

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 04/09/2021

Contract/Lease Control #: C21-3062-LIB

Procurement#: ITB LIB 18-21

Contract/Lease Type: AGREEMENT

Award To/Lessee: BYWATER SOLUTIONS, LLC

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 04/06/2021

Expiration Date: 04/05/2024 W/2 1 YR RENEWALS

Description of: PROVIDE A KOHA & ASPEN OPEN SOURCE INTEGRATED LIBRARY SYSTEM

Department: LIB

Department Monitor: STEVER

Monitor's Telephone #: 850-609-5102

Monitor's FAX # or E-mail: VSTEVER@MYOKALOOSA.COM

Closed:

Cc: BCC RECORDS



BYWASOL-01

SGARCIA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
9/9/2021

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.

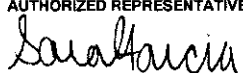
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer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

| PRODUCER Portland Office PayneWest Insurance, a Marsh McLennan Agency LLC Company 14900 SW Barrows Rd, Ste 202 Beaverton, OR 97007 | CONTACT NAME: _____ PHONE (A/C, No, Ext): (971) 888-7950 FAX (A/C, No): (855) 883-6100 E-MAIL ADDRESS: _____ | | | | | | | | | | | | | | |
|---|---|--|-------------------------------|--------|--|--------------|--|--------------|-------------------|--|-------------------|--|-------------------|--|-------------------|
| | <table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Philadelphia Indemnity Insurance Company</td> <td>18058</td> </tr> <tr> <td>INSURER B: Hartford Insurance Co of</td> <td>00914</td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table> | | INSURER(S) AFFORDING COVERAGE | NAIC # | INSURER A: Philadelphia Indemnity Insurance Company | 18058 | INSURER B: Hartford Insurance Co of | 00914 | INSURER C: | | INSURER D: | | INSURER E: | | INSURER F: |
| INSURER(S) AFFORDING COVERAGE | NAIC # | | | | | | | | | | | | | | |
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| INSURER C: | | | | | | | | | | | | | | | |
| INSURER D: | | | | | | | | | | | | | | | |
| INSURER E: | | | | | | | | | | | | | | | |
| INSURER F: | | | | | | | | | | | | | | | |
| INSURED ByWater Solutions, LLC PO Box 1346 Santa Barbara, CA 93102 | | | | | | | | | | | | | | | |

| COVERAGES | | CERTIFICATE NUMBER: | | | REVISION NUMBER: | | LIMITS | |
|---|---|---------------------|----------|--------------------|-------------------------|-------------------------|--|---------------------|
| 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 | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER: _____ | X | | PHPK2319116 | 9/26/2021 | 9/26/2022 | EACH OCCURRENCE | \$ 2,000,000 |
| | | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | \$ 1,000,000 |
| | | | | | | | MED EXP (Any one person) | \$ 20,000 |
| | | | | | | | PERSONAL & ADV INJURY | \$ 2,000,000 |
| | | | | | | | GENERAL AGGREGATE | \$ 4,000,000 |
| | | | | | | | PRODUCTS - COMP/OP AGG | \$ 4,000,000 |
| | | | | | | | | \$ _____ |
| A | AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> | | | PHPK2319116 | 9/26/2021 | 9/26/2022 | COMBINED SINGLE LIMIT (Ea accident) | \$ 1,000,000 |
| | | | | | | | BODILY INJURY (Per person) | \$ _____ |
| | | | | | | | BODILY INJURY (Per accident) | \$ _____ |
| | | | | | | | PROPERTY DAMAGE (Per accident) | \$ _____ |
| | | | | | | | | \$ _____ |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000 | | | PHUB783180 | 9/26/2021 | 9/26/2022 | EACH OCCURRENCE | \$ 1,000,000 |
| | | | | | | | AGGREGATE | \$ _____ |
| | | | | | | | | \$ _____ |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below | | X | 52WECAE1KS5 | 9/26/2021 | 9/26/2022 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER | |
| | | | | | | | E.L. EACH ACCIDENT | \$ 1,000,000 |
| | | | | | | | E.L. DISEASE - EA EMPLOYEE | \$ 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | \$ 1,000,000 |
| A | Errors & Omissions | | | PHPK2319116 | 9/26/2021 | 9/26/2022 | Each claim | 3,000,000 |
| A | Internet Liability | | | PHPK2319113 | 9/26/2021 | 9/26/2022 | Each Claim | 5,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate holder is an additional insured per attached PI-MANU-1

CONTRACT#: C21-3062-LIB
BYWATER SOLUTIONS, LLC
PROVIDE A KOHA AND ASPEN OPEN SOURCE INTEGRATED LIBRARY SYSTEM
EXPIRES: 04/05/2024 W/2 1 YR RENEWALS

| | |
|--|--|
| CERTIFICATE HOLDER Okaloosa County Board of County Commissioners 5479A Old Bethel Road Crestview, FL 32536 | CANCEL 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  |
|--|--|

