

**ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201**

AGREEMENT NO. 18-193-SS

THIS AGREEMENT is made, on the date of execution by the County, between OpenGov, Inc., 955 Charter Street, Redwood City, CA 94063 ("Contractor") a Delaware Corporation authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia. The County and the Contractor, for the consideration hereinafter specified, agree as follows:

1. CONTRACT DOCUMENTS

The "Contract Documents" consist of:

- This Agreement
- Attachment A – Scope of Work
- Attachment B – Contract Pricing
- Attachment C – OpenGov Service Agreement
- Attachment D – OpenGov Service Level Metrics
- Attachment E – Project Plan

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement will prevail over the other Contract Documents, and the remaining Contract Documents will be complementary to each other. If there are any conflicts, the most stringent terms or provisions will prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either party has made any representation or promise with respect to the parties' agreement that is not contained in the Contract Documents. The Contract Documents may be referred to below as the "Contract" or the "Agreement".

2. SCOPE OF WORK

The Contractor agrees to perform the services described in the Contract Documents (the "Work"). As detailed in the "Scope of Work" (Attachment A), the primary purpose of the Work is to provide the implementation, support and maintenance services for the OpenGov Reporting and Analysis Platform. It will be the Contractor's responsibility, at its sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents limits the Contractor's responsibility to manage the details and execution of the Work.

3. PROJECT OFFICER

The performance of the Contractor is subject to the review and approval of the County Project Officer, who will be appointed by the Director of the Arlington County department or agency requesting the Work under this Contract.

4. CONTRACT TERM

Work under this Agreement will commence on the date of the execution of the Agreement by the County ("Effective Date"). The system must be deployed and operational no later than October 22, 2018, according to the project plan specified in Exhibit A to Attachment A subject to any modifications provided in the Contract Documents ("Implementation Contract Term"). No work will be deemed complete until it is accepted by the County's Project Officer. The Maintenance and Support for the OpenGov Reporting and Analysis Platform Contract Term will commence on the Effective Date of the Agreement and shall continue throughout the subscription term of the OpenGov Reporting and Analysis Platform, but in no event extend past five (5) years from the Effective Date of this Agreement. The Implementation Contract Term and the Maintenance and Support Contract Term are together the "Contract Term".

5. CONTRACT AMOUNT

The County will pay the Contractor in accordance with the terms of the Payment section below and of Attachment B for the Contractor's completion of the Work as required by the Contract Documents. The Contractor will complete the Work for the total amount specified in this section ("Contract Amount").

The County will not compensate the Contractor for any goods or services beyond those included in Attachment A unless those additional goods or services are covered by a fully executed amendment to this Contract. Additional services will be billed at the rates set forth in Attachment B unless otherwise agreed by the parties in writing.

6. PAYMENT

The Contractor must submit invoices to the County's Project Officer, who will either approve the invoice or require corrections. The County will pay the Contractor within 30 days after receipt of an invoice for completed work that is reasonable and allocable to the Contract and that has been performed to the satisfaction of the Project Officer. The number of the County Purchase Order pursuant to which goods or services have been delivered or performed must appear on all invoices.

7. REIMBURSABLE EXPENSES

The County will not reimburse the Contractor for any expenses under this Contract. The amount in Attachment B includes all costs and expenses of providing the services described in this Contract.

8. PAYMENT OF SUBCONTRACTORS

The Contractor is obligated to take one of the two following actions within seven days after receipt of payment by the County for work performed by any subcontractor under this Contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or
- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment, with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest will accrue at the rate of 1% per month.

The Contractor must include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

9. NO WAIVER OF RIGHTS

The County's approval or acceptance of or payment for any goods or services under this Contract will not waive any rights or causes of action arising out of the Contract.

10. NON-APPROPRIATION

All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.

11. COUNTY PURCHASE ORDER REQUIREMENT

County purchases are authorized only if the County issues a Purchase Order in advance of the transaction, indicating that the ordering County agency has sufficient funds available to pay for the purchase. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense. The County will not be liable for payment for any purchases made by its employees that are not authorized by the County Purchasing Agent.

12. REPLACEMENT OF PERSONNEL AND SUBCONTRACTORS

The County has the right reasonably to reject staff or subcontractors whom the Contractor assigns to the project. The Contractor must then provide replacement staff or subcontractors satisfactory to the County in a timely manner and at no additional cost to the County. The day-to-day supervision and control of the Contractor's and its subcontractors' employees is the sole responsibility of the Contractor.

The Contractor may not replace key personnel or subcontractors identified in its proposal, including the approved Project Manager, without the County's written approval. The Contractor must submit any request to remove or replace key personnel or subcontractors to the County Project Officer at least 15 calendar days in advance of the proposed action. The request must contain a detailed justification, including identification of the proposed replacement and his or her qualifications.

If the approved Project Manager must be absent for an extended period, the Contractor must provide an interim Project Manager, subject to the County's written approval.

If the approved Project Manager resigns or is terminated by the Contractor, the Contractor will replace the Project Manager with an individual with similar qualifications and experience, subject to the County's written approval.

13. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED

During the performance of its work pursuant to this Contract:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age or disability or on any other basis prohibited by state law. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation will be deemed sufficient for meeting the requirements of this section.
- C. The Contractor will state in all solicitations or advertisements for employees that it places or causes to be placed that such Contractor is an Equal Opportunity Employer.
- D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 ("ADA"), which prohibits discrimination against individuals with disabilities in employment and mandates that disabled individuals be provided access to publicly and privately provided services and activities.
- E. The Contractor must include the provisions of the foregoing paragraphs in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

14. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

In accordance with §2.2-4311.1 of the Code of Virginia, as amended, the Contractor must not during the performance of this Contract knowingly employ an unauthorized alien, as that term is defined in the federal Immigration Reform and Control Act of 1986.

15. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR

During the performance of this Contract, the Contractor must: (i) provide a drug-free workplace for its employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violating such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "workplace" means the site(s) for the performance of the work required by this Contract.

16. TERMINATION

The County may terminate this Contract at any time as follows: (1) for cause, if, as determined by the County, the Contractor is in breach or default or has failed to perform the Work satisfactorily; or (2) for the convenience of the County.

Upon receipt of a notice of termination, the Contractor must not place any further orders or subcontracts for materials, services or facilities; must terminate all vendors and subcontracts, except as are necessary for the completion of any portion of the Work that the County did not terminate; and must immediately deliver all documents related to the terminated Work to the County.

Any purchases that the Contractor makes after the notice of termination will be the sole responsibility of the Contractor, unless the County has approved the purchases in writing as necessary for completion of any portion of the Work that the County did not terminate.

If any court of competent jurisdiction finds a termination for cause by the County to be improper, then the termination will be deemed a termination for convenience.

A. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE

1. Termination for Unsatisfactory Performance. If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure them within 15 days or any other period specified by the County ("Cure Period"). If the Contractor fails to cure within the Cure Period, the County may terminate the Contract for failure to provide satisfactory performance by providing written notice with a termination date. The Contractor must submit any request for termination costs, with all supporting documentation, to the County Project Officer within 30 days after the expiration of the Cure Period. The County may accept or reject the request for termination costs, in whole or in part, and may notify the Contractor of its decision within a reasonable time.

In the event of termination by the County for failure to perform satisfactorily, the Contractor must continue to provide its services as previously scheduled through the termination date, and the County must continue to pay all fees and charges incurred through the termination date.

2. Termination for Breach or Default. If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination will be immediate after notice of termination to the Contractor (unless the County provides for an opportunity to cure), and the Contractor will not be permitted to seek termination costs.

Upon any termination pursuant to this section, the Contractor will be liable to the County for costs that the County must expend to complete the Work, including costs resulting from any related delays and from unsatisfactory or non-compliant work performed by the Contractor or its subcontractors. The County will deduct such costs from any amount due to the Contractor; or if the County does not owe the Contractor, the Contractor must promptly pay the costs within 15 days of a demand by the County. This section does not limit the County's recovery of any other damages to which it is entitled by law.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt the notice of the termination.

B. TERMINATION FOR THE CONVENIENCE OF THE COUNTY

The County may terminate this Agreement in whole or in part whenever the Purchasing Agent determines that termination is in the County's best interest. The County will give the Contractor at least 15 days' notice in writing. The notice must specify the extent to which the Contract is terminated and the effective termination date. The Contractor will be entitled to termination costs, plus any other reasonable amounts that the parties might negotiate; but no amount will be allowed for anticipatory profits. Such termination for convenience shall not apply to the OpenGov Reporting and Analysis Platform license subscription.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt of the notice of the termination.

17. INDEMNIFICATION

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless and indemnify the County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County Indemnitees") from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure resulting from, arising out of or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

18. INTELLECTUAL PROPERTY INDEMNIFICATION

The Contractor warrants and guarantees that in providing services under this Contract neither the Contractor nor any subcontractor is infringing on the intellectual property rights (including, but not limited to, copyright, patent, mask and trademark) of third parties.

If the Contractor or any of its employees or subcontractors uses any design, device, work or material that is covered by patent or copyright, it is understood that the Contract Amount includes all royalties, licensing fees, and any other costs arising from such use in connection with the Work under this Contract.

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless, and indemnify the County Indemnitees, as defined above, from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability or exposure for infringement of or on account of any trademark, copyright, patented or unpatented invention, process or article manufactured or used in the performance of this Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

19. COPYRIGHT

By this Contract, the Contractor irrevocably transfers, assigns, sets over and conveys to the County all rights, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Contract. The Contractor will execute any documents that the County requests to formalize such transfer or assignment.

The rights granted to the County by this section are irrevocable and may not be rescinded or modified, including in connection with or as a result of the termination of or a dispute concerning this Contract.

The Contractor may not use subcontractors or third parties to develop or provide input into any copyrightable materials produced pursuant to this Contract without the County's advance written approval and unless the Contractor includes this Copyright provision in any contract or agreement with such subcontractors or third parties related to this Contract.

20. OWNERSHIP

This Contract does not confer on the Contractor any ownership rights or rights to use or disclose the County's data or inputs.

In performing the implementation services in the Statement of Work and maintenance and support services in the Services Agreement, no work product will be created. Contractor will retain ownership rights to any modification to Contractor's intellectual property that occurs as a result of performing these services.

The Contractor retains all right, title, interest and intellectual property rights in the Software Services (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).

21. DATA SECURITY AND PROTECTION

The Contractor will comply with all applicable County security and network resources policies, as well as all local, state and federal laws and regulatory requirements concerning data privacy and security. The Contractor must develop, implement, maintain, continually monitor and use appropriate administrative, technical and physical security measures to control access to and to preserve the confidentiality, of all electronically maintained or transmitted information received from or created or maintained on behalf of the County under this Agreement. For purposes of this provision, "County Information" includes, but is not limited to, electronic information; documents; data; images; financial records that are accessed to perform the Work under this Contract.

