



INCORPORATED COUNTY OF LOS ALAMOS SERVICES AGREEMENT

This **SERVICES AGREEMENT** ("Agreement") is entered into by and between the **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County"), and **ByWater Solutions, LLC**, a California limited liability company ("Contractor" or "ByWater"), collectively (the "Parties"), to be effective for all purposes March 4, 2026 ("Effective Date").

WHEREAS, the County Purchasing Officer determined in writing that the use of competitive sealed bidding was either not practical or not advantageous to County for procurement of the Services and County issued Request for Proposals No. 25-61 ("RFP") on July 1, 2025, requesting proposals for Library Management Software, as described in the RFP; and

WHEREAS, Contractor timely responded to the RFP by submitting a response dated August 29, 2025 ("Contractor's Response"); and

WHEREAS, based on the evaluation factors set out in the RFP, Contractor was the successful offeror for the services listed in the RFP; and

WHEREAS, the County Council approved this Agreement at a public meeting held on March 3, 2026; and

WHEREAS, Contractor shall provide the Services, as described below, to County.

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, County and Contractor agree as follows:

SECTION A. DEFINITIONS: In addition to any other terms elsewhere defined in this Agreement, the following terms are defined for the purpose of this Agreement. Where a definition is not defined, the standard meaning applies:

1. "API" means Application Programming Interfaces.
2. "County Project Manager" means the County employee or designee assigned by County to represent County to serve as a primary point of contact to manage the overall Project Implementation, help coordinate Project Implementation tasks and maintenance of the Software and Services.
3. "Customer Data" means all data submitted to Contractor's Software and Services by County or its authorized Users in the course of using the Software and Services, including any related documentation, copies, modifications and derivatives of the foregoing and all related copyright, patent, trade secret and other proprietary rights therein.
4. "Documentation" means Contractor materials describing the Software and Services, including product technical manuals and online information and help facility descriptions.
5. "Project Team" means the County and Contractor employees assigned to assist with Project Implementation.

6. "SaaS" means Software as a Service.
7. "Services" means the collective term used for the open source software or modules and/or other SaaS platforms and solutions hosted and configured by the Contractor for County.
8. "Software" means the standard version of the software program or programs marketed, installed and hosted by Contractor. Software includes machine readable (object) code, except for certain Software which Contractor may elect to supply in source code format. Software includes any Updates or Upgrades of the Software, as defined in this Agreement, applied by Contractor to the Software and Services during the Term.
9. "SLA" means Service Level Agreement.
10. "Users" means County and its employees, contractors, members, and agents.

SECTION B. EXHIBITS: The following Exhibits listed here relate to the Services described herein, are referenced throughout, and are attached hereto and made a part hereof for all purposes. In the event there is any conflict or ambiguity between a provision in this Agreement and any of the exhibits hereto, this Agreement shall govern.

1. Exhibit A – Compensation Rate Schedule
2. Exhibit B – Software Functional Specifications
3. Exhibit C – County Technology Standards
4. Exhibit D – Service Level Agreement
5. Exhibit E - Confidential Information Disclosure Statement
6. Exhibit F – Sample Amendment Template

SECTION C. SERVICES: Contractor shall provide hosting, configuration, implementation, training, and ongoing support and maintenance for a cloud-based Integrated Library System and Bibliographic ("Discovery") System as further described below.

1. **Installation and Hosting – Koha Integrated Library System ("Koha"), Aspen Discovery System ("Aspen"), and Metabase.** Contractor shall provide installation and hosting for the open-source Koha Integrated Library System ("ILS"), the open-source Aspen Discovery System, and open-source Metabase database querying and visualization tool.
2. **Users and System Administration.** In addition to all requirements stated in Exhibit B and Exhibit C, Software shall, at a minimum, conform to the following: System Administrators and Users shall have the ability to access the Software through individual User accounts. County System Administrators shall have the ability to assign accounts and permission levels to other System Administrators and Users. System Administrators and Users may assign roles by permissions.
3. **Compliance with Laws, Regulations and Adherence to Standards.** Contractor and Contractor's Software shall, throughout the term of this Agreement, comply with any and all applicable provisions of local, state, or federal law. Contractor is responsible for ascertaining applicable legal and compliance requirements and shall review data privacy laws on at least an annual basis and maintain information security audits with independent external parties to verify and monitor relevant standards, regulations, and legal contractual statutory requirements. Contractor's Services and Software shall be provided to County in accordance with industry standards and County Technology Standards, as described in Exhibit C.
4. **Warranty and SLA.** Contractor warrants that the Software and hosting Services substantially conform to the functional descriptions and technical specifications set forth in Exhibit B for the term of this Agreement. If Software does not substantially conform to the functional descriptions and technical specifications set forth in Exhibit B ("Material Defect"), Contractor

shall use reasonable efforts consistent with industry standards, to cure the Material Defect. Should Contractor be unable to cure the Material Defect, County may terminate this Agreement as described in Section W, herein and Contractor shall issue a prorated refund to County of any pre-paid fees for Services after the termination date. Parties agree that termination is not County's only remedy for Contractor's failure to comply with the terms, conditions, and obligations stated herein.

5. **Data Security and Ownership.** County acknowledges and agrees that Contractor utilizes a combination of a hosted Storage Area Network ("SAN") array across multiple disks, and third-party service providers to host and provide the Services and store County data. The protection of such data shall include retention of daily backups and log retention for transactional data, and archival copies kept in multiple, geographically separate data centers within the originating sovereign zone. For data stored in a third-party hosting environment, such third-party's safeguards for the protection and the security and confidentiality of County's data shall apply. At a minimum, Contractor's data centers shall be located within the United States and Contractor's ISMS shall include security and disaster recovery protocols consistent with industry standards as described in Section C(3).
6. **Maintenance and Support.** As part of the Annual Support and Hosting fee, Contractor shall provide product maintenance and support as described in Exhibit D, Service Level Agreement.
 - 6.1. Contractor shall provide Software updates and upgrades as they are developed, tested, and deemed ready for delivery. These updates and upgrades are provided at no additional cost. Updates and upgrades do not include new services, programs, or any expansion of services beyond the County's current instance of the Software. Any additional services will require a formal amendment to this Agreement.
 - 6.2. Support is available through multiple channels, including a toll-free phone line, ticketing, and email. Software updates and patches are deployed according to a monthly release schedule for Aspen, and a monthly/bi-annual release schedule for Koha, with all releases fully tested prior to deployment. In the event of a service-level agreement (SLA) violation, service credits will be applied to the following billing cycle to ensure accountability and transparency.
 - 6.3. Contractor shall use commercially reasonable efforts to make sure the Software is available 99.8% of the time for each calendar month during the term of this Agreement, as defined in Exhibit D.
7. **Migration.** Contractor shall perform a full migration of County's existing Library Management and Discovery System information, while ensuring data integrity, accuracy, and continuity. The migration methodology shall include validated processes, rigorous testing, and post-migration verification.
8. **Project Initiation.** Contractor shall, within ten (10) business days from the Effective Date of this Agreement, schedule a Project Initiation Meeting with the County's Project Manager, and designated Project Team at a date, time, and format to be agreed upon by both Parties. Contractor shall provide any deliverables to be prepared in advance, and a proposed agenda with any additional topics to be addressed during the Project Initiation Meeting. As part of the Project Initiation Meeting, the Parties shall, at a minimum:
 - 8.1. Establish a mutually agreed upon Project Schedule to accomplish key tasks with durations for each task conforming substantially to the Contractor's Proposed Project Plan and Schedule, described herein in Section C(9).
 - 8.2. Introduce Project Team members and identify key stakeholders and assign resources to perform Project implementation tasks.

- 8.3. Review the Agreement, software and services included in this Agreement and identify any Project issues to be addressed in the course of the Project.
- 8.4. Establish communication protocols, meeting frequency, and meeting format, with meetings occurring online in a virtual format.
- 8.5. Discuss the process and timing to migrate County's catalogue and bibliographic data, and determine schedule for Contractor to provide data extract documentation. Data extraction is the sole responsibility of the County; Contractor shall have no liability regarding the content or quality of the data provided to them. Data will be provided no later than twelve (12) weeks prior to the established go live date.
- 8.6. Identify document format and data transfer methods between Contractor and Project Team related to the performance of this Agreement.
- 8.7. Set up County Project Team members to access Contractor's ticketing system.
- 8.8. Contractor shall provide detailed and complete written documentation of the Project Initiation Meeting and a written Project Plan and Project Schedule to County within fourteen (14) business days of the Project Initiation Meeting. The Project Plan and Project Schedule shall be subject to County Project Manager review and approval and Project Implementation shall commence only after County approval of the Project Plan and Project Schedule. The Project Plan and Project Schedule may be adjusted throughout Project implementation upon written approval of the County Project Manager and mutual written agreement of both Parties, which may be provided via memorandum, electronic mail, or some other mutually agreed-upon method. If the Project Plan and Project Schedule are modified by Parties, Contractor shall provide to County Project Manager an updated Project Plan and Project Schedule reflecting the agreed-upon changes within five (5) business days of the mutual written agreement of changes. Contractor bears no liability for delays caused by the County's delay.