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

General Liability Deluxe Endorsement: Integrated Tech

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY DELUXE ENDORSEMENT: INTEGRATED TECHNOLOGY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverage provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

| | |
|--|-------------------|
| Coverage Applicable | |
| Damage to Premises Rented to You | \$1,000,000 |
| Expected or Intended Injury - Property Damage | Included |
| Limited Rental Lease Agreement Contractual Liability | \$50,000 |
| Non-Owned Watercraft | Less than 58 feet |
| Damage to Property You Own, Rent or Occupy | \$30,000 |
| Medical Payments | \$20,000 |
| Medical Payments Reporting Period | 3 Years |
| Athletic Activities | Amended |
| Supplementary Payments - Bail Bonds | \$2,500 |
| Supplementary Payments - Loss of Earnings | \$500 per day |
| Employee Indemnification Defense Coverage | \$25,000 |
| Who Is An Insured | Included |
| -Employees and Volunteer Workers - Good Samaritan Acts | |
| -Additional Insured - Newly Acquired or Formed Organization | |
| -Additional Insured - Managers and Supervisors (with Fellow Employee Coverage) | |
| -Additional Insured - Broadened Named Insured | |
| -Additional Insured - Blanket Additional Insureds When Required by Contract | |
| -Additional Insured - Lessees of Premises | |

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

| | |
|---|---------------|
| -Additional Insured - Independent Contractors | |
| Duties in the Event of Occurrence, Offense, Claim or Suit | Included |
| Transfer of Rights of Recovery Against Others To Us | Clarification |
| Liberalization | Included |
| Unintentional Failure to Disclose Hazards | Included |
| Bodily Injury - Includes Mental Anguish | Included |
| Personal and Advertising Injury - Includes Abuse of Process, Discrimination | Included |

A. Damage to Premises Rented to You

If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part:

1. The Damage To Premises Rented To You Limit section of the Declarations is amended to the greater of:

a. \$1,000,000; or

b. The amount shown in the Declarations as the Damage to Premises Rented to You Limit.

This is the most we will pay for all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, smoke, or leaks from automatic fire protective systems or any combination thereof;

2. The word fire is changed to fire, lightning, explosion, smoke, or leakage from automatic fire protective systems where it appears in:

a. The last paragraph of SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection 2. Exclusions;

b. SECTION III - LIMITS OF INSURANCE, Paragraph 6.; and

c. SECTION V - DEFINITIONS, Paragraph 9.a.; and

3. The words fire insurance are changed to insurance for fire, lightning, explosion, smoke, or leakage from automatic fire protective systems where it appears in SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, Subsection

All other terms and conditions of this Policy remain unchanged.

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4. Other Insurance, Paragraph b. Excess Insurance.

B. Expected or Intended Injury - Property Damage

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, Paragraph a. Expected Or Intended Injury is deleted in its entirety and replaced by the following:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

C. Limited Rental Lease Agreement Contractual Liability

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, Paragraph b. Contractual Liability is amended by adding the following:

Based on the named insured's request at the time of claim, we agree to indemnify the named insured for their liability assumed in a contract or agreement regarding the rental or lease of a premises on behalf of their client, up to \$50,000.

This coverage extension only applies to rental lease agreements and is excess over any renter's liability insurance of the client.

D. Non-Owned Watercraft

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, g. Aircraft, Auto Or Watercraft, Paragraph (2) is amended to read as follows:

- (2) A watercraft you do not own that is: (a) Less than 58 feet long; and
- (b) Not being used to carry persons or property for a charge;

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

This provision applies to any person, who with your consent, either uses or is responsible for the use of a watercraft. This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess or contingent.

E. Damage to Property You Own, Rent or Occupy

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE

LIABILITY, 2. Exclusions, j. Damage To Property, Paragraph (1) is deleted in its entirety and replaced with the following:

(1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property, unless the damage to property is caused by your client, up to a \$30,000 limit. A client is defined as a person under your direct care and supervision.

F. Medical Payments

1. If COVERAGE C MEDICAL PAYMENTS is not otherwise excluded from this Coverage Part the Medical Expense Limit is changed subject to all of the terms of SECTION III - LIMITS OF INSURANCE to the greater of:

a. \$20,000; or

b. The Medical Expense Limit shown in the Declarations of this Coverage Part.