- (a) **Use of Data**. The Contractor will ensure against any unauthorized use, distribution or disclosure of or access to County Information and County networked resources by itself or its Designees (Contractor Designees shall include, but shall not be limited to, all Contractor-controlled agents or subcontractors working on-site at County facilities or otherwise performing any work under this Contract). Use of County Information other than as specifically outlined in the Contract Documents is strictly prohibited. The Contractor will be solely responsible for any unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access to or disclosure of County Information and for any non-compliance with this provision by itself or by its Designees.

- (b) **Data Protection.** The Contractor will protect the County's Information according to standards established by the National Institute of Standards and Technology, including 201 CMR 17.00, Standards for the Protection of Personal Information of Residents of the Commonwealth and the Payment Card Industry Data Security Standard (PCI DSS), as applicable (collectively, "County Protectable Information"), and no less rigorously than it protects its own data and proprietary or confidential information. If the Contractor expressly consents to and does receive County Protectable Information from the County, then the Contractor will provide to the County, upon request, a copy of its data security policy and procedures for securing County Protectable Information, a copy of its disaster recovery plan(s), and annual results of an Internal Information Security Risk Assessment provided by an outside firm.
- (c) **Security Requirements.** The Contractor agrees to maintain up-to-date anti-virus programs, industry-accepted firewalls and other protections on its business systems and networking equipment. Where the Contractor receives County Protectable Information, the Contractor certifies that all systems and networking equipment that support, interact with or store such County Protectable Information meet the above standards. County Protectable Information, if received by Contractor, will be stored with data-at-rest encryption. The County's Chief Information Security Officer or designee must approve any deviation from these standards. The downloading of County Protectable Information onto laptops, other portable storage media or services such as personal e-mail, Dropbox etc. is prohibited without the written authorization of the County's Chief Information Security Officer or designee.
- (d) **Conclusion of Contract.** Within 30 days after the termination, cancellation, expiration or other conclusion of the Contract, the Contractor must, at no cost to the County, delete or destroy all County Information. The Contractor is responsible for ensuring the return and/or destruction of all Information that is in the possession of its subcontractors or agents. The Contractor must certify completion of this task in writing to the County Project Officer.
- (e) **Notification of Security Incidents.** The Contractor must notify the County Chief Information Officer and County Project Officer within 24 hours of the discovery of any unintended access to or use or disclosure of County Information.
- (f) **Subcontractors.** If subcontractors are permitted under this Contract, the requirements of this entire section must be incorporated into any agreement between the Contractor and the subcontractor. If the subcontractor will have access to County Information, each subcontractor must provide to the Contractor a copy of its data security policy and procedures for securing County Information and a copy of its disaster recovery plan(s).

22. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its proposal was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public

employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

23. COUNTY EMPLOYEES

No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public.

24. FORCE MAJEURE

Neither party will be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to a fire, riot, rebellion, natural disaster, war, act of terrorism or act of God that is beyond the control of the party and that makes performance impossible or illegal, unless otherwise specified in the Contract.

25. AUTHORITY TO TRANSACT BUSINESS

The Contractor must, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the entire term of this Contract. Otherwise, the Contract is voidable at the sole option of and with no expense to the County.

26. RELATION TO COUNTY

The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will be considered employees, servants or agents of the County. The County will not be responsible for any negligence or other wrongdoing by the Contractor or its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes or Social Security tax or for any other benefits. The County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation.

27. ANTITRUST

The Contractor conveys, sells, assigns and transfers to the County all rights, title and interest in and to all causes of action under state or federal antitrust laws that the Contractor may have relating to this Contract.

28. REPORT STANDARDS

The Contractor must submit all written reports required by this Contract for advance review in a format approved by the Project Officer. Reports must be accurate and grammatically correct and should not contain spelling errors. The Contractor will bear the cost of correcting grammatical or spelling errors and inaccurate report data and of other revisions that are required to bring the report(s) into compliance with this section.

Whenever possible, proposals must comply with the following guidelines:

- printed double-sided on at least 30% recycled-content and/or tree-free paper
- recyclable and/or easily removable covers or binders made from recycled materials (proposals with glued bindings that meet all other requirements are acceptable)
- avoid use of plastic covers or dividers
- avoid unnecessary attachments or documents or superfluous use of paper (e.g. separate title sheets or chapter dividers)

29. AUDIT

The Contractor must retain all books, records and other documents related to this Contract for at least five years after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

30. ASSIGNMENT

Except in the event of a change of control by which a majority of the assets or stock of Contractor is assigned or transferred, the Contractor may not assign, transfer, convey or otherwise dispose of any award or any of its rights, obligations or interests under this Contract without the prior written consent of the County.

31. AMENDMENTS

This Contract may not be modified except by written amendment executed by persons duly authorized to bind the Contractor and the County.

32. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES

Nothing in this Contract waives any provision of the Arlington County Purchasing Resolution, which is incorporated herein by reference, or any applicable County policy.

33. DISPUTE RESOLUTION

All disputes arising under this Agreement or concerning its interpretation, whether involving law or fact and including but not limited to claims for additional work, compensation or time, and all claims for alleged breach of contract must be submitted in writing to the Project Officer as soon as the basis for the claim arises. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than 60 days after the final payment. The time limit for a final written decision by the County Manager is 30 days. Procedures concerning contractual claims, disputes, administrative appeals and protests are contained in the Arlington County Purchasing Resolution. The Contractor must continue to work as scheduled pending a decision of the Project Officer, County Manager, County Board or a court of law.

34. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION

This Contract is governed in all respects by the laws of the Commonwealth of Virginia; and the jurisdiction, forum and venue for any litigation concerning the Contract or the Work is in the Circuit Court for Arlington County, Virginia, and in no other court.

35. ARBITRATION

No claim arising under or related to this Contract may be subject to arbitration.

36. NONEXCLUSIVITY OF REMEDIES

All remedies available to the County under this Contract are cumulative, and no remedy will be exclusive of any other at law or in equity.

37. NO WAIVER

The failure to exercise a right provided for in this Contract will not be a subsequent waiver of the same right or of any other right.

38. SEVERABILITY

The sections, paragraphs, clauses, sentences, and phrases of this Contract are severable; and if any section, paragraph, clause, sentence or phrase of this Contract is declared invalid by a court of competent jurisdiction, the rest of the Contract will remain in effect.

39. ATTORNEY'S FEES

In the event that the County prevails in any legal action or proceeding brought by the County to enforce any provision of this Contract, the Contractor will pay the County's reasonable attorney's fees and expenses

40. SURVIVAL OF TERMS

In addition to any statement that a specific term or paragraph survives the expiration or termination of this Contract, the following sections also survive: INDEMNIFICATION; INTELLECTUAL PROPERTY INDEMNIFICATION; RELATION TO COUNTY; OWNERSHIP; AUDIT; COPYRIGHT; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; ATTORNEY'S FEES, AND DATA SECURITY AND PROTECTION.

41. HEADINGS

The section headings in this Contract are inserted only for convenience and do not affect the substance of the Contract or limit the sections' scope.

42. AMBIGUITIES

The parties and their counsel have participated fully in the drafting of this Agreement; and any rule that ambiguities are to be resolved against the drafting party does not apply. The language in this Agreement is to be interpreted as to its plain meaning and not strictly for or against any party.

43. NOTICES

Unless otherwise provided in writing, all legal notices and other communications required by this Contract are deemed to have been given when either (a) delivered in person; (b) delivered by an agent, such as a delivery service; or (c) deposited in the United States mail, postage prepaid, certified or registered and addressed as follows:

TO THE CONTRACTOR:
General Counsel
OpenGov, Inc.
955 Charter Street
Redwood City, CA 94063
United States

TO THE COUNTY:

Maria Meredith, Project Officer
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201

AND

Maria Meredith, Acting Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201

44. ARLINGTON COUNTY BUSINESS LICENSES

The Contractor must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Contract, the Contractor must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060.

45. NON-DISCRIMINATION NOTICE

Arlington County does not discriminate against faith-based organizations.

46. ACCESSIBILITY OF WEB SITE

If any work performed under this Contract results in the design, development or maintenance of or responsibility for the content or format of any County web sites or for the County's presence on third-party web sites, the Contractor must perform such work in compliance with ADA.

47. INSURANCE REQUIREMENTS

Before beginning work under the Contract or any extension, the Contractor must provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force at a minimum the coverage below. The Contractor must maintain this coverage until the completion of the Contract or as otherwise stated in the Contract Documents. All required insurance coverage must be acquired from insurers that are authorized to do business in the Commonwealth of Virginia, with a rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of the A.M. Best Co. Guides.

- a. Workers Compensation - Virginia statutory workers compensation (W/C) coverage, including Virginia benefits and employer's liability with limits of \$100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 per occurrence, with \$2,000,000 annual aggregate covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractors, and products liability. The general aggregate limit must apply to this Contract. Evidence of contractual liability coverage must be typed on the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).

- a. Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be named as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be typed on the certificate.
- b. Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the Contract Term, the Contractor must notify the Purchasing Agent immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this Contract. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- c. Claims-Made Coverage - Any “claims made” policy must remain in force, or the Contractor must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.
- d. Contract Identification - All insurance certificates must state this Contract's number and title.

The Contractor must disclose to the County the amount of any deductible or self-insurance component of any of the required policies. With the County's approval, the Contractor may satisfy its obligations under this section by self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate sufficient financial capacity. In order to do so, the Contractor must provide the County with its most recent actuarial report and a copy of its self-insurance resolution.

The County may request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible and may require a lower deductible; that funds equal to the deductible be placed in escrow; a certificate of self-insurance; collateral; or another mechanism to guarantee the amount of the deductible and ensure protection for the County.

The County's acceptance or approval of any insurance will not relieve the Contractor from any liability or obligation imposed by the Contract Documents.

The Contractor is responsible for the Work and for all materials, tools, equipment, appliances and property used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property used or persons employed in connection with the Work and for of all damage or injury to any person or property, wherever located, resulting from any action, omission, commission or operation under the Contract or in connection in any way whatsoever with the Work. The Contractor's insurance shall be the primary non-contributory insurance for any work performed under this Contract.


The Contractor is as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons whom the Contractor employs directly.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

OPENGOV, INC.

AUTHORIZED
SIGNATURE: 

AUTHORIZED
SIGNATURE: 

NAME: ^{for} MARIA MEREDITH
TITLE: ACTING PURCHASING AGENT

NAME AND
TITLE: Leo Choi VP, Finance

DATE: 7/2/2018

DATE: 6/28/2018

ATTACHMENT A

SCOPE OF WORK

Summary

This Scope of Work identifies services that the Contractor will provide to the County. The Contractor will provide the implementation, support and maintenance services for the OpenGov Platform, OpenGov Reporting and Analysis and OpenGov ERP Integrations. This is a full featured, Software as a Service (“SaaS”) enterprise software solution, which can be further configured by the County on an as needed basis. The County will acquire the OpenGov Reporting and Analysis Platform license subscription through a different contracting vehicle.

Roles & Responsibilities

<i>Contractor</i>	
<i>Contractor’s Role</i>	<i>Responsibilities</i>
Executive Sponsor (ES)	<ul style="list-style-type: none"> • Provides support and project updates for key milestones to the County’s Project Officer. • Serves as the point of contact for any project escalations. • Engages with County Executive conversations in strategic partnership discussions.
Government Finance Expert (GFE)	<ul style="list-style-type: none"> • Provides government finance support, expertise, and insight throughout the project to the combined OpenGov and County project team. • Reviews the County’s Chart of Accounts (COA) in OpenGov.
Project Manager (PM)	<ul style="list-style-type: none"> • Main point of contact throughout the deployment. • Maintains the project plan with updates for the duration of the implementation • Schedules and controls project communication with the County. • Sends regular project updates to the County.
Customer Success Analyst (CSA)	<ul style="list-style-type: none"> • Provides detailed information on the format and requirements for data extraction and formatting from the County’s Oracle e-Business Suite financial system • Uploads initial project data • Works with the County to setup and configure the standard four reports. The standard reports are defined in the Deliverables section of the SOW. • Performs Administrator Training via web conference/phone, which will include data uploads, creating reports, and other administration of the OpenGov solution.

<p>Customer Success Manager (CSM)</p>	<ul style="list-style-type: none"> ● Main point of contact post-deployment. ● Provides quarterly business reviews and regular touch points, including but not limited to bi-weekly or monthly remote meetings, and weekly, bi-weekly, or monthly email communication, during and after the project deployment for the duration of the Contract Term. ● Provides information on upcoming feature releases to the County. This could include information on things like release date or new functionality in the release that is relevant to how the County uses the OpenGov solution. ● Works with the County to identify new requirements and/or ways to use the OpenGov solution. As example of this could be a new report that the County wishes to develop. ● Coordinates and delivers ongoing remote training (included as part of Software as a Service subscription). These trainings would primarily be done remotely unless the County has specific training requirements that necessitate being onsite. ● CSM visits onsite would be at no charge to the County
<p>Integrations Team (IT)</p>	<ul style="list-style-type: none"> ● Sets up and configures an FTP integration for the Oracle E-Business Suite compatible with OpenGov. ● Validates that the data is being passed between systems successfully and is correct. ● Troubleshoots any errors identified. ● Modifies the integration should an Oracle upgrade require a change in integrations.

<i>County</i>	
<i>Role</i>	<i>Responsibilities</i>
<p>Customer Executive Sponsor (CES)</p>	<ul style="list-style-type: none"> ● Acts as internal advocate for OpenGov to promote usage and engagement. ● Serves as a point of contact for any project escalations.
<p>Customer Project Manager (CPM)</p>	<ul style="list-style-type: none"> ● Serves as the primary contact for OpenGov deployment, launch, and ongoing platform development. ● Coordinates meetings and schedules. ● Controls communication between the County and Contractor's project teams.
<p>Customer Data Lead (CDL)</p>	<ul style="list-style-type: none"> ● Is familiar with the County's chart of accounts and accounting system. ● Extracts OpenGov-acceptable data from the County's Oracle e-Business Suite financial system (which is the County's Enterprise Resource Planning (ERP) system).

	<ul style="list-style-type: none"> • Works primarily with the CSA and Integrations Team to set up the ERP Integration with OpenGov.
Customer Chart of Accounts Reviewer (CCAR)	<ul style="list-style-type: none"> • Reviews, validates, and signs off on the OpenGov Chart of Accounts that it accurately reflects the County’s chart of accounts. • Updates chart of accounts segments when new codes are added through a manual update process. • Works closely with the CSA and PM to ensure the platform is accurate and up-to-date.
County Administrator	<ul style="list-style-type: none"> • Maintains and uploads data • Modifies and creates reports • Serves as point of contact for the County to perform other duties inside OpenGov platform as necessary

Deliverables

Solution	Contractor’s Deliverables
OpenGov Platform	<p>Standard Deployment</p> <ul style="list-style-type: none"> • Solution Document that contains what the Contractor will configure and how to administer that functionality post deployment. The Solution Document must be approved by the County Project Officer before the project moves forward. • County-specific COA design and build • Up to 10 years of data will be uploaded by the Contractor. There is no limitation in how many years of data the County can upload after the project is complete. How often this data is refreshed will be defined by the County during the project and configured accordingly by the County • 4 Standard Reports created (Checkbook, Annual, Monthly and Balance Sheet) • 3 Custom Reports created (Junar and non-financial data can be included) as defined by the County • Up to 8 hours of remote training provided via web conferencing, inclusive of the 1-hour admin training, at the time approved by the County. In the training sessions the County will learn to administer the platform, create and configure reports, and use the Chart of Accounts editor. • Ongoing access to the OpenGov Resource Center, where additional documentation is available for the duration of the Contract Term • 1 on-site visit of up to 3 days, if necessary at the discretion of the Project Officer. The Contractor’s project team will work with the County to determine the timing, agenda, objectives, and staff relevant to the delivery of the project at the start of the project. • Marketing and public relations strategy document, to include a best practices guide for press releases.

<p>OpenGov Reporting & Analysis™</p>	<ul style="list-style-type: none"> ● Ability to create unlimited, customizable private and public reports on financial and performance data ● Ability to store and access up to 10 years of data in one platform uploaded by the CSA, and any number of years uploaded by the County.
<p>OpenGov ERP Integrations™</p>	<ul style="list-style-type: none"> ● 1 secure FTP integration for Oracle e-Business Suite. This will be accomplished through a connection to Contractor's FTP server. ● Data validation support as outlined in the "Timeline and Implementation Process" section below.