9. Implementation, Configuration, Data Migration. Contractor shall commence Implementation and associated Training on a mutually acceptable date as identified on the Project Plan and Project Schedule, promptly following the Project Initiation Meeting, described in Section C(8). Contractor shall complete Implementation and Training, pursuant to the Project Schedule and Project Plan approved by the Parties, with a successful Go Live date to occur no later than thirty (30) weeks after the Effective Date of this Agreement, unless extended by County in writing. Contractor shall provide County, at a minimum, the following Implementation Services, fees for which shall be charged in accordance with Exhibit A:

9.1. Implementation Schedule.

9.1.1. Stage 1: Kickoff.

- 9.1.1.1. Project Initiation Meeting. Contractor shall conduct the Project Initiation Meeting as described in Section C(8) above.
- 9.1.1.2. Initial Data Extract. Contractor shall provide County with access to Contractor's ticketing system, and provide extract documentation to County for collection of County data from County's current Library Management Software solution. County shall provide the requested data to complete this step.
- 9.1.1.3. Build Koha and Aspen Servers. Contractor shall set up the Koha and Aspen software environment for use by County on Contractor's hosted servers.
- 9.1.1.4. Data Analysis and Review. Contractor shall conduct an on-site Scoping Study which includes three (3) days onsite to review County Library workflows, evaluate and assess workflows and report on process core critical tasks including but not limited to patron registration, holds, cataloging and circulation. Contractor shall conduct analysis and review

of County provided data, policies, and integrations in preparation for the following stages of the implementation.

9.1.2. Stage 2: Configuration. Contractor and County shall review County Library policies, system preferences and other settings as well as recommended best practices.

9.1.2.1. Implementation Meeting 1 of 6. Branches and Patrons. County shall complete patron data mapping form and submit to Contractor.

9.1.2.2. Implementation Meeting 2 of 6. Bibliographic records ("bibs") and Items.

9.1.2.2.1. Contractor shall load data for branches and patrons from the initial data extract.

9.1.2.2.2. County shall complete the bibs/item data mapping form and provide to Contractor.

9.1.2.3. Implementation Meeting 3 of 6.

9.1.2.3.1. Contractor shall review with County and configure Circulation, Holds, and Overdue settings.

9.1.2.3.2. Contractor shall load data for bibs, items and authorities.

9.1.2.4. Aspen Meeting 1 of 4. Configuration. Contractor shall hold a series of meetings focused specifically on Aspen, in the initial Aspen Meeting Contractor shall configure Aspen based on information obtained from County.

9.1.2.5. Implementation Meeting 4 of 6. Contractor shall configure Acquisitions, Cataloging, and Serials in Koha loading data from the initial data extract from County.

9.1.2.6. Aspen Meeting 2 of 4. Data. Contractor shall load data for current and historical circulation, fines, and holds.

9.1.2.7. Aspen Meeting 3 of 4. Catalog. Contractor shall setup the Catalog utilizing information from the initial extract.

9.1.2.8. Implementation Meeting 5 of 6. Notices and Reports. Contractor shall configure Notices and Reports for Koha.

9.1.2.9. Aspen Meeting 4 of 4. Customization. Contractor shall configure any Customization required for County's instance of Aspen.

9.1.2.10. Implementation Meeting 6 of 6. Training Preparation and Systems Check-In. Contractor shall load data for subscriptions, serials, and vendors.

9.1.3. Stage 3: Training.

9.1.3.1. Administration Training. Contractor shall conduct a series of webinars for County staff involved in administration of Koha and Aspen.

9.1.3.2. Onsite and Webinar Training. Contractor shall conduct both onsite and webinar training for County staff involved in circulation and technical services on use of Koha and Aspen Discovery user experience.

9.1.4. Stage 4: Go Live

9.1.4.1. Last call for data changes before Go Live. Contractor shall notify County of the deadline for final data changes prior to Go Live. County shall provide any needed data to update the Systems.

9.1.4.2. Pre-Go Live Meeting

9.1.4.2.1. Finalize notices and catalog customizations. County with direction from Contractor shall finalize notices and catalog customizations.

9.1.4.2.2. Share final data extract. County shall provide to Contractor the final data extract from the legacy system.

9.1.4.2.3. Load final data extract. Contractor shall load the final data extract to Koha and Aspen.

9.1.4.3. Go Live. Go Live shall occur on a Wednesday, in accordance with the Project Schedule and Project Plan. Contractor shall provide to County a Go-Live Morning Checklist to guide County staff through the first day live on Koha and Aspen.

9.1.5. Stage 5: Closeout

9.1.5.1. Post-Go Live Meeting. Contractor shall schedule a Post-Go Live Meeting with County to wrap up the implementation, seek County's acceptance of Contractor's Project implementation, and introduce the Contractor's support team for post Go Live use of the Systems to support the transition from Implementation to Support.

10. Project Management. Contractor shall provide experienced, competent, and knowledgeable staff to provide Project management services for successful implementation, which shall include, but not be limited to Project planning in coordination with County's Project Manager; data transfer from County's current records, Project monitoring, control, and reporting; Project development and execution of tasks; scope management; risk management; and Project scheduling.

11. Additional, Optional and Future Functionality and Services. Contractor may continually develop, alter, deliver, and provide to the County ongoing innovation to the Services, in the form of new features, functionality, and efficiencies. Upon County request, and at County's sole discretion, Contractor shall provide additional, optional, managed, and professional services and training as described below in accordance with the fees and rates specified in Exhibit A.

11.1. **No Cost Offerings.** Contractor as a part of the Services and Software, throughout the Term of this Agreement, may offer at no additional cost to the County ongoing system enhancements included with regular updates and upgrades. Custom functionality requests will carry an extra development fee.

11.2. In addition to the additional Services and Software identified in Section C(11.1) above, upon County's request and at County's sole discretion and approval, Contractor shall, throughout the Term of this Agreement, provide additional and optional services as described in Exhibit A.

11.3. **Possible Future Replacement or Implementation of Integrated Systems.** Contractor shall provide integration support with future County systems or replacements, with professional services priced on an hourly basis as identified in Exhibit A.

11.4. Additional Services. Contractor may, upon mutual agreement evidenced by a written authorization approved by the County Manager and on a per-project basis, provide other managed and professional services as described in Exhibit A. However, in no event shall the cost of the additional services exceed the not to exceed amount identified in Section (E)(1).

SECTION D. TERM: The Term of this Agreement shall commence March 4, 2026, and shall continue through March 3, 2041, unless sooner terminated, as provided herein.

SECTION E. COMPENSATION:

1. Amount of Compensation. County shall pay compensation for performance of the Services in an amount not to exceed FIVE HUNDRED SEVENTY-TWO THOUSAND ONE HUNDRED

TWENTY-FIVE AND NO/100 DOLLARS (\$572,125.00), which amount does not include applicable New Mexico gross receipts taxes ("NMGRT"). Compensation shall be paid in accordance with the compensation rate schedule set out in Exhibit A, attached hereto and made a part hereof for all purposes.

- 1.1. **Annual Support and Hosting Fees.** County shall pay Annual Support and Hosting Fees for a total not-to-exceed amount for the Term of this Agreement, as outlined in Exhibit A, Table 1, in the amount of FIVE HUNDRED THOUSAND THREE HUNDRED FIVE AND NO/100 DOLLARS (\$500,305.00), which amount does not include applicable NMGRT.
 - 1.2. **Project Implementation and Management.** County shall pay one-time compensation for Project Implementation and Management Fees, as outlined in Exhibit A, Table 2, following County's written acceptance of Project Implementation in the amount of THIRTY-FOUR THOUSAND SIX HUNDRED TWENTY AND NO/100 DOLLARS (\$34,620.00), which amount does not include applicable NMGRT.
 - 1.3. **Training.** County shall pay one-time compensation for Training Fees, as outlined in Exhibit A, Table 3, following Contractor's successful completion of Training, as provided in Section C(9.1.3), in the amount of EIGHT THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$8,200.00), which amount does not include applicable NMGRT.
 - 1.4. **Additional Optional Training, Integration and Professional Services.** At any time during the Term of this Agreement, County may request Additional Optional Training and Professional Services at County's sole option in accordance with the Compensation Rate Schedule in Exhibit A, Table 4 in a total not-to-exceed amount for the Term of this Agreement in the amount of TWENTY NINE THOUSAND AND NO/100 DOLLARS (\$29,000.00), which amount does not include applicable NMGRT.
2. **Total Not-to-Exceed Compensation Amount.** The Parties understand that County can only utilize Contractor's Services, as specified herein, throughout the term of this Agreement, in a manner that does not surpass the total not-to-exceed compensation amount for Services estimated by County and specified in Section E(1) herein, unless approved by amendment to this Agreement. Any increase to the not-to-exceed compensation amount provided herein must be authorized by an amendment to this Agreement, pursuant to Section AG. This provision shall not be construed to conflict with County's discretion to determine when Contractor's optional Services are needed or to conflict with the agreed-upon rates stated herein. It is the sole responsibility of Contractor to ensure that all work performed, inclusive of all additional and optional services, does not exceed the not-to-exceed amount of this Agreement or any subsequent amendment. Any work performed under this Agreement by Contractor where the costs exceed the not-to-exceed amount is not a just and lawful debt payable to Contractor.
3. **Invoices.** Contractor shall submit itemized invoices to County's Project Manager, no more frequently than monthly, showing the amount of compensation due, amount of any NMGRT, and total amount payable under this Agreement. Contractor shall invoice Project Implementation and Management fees in accordance with the milestones defined in Exhibit A. Contractor shall invoice Annual Software Fees for this Agreement in accordance with Exhibit A. Payment of undisputed amounts shall be due and payable thirty (30) days after County's receipt of the invoice.

