

CITY COUNCIL AGENDA REQUEST FORM

Today's date: 8 / 7 / 17

Date of meeting 8 / 16 / 17

(City Council meetings are held the 1st and 3rd Wednesday of each month.)

Name of Citizen, Organization, Elected Official, or Department Head making request:

CITY FINANCE DEPUTY DIRECTOR, SARAH LYNDS

Address: 1123 LAKE STREET

Phone number and email address: slynds@sandpointidaho.gov

Authorized by: Sarah Lynds

name of City official

City official's signature

(Department Heads, City Council members, and the Mayor are City officials.)

Subject: Purchase of Open Gov software

Summary of what is being requested: Council to approval of a 5-year contract with OpenGov for the purchase their financial data driven, transparency and performance based software modules.

Annual amount of \$26,266.66 per year and a one-time implementation cost of \$3,165.

The following information MUST be completed before submitting your request to the City Clerk:

1. Would there be any financial impact to the city? **Yes or No**

If yes, in what way? FY2017 budget will be impacted \$14,715.83. FY18 - FY21 annual impact

will be \$26,266.66 per year.

2. Name(s) of any individual(s) or group(s) that will be directly affected by this action:

Have they been contacted?
Yes or No

NA

3. Is there a need for a general public information or public involvement plan? **Yes or No**
If yes, please specify and suggest a method to accomplish the plan:

4. Is an enforcement plan needed? **Yes or No** Additional funds needed? **Yes or No**

5. Have all the affected departments been informed about this agenda item? **Yes or No**

This form must be submitted no later than 6 working days prior to the scheduled meeting. All pertinent paperwork to be distributed to City Council must be attached.

ITEMS WILL NOT BE AGENDIZED WITHOUT THIS FORM

City of Sandpoint Agenda Report

DATE: August 7, 2017

TO: MAYOR AND CITY COUNCIL

FROM: City Finance Deputy Director, Sarah Lynds

SUBJECT: Purchase of OpenGov's Budget Builder, Intelligence, Transparency, and Dashboard

DESCRIPTION/BACKGROUND:

In early 2017 the City Administrator and Mayor initiated a strategic review of strategies and plans of the City of Sandpoint. A final project report was released in April 2017 called Aligning for Impact. In this report, the Grand Goals for the City included:

- 1) Develop frameworks to sustain a strong, resilient City that effectively balances economic, social and environmental goals and preserves options for whatever the future may hold;**
- 2) Maintain an efficient, accountable and effective City government at all times that assures financial strength; and**
- 3) Meaningfully improve the effectiveness of communication between and among City officials, staff, and citizens.**

In addition, the priorities for action were;

- 1) Develop and adopt fiscal guidelines**
- 2) Establish clear expectations for the use of data in decision-making**
- 3) Initiate development of comprehensive Master Plans**

With this clear direction, the financial transparency and budgeting process was evaluated by the City Administrator and Finance. It was determined that additional financial transparency was needed internally for Council, City leadership and externally for the Sandpoint citizens. In addition, a more robust budgeting process was desired so information was readily available during the adoption process.

City Administration along with Finance reviewed and evaluated software that would help the City obtain these goals. In addition, various Cities were contacted to discuss how they

were addressing these issues. The software OpenGov had very high reviews and recommendations. Between the City Administrator and Finance three different OpenGov presentations/tutorials were attended. This software system will provide the City with the Budget Builder, Intelligence and Transparency modules of OpenGov. This will allow the Cities financial information to be published on the City's website for the public to view. This is interactive and users are able to drill down and see each and every City transaction. This will provide financial transparency both internally and externally both during the budget development process and throughout the year.

The City was able to negotiate a 38% discount for the modules. The cost is \$26,266.66 annually with a one-time implementation fee of \$3,165. However, this first year, which includes implementation fee, is broken down to accommodate our ability to implement the modules. \$14,715.83 will be due 30 days after execution of the contract and an additional \$14,715.83 will be due November 30th. The following years \$26,666.66 will be due annually.