County Requirements

- The County will provide all personnel outlined in the Roles and Responsibilities section, and facilitate access to appropriate technical and financial personnel as needed. Failure to provide personnel in a timely manner, may cause delays in the delivery schedule.
- The County will ensure that all discovery, discussion, workshop and training sessions are attended by appropriate County personnel, as scheduled.
- The County will be responsible for any infrastructure required to access OpenGov through a web browser, and will maintain relevant non-OpenGov software licenses and infrastructure needed for this project. OpenGov does not require any other licenses or infrastructure not identified in this Statement of Work. OpenGov software works on Safari, Explorer, and Firefox, but is optimized for Google Chrome.
- An appropriate work environment must be provided to Contractor's personnel if it is determined that an on-site visit is appropriate for the project. The location should be co-located or near the locations of the work to be performed, with Internet and telephone service (to include teleconference compatible telephones). The Contractor will follow applicable County policies and/or guidelines for appropriate use of County infrastructure (e.g., Internet, network, etc.).
- The County will extract appropriate data from its ERP system to support the project. The data requirements and formats will be determined and provided by the Contractor during the kickoff stage of the project.
- The County will be responsible for the scheduling of meeting rooms, training facilities, and requisite equipment.
- Within five business days of notification that a deliverable is complete, the County will either sign off on the deliverable or notify the Contractor that the County cannot sign off due to one or more outstanding issues, in which case the Contractor will remediate the issues within seven business days, validate that deliverable is complete, and request County's sign-off.
- No modifications will be required to the County's existing Oracle eBusiness Suite to provide the data to OpenGov's platform. Should the County upgrade its eBusiness Suite, the County will be responsible for any changes necessary to continue to provide access to OpenGov.
- Data will be extracted by the County from Oracle for purposes of uploading the data via FTP into OpenGov.
- The County will be responsible for ensuring that the versions of the ERP system running on all environments remain the same across all environments.

Timeline & Implementation Process

The deployment steps work largely in parallel and are not entirely sequential, as shown in the table below.

	Month 1				Month 2				Month 3				Month 4			
	W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4
Reporting & Analysis	█	█	█	█	█	█	█	█								
Oracle EBS Integration			█	█	█	█	█	█	█							

<i>OpenGov Platform and Reporting and Analysis Deployment</i>	
<i>Phase</i>	<i>Tasks</i>
Kick Off	<ul style="list-style-type: none"> PM/CSM will lead a Kickoff call with the County within 14 days of contract execution. The purpose of the kickoff call is to define the roles and responsibilities of both project teams and our implementation process. The Contractor is responsible for the agenda and running the call, with some assistance from the County. CSA will outline data requirements and supporting materials for data extraction to support integration of general ledger and transactions accounts payable data. Junar data may be included in the custom report build, but would be a manual data upload process until the County decided to build an integration to that system.
Setup	<ul style="list-style-type: none"> The County will send its chart of accounts and transactions data in Excel or CSV as well as a sample data file of general ledger and accounts payable transactions. The CSA will replicate the County's chart of accounts structure and upload the County's sample transactions and general ledger data within the OpenGov platform for chart of accounts iteration. The CSA will assist in data reconciliation and the CCAR will validate to ensure accuracy and sign off. If the County determines that the data does not meet accuracy requirements, the Contractor will work with the County to remediate issues within 7 business days. The CSA will build and configure four (4) standard and three (3) custom reports based on data identified by the County.
Training	<ul style="list-style-type: none"> The Contractor will perform the 8-hour web-based training where the County will learn to administer its platform, create and configure reports, and use the Chart of Accounts editor. The County will also have continuous access to the OpenGov Resource Center, where additional documentation is available.
Launch Preparation	<ul style="list-style-type: none"> The CSM will work with the County on building a plan to best engage staff and citizens to utilize the platform The County will be solely responsible for launching any press releases as part of the overall strategy

<i>OpenGov ERP Integrations Deployment</i>	
<i>Phase</i>	<i>Tasks</i>
Setup	<ul style="list-style-type: none"> • The County will send transactions and GL Balance sample files for the FTP setup. • The County will identify users with access to FTP folder (if FTP integration) and dictate integration schedule (daily, weekly, monthly, etc). • The County will send a revenue and expenditure validation file for validation purposes. • The CSA will review and sign off on the data validity of the integration. • Within five business days of notification of CSA's sign-off, the County will either sign off on the integration or notify the Contractor that the County cannot sign off due to one or more outstanding issues, in which case the Contractor will remediate the issues within seven business days, validate that integration is complete, and request County's sign-off.

<i>Post-Deployment</i>	
<i>Phase</i>	<i>Tasks</i>
Engagement and Adoption	<ul style="list-style-type: none"> • CSM will garner feedback on usage and improvements in the software and implementation from the County. • CSM will work with the County to execute best practices to engage staff and citizens to utilize the platform by sharing lessons learned from other deployments and best practices for engagement. • CSM will schedule business reviews on a quarterly basis to discuss the implementation, any production issues, present new features/perform a functionality review, and discuss best practices with the County.
Training and Support	<ul style="list-style-type: none"> • In addition to the training specified in the OpenGov Platform and Reporting and Analysis Deployment section above, the Contractor will lead hands-on mentoring and training of the County's end users to demonstrate how to use and configure the reports.
Patches and new Releases	<ul style="list-style-type: none"> • The County will gain access to software upgrades and updates every two weeks, aligning with the Contractor's two-week product release cycles. These incremental updates are at no extra cost to the County. Releases are scheduled in two-week intervals for Friday nights at 12am PT. Any unplanned update is communicated to customers two weeks in advance.
Service Level	See Attachment D – OpenGov Service Level Metrics

Ongoing Customer Support

The Contractor will provide the County access to the following:

- Support: Live Chat 7 am to 7 pm PST, Monday – Friday, excluding Contractor' corporate designated holidays. The County may submit a support ticket any time, but the Contractor will not be obligated to assign work after business hours (9 a.m. to 5 p.m. Pacific Time).
- Live Webinars: Access to regular live webinars hosted by the Contractor that teach customers how to use OpenGov in their everyday workflow.
- OpenGov University: 24x7 access to Contractor's library of online on-demand video trainings. (<https://learn.opengov.com/>)
- Resource Center: 24x7 access to detailed product notes, how-to articles, and frequently asked questions.

