C26 Approve a renewal agreement with OpenGov for an online eProcurement system.

BOARD MEETING DATE: May 13, 2025

CATEGORY: Consent Calendar 26

SUBJECT: Approve a renewal agreement with OpenGov for an online eProcurement system.

DEPARTMENT: Support Services

SUPERVISORIAL DISTRICT #:   All

DEPARTMENT CONTACT: Monica Fugitt, Director of Support Services, (530) 225-5515

STAFF REPORT APPROVED BY: Monica Fugitt, Director of Support Services

Vote Required?	General Fund Impact?
Simple Majority Vote	No Additional General Fund Impact

RECOMMENDATION
Approve a renewal agreement with OpenGov for an online eProcurement system in an amount of $53,393 per year for the period of July 1, 2025, through June 30, 2028.

DISCUSSION
OpenGov is a cloud based online eProcurement system that is being utilized by Purchasing for competitive procurements and contract management. Utilizing OpenGov simplifies the procurement process for both vendors and County staff to increase efficiencies. OpenGov allows the County to prepare solicitations, process internal reviews and approvals, release/receive responses, and evaluate responses seamlessly. The contracts module serves as a database and repository and allows for alerts regarding contract expirations to ensure renewals are processed timely.

Vendors may register to receive automated notifications of procurements, upload responses electronically, and receive award notifications. There are currently over 2,000 vendors directly registered to receive notifications from Shasta County, and thousands of vendors registered nationwide. Additionally, vendors are automatically notified when their insurance documents are up for expiration, allowing them to provide current certificates, reducing liability to the County.

Local vendors are encouraged to register at https://procurement.opengov.com/portal/shastaca.

ALTERNATIVES
The Board may choose not to approve the Agreement. This is not recommended because the increased efficiencies allow Purchasing to support County departments in a timely manner. The Board could propose alternative methods of managing the procurement process or request additional information from staff.

OTHER AGENCY INVOLVEMENT
County Counsel has approved the agreement as to form. Risk Management has approved the agreement. The Chief Information Officer has approved the agreement. The recommendation has been approved by the County Administrative Office.

FISCAL IMPACT
There is no additional General Fund impact from this agreement. The funds involved with this agreement have been included in the FY 25-26 Proposed Budget and will be included in future budgets.

ATTACHMENTS:
1: Renewal Agreement - OpenGov

OpenGov ▼

OpenGov Inc.
660 3rd Street, Suite 100
San Francisco, CA 94107
United States

Order Form Number:	Q-06222	**Prepared By:**	Beverly Dea
Created On:	04/07/2025	**Email:**	bdea@opengov.com
Order Form Expiration:	06/30/2025	**Contract Term:**	36 Months
Subscription Start Date:	07/01/2025		
Subscription End Date:	06/30/2028		

Customer Information:

Customer:	County of Shasta, CA	**Contact Name:**	Leticia Swanson
Bill To/Ship To:	1450 Court St. Ste 348	**Email:**	llswanson@shastacounty.gov
	Redding, California 96001 United States	**Phone:**	530-229-8244

Order Details:

Billing Frequency:	Annual
Payment Terms:	Net 30 Days

SOFTWARE SERVICES:

Product Name	Start Date	End Date	Annual Fee
OpenGov Core Procurement and Contracts	07/01/2025	06/30/2026	$53,393.00
OpenGov Core Procurement and Contracts	07/01/2026	06/30/2027	$53,393.00
OpenGov Core Procurement and Contracts	07/01/2027	06/30/2028	$53,393.00

Customer Billing/Service Periods:

Period:	Total:
07/01/2025	$53,393.00
07/01/2026	$53,393.00
07/01/2027	$53,393.00

Order Form Legal Terms:

This Order Form incorporates the OpenGov Master Services Agreement ("MSA") attached here.

The "Agreement" between OpenGov and the entity identified above ("Customer") consists of the Order Form, MSA, and, if Professional Services are purchased, the Statement of Work.

Unless otherwise specified above, fees for the Software Services and Professional Services shall be due and payable, in advance, 30 days from receipt of the invoice.

By signing this Agreement, Customer acknowledges that it has reviewed, and agrees to be legally bound by the Agreement. Each party's acceptance of this Agreement is conditional upon the other's acceptance of the Agreement to the exclusion of all other terms

County of Shasta, CA:

Signature:

_____

Name: KEVIN W. CRYE

_____

Title: CHAIR
County of Shasta, State of California

Date:

_____

OpenGov, Inc.