STAFF RECOMMENDATION: Approve

ACTION: Council Approval

WILL THERE BE ANY FINANCIAL IMPACT? YES

HAS THE ITEM BEEN BUDGETED? No in FY2017 but Yes in FY 2018.

ATTACHMENTS: Contract/Agreement

No: 17-
Date: August 16, 2017

RESOLUTION
OF THE CITY COUNCIL
CITY OF SANDPOINT

TITLE: PURCHASE OF OPENGOV SOFTWARE

WHEREAS: Sandpoint City Council was involved in strategic planning in early 2017 with the final project report developed that included Council goals to maintain an efficient, accountable and effective City government that assures financial strength and to improve the effectiveness of communication between and among City officials, staff and citizens;

WHEREAS: The City of Sandpoint has determined that additional transparency is needed both internally and externally with specific priorities to establish clear expectations for the use of data in decision making during the budget development process and for financial transparency throughout the year;

WHEREAS: The quote from OpenGov has a first-year invoicing split to accommodate the City's ability to implement. \$14,715.83 for modules to be implemented during budget fiscal year 2016/2017 and \$14,715.83 to implement modules for budget fiscal year 2017/2018 with the annual cost after implementation of the software of \$2,266.66 with a five-year contract; and

WHEREAS: City staff recommends that since OpenGov has had very high reviews and recommendations from other cities, that Council approve the quote from OpenGov.

NOW, THEREFORE, BE IT RESOLVED THAT: The Mayor is hereby authorized, on behalf of the City, to execute the OpenGov Agreement and made a part hereof as if fully incorporated herein.

Shelby Rognstad, Mayor

ATTEST:

Maree Peck, City Clerk

City Council Members:

YES NO ABSTAIN ABSENT

1. Eddy
2. Aitken
3. Williamson
4. Camp
5. Ruehle
6. Snedden



OpenGov, Inc.
 955 Charter Street
 Redwood City, CA 94063
 United States

Quote Number: OG-00002912
 Created Date: 08/07/2017
 Quote Expiration: 08/25/2017
 Contract Dates: Effective Date: 8/18/2017
 End Date: 8/17/2022

Prepared By: Ryan Arnett
 Email: rarnett@opengov.com
 Contract Term: 60 Months

Customer Information

Contact Name: Shelby Rognstad
 Phone: (208) 263-3317
 Email: srognstad@ci.sandpoint.id.us

Bill To Name: Sandpoint, ID
 Bill To: 1123 Lake St.
 Sandpoint, Idaho 83864
 United States

Product	Contract Effective Date	Contract End Date	Annual Fee	Total Price
OpenGov Budget Builder, Intelligence, and Transparency – Between \$20-40 Million	08/16/2017	08/15/2022	\$17,966.88	\$89,834.40
OpenGov Implementation for Tier 2 Accounting Systems			\$3,165.00	\$3,165.00
OpenGov Performance Measures / Dashboards	08/16/2017	08/15/2022	\$8,299.78	\$41,498.90
Annual Fee			\$26,266.66	
	First Term			\$29,431.66
	Grand Total			\$134,497.90

First Year Invoicing: \$14,715.83 due Net 30 from Signature Date
 \$14,715.83 due Net 30 from October 1st
 Years 2-5 Invoicing: \$26,266.66 due net 30 from Signature Date

Welcome to OpenGov! Thanks for using our software. This Software Agreement ("Agreement") is entered into between OpenGov, Inc., with its principal place of business at 955 Charter Street, Redwood City, 94063 ("OpenGov"), and you, the entity identified above ("Customer"), as of the Effective Date. This Agreement includes and incorporates the OpenGov Terms and Conditions attached as Appendix A. By signing this Agreement, Customer acknowledges that it has reviewed, and agrees to be legally bound by, the OpenGov Terms and Conditions. Each party's acceptance of this Agreement is conditional upon the other's acceptance of the terms in the Agreement to the exclusion of all other terms.

Signature

Customer

OpenGov, Inc.