2. Under SECTION I - COVERAGES, COVERAGE C MEDICAL PAYMENTS, Subsection 1.

Insuring Agreement, Paragraph a., Item (b) is amended to read:

(b) The expenses are incurred and reported to us within three years of the date of the accident; and

G. Athletic Activities

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

SECTION I - COVERAGES, COVERAGE C MEDICAL PAYMENTS, 2. Exclusions, Paragraph e. Athletics Activities is deleted in its entirety and replaced with the following:

e. Athletics Activities

To a person injured while taking part in athletics.

H. Supplementary Payments

SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B, Items 1.b. and 1.d. are amended as follows:

b. The limit for the cost of bail bonds is changed from \$250 to \$2,500; and d. The limit for loss of earnings is changed from \$250 a day to \$500 a day.

I. Employee Indemnification Defense Coverage

SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B is amended to include the following:

We will pay, on your behalf, defense costs incurred by an "employee" in a criminal proceeding.

The most we will pay for any "employee" who is directly involved in a criminal proceeding is \$25,000 regardless of the numbers of "employees," claims or "suits" brought or persons or organizations making claims or bringing "suits."

J. Who is An Insured

SECTION II - WHO IS AN INSURED is amended as follows:

1. Paragraph 2.a.(1) is deleted in its entirety and replaced with the following: Each of the following is also an insured:

a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

"executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

However:

Paragraphs (1)(a) and (1)(d) do not apply to your "employees" or "volunteer workers," who are not employed by you or volunteering for you as health care professionals, for "bodily injury" arising out of Good Samaritan Acts while the "employee" or "volunteer worker" is performing duties related to the conduct of your business. Good Samaritan Acts mean any assistance of a medical nature rendered or provided in an emergency situation for which no remuneration is demanded or received.

2. Newly Acquired or Formed Organization

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

If coverage for newly acquired or formed organizations is not otherwise excluded from this

Coverage Part, Paragraph 3.a. is amended to read:

a. Coverage under this provision is afforded until the end of the policy period;

3. Each of the following is also an insured:

a. Managers and Supervisors - Your managers and supervisors are also insureds, but only with respect to their duties as your managers and supervisors. Managers and supervisors who are your "employees" are also insureds for "bodily injury" to a co- "employee" while in the course of his or her employment by you or performing duties related to the conduct of your business.

This provision does not change Item 2.a.(1)(a) as it applies to managers of a limited liability company.

b. Broadened Named Insured - Any organization and subsidiary thereof which you control and actively manage on the effective date of this Coverage Part. However, coverage does not apply to any organization or subsidiary not named in the Declarations as Named Insured, if they are also insured under another similar policy, but for its termination or the exhaustion of its limits of insurance.

c. Blanket Additional Insureds When Required by Contract - Any person or organization where required by a written contract executed prior to the occurrence of a loss. Such person or organization is an additional insured for "bodily injury," "property damage" or "personal and advertising injury" but only for liability arising out of the negligence of the named insured. The limits of insurance applicable to these additional insureds are the lesser of the policy limits or those limits specified in a contract or agreement. These limits are included within and not in addition to the limits of insurance shown in the Declarations.

d. Lessees of Premises - Any person or organization who leases or rents a part of the premises you own or manage who you are required to add as an

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

additional insured on this policy under a written contract or written agreement, but only with respect to liability arising out of your ownership, maintenance or repair of that part of the premises which is not reserved for the exclusive use or occupancy of such person or organization or any other tenant or lessee.

This provision does not apply:

(1) To liability arising out of such person's or organization's sole negligence; or

(2) After the person or organization ceases to lease or rent premises from you.

e. Independent Contractors - Any independent contractor, but only while acting within the scope of a written contract and only with respect to liability arising out of your products or your work.

K. Duties in the Event of Occurrence, Offense, Claim or Suit

1. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2.a. the requirement that you must see to it that we are notified as soon as practicable of an "occurrence" or an offense, applies only when the "occurrence" or offense is known to:

a. You, if you are an individual;

b. A partner, if you are a partnership; or

c. An "executive officer" or insurance manager, if you are a corporation.

2. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. b. the requirement that you must see to it that we receive notice of a claim or "suit" as soon as practicable will not be considered breached unless the breach occurs after such claim or "suit" is known to:

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

- a. You, if you are an individual;
- b. A partner, if you are a partnership; or
- c. An "executive officer" or insurance manager, if you are a corporation.

3. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. is amended to include the following additional provision:

Your rights under this coverage part will not be prejudiced if you fail to give us notice of an "occurrence," offense, claim or "suit" and that failure is solely due to your reasonable belief that the "bodily injury" or "property damage" is not covered under this coverage part. However, you shall give written notice of this "occurrence," offense, claim or "suit" to us as soon as you are aware that this insurance may apply to such "occurrence", offense claim or "suit."

L. Transfer of Rights of Recovery Against Others To Us

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, Paragraph 8. Transfer Of

Rights Of Recovery Against Others To Us includes the following clarification:

Therefore, the insured can waive the insurer's rights of recovery prior to the occurrence of a loss, provided the waiver is made in a written contract.