The Contractor observes the following holidays: New Year's Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, Christmas Eve Day, Christmas Day, and New Year's Eve.

Liaisons

- The County and the Contractor will each designate a liaison as a point of contact for technical issues. Each party may change its liaison upon written notice at reasonable intervals. The Contractor will not be obligated to provide support to any person who is not a County employee.
- The Contractor will provide a contact list of support and Customer Success team members, including executives, that the County can use to escalate at that they do not feel have been appropriately addressed.

ATTACHMENT B

CONTRACT PRICING

The County will pay the Contractor for the OpenGov system implementation, deployment and training services a one-time fee of \$1,000. This fee will become payable twenty-five percent (25%) upon the effective date of this Agreement, twenty-five (25%) percent upon initial data load into the Reporting and Analysis Platform and the remaining fifty percent (50%) upon the Contractor's completion and County's acceptance of all Deliverables required by the Agreement.

The County can request additional training(s) beyond the training specified in Attachment A at a rate of \$155/hour.

ATTACHMENT C

OPENGOV SERVICE AGREEMENT

1. SOFTWARE SERVICES

1.1 The Contractor will use commercially reasonable efforts to perform the software services (the "Software Services") identified in this Agreement.

1.2 The County will provide the Contractor, in .csv or .xls format, with a copy of the chart of accounts and five or more years of general ledger data, including budget data for the current year and actual expense and revenue data for past years. Any dates or time periods relevant to Contractor's performance will be extended appropriately and equitably to reflect any delays caused by the County's failure to deliver any such materials.

2. RESTRICTIONS AND RESPONSIBILITIES

2.1 This is a contract for access to the Software Services and the County agrees not to, directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of the Software Services, documentation or data related to the Software Services, except to the extent such a restriction is limited by applicable law; modify, translate, or create derivative works based on the Software Services; or copy, rent, lease, distribute, assign, sell, or otherwise commercially exploit, transfer, or encumber rights to the Software Services; or remove any proprietary notices.

2.2 The County will use the Software Services only in compliance with all applicable laws and regulations (including, but not limited to, any export restrictions).

2.3 The County will be responsible for obtaining and maintaining any equipment and other services needed to connect to, access or otherwise use the Software Services. The County will also 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 County user accounts with or without County's knowledge or consent.

3. **DATA LICENSE.** The County grants the Contractor a non-exclusive, transferable (in the event of a change of control of Contractor), worldwide, and royalty-free license to use any data or information submitted by the County to the Contractor for the provision of the Software Services and the OpenGov Reporting and Analysis Platform subscription term.

4. WARRANTY AND DISCLAIMER

4.1 Contractor represents and warrants that: (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) the Software Services shall be performed in a professional and workmanlike manner in accordance with generally prevailing industry standards.

4.2 The County represents and warrants that (i) it has all right and authority necessary to enter into and perform this Agreement; (ii) it owns all right, title, and interest in and to all data provided to Contractor

for use in and in connection with this Agreement, or possesses the necessary authorization thereto; and (iii) Contractor's use of such materials in connection with the Software Services will not violate the rights of any third party.

5. LIMITATION OF LIABILITY. NEITHER PARTY, NOR ITS SUPPLIERS, OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES, SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR RELATED TERMS AND CONDITIONS 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. 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 THREE TIMES (3X) THE FEES PAID BY THE COUNTY TO CONTRACTOR (OR, IN THE CASE OF THE COUNTY, PAYABLE) UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY. NONE OF THESE LIMITS WILL APPLY IN THE CASE OF PERSONAL INJURY OR DEATH.

6. MISCELLANEOUS.

6.1 The Contractor shall have the right to use and display the County's logos and trade names on Contractor's website and marketing materials, subject to the County's trademark usage guidelines (as provided to Contractor).

6.2 The Contractor will be responsible for monitoring and maintaining adequate controls over the County's Data transmissions and storage. The Contractor will be solely responsible for setting applicable data processing and transmission parameters.

ATTACHMENT D

OPENGOV SERVICE LEVEL METRICS

1. SCHEDULED DOWNTIME. “Downtime” means that for a valid request by our external verification service, made on no less than a minutely basis, results in a server error (HTTP status 5XX or the server response takes 30 or more seconds). The system undergoes maintenance every Friday from 6:00pm to 11:00pm Pacific Time. When needed, the Contractor will schedule additional Downtime for routine maintenance or system upgrades (“Scheduled Downtime”) for its Services. The Contractor will exercise commercially reasonable efforts to schedule Scheduled Downtime outside of peak traffic periods. The Contractor will notify the Customer Project Manager at least forty-eight (48) hours prior to the occurrence of Scheduled Downtime. Scheduled Downtime during County’s business hours may not last longer than 2 hours.

2. SYSTEMS ACCESSIBILITY WARRANTY.

A. The Services will be accessible 99.9% of the time, 7 days of the week, and 24 hours per day, as calculated over a calendar month (“Systems Accessibility Warranty”). Such System Accessibility Warranty does not apply to, and the Contractor will not be responsible for, any inaccessibility which: 1) results from Scheduled Downtime; 2) results from a failure of equipment, software or services not under the direct control of the Contractor; 3) results from the failure of communication or telephone access service or other outside service or equipment not the fault of the Contractor; 4) is caused by a third party not under Contractor’s control; or 5) is a result of causes beyond the reasonable control of the Contractor, including any force majeure event.