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

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

Terms and Conditions

Appendix A

OpenGov Terms and Conditions

1. SOFTWARE SERVICES

1.1 Subject to the terms and conditions of these OpenGov Terms and Conditions (the "Agreement"), OpenGov will use commercially reasonable efforts to perform the software services (the "Software Services") identified in the applicable Software Agreement entered into by OpenGov and Customer ("Software Agreement").

1.2 Customer understands that OpenGov's performance depends on Customer timely providing OpenGov with a copy of the Customer's chart of accounts in .csv or .xls format. In addition, Customer agrees to provide OpenGov with five or more years of general ledger data, also in .csv or .xls format, including budget data for the current year and actual expense and revenue data for past years. Any dates or time periods relevant to OpenGov's performance will be extended appropriately and equitably to reflect any delays caused by Customer's failure to timely deliver any such materials. OpenGov shall not be liable for any delays in performance under this Agreement resulting from Customer's failure to meet these obligations.

2. RESTRICTIONS AND RESPONSIBILITIES

2.1 This is a contract for access to the Software Services and Customer 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 Customer will use the Software Services only in compliance with all applicable laws and regulations (including, but not limited to, any export restrictions).

2.3 Customer shall be responsible for obtaining and maintaining any equipment and other services needed to connect to, access or otherwise use the Software Services and Customer shall 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) for all uses of Customer user accounts with or without Customer's knowledge or consent.

3. **OWNERSHIP.** OpenGov retains all right, title, and interest in the Software Services and 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) therein.

4. **CONFIDENTIALITY.** Each party (the "Receiving Party") agrees not to disclose (except as permitted herein) any Confidential Information of the other party (the "Disclosing Party") without the Disclosing Party's prior written consent. "Confidential Information" means all confidential business, technical, and financial information of the disclosing party that is marked as "Confidential" or an equivalent designation or that should reasonably be understood to be confidential given the nature of the information and/or the circumstances surrounding the disclosure (including the terms of the applicable Software Agreement). OpenGov's Confidential Information includes, without limitation, the software underlying the Software Services and all documentation relating to the Software Services. "Confidential Information" does not include "Public Data," which is data that the Customer has previously released or would be required to release according to applicable federal, state, or local public records laws. The Receiving Party agrees: (i) to use and disclose the Confidential Information only in connection with this Agreement; and (ii) to protect such Confidential Information using the measures that Receiving Party employs with respect to its own Confidential Information of a similar nature, but in no event with less than reasonable care. Notwithstanding the foregoing, Confidential Information does not include information that: (i) has become publicly known through no breach by the receiving party; (ii) was rightfully received by the receiving party from a third party without restriction on use or disclosure; or (iii) is independently developed by the Receiving Party without access to such Confidential Information. Notwithstanding the above, the Receiving Party may disclose Confidential Information to the extent required by law or court order, provided that prior written notice of such required disclosure and an opportunity to oppose or limit disclosure is given to the Disclosing Party.

5. **DATA LICENSE.** Customer grants OpenGov a non-exclusive, transferable, perpetual, worldwide, and royalty-free license to use any data or information submitted by Customer to OpenGov for the development of new software or the provision of the Software Services.

6. **PAYMENT OF FEES.** The fees for the Software Services ("Fees") are set forth in the applicable Software Agreement. Customer shall pay all Fees within thirty (30) days after the date of OpenGov's invoice, which shall be billed as of the Effective Date. **Taxes.** All Fees under this Agreement are exclusive of any applicable sales, value-added, use or other taxes ("**Sales Taxes**"). Customer is solely responsible for any and all Sales Taxes, not including taxes based solely on OpenGov's net income. If any Sales Taxes related to the Fees under this Agreement are found at any time to be payable, the amount may be billed by OpenGov to, and shall be paid by, Customer. If Customer fails to pay any Sales Taxes, then Customer will be liable for any related penalties or interest, and will indemnify OpenGov for any liability or expense incurred in connection with such Sales Taxes.