SECTION F. TAXES: Contractor shall be solely responsible for timely and correctly billing, collecting and remitting all NMGRS levied on the amounts payable under this Agreement.

SECTION G. STATUS OF CONTRACTOR, STAFF, AND PERSONNEL:

1. This Agreement calls for the performance of services by Contractor as an independent contractor. Contractor is not an agent or employee of County and shall not be considered an employee of County for any purpose. Contractor, its agents, or employees shall make no representation that they are County employees, nor shall they create the appearance of being employees by using a job or position title on a name plate, business cards, or in any other manner, bearing County's name or logo. Neither Contractor nor any employee of Contractor shall be entitled to any benefits or compensation other than the compensation specified herein. Contractor shall have no authority to bind County to any agreement, contract, duty, or obligation. Contractor shall make no representations that are intended to, or create the appearance of, binding County to any agreement, contract, duty, or obligation. Contractor shall have full power to continue any outside employment or business, to employ and discharge its employees or associates as it deems appropriate without interference from County; provided, however, that Contractor shall at all times during the term of this Agreement maintain the ability to perform the obligations in a professional, timely, and reliable manner.
2. **Work Product Ownership.** Any copyrightable works, ideas, discoveries, inventions, patents, products, or other information (collectively the "Work Product") developed in whole or in part by Contractor solely in connection with the Services will be the exclusive property of County. Upon request, Contractor shall execute all documents necessary to confirm or perfect the ownership of County to the Work Product. All such Work Product developed on behalf of County will be made available under the terms of the open source license in effect for Koha/Aspen at the time the code is written (currently GPL v3). A copy of the code will be given to County even though the code may be hosted. A good faith effort will be made both by County, and by Contractor at the coding stage, to integrate all code into the public, koha-community.org code base, or wherever the public code base may subsequently be located. Upon expiration or termination of this Agreement, Contractor shall:
 - a. return to County all records, notes, documentation and other items owned by County that was used, created, or controlled by Contractor during the term of this Agreement; and
 - b. assist County in exporting data from Contractor's data cloud to County, at no additional charge.

SECTION H. STANDARD OF PERFORMANCE: Contractor agrees and represents that it has and shall maintain the personnel, experience, and knowledge necessary to qualify it for the particular duties to be performed under this Agreement. Contractor shall perform the Services described herein in accordance with a standard that meets the industry standard of care for performance of the Services.

SECTION I. DELIVERABLES AND USE OF DOCUMENTS: All deliverables required under this Agreement, including material, products, reports, policies, procedures, software improvements, databases, and any other products and processes, whether in written or electronic form, shall remain the exclusive property of and shall inure to the benefit of County as works for hire; Contractor shall not use, sell, disclose, or obtain any other compensation for such works for hire. In addition, Contractor may not, with regard to all work, work product, deliverables, or works for

hire required by this Agreement, apply for, in its name or otherwise, any copyright, patent, or other property right, and acknowledges that any such property right created or developed remains the exclusive right of County, provided that the County follows the terms and conditions set forth in the Open Source licenses that govern these products. Contractor shall not use deliverables in any manner for any other purpose without the express written consent of County.

SECTION J. EMPLOYEES AND SUB-CONTRACTORS: Contractor shall be solely responsible for payment of wages, salary, or benefits to any and all employees or contractors retained by Contractor in the performance of the Services. Contractor agrees to indemnify, defend, and hold harmless County for any and all claims that may arise from Contractor's relationship to its employees and subcontractors.

SECTION K. INSURANCE: Contractor shall obtain and maintain insurance of the types and in the amounts set out below throughout the term of this Agreement with an insurer acceptable to County. Contractor shall assure that all subcontractors maintain like insurance. Compliance with the terms and conditions of this Section is a condition precedent to County's obligation to pay compensation for the Services, and Contractor shall not provide any Services under this Agreement unless and until Contractor has met the requirements of this Section. County requires Certificates of Insurance, or other evidence acceptable to County, stating that Contractor has met its obligation to obtain and maintain insurance and to assure that subcontractors maintain like insurance. Should any of the policies described below be cancelled before the expiration date thereof, notice shall be delivered in accordance with the policy provisions. General Liability Insurance and Automobile Liability Insurance shall name County as an additional insured.

1. **General Liability Insurance:** ONE MILLION DOLLARS (\$1,000,000.00) per occurrence; ONE MILLION DOLLARS (\$1,000,000.00) aggregate.
2. **Workers' Compensation:** In an amount as may be required by law. County may immediately terminate this Agreement if Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so.
3. **Automobile Liability Insurance for Contractor and its Employees:** ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence; ONE MILLION DOLLARS (\$1,000,000.00) aggregate on any owned, and/or non-owned motor vehicles used in performing Services under this Agreement.
4. **Cyber Insurance:** In addition to insurance required under the Agreement, Contractor shall, at its sole cost and expense, procure and maintain through the term of the Agreement and for two (2) years following the termination or expiration of the Agreement, cyber/network privacy insurance with limits of THREE MILLION DOLLARS (\$3,000,000.00) per claim/in aggregate. Such policy shall provide coverage for disclosures and/or breaches of County Data arising out of or relating to Contractor's Services. Such policy shall also include coverage for the costs associated with restoring lost or damaged County Data, sending breach notifications to affected individuals, public relations expenses, fines, and penalties. Such policy shall not contain exclusions for the acts or omissions of either Contractor, County, or their respective employees, agents, subcontractors, or volunteers, whether intentional or unintentional, resulting in or relating to any use of County Data not expressly permitted by this Agreement. Contractor must notify County at least thirty (30) days prior to the cancellation or modification of such policy.

SECTION L. RECORDS: Contractor shall maintain, throughout the term of this Agreement and for a period of six (6) years thereafter, records that indicate the date, time, and nature of the services rendered. Contractor shall make available, for inspection by County, all records, books

of account, memoranda, and other documents pertaining to County at any reasonable time upon request.

SECTION M. DUTY TO ABIDE: Contractor shall abide by all applicable federal, state, and local laws, regulations, and policies and shall perform the Services in accordance with all applicable laws, regulations, and policies during the term of this Agreement.

SECTION N. NON-DISCRIMINATION: During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the obligations of Contractor under this Agreement, with regard to race, color, religion, sex, age, ethnicity, national origin, sexual orientation or gender identity, disability, or veteran status.

SECTION O. CHOICE OF LAW: The interpretation and enforcement of this Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

SECTION P. VENUE, FORUM NON-CONVENIENS, EXCLUSIVE STATE JURISDICTION: County and Contractor knowingly, voluntarily, intentionally, and irrevocably agree that any and all legal proceedings related to this Agreement, or to any rights or any relationship between the Parties arising therefrom, shall be solely and exclusively initiated, filed, tried, and maintained in the First Judicial District Court of the State of New Mexico. County and Contractor each expressly and irrevocably waive any right otherwise provided by any applicable law to remove the matter to any other state or federal venue, consents to the jurisdiction of the First Judicial District Court of the State of New Mexico in any such legal proceeding, waives any objection it may have to the laying of the jurisdiction of any such legal proceeding. County and Contractor also agree that this term is a material inducement for each to enter this Agreement, and that both County and Contractor warrant and represent that each have had the opportunity to review this term with legal counsel.

SECTION Q. WAIVER OF JURY TRIAL: In the event of any action or proceeding, (including without limitation, any claim, counterclaim, cross-claim or third party claim) arising out of or relating to this Agreement, or the transaction contemplated by this Agreement, County and Contractor KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVE ANY RIGHT TO A JURY TRIAL, and agree that a court shall determine and adjudicate all issues of law and fact with a jury trial being expressly waived. County and Contractor also agree that this waiver of a jury trial was a material inducement for each to enter this Agreement, and that both County and Contractor warrant and represent that each have had the opportunity to review this jury waiver with legal counsel.

SECTION R. INDEMNITY: Contractor shall indemnify, defend, and hold harmless County, its Council members, employees, agents, and representatives, from and against all liability, claims, demands, actions (legal or equitable), damages, losses, costs, or expenses, including attorney fees, of any kind or nature, to the extent that the liability, claims, demands, actions, damages, losses, costs, and expenses are caused by, or arise out of, the acts or omissions of the Contractor or Contractor's officers, employees, agents representatives, and subcontractors in the performance or breach of the Services under this Agreement.

SECTION S. FORCE MAJEURE: Neither County nor Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence; provided, however, that the party

failing to perform shall (i) as soon as possible, inform the other party of the occurrence of the circumstances preventing or delaying the performance of its obligations, and describe at a reasonable level of detail the circumstances causing such delay, and (ii) exert reasonable efforts to eliminate, cure, or overcome any of such causes and to resume performance of its Services with all possible speed. In such event, the non-performing party may be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay.

SECTION T. NON-ASSIGNMENT: Contractor shall not assign this Agreement or any privileges or obligations herein and shall not novate this Agreement to another without the prior written consent of the County Manager.

SECTION U. LICENSES: Contractor shall maintain all required licenses including, without limitation, all necessary professional and business licenses, throughout the term of this Agreement. Contractor shall require and shall assure that all of Contractor's employees and subcontractors maintain all required licenses including, without limitation, all necessary professional and business licenses.

SECTION V. PROHIBITED INTERESTS: Contractor agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its Services hereunder. Contractor further agrees that it shall not employ any person having such an interest to perform Services under this Agreement. No County Council member or other elected official of County, or manager or employee of County shall solicit, demand, accept, or agree to accept, a gratuity or offer of employment contrary to Section 31-282 of the Los Alamos County Code.

SECTION W. TERMINATION:

- 1. Generally.** The County Manager, or designee, may terminate this Agreement with or without cause upon thirty (30) days prior written notice to Contractor. Upon such termination, Contractor shall be paid for Services actually completed to the satisfaction of County at the rate set out in Section E. Contractor shall render a final report of the Services performed to the date of termination, and shall turn over to County originals of all materials prepared pursuant to this Agreement.
- 2. Funding.** This Agreement shall terminate without further action by County on the first day of any County fiscal year for which funds to pay compensation hereunder are not appropriated by County Council. County shall make reasonable efforts to give Contractor at least ninety (90) days advance notice that funds have not been and are not expected to be appropriated for that purpose.

SECTION X. NOTICE: Unless otherwise provided in this Agreement, any notices required under this Agreement shall be made in writing. Notices shall be sent via 1) hand-delivery; 2) registered or certified mail; 3) a nationally recognized overnight courier service; or 4) electronic mail (with copy by mail or courier). All notices shall be sent to each party at the addresses set out in this section or any address later provided by such party in writing, with postage prepaid by the sender, and shall be deemed delivered upon hand delivery, verified proof of delivery by courier, or three (3) days after deposit in the United States Mail.

County:

Library Manager

Contractor:

Incorporated County of Los Alamos
2400 Central Avenue
Los Alamos, New Mexico 87544
E-mail: gwen.kalavaza@losalamosnm.gov

With a copy to:
County Attorney's Office
1000 Central Avenue, Suite 340
Los Alamos, New Mexico 87544
E-mail: ~Attorney@losalamosnm.gov

Cindy Norman, Business Manager
ByWater Solutions, LLC
1226 SE 52nd Avenue
Portland Oregon 97215
Remit to: PO BOX 1346
Santa Barbara, CA 93102
E-mail: cindy@bywatersolutions.com

SECTION Y. INVALIDITY OF PRIOR AGREEMENTS AND ENTIRE AGREEMENT:

1. This Agreement supersedes all prior contracts or agreements, either oral or written, that may exist between the Parties with reference to the Services described herein, and expresses the entire Agreement and understanding between the Parties with reference to said Services. It cannot be modified or changed by any oral promise made by any person, officer, or employee, nor shall any written modification of it be binding on County until approved in writing by both authorized representatives of County and Contractor. In the event of any conflict between the terms, conditions, and provisions of this Agreement, and the terms, conditions and provisions of any exhibits or attachments, the terms, conditions and provisions of this Agreement shall control and take precedence.
2. Regarding the Services described herein, this Agreement shall supersede, now and in the future and without limitation, any terms or conditions on Contractor's website, terms and conditions referenced on Contractor's quote or invoice, or any other Contractor terms and conditions not expressly agreed to and properly authorized by the Parties in writing. For clarity, no "click-through," "click-and-accept," "web-wrap," or other similar agreements or terms whether before, on, or after the date of this Agreement, will be effective to add to or modify the terms of this Agreement, regardless of any Party's acceptance of those terms by electronic means.

SECTION Z. NO IMPLIED WAIVERS: The failure of County to enforce any provision of this Agreement is not a waiver by County of the provisions, or of the right thereafter, to enforce any provision(s).

SECTION AA. SEVERABILITY: If any provision of this Agreement is held to be unenforceable for any reason: (i) such provision shall be reformed only to the extent necessary to make the intent of the language and purpose of the Agreement enforceable; and (ii) all other provisions of this Agreement shall remain in effect so long as the substantive purpose of the Agreement is possible.

SECTION AB. CAMPAIGN CONTRIBUTION DISCLOSURE FORM: A Campaign Contribution Disclosure Form was submitted as part of the Contractor's Response and is incorporated herein by reference for all purposes.

SECTION AC. LEGAL RECOGNITION OF ELECTRONIC SIGNATURES: Pursuant to NMSA 1978 § 14-16-7, this Agreement may be signed by electronic signature.

SECTION AD. DUPLICATE ORIGINAL DOCUMENTS: This document may be executed in two (2) counterparts, each of which shall be deemed an original.

SECTION AE. NEGOTIATED TERMS: This Agreement reflects negotiated terms between the Parties, and each party has participated in the preparation of this Agreement with the opportunity to be represented by counsel, such that neither party shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

SECTION AF. CONFIDENTIAL INFORMATION: Any confidential information of one party that is provided to the other party during the term of this Agreement shall be kept confidential and shall not be made available to any individual or organization in accordance with the Confidential Information Disclosure Statement in Exhibit E. The Confidential Information Disclosure Statement shall be completed by Contractor as a condition precedent and submitted as part of this Agreement. Its terms shall govern as if fully set forth herein.

SECTION AG. MODIFICATION OF AGREEMENT AND AMENDMENTS:

1. This Agreement shall be modified only by mutual written consent of the Parties. No modification of, amendment, or addition to this Agreement is valid or binding unless set forth in writing and fully executed by both Parties. All other provisions of this Agreement shall govern any amendment to this Agreement except for those provisions otherwise explicitly modified and mutually agreed-upon through the amendment.
2. County may at any time, as the need arises, request additional and optional services and functionality described herein without invalidating this Agreement. County reserves the right to procure such additional and optional services and functionality consistent with County laws and policies. Parties agree to follow the Process for Requesting Optional Services or Functionality defined in Exhibit A, Table 6. For the purpose of clarity, requests for such additional and optional services and functionality shall be documented by and shall only be authorized through amendment to this Agreement, even if there is no change to the previously agreed-upon not-to-exceed compensation amounts stated herein or in any subsequent amendment. Parties shall use the Sample Amendment Template, or one substantially similar, provided in Exhibit F.
3. If any changes to this Agreement increases or decreases the costs of the Services within the not-to-exceed compensation amounts provided herein or in any subsequent amendments, then an equitable adjustment to the amount of compensation due for the Services shall only be authorized by amendment to this Agreement, as mutually agreed to by County and Contractor.
4. Only the County Manager and/or County Council, as may be appropriate, shall have authority to authorize amendments to this Agreement on behalf of the County.
5. If changes to this Agreement increase the costs of the Services beyond the total not-to-exceed compensation amount specified in Section E, such an increase must be approved and authorized by an amendment to this Agreement, which shall also require approval by County Council.
6. Notwithstanding the foregoing, nothing in this Section shall be construed to conflict with the Project Manager's ability to authorize mutually agreed-upon changes to the Project Plan and Project Schedule during initial Software implementation, as described in Section C(9.8). Such Project Plan and Project Schedule changes may be authorized in writing by the Project Manager via memorandum, electronic mail, or a different mutually agreed-upon method.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

ATTEST

INCORPORATED COUNTY OF LOS ALAMOS

MICHAEL D. REDONDO
COUNTY CLERK

BY: _____
ANNE W. LAURENT **DATE**
COUNTY MANAGER

Approved as to form:

J. ALVIN LEAPHART
COUNTY ATTORNEY

**BYWATER SOLUTIONS, LLC, A CALIFORNIA LIMITED
LIABILITY COMPANY**

BY: _____
NATHAN A CURULLA **DATE**
CHIEF REVENUE OFFICER

Compensation Rate Schedule
Exhibit A
AGR25-61

Contractor shall, throughout the Term of this Agreement, provide Services, including additional optional products and Services, at the rates specified herein. All fees shown below are included in the not-to-exceed ("NTE") amount of this Agreement in Section E. Compensation.

Table 1. Annual Support and Hosting Fees

Annual Support and Hosting Fees include, but are not limited to, the modules, apps and features offered by Contractor for Koha, Aspen Discovery and Metabase, all maintenance, future Software upgrades, unlimited customer support.	
Contract Year	Fees – NTE
Year 1* 3/4/2026 – 3/3/2027	\$12,510.00 Koha Annual Support and Hosting \$11,220.00 Aspen Discovery Annual Support and Hosting \$2,500.00 Metabase Annual Support and Hosting \$2,000.00 Test Server Koha \$2,000.00 Test Server Aspen Discovery Annual Total \$30,230.00
Year 2 3/4/2027 – 3/3/2028	\$12,510.00 Koha Annual Support and Hosting \$11,220.00 Aspen Discovery Annual Support and Hosting \$2,500.00 Metabase Annual Support and Hosting \$2,000.00 Test Server Koha \$2,000.00 Test Server Aspen Discovery Annual Total \$30,230.00
Year 3 3/4/2028 – 3/3/2029	\$12,510.00 Koha Annual Support and Hosting \$11,220.00 Aspen Discovery Annual Support and Hosting \$2,500.00 Metabase Annual Support and Hosting \$2,000.00 Test Server Koha \$2,000.00 Test Server Aspen Discovery Annual Total \$30,230.00
Year 4 3/4/2029 – 3/3/2030	\$12,510.00 Koha Annual Support and Hosting \$11,220.00 Aspen Discovery Annual Support and Hosting \$2,500.00 Metabase Annual Support and Hosting \$2,000.00 Test Server Koha \$2,000.00 Test Server Aspen Discovery Annual Total \$30,230.00
Year 5 3/4/2030 – 3/3/2031	\$12,510.00 Koha Annual Support and Hosting \$11,220.00 Aspen Discovery Annual Support and Hosting \$2,500.00 Metabase Annual Support and Hosting \$2,000.00 Test Server Koha \$2,000.00 Test Server Aspen Discovery Annual Total \$30,230.00
Year 6 3/4/2031 – 3/3/2032	\$13,761.00 Koha Annual Support and Hosting \$12,342.00 Aspen Discovery Annual Support and Hosting \$2,750.00 Metabase Annual Support and Hosting \$2,200.00 Test Server Koha \$2,200.00 Test Server Aspen Discovery Annual Total \$33,253.00

Year 7 3/4/2032 – 3/3/2033	\$13,761.00 Koha Annual Support and Hosting \$12,342.00 Aspen Discovery Annual Support and Hosting \$2,750.00 Metabase Annual Support and Hosting \$2,200.00 Test Server Koha \$2,200.00 Test Server Aspen Discovery Annual Total \$33,253.00
Year 8 3/4/2033 – 3/3/2034	\$13,761.00 Koha Annual Support and Hosting \$12,342.00 Aspen Discovery Annual Support and Hosting \$2,750.00 Metabase Annual Support and Hosting \$2,200.00 Test Server Koha \$2,200.00 Test Server Aspen Discovery Annual Total \$33,253.00
Year 9 3/4/2034 – 3/3/2035	\$13,761.00 Koha Annual Support and Hosting \$12,342.00 Aspen Discovery Annual Support and Hosting \$2,750.00 Metabase Annual Support and Hosting \$2,200.00 Test Server Koha \$2,200.00 Test Server Aspen Discovery Annual Total \$33,253.00
Year 10 3/4/2035 – 3/3/2036	\$13,761.00 Koha Annual Support and Hosting \$12,342.00 Aspen Discovery Annual Support and Hosting \$2,750.00 Metabase Annual Support and Hosting \$2,200.00 Test Server Koha \$2,200.00 Test Server Aspen Discovery Annual Total \$33,253.00
Year 11 3/4/2036 – 3/3/2037	\$15,137.00 Koha Annual Support and Hosting \$13,576.00 Aspen Discovery Annual Support and Hosting \$3,025.00 Metabase Annual Support and Hosting \$2,420.00 Test Server Koha \$2,420.00 Test Server Aspen Discovery Annual Total \$36,578.00
Year 12 3/4/2037 – 3/3/2038	\$15,137.00 Koha Annual Support and Hosting \$13,576.00 Aspen Discovery Annual Support and Hosting \$3,025.00 Metabase Annual Support and Hosting \$2,420.00 Test Server Koha \$2,420.00 Test Server Aspen Discovery Annual Total \$36,578.00
Year 13 3/4/2038 – 3/3/2039	\$15,137.00 Koha Annual Support and Hosting \$13,576.00 Aspen Discovery Annual Support and Hosting \$3,025.00 Metabase Annual Support and Hosting \$2,420.00 Test Server Koha \$2,420.00 Test Server Aspen Discovery Annual Total \$36,578.00
Year 14 3/4/2039 – 3/3/2040	\$15,137.00 Koha Annual Support and Hosting \$13,576.00 Aspen Discovery Annual Support and Hosting \$3,025.00 Metabase Annual Support and Hosting \$2,420.00 Test Server Koha \$2,420.00 Test Server Aspen Discovery Annual Total \$36,578.00

Year 15 3/4/2040 – 3/3/2041	\$15,137.00 Koha Annual Support and Hosting \$13,576.00 Aspen Discovery Annual Support and Hosting \$3,025.00 Metabase Annual Support and Hosting \$2,420.00 Test Server Koha \$2,420.00 Test Server Aspen Discovery Annual Total \$36,578.00
Total	\$500,305.00

*Year 1 Support and Hosting fee, 100%, shall be invoiced on the Go Live date, ongoing support and hosting payments shall be invoiced on the anniversary of the established Go Live date.

Table 2. Project Implementation, Integration and Management Fees

Descriptions	Fees - NTE
Fee includes implementation and integration services described in Section C for Koha.	\$16,120.00
Fee includes implementation and integration services described in Section C for Aspen Discovery.	\$7,500.00
Fee includes implementation and integration services described in Section C for Metabase.	\$2,000.00
Scoping Services (Two Days Onsite)	\$9,000.00
Total	\$34,620.00

Implementation Fees shall be billed upon County's acceptance of completion, in accordance with the following milestones:

Upon completion of the Project Initiation Meeting, and delivery of the Project Schedule and Project Plan to County, 50% of implementation fees, \$17,310.00

Remaining 50% of implementation fees shall be invoiced upon successful completion of Go Live, \$17,310.00

Table 3. Training Fees

Descriptions	Fees - NTE
Onsite Training (Four Days) for Koha.	\$7,200.00
Live Webinar Training for Aspen Discovery	\$0.00
Live Webinar Training for Metabase.	\$1,000.00
Total	\$8,200.00

Training Fees shall be invoiced in full upon completion of training services.

Table 4. Additional Integration and Professional Services Fees

Descriptions	Fees - NTE
Optional Additional Scoping County may, at County's sole option, request optional post Go-Live scoping services, in addition to the implementation scoping already stated above. Such scoping shall be provided to County for \$9,000.00 over a two (2) day period.	Optional Scoping in a total amount not to exceed \$9,000.00 .
Optional Additional Professional Services (project management, development, consultation, integration, etc.) County may, at County's sole option, request optional post Go-Live Professional Services, in addition to the	Optional Professional in a total amount not to exceed \$20,000.00 .

implementation effort stated above. Such Professional Services shall be provided to County for \$250.00/hour.	
Total	\$29,000.00

Table 5. Optional Products, Functionality and Services

Description
County, at County's sole option, reserves the right to request from Contractor optional products, functionality, and services to enhance or improve County's court case management processes through the Software as those services and functionality become available throughout the Term of this Agreement, for which there may be additional implementation fees, licensing fees, or other professional services fees. County reserves the right to procure such optional products, functionality, and services consistent with County laws and policies. To request and implement any new optional services and functionality, as they become available to County, Parties agree to follow the process outlined in Exhibit A Table 6. All optional services and functionality shall be provided by Contractor to County at County request and upon mutual written agreement, subject to the provisions outlined in Section AG: Modification of Agreement and Amendments. Such optional products, functionality and development services may include, but are not limited to the following: 1. Addition of Additional Modules and Functionality 2. Additional Integration with Third-Party Systems, Post Go-Live

Table 6. Process for Requesting Optional Services or Functionality

In the event County requests to have Contractor provide additional optional services throughout the Term of this Agreement, Parties agree to follow the process outlined in this Table, or a similar agreed-upon process. Parties may request any additional information to clearly define the services, fees, and functionality. 1) Upon County written request, Contractor shall provide a quote and scope of work for the optional additional services or functionality requested. Rates and fees quoted shall conform to any applicable rates specified herein. 2) Contractor's quote shall, at a minimum, include the following: a) Any and all fees to provide the services or functionality requested. b) Line items for implementation, configuration, and training fees, payable only after Contractor's successful delivery and County's written acceptance and approval of completion of milestones and deliverables defined in the mutually agreed-upon scope of work. c) Any support, hosting or licensing fees separated annually with a total cost for all remaining years of this Agreement, with the first payment prorated if necessary to account for mid-year implementations, with subsequent annual fees billed concurrently with the annual support and hosting fees described in Table 1. d) A proposed project plan with all tasks, phases, deliverables, milestones, responsibilities and a proposed project schedule clearly defined. e) A list of all the new features, functionality, and services to be provided, if not already described herein. 3) Upon County's acceptance of Contractor's quote, an Amendment shall be drafted and executed, pursuant to Section AG.

EXHIBIT B
Software Functional Specifications
AGR25-61

Contractor guarantees that the Software shall substantially conform to the functional specifications set forth in Exhibit B, as provided in Section C(4) of the Agreement.

1	General System Requirements
1.1	System must be hosted in the cloud by the vendor allowing access to users in real-time both in the office and in the field.
1.2	System must integrate with third party products such as Bibliotheca RFID gates, self check and hold lockers.
1.3	Software must be designed to be accessible for people with disabilities and verifiably compliant with applicable standards and laws, which may include but is not limited to, sections of Section 508 of the Rehabilitation Act of 1973, which defines standards for electronic and information technology and web-based applications and Web Content Accessibility Guidelines, which defines how to make Web content more accessible to people with disabilities.
1.4	Vendor migrates all library files including bibliographic records, items/copies, circulation transactions (charges, bills, holds), acquisitions data (vendor, orders, invoices, funds,) and patron data.
1.5	Software does not require client-side installation, browser plugins (e.g. Silverlight, ActiveX), or changes to local workstation security.
1.6	County's preference is that, Software will have the ability to grant access to an unlimited number of users at no additional cost. Minimum number of users must be at least thirty (30).
1.7	System must allow authentication against patron database with EZProxy
1.8	Vendor provides a help desk/support service which is accessible via telephone, email, and web portal
1.9	Software is fully self-contained and capable of being operated by Library staff with no dependency on vendor for its routine operation.
1.10	Vendor provides a separate test environment to test new features and to train users
1.11	Vendor converts current library application parameters to the new system and provides assistance to library staff in making changes to these parameters as required.
1.12	Vendor provides training for all modules and applications purchased.
1.13	Vendor provides a software maintenance program to include all future software updates and system enhancements applicable to system modules licensed.
1.14	Current functionality or development to prepare for a future with linked data. Ability to interface with Bibframe or other post-MARC systems.
1.15	Currently captures and imports bibliographic records from any Z39.50 source, SRU/SRW (Search/Retrieve via URL/Search/Retrieve Web service), and/or CQL
1.16	Software supports capture and retention of digital signatures as part of patron account records.
1.17	Free unlimited online training resources throughout the term of an agreement.
2	GENERAL: Circulation Functions
2.1	Provides standard circulation functions including checking in & out, overdue progression
2.2	

	Provides offline circulation when server is not available
2.3	Ability to create multiple types of patron notifications including, but not limited to, overdue notice, replacement notice, patron pre-expiration notice, hold notice, pre-overdue notice and allow the patron to opt-in to which type(s) of notice(s) they want
2.4	Ability to send patron notifications in a variety of methods such as voice, text, email or printed mailer
2.5	Ability for mobile inventory
2.6	Provide capability for mobile circulation
2.7	Ability to process credit card payments with a credit card system being fully integrated into the circulation module.
2.8	Allows circulation rules (e.g. varying lending periods) to be created based on media or material type
2.9	Allows groups of items to be temporarily set to a new location (such as for a display)
2.10	Supports item notes, hold notes, and hold prioritization.
3	GENERAL: Reporting
3.1	Provides templates for all standard reports and notices.
3.2	Ability to allow saved templates to be run immediately or on set schedule which can be defined by authorized staff
3.3	Software needs to be able to export all reports into a CSV or XLS/XLSX file
3.4	System must provide the ability for end users to easily create saved reports and ad-hoc reports.
3.5	Ability to build reports using API or SQL generator for non-programmer staff
3.6	Ability to store and report on anonymized historical circulations.
4	General Acquisitions
4.1	Provides standard acquisitions functionality including EDI ordering, manual order entry, set up of subscriptions and standing orders, vendor tracking, claiming, cancellations, funds review by fund codes, budget creation, editing, and audit trail functions.
4.2	Allows for unlimited vendor accounts, with mailing addresses, telephone numbers, customer account numbers, and other vendor information. Allows for multiple accounts for a single vendor
4.3	Provides reports and functions for Fiscal Year-end rollover, including test of rollover before committing to new FY.
4.4	Accurate tracking reports for cancelations and claims. Claims tracking and budget, subscription and vendor tracking for serials module viewable in acquisitions and/or serials module.
4.5	Accurate receipt of materials against orders, including the ability to identify and notify/report discrepancies. Including multiply copies and partially received copies.
4.6	Basic acquisitions reports that can identify discrepancies such as: items received but not invoiced or paid, items invoiced but not paid, cancelled items, claimed items, etc.
4.7	Allows clear process to "roll-over" unreceived or unpaid order records (order lines) from one year to the next.
5.0	GENERAL: Cataloging

5.1	Provides a full-text database, with the means to search, create, display, modify, duplicate, 'shadow', and remove bibliographic records. Meets Resource Description & Access (RDA) and Functional Requirements for Bibliographic Records (FRBR)
5.2	Supports real-time importing of catalog records from any MARC- or RDA-based cataloging source, in both single-record basis and batch mode and provides a method for loading batches of bibliographic records from different providers, including acquisitions vendors and OCLC. Allows loading batches of bibliographic records via FTP if needed.
5.3	Provides real-time indexing and display of new or updated bibliographic holdings in staff and public modules.
5.4	Supports full diacritics and the addition or change of diacritics when editing a bibliographic record.
5.5	Ability to catalog and display non-English language materials
5.6	Allows batch removal of withdrawn MARC and item records.
5.7	Allows global batch editing of item record fields. Ability to change a heading in batch, even when the heading changes from a subject to a genre term.
5.8	Provides authority control processing/updating for name, uniform title, subject, genre, and series headings.
5.9	Allows for URIs to import on bibliographic records without needing to be authorized or meet authority control requirements.
5.10	Has a regular report/analysis for Authority Control and provides a yearly bibliographic analysis report.
5.11	Provides a side-by-side view of copy cataloging source bibliographic record and system editing of bibliographic record.
6	GENERAL: Public Catalog
6.1	Provide full user account details, material checked out with due dates. Fines or fees accrued. Holds listed with user's hold position number visible. Account expiration date
6.2	Allows easy online credit card payments
6.3	Patron facing catalog is responsive/adaptive on mobile devices
6.4	Allows automated renewals and renewals by patrons online
6.5	Allows search and discovery of ebooks & downloadable audiobooks and integrated check out of these resources.
6.6	Allows online patron registration
6.7	Supports enriched content including cover art, summaries, table of contents, etc. (e.g. Syndetics)
6.8	Boolean, Keyword, Title and Subject searching features with advanced search options. Including but not limited to searching by material type, shelving location and collection. Faceted sorting of search results.
6.9	API integration of electronic resources
6.10	Searchable authorities and linked data
6.11	Supports single sign through EZProxy for e-resources
6.12	Option for users to create lists of library materials.
7	GENERAL: Serials
7.1	Provides standard serials functionality including: check in/receiving, claiming, prediction patterns, both default and custom options, supplements, special issues, and combined issues handling, including manual input or single prediction modification at check in for faulty pattern predictions, unexpected issues, supplements, etc., EDI import of bib records from vendors for serials control records.

7.2	Ability to review and track lapsed subscriptions and claims in system. Missing issues report runs automatically.
7.3	Serial check in for both barcoded and non-barcoded material.
7.4	Efficient copy and item history delete for yearly retention schedule system cleanup.
8	Additional or Optional Features
8.1	Metabase - <i>database querying and visualization tool</i> .
8.2	Libki – Reservation print, booking and time management system.

EXHIBIT C
COUNTY TECHNOLOGY STANDARDS
AGR25-61

[This page intentionally left blank, County Technology Standards begin on the following page]

County Technology Standards Requirements for On-Premise, Hybrid, or Cloud/Hosted Solutions Questionnaire

The following Los Alamos County Technology Standards are required and shall be supported by the vendor, contractor, reseller henceforth in this document called "Operator", for any County solicitation requiring technology or integration to the County network and incorporated into any resultant agreement. Standards are listed with the expectation that the Operator will provide software updates to allow Los Alamos County to stay on supported versions of hardware, underlying software and protocols as outlined below.

Respondents must provide documentation that they meet the requirements in respect to the solution that they are responding with. **On premise respondents do not need to comply with hosted requirements. Hosted solution respondents do not need to comply with on-premise requirements. If the solution is a hybrid of both categories of solution, then both on-premise and hosted requirements apply as applicable to the response.**

For each standard requirement in the table below, check "YES" to indicate compliance, "NO" to indicate non-compliance, or "N/A" to indicate that the requirement is not applicable. In the cell beneath each standard requirement, **briefly describe how** Offeror will comply or why a standard requirement is not applicable. If Offeror can comply, but not exactly in the way described in the standard, please describe the substantial equivalent offered or alternate method for conforming to the requirement.

Where other County policies or documents are referenced, County will provide these documents upon request.

	STANDARD REQUIREMENT	YES	NO	N/A
Server Operating system (OS) (On-Premises)	Microsoft (MS) Windows Server 2019, 64 bit or current (Standard and Datacenter). Contractor software must be maintained to run on a supported platform service level as defined by Microsoft at the latest stable patch level. Departments will be responsible for licensing costs and must request cost estimates from Information Management (IM) Division.			X
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	ByWater will provide a fully hosted web-based solution to the library			

Server Hardware (On-Premise)	Preferred: Use of County VMware server platform. Environment design must be submitted and reviewed by IM Division for acceptance. Proposals shall include required hardware and licensing of VMware, operating system, and proposed application-based requirements. Application with a proven Virtual installation template is preferred. Physical Server minimum hardware specifications consist of: Multi Socket/Multi Core processor Intel or AMD based server (standalone or blade server as determined by Los Alamos County IM Division with a minimum 64 GB RAM and RAID capability. Contractor software must be maintained to run on a supported platform service levels as defined by Microsoft at the latest stable patch level.			X
Briefly describe how Offeror will comply, alternate methods or why a standard requirement is not applicable	ByWater will provide a fully hosted web-based solution to the library			

Network Infrastructure	See LAC Standards and Specifications for Building and Campus Distribution Systems Version 3 (Primarily used for building construction purposes).			X
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	This is not a building or construction project and only deals with software as a service			
Network (On-Premise)	Supported network protocol is TCP/IP (IPv4). Standards based NIC rated at 100/1000/10G copper or fiber is supported. If considering a 10G connection County IT network group shall be consulted to ensure equipment compatibility and availability at proposed site. Additional hardware cost, may be required of the project, based on project requirements, equipment and availability. The County uses Cisco technology as its default network equipment standard. Solutions shall be compatible with Cisco Network Technology.	X		
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	The specifications listed above will be satisfactory for the purposes of running this proposed product offering			
Remote Network Access (On Premise)	Direct remote access to the County network and server environment shall be done using the County's Cisco AnyConnect SSH VPN. Once a VPN connection is established end-point connections are supported via Microsoft RDP. Operator support accounts shall be set up in accordance with the adopted Los Alamos County IT Usage and Security Policy #1210.			X

Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	ByWater will provide a fully hosted web-based solution to the library			
LAC Network Account Privilege (On-Premise & Hosted)	Desktop Client Software shall function for end users with standard user privileges; user cannot install software and shall not have administrative rights.	X		
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	The proposed solution is fully web based but these protocols can be maintained regardless.			
Desk Hardware (On-Premise & Hosted)	Physical unit minimum hardware requirements consist of: Intel core i5 based processor, minimum 8 GB RAM, Intel integrated graphics 1280 capable video minimum, display port, input or HDMI, 4 USB 2/3 ports. Support deployment onto Azure Virtual Desktop (AVD) platform, specifically cloud-based platforms from Microsoft Azure, Amazon Web Service (AWS), Google Cloud Platform or Oracle Cloud Infrastructure (OCI)	X		
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	The specifications listed above will be satisfactory for the purposes of running this proposed product offering			

Desktop OS (On-Premise & Hosted)	Microsoft Windows 10 & 11 at current Service Pack (SP).	X		
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	The proposed solution is web-based and as such is operating system agnostic.			
Internet Browser (On-Premise & Hosted)	Internal County Network: Google Chrome and Edge, at its latest version, are the installed browsers on county devices. Google Chrome is the county standard. New web Applications must be based on HTML5. Applications requiring Internet Explorer, Microsoft Silverlight, Java and Flash are not supported. IM Division shall be consulted for compatibility issues prior to considering new application purchases requiring Java.	X		

Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	The specifications listed above will be satisfactory for the purposes of running this proposed product offerings, which are fully web based and only require an updated and current version to run correctly.			
Database Software Products (On-Premise)	Supported database software is Microsoft (MS) SQL server version 2019 and above. New MS SQL Server product installations will require review, purchasing of licenses, appropriate hardware, and maintenance in support of proposed project or instance install to the County MS SQL Server Environment. MS SQL server software for new implementations shall be at within the Microsoft certified support release level or current. Server components for proposed projects require review and purchasing as part of the project initiative. Operator software must be maintained to run on a supported platform service level as defined by Microsoft. ■ Passwords are not permitted to be transported in clear/plain text. ■ Vendor implementation shall not use the SA password for user level functions. SA passwords shall be maintained by the County DBA. ■ Only database instances can be installed on the County MS-SQL Environment. If a vendor software component install is necessary on the database server, a standalone installation will be required. ■ Vendor software must use standard Access & Connection architecture for accessing databases on the County MS-SQL Environment. ■ Applications based on Microsoft Access are not supported. Applications based on SQLEXPRESS version should be reviewed and the limitation understood by the customers and the vendor. Hosted solutions shall be compliant with or provide a			X

	method to provide the County with database exports in the MS-SQL Server format.			
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	ByWater will provide a fully hosted web-based solution to the library			

Internet: Collaboration and Web Publishing (On-Premise & Hosted)	Use of Internet apps or links shall be considered in collaboration with the Los Alamos Information Management Division Applications group for review to ensure that compatibility and Internet publishing protocols have been satisfied prior to formation of any agreement or installation.	X		
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	ByWater will comply with this requirement			
Intranet: Collaboration and Web Publishing (On-Premise & Hosted)	Microsoft SharePoint Online is the basis for the County's Intranet. Any products that will integrate or utilize the County's Intranet site shall require a compatibility consultation with IM Division before purchase and implementation. Operator software shall be maintained to run on supported platform service levels as defined by Microsoft and/or the Intranet site vendor. Proposed Intranet software products shall be accompanied by roadmap for compatibility with MS SharePoint Online.			X
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	None of the products being proposed will require the use of the County's intranet site.			
Productivity Software (On-Premise & Hosted)	Los Alamos County uses Microsoft M365 Office Suite at its most recent version and service pack. Operator software using the Office suite must be maintained to run on supported platform service levels as defined by Microsoft.			X
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	The proposed solution does not utilize the Microsoft M365 Office Suite			
Email (On-Premise & Hosted)	Microsoft M365 with hub transport for relay. If SMTP relay access from on premise vendor specific software is necessary, permission to use the County Email exchange shall be obtained prior to contracting or purchase of the software or solution. If SMTP relay access from hosted vendor specific software is necessary, preference is for SMTP relay to be hosted by vendor. The vendor specific solution must be supported and maintained to relay off County email domain and directed to hand off the email message to another mail server that can get the message closer to its intended recipient in accordance with service levels as defined by Microsoft for the M365 product.	X		
Briefly describe how Offeror will comply, alternate methods, or why a standard	SMTP relay will be hosted by ByWater. The solution will be supported and maintained to relay off County email domain and directed to hand off the email message to another mail server that can get the message closer to its			

requirement is not applicable.	intended recipient.
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Geographic Information Standards (GIS) (On-Premise & Hosted)	The County uses strictly ArcGIS products by Esri for GIS. Desktop software for end users includes ArcGIS Desktop and ArcGIS Pro. GIS web services are provided as REST endpoints from ArcGIS Server using Internet Information Services (IIS). Our enterprise geodatabase is managed using ArcSDE with Microsoft SQL Server. Supported versions are one or two iterations behind the latest ESRI-supported release. The preferred method for applications to interact with GIS is via REST services. Web applications must be hosted in either ArcGIS Online or ArcGIS Portal.			X
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	The proposed solution does not interact with the products mentioned above			
Mobile Devices	Shall conform to Los Alamos County Mobile Policy #1240. Mobile devices requiring Intranet access must be secured through the County Mobile Device Management System.	X		
Briefly describe how Offeror will comply, alternate methods, or why a standard requirement is not applicable.	Any onsite staff will comply with this requirement during their visit with the library			
Security & SSL (On-Premise & Hosted)	Intranet devices must be capable with multi-factor authentication (MFA) using the County's current MFA systems. Any requirements for access to ports from the Internet into the County Network shall be approved via a technical review by the IM Division before product(s) purchase and implementation. Cisco Secure EndPoint Antivirus and Antispyware Enterprise software are used on all intranet computing devices; vendor solutions shall work in conjunction with stated antivirus products. SSL (Secure Socket Layer) / TLS (Transport Layer Security) encryption is required for secure connection of both internal and external facing web applications. Enterprise-wide applications shall be capable of Active Directory integration for user authentication and utilize County's MFA. Devices requiring wireless access must a) be domain integrated or b) have the ability to accept captive portal agreement (a web page that the user of a public-access network is obliged to view and	X		

EXHIBIT D
SERVICE LEVEL AGREEMENT
AGR25-61

This Service Level Agreement sets forth the service level and performance objectives of ByWater Solutions LLC (ByWater) in providing the Hosted Services to County. ByWater will use commercially reasonable efforts to meet the following service level and performance objectives to support the operation of the Systems.

- 1. Covered ByWater Services** This SLA applies only to Hosted Services that are: (1) listed below; and (2) subscribed to by County.
 - 1.1.** Hosting for the Koha Open Source Integrated Library System and all associated modules ("Koha" or "Systems").
 - 1.2.** Hosting for Aspen Discovery System and all associated modules ("Systems" or "Aspen").
- 2. Uptime Commitment** ByWater will use commercially reasonable efforts to ensure the Koha is available 99.8% of the time and Aspen is available 99.5% of the time (the "Uptime Commitment"). Availability will be measured as follows:
 - 2.1.** Availability = (T-D)/(T) * 100%
 - 2.2.** T = the total number of minutes in the respective month.
 - 2.3.** D = the total number of minutes of downtime in the month excluding planned outages for scheduled maintenance, telecommunications or power disruptions caused by third parties, any other causes beyond ByWater's reasonable control, and excluding other times described herein.

ByWater will notify County promptly of any factor, occurrence, or event coming to its attention likely to affect ByWater's ability to meet the Uptime Commitment, or that is likely to cause any material interruption or disruption in the Hosted Services.

Whenever possible, notice of scheduled maintenance shall occur three (3) days prior to scheduled downtime. In the event planned emergency maintenance is required, ByWater will make commercially reasonable efforts to notify Institution in advance.

3. Credits

In the event that ByWater fails to meet the Uptime Commitment for any rolling three (3) month period and County provides written notice within thirty (30) days of the end of such period, County's sole and exclusive remedy will be to receive a service credit applied to one month's fees for the impacted Hosted Service as set out below:

Aspen Availability	Koha Availability	Service Credit
99.5% to 97%	99.7% to 97%	15% Credit
<97% to 95%	<97% to 95%	25% Credit
Below 95%	Below 95%	50% Credit

In no event will the total service credits for any twelve (12) month period exceed 1/12 of the fees paid by County for the applicable Hosted Service during that twelve (12) month period. County acknowledges and agrees that if the remedies set forth in this section are applied, any failure of ByWater to meet the requirements in this SLA will not constitute a breach of contract.

4. Systems Management

- 4.1. Monitoring.** ByWater will monitor and maintain the Systems in working order each day (24 x 7). ByWater will proactively manage and monitor all application server hardware devices and software to ensure optimal performance and reliability as well as to detect abnormal events or exceeded utilization or performance thresholds.
- 4.2. Maintenance.** ByWater will operate, monitor and administer all servers, and applications supporting the ByWater Services. In order to provide such coverage, ByWater may utilize a mixture of on-call support staff, automated server monitoring and automated paging technology.
- 4.3. Change Control.** ByWater will install new equipment, software, releases, upgrades, fixes, patches and other items necessary to maintain the Systems to industry standards. ByWater will proactively gather information from appropriate server, peripheral, operating system or database vendors regarding upgrades, defect patches or fixes.

5. Methods of Support Interface.

- 5.1. 24/7 Ticketing system.** The ticketing system is the primary method for support requests. Upon entry of a support ticket, Contractor shall provide a response via email or phone within twenty (20) minutes.
- 5.2. 24/7 toll-free calling**
- 5.3.** Live chat during business hours (9 AM to 8 PM Eastern Time) via SLACK or similar chat function, excluding holidays.
- 5.4.** Access to administrative contact information for escalation of support issues.

Exhibit E
Confidential Information Disclosure Statement
AGR25-61

The Incorporated County of Los Alamos is a governmental entity subject to certain disclosure laws including, but not limited to, the New Mexico Inspection of Public Records Act, NMSA 1978, §§ 14-2-1, et seq. Nothing in this Agreement is intended to diminish or expand the application of any applicable disclosure laws to any proprietary or confidential information.

This Confidential Information Disclosure Statement ("Statement") defines obligations and waivers related to Confidential Information disclosed pursuant to the above referenced Agreement between County and Contractor. County and Contractor agree to the following:

1. **Statement Coordinator** – Each party designates the following person as its Statement Coordinator for coordinating the disclosure or receipt of Confidential Information:

	Contractor	County
Name:	Cindy Norman	Gwen Kalavaza
Title:	Business Manager	Library Manager
Address:	1226 SE 52 nd Avenue	2400 Central Avenue
City/State/Zip:	Portland, OR 97215	Los Alamos, New Mexico 87544
Email:	cindy@bywatersolutions.com	gwen.kalavaza@losalamosnm.gov

2. **Definitions:**
 - a) **Confidential Information** - any form of information, in any format, disclosed by the Discloser to the Recipient and identified in writing as confidential.
 - b) **Discloser** - the party disclosing Confidential Information.
 - c) **Exception** – An exception is satisfied if the Confidential Information disclosed: (i) was in Recipient's possession prior to receipt from Discloser, (ii) is publicly known or readily ascertainable by legal means, (iii) is lawfully received by Recipient from a third party without a duty of confidentiality, (iv) is disclosed by Discloser to a third party without a duty of confidentiality on the third party, (v) is independently developed or learned by Recipient, or (vi) is disclosed by Recipient with Discloser's prior written approval.
 - d) **Recipient** – the party receiving Confidential Information.
3. **Obligations** – Recipient shall protect and ensure its participating subcontractors, agents, or associates shall protect all Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination, or publication of the Confidential Information as Recipient uses to protect its own information of a like nature. If any person or entity requests or demands, by subpoena or otherwise, all or any portion of the Confidential Information provided by one party to another, the party receiving such request shall immediately notify the Discloser of such request or demand. The party receiving the request or demand shall independently determine whether the information sought is subject to disclosure under applicable law including the New Mexico Inspection of Public Records Act. If the party receiving the request or demand determines that the information is subject to disclosure, it shall notify the Discloser of its intent to permit the disclosure with sufficient time to permit the Discloser to invoke the jurisdiction of an appropriate court or administrative body to raise any legitimate objections or defenses it may have to the disclosure. In the absence of an appropriate order prohibiting the disclosure, the party receiving the request or demand shall permit and proceed with the disclosure without incurring any duty, obligation or liability to the Discloser.

Exhibit F
Sample Amendment Template
AGR25-61

Pursuant to Section AG., Parties shall use this Sample Amendment Template, or a similar format, when necessary to draft an amendment.

AMENDMENT NO. X
INCORPORATED COUNTY OF LOS ALAMOS
SERVICES AGREEMENT NO. 25-61

This **AMENDMENT NO. X** ("Amendment") is entered into by and between the **Incorporated County of Los Alamos, an incorporated county of the State of New Mexico ("County")**, and **ByWater Solutions, LLC., a California limited liability company** ("Contractor" or "ByWater"), collectively (the "Parties"), to be effective for all purposes Month, Date, Year ("Effective Date").

WHEREAS, County and Contractor entered into Agreement No. AGR25-61 Library Management Software (the "Agreement"); and

WHEREAS, both parties wish to amend _____; and

NOW, THEREFORE, for good and valuable consideration, County and Contractor agree as follows:
[ENTER AMENDED TERMS HERE]

Except as expressly modified by this Amendment, the terms and conditions of the Agreement remain unchanged and in effect.

IN WITNESS WHEREOF, the parties have executed this Amendment No. X on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

ATTEST

INCORPORATED COUNTY OF LOS ALAMOS

Michael D. Redondo
County Clerk

By: _____ **Date**
Anne W. Laurent
County Manager

Approved as to form:

J. ALVIN LEAPHART
COUNTY ATTORNEY

BYWATER SOLUTIONS, LLC., A CALIFORNIA LIMITED LIABILITY COMPANY

By: _____ **DATE**
Name: _____
Title: _____