B. Resolution of issues for unscheduled Downtime will be worked on 24x7 and resolved within 24 hours. Updates will be provided to the County every 4 hours during any unscheduled outage.

C. If the Services experience Downtime of more than 99% or outside of the Scheduled Downtime detailed above, then as the County’s sole and exclusive remedy, and the Contractor’s sole and exclusive financial liability and obligation, the County is entitled to a Service Level Credit equal as follows:

Monthly Uptime Percentage	Percentage of monthly bill for Services to be credited to future monthly bills of the County
99.00% - < 99.9%	10%
95.00% - < 99.00%	25%
< 95.00%	50%

- “Monthly Uptime Percentage” means the total number of minutes in a month, minus the number of minutes of Downtime suffered from all Downtime Periods in a month, divided by the total number of minutes in a month.

D. To receive a Service Level Credit, the County must submit a written request to the County’s designated account manager or the Contractor’s support team. To be eligible, the request must (i) include

the dates and times of each incident of Downtime experienced by the County in the preceding month; and (ii) be received by the Contractor within 30 days after the end of the monthly period in which the Downtime occurred.

E. Upon receipt of a Service Level Credit request in compliance with the above requirements, the Contractor will have 30 days to review the request and to validate the information provided. If the Contractor determines in good faith that the Services failed to meet the Systems Accessibility Warranty as alleged in such a request, then the Contractor will apply such Service Level Credits to County's next billing period. The County's failure to comply with the provisions of Section 2.C. above will disqualify it from receiving a Service Level Credit.

F. Customers whose accounts are past due, delinquent, and/or not in good standing at any time during the service month of a given service outage are not eligible for a credit.

ATTACHMENT E

PROJECT PLAN

Title	Type	Start	Due
PROJECT MANAGEMENT	milestone	7/9/2018	10/31/2018
Kick Off Prep	task	7/9/2018	7/10/2018
Project Kick Off Meeting	task	7/11/2018	7/11/2018
Metrics/Discovery Session	task	7/11/2018	7/13/2018
General Project Management	task	7/9/2018	10/31/2018
REPORTING & ANALYSIS	milestone	7/12/2018	9/24/2018
Initiate Phase	milestone	7/12/2018	8/28/2018
Kick Off Prep	task	7/12/2018	7/18/2018
R&A Kickoff	task	7/19/2018	7/19/2018
Data and Systems Inventory	task	7/20/2018	7/26/2018
Functional Model Build	task	7/27/2018	8/8/2018
Requirements Gathering	task	8/9/2018	8/14/2018
Design Review	task	8/15/2018	8/15/2018
Data Gathering	task	8/16/2018	8/22/2018
Update Solution Document	task	8/23/2018	8/24/2018
Solution Document Review (if applicable)	task	8/27/2018	8/28/2018
Configure Phase	milestone	8/29/2018	9/11/2018
Configure Application	task	8/29/2018	8/30/2018
Solution Configuration & Iteration	task	8/31/2018	9/6/2018
Data Load	task	9/7/2018	9/7/2018
Peer Review	task	9/10/2018	9/11/2018
Validate Phase	milestone	9/12/2018	9/24/2018
Review Configuration	task	9/12/2018	9/12/2018
Confirm Data Accuracy	task	9/13/2018	9/18/2018
Remedy Inaccuracies & Update	task	9/19/2018	9/21/2018
Solution Acceptance	task	9/24/2018	9/24/2018
Deploy Phase	milestone	9/25/2018	10/12/2018
Admin Training	task	9/25/2018	9/25/2018
Launch Preparation	task	9/26/2018	9/26/2018
Launch Production Site (up to 3 weeks)	task	9/27/2018	9/27/2018
Post Launch Support (2 or 4 weeks)	task	9/28/2018	10/12/2018
INTEGRATIONS	milestone	7/12/2018	10/22/2018
Initiate Phase	milestone	7/12/2018	7/25/2018
Pre Initiate Activities	task	7/12/2018	7/13/2018
Pre Kickoff Activities	task	7/13/2018	7/18/2018
Kickoff Meeting	task	7/19/2018	7/23/2018
Design Review Meeting	task	7/24/2018	7/25/2018
Configure Phase	milestone	7/25/2018	9/11/2018

Set up FTP credentials & Subfolders OR Schedule Scribe Installation	task	7/25/2018	7/26/2018
Create Database View script	task	7/27/2018	7/31/2018
Initial Data Load	task	8/1/2018	8/6/2018
Build the Scribe Solution and Data Target(s)	task	8/7/2018	8/14/2018
Internal Data Validation and Dataset Filters	task	8/15/2018	8/22/2018
Report Validation	task	8/23/2018	8/29/2018
Load Historical Data	task	8/30/2018	9/5/2018
Peer Review	task	9/6/2018	9/11/2018
Validate Phase	milestone	9/12/2018	10/1/2018
Review data with customer	task	9/12/2018	9/19/2018
Update reports to point to the integration dataset	task	9/21/2018	9/26/2018
Admin training	task	9/26/2018	10/1/2018
Deploy	milestone	10/1/2018	10/22/2018
Catchup Data to Date & Schedule ETL Solution	task	10/1/2018	10/4/2018
Platform Cleanup	task	10/4/2018	10/9/2018
Update Integration Documentation	task	10/9/2018	10/12/2018
Monitor ETL Solution	task	10/12/2018	10/17/2018
County Sign Off	task	10/17/2018	10/22/2018