7. TERM & TERMINATION

7.1 Subject to compliance with all terms and conditions, the term of this Agreement shall be from the Effective Date and shall continue until the End Date specified on page one (1) of the Agreement. The Customer will be billed according to the Billing Frequency as specified above. Unless either party declines to renew in writing no less than thirty (30) days before the End Date, this Agreement shall renew for two (2) additional (1) year periods. The Customer will be billed on an annual basis for each twelve (12) month term. If either party materially breaches any term of this Agreement and fails to cure such breach within thirty (30) days after notice by the non-breaching party (ten (10) days in the case of non-payment), the non-breaching party may terminate this Agreement immediately upon notice.

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

7.3 All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

8. WARRANTY AND DISCLAIMER

8.1 OpenGov 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.

8.2 Customer 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 OpenGov for use in and in connection with this Agreement, or possesses the necessary authorization thereto; (iii) OpenGov's use of such materials in connection with the Software Services will not violate the rights of any third party and (iv) it will not transfer any Personally Identifiable Information ("PII") to the Software Services platform.

8.3 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 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.** 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 THE FEES PAID BY CUSTOMER TO OPENGOV (OR, IN THE CASE OF CUSTOMER, PAYABLE) FOR THE SOFTWARE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY.

10. **MISCELLANEOUS.** Capitalized terms not otherwise defined in these Terms and Conditions have the meaning set forth in the applicable Software Agreement. 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. 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. This Agreement is not assignable or transferable by either party without the other party's prior written consent, provided however that either party may assign this Agreement to a successor to all or substantially all of its business or assets. This Agreement (including the Software Agreement) is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties. No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other party in any respect. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions.

Appendix B

OpenGov Service Level Metrics

1. SCHEDULED DOWNTIME. When needed, OpenGov will schedule downtime for routine maintenance or system upgrades ("Scheduled Downtime") for its Services. OpenGov shall exercise commercially reasonable efforts to schedule Scheduled Downtime outside of peak traffic periods. OpenGov will notify Customer's designated contact at least twenty-four (24) hours prior to the occurrence of Scheduled Downtime.

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 shall not apply to, and OpenGov will not be responsible for, any inaccessibility which: 1) results from Scheduled Downtime, including a maintenance period every Tuesday from 6:00pm Pacific Time to 11:00pm Pacific Time; 2) results from a failure of equipment, software or services not under the direct control of OpenGov; 3) results from the failure of communication or telephone access service or other outside service or equipment not the fault of OpenGov; 4) is caused by a third party not under OpenGov' control; or 5) is a result of causes beyond the reasonable control of OpenGov, including any force majeure event. To the extent solely under OpenGov' control, OpenGov shall be responsible for monitoring and maintaining adequate controls over Customer Data transmissions and storage. OpenGov shall be solely responsible for setting applicable data processing and transmission parameters.

B. If the Services experience Downtime, then as Customer's sole and exclusive remedy, and OpenGov' sole and exclusive financial liability and obligation, Customer 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 Customer
99.00% - < 99.9%	10%
95.00% - < 99.00%	25%
< 95.00%	50%

- "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 3 or more minutes).
- "Downtime Period" means a period of fifteen consecutive minutes of Downtime. Intermittent Downtime for a period of less than fifteen minutes will not be counted towards any Downtime Periods.
- "Monthly Uptime Percentage" means 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.

C. To receive a Service Level Credit, Customer must submit a written request for Service Level Credits to Customer's designated account manager or the OpenGov support team. To be eligible, the request must (i) include the dates and times of each incident of Downtime experienced by Customer in the preceding month; and (ii) be received by OpenGov within thirty days after the end of the current monthly period in which the Downtime occurred.

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

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

APPENDIX C

OpenGov Support Services

1. **Support.** Customer support is available via email 12 hours per day, Monday through Friday, excluding OpenGov' corporate designated holidays. See below for a list of holidays observed by OpenGov. Problems may be reported any time, however, OpenGov will not be obligated to assign work after business hours (9 a.m. to 5 p.m. Pacific Time).
2. **Liaisons.** On or before the Activation Date, Customer and OpenGov shall each designate a liaison as a respective point of contact for technical issues. Each party may change such liaison upon written notice from time to time at reasonable intervals. OpenGov will not be obligated to provide support to any person other than the Customer's designated liaison.
3. **Holidays.** OpenGov 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.