Signed by:
Signature:
Joe Lane
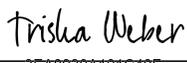D433DB530DE4424...
Name: Joe Lane

_____

Title: Sr. Director, Finance & Strategy

_____

Date:
04/22/2025 | 6:59 AM PDT

_____

DAVID J. RICKERT
Clerk of the Board of Supervisors

By: _____
          Deputy

Approved as to form: JOSEPH LARMOUR
County Counsel

Signed by:
By: *Trisha Weber*
3EA8930A101C40F...
Trisha C. Weber   04/22/2025 | 9:16 AM PDT
Assistant County Counsel

INFORMATION TECHNOLOGY APPROVAL

Signed by:
By: *Thomas Schreiber*
0333A25F1FD4408...
Thomas Schreiber   04/22/2025 | 7:15 AM PDT
Chief Information Officer

RISK MANAGEMENT APPROVAL

Signed by:
By: *Dolyene Lane*
63C541BCE38944C...
Dolyene Lane Risk Manager   04/22/2025 | 9:08 AM PDT

OpenGov Master Services Agreement

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

1. Definitions

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

1.2. "Documentation" means materials produced by OpenGov that provide information about OpenGov's software products and systems.

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

1.4. "Order Form" means the document(s) separately executed by the parties or attached as an Exhibit, that specifies the Software Services that OpenGov will provide to Customer under this Agreement.

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

2. Software Services, Support, and Professional Services

2.1. Software Services. Subject to the terms and conditions of this Agreement, OpenGov will use commercially reasonable efforts to provide the commercial-off-the-shelf software solutions identified in the applicable Order Form ("Software Services"). Software Services do not include any pre-release features, functionality, and/or software that Customer elects to use while they are in beta.

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

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long as Customer is entitled to receive support under the applicable Order Form and this Agreement.

2.3. Professional Services

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

2.3.2. Relevant travel expenses are provided in the SOW. Any other travel expenses related to the performance of the Professional Services shall be pre-approved by and reimbursed by Customer.

3. Restrictions and Responsibilities

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 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 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

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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. Initial Term. This Agreement begins on the Effective Date and ends on the date the subscription ends ("Initial Term"), according to the Order Form, unless sooner terminated pursuant to Section 6.3.

6.2. Renewal. This Agreement shall automatically renew for another period of the same duration as the Initial Term (each one is a new "Renewal Term") unless either party notifies the other party of its intent not to renew this Agreement in writing no less than 30 days before the end of the then-current term.

6.3. Termination for Cause. If either party materially breaches any term of this Agreement and fails to cure such breach within 30 days after receiving written notice by the non-breaching party, the non-breaching party may terminate this Agreement.

6.4. Termination for Non-Appropriation. For any term after the first full year of this Agreement, Customer may terminate this Agreement if it does not appropriate funds to continue this Agreement in a future fiscal year by providing notice in writing no less than 30 days before the end of the then-current term. Such termination shall be effective upon the expiration of the then-current term. To invoke termination under this section, Customer must use good faith efforts to secure the appropriate funds for the next year's fees.

6.5. Effect of Termination. Upon termination of this Agreement pursuant to Section 6: (a) Customer shall pay in full for all Software Services and Professional Services for the then-current annual term, (b) OpenGov shall stop providing Software Services and Professional Services to Customer; and (c) each party shall (at the other party's option) return or delete any of the other party's Confidential Information in its possession.

7. Payment of Fees

7.1.   Fees; Invoicing; Payment; Expenses.

    7.1.1.   Fees. Fees for Software Services and for Professional Services are set forth in the applicable Order Form, and OpenGov will invoice Customer accordingly. Customer agrees to pay invoices within 30 days. Invoices are deemed received when OpenGov emails them to Customer's designated billing contact. Obligations to pay fees are non-cancelable, and payments are non-refundable.

    7.1.2.   Annual Software Price Adjustment. OpenGov shall increase the fees for the Software Services during any Renewal Term by 5% each year or as otherwise agreed upon in the applicable renewal Order Form.

    7.1.3.   Travel Expenses. OpenGov will invoice Customer for travel expenses provided in the SOW or Order Form as they are incurred. Customer shall pay all such valid invoices within 30 days of receipt of invoice. Receipts shall be provided for the travel expenses listed on the invoice.

7.2.   If Customer's account remains delinquent (with respect to payment of an undisputed invoice) for 10 days after receipt of a delinquency notice from OpenGov, which may be provided via email to Customer's designated billing contact, OpenGov may temporarily suspend Customer's access to the Software Service for up to 90 days to pursue good faith negotiations before pursuing termination in accordance with Section 6.3.

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

8. Representations and Warranties; Disclaimer

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

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standards. For any breach of the Professional Services warranty, OpenGov will re-perform the applicable services. If OpenGov is unable to re-perform such work as warranted, Customer will be entitled to recover all fees paid to OpenGov for the deficient work. Customer must give written notice of any claim under this warranty to OpenGov within 90 days of the completion of Professional Services pursuant to the applicable SOW to receive such warranty remedies.

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 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 BY CUSTOMER TO OPENGOV FOR THE SOFTWARE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY.

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. 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: legal@opengov.com with a mailed copy to OpenGov, Inc., 660 3rd Street, Suite 100, San Francisco, CA 94107.

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, other than payment obligations, due to any act of god, act of governmental authority, or due to war, riot, labor

difficulty, failure of performance by any third-party service, utilities, or equipment provider, or any other cause beyond the reasonable control of the party delayed or prevented from performing.

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. 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. 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.

