new features

Customer will:

- Identify how they would like to use the consulting hours as needed.



COMMISSIONERS COURT CONTRACT FORM

CONTRACT SUMMARY

ADDITIONAL BACKGROUND:

FISCAL IMPACT:

PRIOR COURT ACTION:

RECOMMENDATION:

BASIC CONTRACT DETAILS

CONTRACT NO.: 2024-0887

CONTRACT TITLE: OpenGov-Software- Cloud-based Solution Service (End User License Agreement)

SECOND PARTY: Vertosoft, LLC

CONTRACT TYPE: Software License/Installation/Support

TERM AND BUDGET DETAILS

TERM: 1 Year

EXTENSION OPTIONS: N/A - None Available/Remaining

EFFECTIVE DATE: 1/6/2025

MOD EFFECTIVE DATE (If Applicable):

EXPIRATION DATE: 01/05/2026

MOD EXPIRATION DATE (If Applicable):

EXTENSION DEADLINE DATE (If Applicable):

AMOUNT: 25,000

MOD AMOUNT (If Applicable):

APPROVALS

COUNTY ATTORNEY APPROVAL

The attached document has been given legal review by the El Paso County Attorney's Office on behalf of the County of El Paso, its officers, and employees. Said legal review should not be relied upon by any person or entity other than the County of El Paso, its officers, and employees.

COUNTY ATTORNEY: Claudia Aranda

LEGAL REVIEW: Approved as to Form as Submitted

LEGAL REVIEW NOTES (If Applicable):

DATE: 12/19/2024

DIRECTOR/DEPARTMENT HEAD APPROVAL

The undersigned hereby certifies that he/she has read the contract, understands and approves the contract terms and conditions and further certifies that the contract conforms to the bid specification, if any, and acknowledges that he/she is responsible for administering all terms and conditions.

DIRECTOR/DEPARTMENT HEAD/DESIGNEE:

DEPARTMENT CONTACT: Alicia Pulido

DEPARTMENT: Budget and Finance

DATE: