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LOS ALAMOS COUNTY, NM
NAOMI D. MAESTAS COUNTY CLERK
LACF23-0399 Pages: 2
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Anna Archuleta

AGR21-13-A1

AMENDMENT NO. 1
INCORPORATED COUNTY OF LOS ALAMOS
SERVICES AGREEMENT NO. 21-13

This **AMENDMENT NO. 1** is entered into by and between the **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County"), and **Western States Art Federation ("WESTAF")**, a Foreign Nonprofit corporation ("Contractor"), to be effective for all purposes June 1, 2023.

WHEREAS, County and Contractor entered into Agreement No. AGR21-13 dated June 1, 2021, for Public Art Archive Web Based Hosted/Cloud Solution; and

WHEREAS, the Services are ongoing and County and Contractor wish to extend the term of the Agreement for a total of three (3) additional years, unless sooner terminated, as provided therein, as allowed in the terms of the Agreement, and;

WHEREAS, the County Project Manager and Contractor's address have changed, requiring a change to **SECTION V. NOTICE**.

NOW, THEREFORE, for good and valuable consideration, County and Contractor agree as follows:

I. Delete **SECTION B. TERM** in its entirety and replace it with the following:

SECTION B. TERM: The term of this Agreement shall commence June 1, 2021, and shall continue through May 31, 2026, unless sooner terminated, as provided herein.

II. Delete **SECTION V. NOTICE:** in its entirety and replace it with the following:

SECTION V. NOTICE: Any notices required under this Agreement shall be made in writing, postage prepaid to the following addresses, and shall be deemed given upon hand delivery, verified delivery by telecopy (followed by copy sent by United States Mail), or three (3) days after deposit in the United States Mail:

County:
Art in Public Places Board Staff Liaison
Incorporated County of Los Alamos
1000 Central Ave, Suite 310
Los Alamos, New Mexico 87544

Contractor:
Lori Goldstein
The Western States Arts Federation
1624 Market Street, Suite 226
Denver, Colorado 80202-1559

With a copy to:
County Attorney's Office
1000 Central Avenue, Suite 340
Los Alamos, New Mexico 87544

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

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IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 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

Naomi D. Maestas

NAOMI D. MAESTAS
COUNTY CLERK

INCORPORATED COUNTY OF LOS ALAMOS

BY: Steven Lynne 5/18/2023

STEVEN LYNNE **DATE**
COUNTY MANAGER

Approved as to form:

Kathryn S. Thwaits for

J. ALVIN LEAPHART
COUNTY ATTORNEY

WESTERN STATES ART FEDERATION, A FOREIGN NONPROFIT CORPORATION

BY: Lori Goldstein 5/18/2023

LORI GOLDSTEIN **DATE**
MANAGER, PUBLIC ART ARCHIVE

AGR21-13

LOS ALAMOS

INCORPORATED COUNTY OF LOS ALAMOS
SERVICES AGREEMENT

This **SERVICES AGREEMENT** (this "Agreement") is entered into by and between the **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County"), and **Western States Art Federation ("WESTAF")**, a Foreign Nonprofit corporation ("Contractor"), to be effective for all purposes June 1, 2021.

WHEREAS, the County Purchasing Agent 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. 21-13 (the "RFP") on August 6, 2020, requesting proposals for Public Art Archive Web Based Hosted/Cloud Solution, as described in the RFP; and

WHEREAS, Contractor timely responded to the RFP by submitting a response dated August 20, 2020 ("Contractor's Response"); and

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

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

SECTION A. DEFINITIONS:

"WESTAF" means the Western States Art Federation who provides subscription-based hosting services for the Public Art Archive ™ Collection Management System.

"CollectionSpace" means a web-based software application for the description, management, and dissemination of collections information.

"Public Art Archive™" or "PAA" means WESTAF's online and mobile database of completed public artworks.

"CMS" means the Collection Management System built on the CollectionSpace platform and administered through WESTAF's PAA.

"AWS" means Amazon Web Services.

"SaaS" means Software-as-a-Service.

"Client Data" means the information, including images, text, and video, input into the Public Art Archive Collection Management System Service by County.

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Page(s): 18 Naomi D Maestas - County Clerk
Los Alamos County, NM Anna M. Archuleta - Deputy

"Documentation" means WESTAF's description of the Service and the User Manual as provided to County in connection with the Public Art Archive Collection Management System Service in electronic or hard copy format, or on the website through which the Service is made available to County, as updated from time to time during the Term of this Agreement.

"Fees" means any payment for services relating to this agreement.

"Intellectual Property Rights" means all worldwide intellectual property rights, including without limitation, copyrights, trademarks, service marks, trade secrets, know how, inventions, patents, patent applications, moral rights, and all other proprietary rights, whether registered or unregistered.

"Service", "Public Art Archive Collection Management System Service", and "PAA CMS" each means the web-based service owned and made available by WESTAF as described in Section 6: Software Functionality section that allows County to manage its public art collections.

"Support" means WESTAF's standard technical support for County's use and operation of the Public Art Archive Collection Management System Service as described in Section B(5): Support herein.

"Term" denotes the period of time that County has access to the Service.

"Third Party Software" means any third party computer software programs used by County in conjunction with its use of the Public Art Archive Collection Management System Service.

"User" means an employee or independent contractor of County who or which is authorized by County to use the Public Art Archive Collection Management System Service for County's needs on behalf of County and have been supplied user identifications and passwords by WESTAF and/or County for this purpose.

"User Account" has the meaning given in Section B(3): Licenses and Users herein.

SECTION B. SERVICES:
Contractor shall provide a non-exclusive revocable license to the County for unlimited users of the web-based Software-as-a-Service ("SaaS") Public Art Archive™ Collection Management System ("PAA CMS"), which consists of The Public Art Archive and CollectionSpace for publishing of the County's Public Art Collection.

1. **Implementation.** The following stages shall be completed by Contractor within the timeframes specified herein. The County shall have the sole ability to extend the days needed to complete implementation services.
   a) **CMS Setup:** Contractor shall set up and configure the PAA CMS for County within five (5) business days of the Effective Date of the Agreement.
   b) **Collection Intake, Cleaning, and Formatting:** Contractor shall review and format a County-provided excel spreadsheet containing all County public art details, along with separate County-provided photo files, for import into the CMS. This task shall be completed within twenty (20) business days of receiving files from County.
   c) **Data Import:** Prior to import, Contractor and County shall discuss and agree upon data structure, potential importation results, and appropriate solutions for data clean-up. Within ten (10) business days of completing the collection, intake, cleaning, and formatting outlined above, Contractor shall import data and ensure all data retains relationships

between existing objects, persons, locations, and media items submitted for the initial import.

d) **Review Process Post-Import:** After importation, Contractor shall review imported data against data submitted by County, complete any necessary corrections, conduct an internal review and share CMS access with County for review and verification of integrity. This task shall be completed within five (5) business days after data import.

e) **Web Publishing to PAA:** Contractor shall work with County to determine the web publishing process from the initial import of data. Within five (5) business days of County verification of data integrity, Contractor shall publish to the PAA the data that has been tagged as ready for publishing. County shall have the credentials and application access to edit data in CMS with the ability to edit information in CMS prior to web publishing.

f) **Access and Use**: Subject to the terms and conditions of this Agreement, WESTAF grants to County, during the Term, a non-exclusive, non-transferable, limited right to remotely access and use the Public Art Archive Collection Management System Service in accordance with the Documentation and the other terms and conditions of this Agreement solely to manage the County's public art collection.

g) **County Resources:** County shall be solely responsible for, at its own expense, acquiring, installing and maintaining all connectivity equipment, Internet and network connections, hardware, Third Party Software and other equipment as may be necessary for its Users to connect to and obtain access to the Public Art Archive Collection Management System Service.

2. **Data Ownership.**

a) All data is owned by County. County is responsible for accuracy, legality, and copyright of all data and represents and warrants the right to use and manage all data in connection with its use of Contractor's Services.

b) WESTAF will only access County's User Accounts and access or use the Client Data to provide the Service; to perform its obligations and to exercise its rights under this Agreement; as permitted by the Privacy Policy; as required to comply with lawful legal process; and as necessary, in its commercially reasonable judgment, to protect the Service or Client Data from any unauthorized use and to prevent the Service or Client Data from being used to defraud or harm any person, including but not limited to WESTAF, County, any County User or any third person.

c) Contractor shall not be responsible or liable for the storage, use, deletion, correction, destruction, damage, or loss of or the failure to store any County data through the contracted services. Contractor shall perform daily data protection backups with at least 10 (ten) incremental copies of all data available and will provide this data to County upon request.

3. **Licenses and Users.** Contractor provides a non-exclusive revocable license to the County for an unlimited number of users of the PAA CMS SaaS. Contractor will provide County a non-exclusive, non-transferable, revocable, license to remotely access and use the Services hereunder and, unless prohibited by law, will provide access to any person designated by County ("Users"). Contractor shall set up one County Administrative user with a unique user identification name and password. County is responsible for assigning additional login credentials to Users.

a) **Users:** County will use commercially reasonable efforts to prevent unauthorized access to, or use of, the Public Art Archive Collection Management Service and will notify WESTAF promptly of any such unauthorized use. Access to the Public Art Archive Collection Management Service cannot be shared with anyone other than County's Users.

b) **User Conduct:** County agrees to abide by all applicable laws and regulations in connection with the Public Art Archive Collection Management Service. County agrees not to use and not to permit its Users or any third party to use the Service to: (a) send unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of unsolicited messages, whether commercial or otherwise; (b) harvest, collect, gather or assemble information or data regarding other users, without their consent; (c) transmit through or post on the Service unlawful, libelous, abusive, harassing, tortious, defamatory, threatening, harmful, invasive of another's privacy, vulgar, obscene or otherwise objectionable material of any kind or nature or which is harmful to minors in any way; (d) intentionally transmit any material that may infringe or violate the intellectual property rights or other rights of third parties, including trademark, copyright, or right of publicity; (e) transmit any material that contains software viruses or other harmful or deleterious computer code; (f) intentionally interfere with or disrupt servers or networks connected to the Service or violate the regulations, policies, or procedures of such networks; (g) attempt to gain unauthorized access to the Service, other accounts, computer systems or networks connected to the Service, through password mining or any other means; (h) harass or interfere with another user's use and enjoyment of the Service; or (i) commit or aid in the commission of any unlawful act, violate any person's rights, or annoy, harass, harm, threaten or intimidate another person connected to the Service.

c) **Restrictions on Use:** Use of the Service is limited solely to the management of the public art collection or collections owned by County. County is responsible for all activities that occur under County's User Accounts. Except as expressly permitted in this Agreement or as otherwise authorized by WESTAF in writing, County will not permit any User or third party to (a) copy, transmit, store, publicly display, modify, adapt, alter, translate, or create derivative works with respect to the Service, except as required to use and within the limitations and restrictions included as part of the Public Art Archive Collection Management System Service; (b) sublicense, lease, rent, loan, sell, resell, distribute, make available or otherwise use or transfer the Service or access to or use of the Public Art Archive Collection Management System Service to any third party or for the benefit of any third party for any purpose; (c) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Service; or (d) otherwise use or copy the Public Art Archive Collection Management System Service or any component of it, except as expressly allowed by this Agreement.

4. **Training.** Contractor shall provide County with the following training:
   a) Contractor shall assist and train County to integrate County's related information with the Service and the basic functioning of the Service, consisting of standard training, web-based documentation, and standard technical support (the "Setup Services").
   b) Unlimited training shall be provided through electronic communication and email support, or a combination of each upon County's request.
   c) Web-based documentation.
   d) Training may be scheduled at any time while County maintains a license to the PPA CMS SaaS.

5. **Support**. Contractor shall provide County with the following support.
   a) Standard technical support shall be provided Monday through Friday (U.S. national holidays excepted) from 9:00 a.m. through 5:00 p.m. Mountain Time (a "business day"). Standard support consists of email and telephone support (within U.S. and Canada) during the Term of this Agreement.

b) Support may be scheduled at any time while County maintains an annual subscription to the PPA CMS.

6. **Software Functionality**. Contractor shall, at a minimum, provide PAA CMS SaaS with the following functionalities. Contractor shall provide upgrade enhancements to functionality at no additional cost.
   a) **Accessibility**. Contractor shall provide access through County's website interface at a subdomain. Access shall be web-based via any device with internet connection, Wi-Fi, or cell signal.
   b) **Cataloging**. The compilation and maintenance of key information, identifying and describing objects.
   c) **Commission of Acquisition.** Ability to document and manage the addition of public artworks and associated information to the collections of County, including their potential accession to the permanent collection. Ability to track the commissioning process once the artist(s) have been selected for a project.
   d) **Conservation**. Ability to document and manage the repair and preservation process including information regarding the conservator, the conservator's assessments, treatment options, and priority levels for conservation projects.
   e) **Condition and Maintenance Check**. Ability to document and manage condition checks and inventory assessment of public artwork. This procedure is distinct from conservation, which is meant for routine artwork assessments.
   f) **Data Import/Export**. CollectionSpace import functionality shall support importing files in XML (Extensible Markup Language) or CSV while preserving all relationships present in the data on import.
   g) **Data Entry Templates**. The ability to create records from existing records or create predefined templates for specific data entry needs.
   h) **Deaccession**. Ability to document and manage departure of public artworks from the County's collection.
   i) **Intake**. Ability to track Art upon delivery, deposit, and installation.
   j) **Loans In/Out**. Ability to document and manage of the borrowing and lending of artworks for which County is responsible, for a specific period of time or for a specific purpose, whether exhibition or display, research, conservation, education or photography and publication.
   k) **Media Handling**. Users may upload media files to the system or link to media files stored in an outside asset management system.
   l) **Roles and Permissions**. The management of system access, including read and write permission for procedural, artwork, and organizational records.
   m) **Reports**. Reports shall be included in the Public Art Profile software. The PAA shall include preloaded template reports available in xslx and csv formats.
   n) **Valuation**. Ability to document and manage the valuation of public artworks. This extension includes the ability to track appraisals, insurance assessments, and calendar dates when valuation needs review for insurance purposes.

7. **Technical Specifications**. Contractor shall provide, at a minimum, and at no additional cost to County, the following technical services in addition to providing maintenance, security, back-ups, customer service, updates, and data migration.
   a) Ensure CollectionSpace follows security best practices for AWS and follows County of Los Alamos Technical Standards provided.
   b) Physical servers are located at Amazon's data centers which are accessible by Amazon data center employees only. Data centers shall be located within the United States as stated Exhibit "B" Technology Standards.

c) All data at rest shall be encrypted by WESTAF during transmission and while in storage.
d) System installation using hardened operating system with regular security patches. System patching shall be configured to provide ongoing protection from exploits.
e) Data protection backups shall be done daily with at least ten (10) incremental copies of all data at any point in time.
f) Distributed Denial of Service (DDoS) mitigation services. Larger sustained attacks lasting more than 24 hours shall be escalated in order to resolve the issue.
g) Access to confidential information shall be restricted to only authorized individuals.
h) System access shall be logged and tracked.

SECTION C. TERM: The term of this Agreement shall commence June 1, 2021, and shall continue through May 31, 2023, with an option of three (3) one-year extensions, unless sooner terminated, as provided herein.

SECTION D. COMPENSATION:

1. **Amount of Compensation**. County shall pay compensation for performance of the Services in an amount not to exceed TWELVE THOUSAND FIVE HUNDRED DOLLARS ($12,500.00), which amount does not include applicable New Mexico gross receipts taxes ("NMGRT"). Compensation shall be paid in accordance with the rate schedule set out in Exhibit "A," attached hereto and made a part hereof for all purposes.
2. **Annual Invoices**. Contractor shall submit itemized annual invoices to County's Project Manager showing amount of compensation due, amount of any NMGRT, and total amount payable. Payment of undisputed amounts shall be due and payable thirty (30) days after County's receipt of the invoice. All payments collected by WESTAF under this agreement are fully earned when due and nonrefundable when paid except if the Agreement is terminated by County as defined in Section U(1) below.

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

SECTION F. STATUS OF CONTRACTOR, STAFF, AND PERSONNEL: This Agreement calls for the performance of services by Contractor as an independent contractor. Contractor is not an agent or employee of County and will 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.

SECTION G. STANDARD OF PERFORMANCE: Contractor agrees and represents that it has and will 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 H. 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. Contractor shall not use deliverables in any manner for any other purpose without the express written consent of County.

SECTION I. 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 J. 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 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 will be delivered in accordance with the policy provisions.

1. **General Liability Insurance:** ONE MILLION DOLLARS ($1,000,000.00) per occurrence; ONE MILLION DOLLARS ($1,000,000.00) aggregate.
2. **Professional Liability Insurance:** A limit of not less than $1,000,000 each Claim, with a $1,000,000 annual aggregate, and sufficient to provide coverage for a three (3) year period from completion of this contract, against any and all claims which may arise from the Contractor's negligent performance of work described herein.
3. **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.

SECTION K. 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 L. APPLICABLE LAW: 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. In any lawsuit or legal dispute arising from the operation of this Agreement, Contractor agrees that the laws of the

State of New Mexico shall govern. Venue shall be in the First Judicial District Court of New Mexico in Los Alamos County, New Mexico.

SECTION M. 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 N. INDEMNITY: As between the parties, each party shall be solely responsible for liability arising from personal injury, including death, or damage to property arising from the act or failure to act of the respective party or of its officials, agents and employees pursuant to the Agreement. The liability of the County shall be subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 et seq., N.M.S.A. 1978, and of any amendments thereto.

SECTION O. LIMITATION OF LIABILITY: EXCEPT FOR MISAPPROPRIATION OR INFRINGEMENT OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS BY THE OTHER PARTY, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING ANY LOST DATA AND LOST PROFITS, ARISING FROM OR RELATING TO THIS AGREEMENT OR THE USE OR AVAILABILITY OF THE PUBLIC ART ARCHIVE COLLECTION MANAGEMENT SYSTEM SERVICE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WESTAF'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE PUBLIC ART ARCHIVE COLLECTION MANAGEMENT SYSTEM SERVICE, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNTS UNDER THE POLICES OF BREACH LIABILITY COVERAGE, IDENTIFIED BELOW, MAINTAINED BY WESTAF. Except as exclusive obligations and remedies are expressly provided for in this Agreement, the parties' rights and remedies under this Agreement are cumulative. County acknowledges that the Public Art Archive Collection Management System Service contains valuable trade secrets, Intellectual Property and other proprietary information of WESTAF, that any actual or threatened breach of Section P of this Agreement will cause immediate and irreparable harm to WESTAF for which monetary damages would be an inadequate remedy, and that injunctive relief without necessity of any bond being posted is an appropriate remedy for such breach. If any legal action is brought by a party to interpret or enforce this Agreement, then the prevailing party will be entitled to receive from the other party its reasonable attorneys' fees and court costs, in addition to any other relief it may receive.

SECTION P. SECURITY AND PRIVACY:

1. **Privacy Policy:** Access to and use of the Public Art Archive Collection Management System Service is subject to WESTAF's privacy policy as published online at http://www.westaf.org/privacy, and available through the website for the Public Art Archive Collection Management System Service, as such policy may change from time to time (the "Privacy Policy").
2. **Security.** During the Term, the Public Art Archive Collection Management System Service will substantially implement and maintain generally-acknowledged industry best practices for County security and privacy considering the type of data and the risks arising from a breach of the data.
3. **Security Warranty.** WESTAF warrants that the Public Art Archive Collection Management System Service will be compliant with SSL (secured sockets layer) protocols that encrypt communication between the server and the user's browser (the "Security Warranty"). If

WESTAF breaches the Security Warranty, then WESTAF will do the following as County's sole remedy: (a) defend County against any third-party claims arising out of and proximately caused by the breach of the Security Warranty to the extent such a defense is actually covered by any Breach Liability Coverage, as defined below, in effect for WESTAF's benefit; and (b) indemnify and hold harmless County from all damages, including claims by third party claimants, arising out of and proximately caused by the Service to the extent such damages both arise out of and are proximately caused by a breach of the Security Warranty and are actually covered by any Breach Liability Coverage in effect for WESTAF's benefit.

4. **Cyber Liability/Security Breach Insurance.** WESTAF presently has and will use commercially reasonable efforts to maintain liability insurance which provides coverage for breaches of the Security Warranty affecting the Service with limits of liability of at least $1,000,000 per claim and $1,000,000 on an annual aggregated basis (the "Breach Liability Coverage"). The parties intend and agree that WESTAF's obligations and liability and County's rights under this Section 8 are limited solely to amounts actually available under the policies of Breach Liability Coverage maintained by WESTAF.

SECTION Q. 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.

SECTION R. NON-ASSIGNMENT: Contractor may not assign this Agreement or any privileges or obligations herein without the prior written consent of County.

SECTION S. 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 T. 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 will 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 U. TERMINATION:

1. **Generally**. County may terminate this Agreement with or without cause upon ten (10) 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 C. Upon termination, Contractor shall refund any prepaid fees covering the remainder of the term after the effective date of termination. 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. Either party may terminate this Agreement if the other party breaches any material provision of the Agreement and does not cure such breach within thirty (30) days after receiving written notice thereof.

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 V. NOTICE: Any notices required under this Agreement shall be made in writing, postage prepaid to the following addresses, and shall be deemed given upon hand delivery, verified delivery by telecopy (followed by copy sent by United States Mail), or three (3) days after deposit in the United States Mail:

County:
Katherine Hudspeth
Incorporated County of Los Alamos
1000 Central Ave, Suite 310
Los Alamos, New Mexico 87544

Contractor:
Lori Goldstein
The Public Art Archive
1888 Sherman Street, Suite 375
Denver, Colorado 80203

SECTION W. INVALIDITY OF PRIOR AGREEMENTS: 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 County and Contractor.

SECTION X. NO IMPLIED WAIVERS: All waivers must be in writing. The failure of the County to enforce any provision of this Agreement is not a waiver by the County of the provisions or of the right thereafter to enforce any provision(s).

SECTION Y. SEVERABILITY: If any provision of this Agreement is held to be unenforceable for any reason: (i) such provision will be reformed only to the extent necessary to make the intent of the language enforceable; and (ii) all other provisions of this Agreement will remain in effect.

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

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

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

NAOMI D. MAESTAS
COUNTY CLERK

INCORPORATED COUNTY OF LOS ALAMOS

BY: Steven Lynne 6/1/2021
STEVEN LYNNE **DATE**
ACTING COUNTY MANAGER

Approved as to form:

Kathryn S. Thwaits for
J. ALVIN LEAPHART
COUNTY ATTORNEY

WESTERN STATES ART FEDERATION, A FOREIGN NONPROFIT CORPORATION

Lori Goldstein 6/1/2021
LORI GOLDSTEIN **DATE**
MANAGER, PUBLIC ART ARCHIVE

EXHIBIT "A"
COST SUMMARY SHEET
AGR21-13
PUBLIC ART ARCHIVE WEB BASED HOSTED/CLOUD SOLUTION

COST CATEGORY		ANNUAL COST
PUBLIC ART ARCHIVE COLLECTION MANAGEMENT SYSTEM (PAA CMS)	New Subscriber: Collection Management System	**$2,000.00**
DATA MIGRATION SERVICES	Cleaning, formatting, and importing Client Data into County CMS	**FEE WAIVED**
PUBLIC ART ARCHIVE COLLECTION SHOWCASE PAGE BUNDLE	Landing page for public art collections. Includes a collections-specific map, additional multimedia uploads, and additional featured information about your organization at a customized URL	**$500.00**
TOTAL COST PER YEAR		**$2,500.00**

TOTAL FIVE (5) YEAR COST- $12,500.00

EXHIBIT "B"
TECHNOLOGY STANDARDS
AGR21-13
PUBLIC ART ARCHIVE WEB BASED HOSTED/CLOUD SOLUTION

LOS ALAMOS

Los Alamos County Technology Standards Requirements On-Premise, Hybrid or Cloud/Hosted Solution Solicitations

The following Los Alamos County Technology Standards are required and shall be supported by the vendor, contractor, reseller hence forth 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 will be responsible for providing documentation that they meet the requirement 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 all requirements apply as applicable to the response.

Server Operating system (OS) (On- Premise)	Microsoft (MS) Windows Server 2016, 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.
Server Hardware (On-Premise)	**Preferred:** Use of County VMware server platform. Environment design must be submitted and reviewed by Information Technology Division (ITD) 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 ITD) 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.
Network Infrastructure	See LAC Standards and Specifications for Building and Campus Distribution Systems Version 3 (Primarily used for building construction purposes).
Network	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.
Remote Network Access	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.
LAC Staff Accounts	Software **shall function for end users with standard user privileges**; user cannot install software and shall not have administrative rights.
Desk Hardware	**Preferred**: Use of virtual desktop infrastructure (VDI) dual screen capable. County uses VMWare AppVolumes for Application Deployment and Packaging Physical unit minimum hardware requirements consist of: Intel core i5 based processor, minimum 4 GB RAM, Intel integrated graphics 1280 capable video minimum, display port DVI input, 4 USB 2/3 ports.
Desktop OS	Microsoft Windows 10 at current Service Pack (SP), Operator software must be maintained to run on a supported OS platform service level as defined by Microsoft at the latest stable patch level.
Internet Browser	Internal County Network: Google Chrome, at its latest version, is the default, Internet Explorer 11 or Chrome compatible will be considered on a business case basis. New Applications must be based on HTML5. Applications requiring Microsoft Silverlight, Java and Flash are not supported. ITD shall be consulted for compatibility issues prior to considering new application purchases requiring Java. Public Application/Web Access: Applications that will be accessed by devices external to the County network shall meet the Internal County Network criteria and as well as be compatible with current versions of Internet Explorer, Safari, Opera, Chrome and Firefox browsers as well as mobile devices (inclusive of smart phones, iPad, and other Internet enabled devices).
Database Software Products (On-Premise)	Supported database software is Microsoft (MS) SQL server version 2016 through current. 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. Hosted solutions shall be compliant with or provide a method to provide the County with database exports in the MS-SQL Server format.
Internet: Collaboration and Web Publishing	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.
Intranet: Collaboration and Web Publishing	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 ITD 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 SP Online.
Productivity Software	Los Alamos County uses Microsoft O365 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.
Email	Microsoft O365 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 O365 product.
Geographic Information Standards (GIS)	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.

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.
Security	Intranet devices must be capable of multi-factor authentication using the Los Alamos County Access Control System. Any requirements for access to ports from the Internet into the County Network shall be approved via a technical review by the ITD before product(s) purchase and implementation. Cisco AMP Antivirus and Antispyware Enterprise software are used on all intranet computing devices; vendor solutions shall work in conjunction with stated antivirus products. 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 interact with before access is granted).
Records	Shall conform to Los Alamos County Records and Information Governance Policy #0310
E-Signature	Shall conform to Los Alamos County E-signature Policy #1220.

Hosted\Cloud Based Services	Los Alamos County is interested in taking advantage of Anything as a Service (XaaS) opportunities available through Cloud Service Providers (CSP). Responses for Cloud based solutions shall provide information on the following areas of concern:
	• CSP shall describe the classification of the proposed Cloud solution. Is the solution SaaS, PaaS, IaaS or a combination of the classification types? Is the solution hosted, owned and operated, by CSP or is the solution a partnership of several CSPs including infrastructure partners? If so, where is the hosting facility(s) physically located?
	• CSP processes involving:
	  • **Physical infrastructure**: including locations, internet connectivity and disaster recovery methodologies. CSP data centers shall be located within the United States.
	  • **Hybrid Connectivity:** Solutions requiring cloud system interface with the county network or peripherals located within the County network, need to be identified and tested at the County for network compatibility prior to solution engagement or formalization of service agreements.
	  • **Data:** Ownership of County data held in the CSP solution shall remain with the County of Los Alamos. CSP shall provide assurance on data ownership. CSP shall describe any other potential use of County data housed within the cloud infrastructure, application or service. CSP shall provide methods for protecting the integrity and security of data (ex. Use of data encryption over internet connections). CSP will describe how the solution meets statutory

	requirements for data (ex. PII, HIPAA, CJIS, Gramm-Leach-Bliley Act, FIPS 199...). Provide all relevant information including legal boundaries not set forth in contractual agreements if any. Methodology or process for meeting County Records Retention policies. Mitigation strategy for security breaches involving County data. • **Customer/User Security:** Describe CSP methodology for implementing administrative and end-user security and access. What is the CSP methodology for mitigating security breaches with respect to access and user credentials? What is the CSP's methodology or process governing e-Discovery request from entities other than the County? • CSP shall provide strategies or process for withdrawing or exiting the cloud-based solution. Information shall discuss: • The County shall requirement CSP to provide the County with data in a usable form. Database exports in Microsoft SQL are required, any other format and data type shall require presentation of method, discussion with the County's stakeholders and written acceptance by the Chief Information Officer or designee. • Any expected transition cost from CSP vendor, to on premise or other provider, shall be contracted prior to entering into the service agreement. • CSP using a database as part of their solution shall be responsible for providing the County with a database export (see database requirement) a minimum of 1 time per year. The County may at additional expense request multiple Database exports. Costs and request requirements for multiple exports shall be part of CSP proposal for service.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 4/29/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Toni Peconi
The Buckner Company of Colorado 6400 South Fiddlers Green Circle Suite 950 Greenwood Village CO 80111	PHONE (A/C, No, Ext): 303-756-9909 FAX (A/C, No): 303-753-8818 E-MAIL ADDRESS: denver@buckner.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Atlantic Specialty Insurance Company	27154
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED WESTSTA-09
Western States Arts Federation
1888 N Sherman St Ste 375
Denver CO 80203

COVERAGES **CERTIFICATE NUMBER:** 44870304 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:			711012542	4/30/2021	4/30/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 1,000,000 $ 1,000,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY			711012542	4/30/2021	4/30/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 1,000,000 $ $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $			711012542	4/30/2021	4/30/2022	EACH OCCURRENCE AGGREGATE 	$ 1,000,000 $ 1,000,000 $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		406037199	4/30/2021	4/30/2022	PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
A	Professional Liability			7600099930004	4/30/2021	4/30/2022	Limit Retention	1,000,000 25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

For Informational Purposes Only

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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