11.   Insurance Requirements

Without limiting OpenGov's duties of defense and indemnification:

11.1 <u>General Liability.</u> OpenGov and any subcontractor shall carry Commercial General Liability Insurance, and other coverage necessary to protect County and the public, with a limit of $1 million per occurrence. Such coverage shall:

    a.   Be equivalent to the current Insurance Services Office (ISO) form CG 00 01, assuring coverage for products and completed operations, property damage, bodily injury, and personal and advertising injury.

    b.   Include an endorsement, or an amendment to the policy of insurance, naming Shasta County, its elected officials, officers, employees, agents, and volunteers as additional insureds; the additional insureds coverage shall be equivalent to the current ISO forms CG 20 10 for on-going operations, and CG 20 37 for completed operations.

11.2 <u>Worker's Compensation.</u> OpenGov and any subcontractor shall carry statutorily required Workers' Compensation Insurance and Employer's Liability Insurance to cover OpenGov, subcontractor, OpenGov's partner(s), subcontractor's partner(s), OpenGov's employees, and subcontractor'(s') employees with an insurance carrier authorized to transact business in the State of California covering the liability for compensation for injury to those employed by OpenGov or subcontractor. Each such policy shall be endorsed to state that the Worker's Compensation carrier waives its right of subrogation against Customer, its elected officials, officers, employees, agents, and volunteers which might arise in connection with this Agreement. OpenGov hereby certifies that OpenGov is aware of the provisions of section 3700 of the Labor Code, which requires every employer to insure against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and OpenGov shall comply with such provisions before commencing the performance of the work or the provision of services pursuant to this agreement.

11.3 <u>Technology Errors and Omissions.</u> OpenGov shall carry Technology Errors and Omissions Insurance, applicable to OpenGov's profession and the services/work being performed, with limits of not less than $1 million per claim.

11.4 If applicable, OpenGov shall require its subcontractors, if any, to carry and maintain insurance coverage and evidence that equals the coverage requirements imposed upon OpenGov by this Agreement.

11.5 <u>Cyber Liability.</u> Without limiting any of the obligations or liabilities of OpenGov, OpenGov shall carry Cyber Liability Insurance, applicable to the services/work being performed, with limits of not less than $1 million per each claim. Such insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, and funds transfer loss.

11.6 <u>In General:</u> With regard to all insurance coverage required by this agreement:
   a. Any deductible or self-insured retention exceeding $25,000 for OpenGov or subcontractor shall be disclosed to the Shasta County Risk Manager prior to the effective date of this Agreement.
   b. If any insurance coverage required hereunder is provided on a "claims made" rather than "occurrence" form, OpenGov or subcontractor shall maintain such coverage with an effective date earlier or equal to the effective date of this agreement and continue coverage for a period of one year after the expiration of this agreement and any extensions thereof. In lieu of maintaining post-agreement expiration coverage as specified above, OpenGov or subcontractor may satisfy this provision by purchasing tail coverage for the claims-made policy. Such tail coverage shall, at a minimum, provide coverage for claims received and reported one year after the expiration date of this agreement.
   c. Before the effective date of this agreement, OpenGov shall provide Customer with certificates of insurance, and all amendatory endorsements, as evidence of meeting insurance coverage required of this agreement.
   d. Coverage required herein shall be in effect at all times during the term of this agreement and may be provided by programs of self-insurance when supported by adequate evidence meeting appropriate self-insurance and regulatory compliance. Insurance is to be placed with insurers authorized to transact business in California, with a current A.M. Best's rating of not less than A-:VII unless otherwise authorized by County.

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e.   In the event any insurance coverage expires at any time during the term of this agreement, OpenGov shall provide notice to Customer prior said the expiration date, a new certificate of insurance or endorsement, as applicable. Failure to do so may trigger the termination rights under Section 6 of this Agreement.

f.   OpenGov's General Liability coverage shall be primary and non-contributory. Any coverage maintained by Shasta County, its elected officials, officers, employees, agents, and volunteers, shall be excess of OpenGov's coverage and shall not contribute with it.

12.   Indemnification

12.1.   General Indemnification. OpenGov shall indemnify and hold harmless Customer, its elected officials, officers, employees, and agents from any third-party claims, suits, actions, costs, expenses (including, but not limited to, reasonable attorney's fees and costs), damages, judgments, or decrees arising out of or in connection with any material breach of this Agreement due to the gross negligence or willful acts or omissions of OpenGov in the performance of this Agreement.

12.2.   Procedures. Customer shall (a) promptly give notice of a claim to OpenGov, (b) give OpenGov sole control of the defense and settlement of the claim, (c) provide to OpenGov all available information and reasonable assistance, and (d) not compromise or settle such third-party claim.

12.3.   The foregoing is OpenGov's sole obligation and Customer's exclusive remedy with respect to indemnification.

13.   Counterparts/Electronic, Facsimile, and PDF Signatures

This agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this agreement. The Parties further agree that the electronic signatures of the Parties included in this agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes

of this Section, a digital signature is a type of "electronic signature" as defined in subdivision (h) of Section 1633.2 of the Civil Code. Facsimile signatures or signatures transmitted via pdf document shall be treated as originals for all purposes.