M. Liberalization

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended to include the following additional condition:

Liberalization

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

N. Unintentional Failure To Disclose Hazards

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended to include the following additional condition:

Unintentional Failure To Disclose Hazards

It is agreed that, based on our reliance on your representations as to existing hazards, if you should unintentionally fail to disclose all such hazards prior to the beginning of the policy period of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

O. Bodily Injury - Mental Anguish

SECTION V - DEFINITIONS, Paragraph 3. is amended to read: "Bodily injury":

- a. Means bodily injury, sickness or disease sustained by a person, and includes mental anguish resulting from any of these; and
- b. Except for mental anguish, includes death resulting from the foregoing (Item a. above) at any time.

P. Personal and Advertising Injury - Abuse of Process, Discrimination

If COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE is not otherwise excluded from this Coverage Part, the definition of "personal and advertising injury" is amended as follows:

- 1. SECTION V - DEFINITIONS, Paragraph 14., Item b. is revised to read:

- b. Malicious prosecution or abuse of process;

- 2. SECTION V - DEFINITIONS, Paragraph 14. is amended to include the following:

"Personal and advertising injury" also means discrimination based on race,

All other terms and conditions of this Policy remain unchanged.

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color, religion, sex, age or national origin, except when:

a. Done intentionally by or at the direction of, or with the knowledge or consent of:

(1) Any insured; or

(2) Any executive officer, director, stockholder, partner or member of the insured; or

b. Directly or indirectly related to the employment, former or prospective employment, termination of employment, or application for employment of any person or persons by an insured; or

c. Directly or indirectly related to the sale, rental, lease or sublease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured; or

d. Insurance for such discrimination is prohibited by or held in violation of law, public policy, legislation, court decision or administrative ruling.

The above does not apply to fines or penalties imposed because of discrimination.

All other terms and conditions of this Policy remain unchanged.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

Policy Number: 52 WBC AE1KS5

Endorsement Number:

Effective Date: 09/26/20

Effective hour is the same as stated on the Information Page of the policy.

Named Insured and Address: BYWATER SOLUTIONS, LLC

PO BOX 1346

SANTA BARBARA CA 93102

This policy is subject to the following additional Conditions:

- A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B. If this policy is cancelled by the Company non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

PROCUREMENT/CONTRACT/LEASE
INTERNAL COORDINATION SHEET

Procurement/Contract/Lease Number: TBD Tracking Number: 4261-21
Procurement/Contractor/Lessee Name: Bywater Solutions Grant Funded: YES NO
Purpose: Koha: Aspen Open Source Integrated Library System
Date/Term: 3yrs w/ 2lyk renewals 1. GREATER THAN \$100,000
Department #: 701871 / 546900 ? 0171 2. GREATER THAN \$50,000
Account #: 546900 3. \$50,000 OR LESS
Amount: 108,000 - 3yrs - one-time plus maint
Department: LIB Dept. Monitor Name: Steve K

Purchasing Review
Procurement or Contract/Lease requirements are met:
[Signature] Date: 3-22-21
Purchasing Manager or designee Jeff Hyde, DeRita Mason, Jessica Darr, Angela Etheridge

2CFR Compliance Review (if required)
Approved as written: see email attached Grant Name: _____
Date: 3-23-21
Grants Coordinator

Risk Management Review
Approved as written: see email attached Date: 3-12-21
Risk Manager or designee Lisa Price

County Attorney Review
Approved as written: see email attached Date: 3-22-21
County Attorney Lynn Hoshihara, Kerry Parsons or Designee

Department Funding Review
Approved as written: _____ Date: _____

IT Review (if applicable)
Approved as written: _____ Date: _____

Revised September 22, 2020

4-5-2024
C21-3062-LIB



BYWASOL-01

SGARCIA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/30/2021

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| | |
|--|--|
| PRODUCER Portland Office PayneWest Insurance, Inc. 14900 SW Barrows Rd, Ste 202 Beaverton, OR 97007 | CONTACT NAME: PHONE (A/C, No, Ext): (971) 888-7950 FAX (A/C, No): (855) 883-6100 E-MAIL ADDRESS: |
| INSURER(S) AFFORDING COVERAGE | |
| INSURER A: Philadelphia Indemnity Insurance Company | NAIC # 18058 |
| INSURER B: Hartford Fire Insurance Company | 19682 |
| INSURER C: | |
| INSURER D: | |
| INSURER E: | |
| INSURER F: | |

INSURED

 ByWater Solutions, LLC
 PO Box 1346
 Santa Barbara, CA 93102

COVERAGES**CERTIFICATE NUMBER:****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 | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: | X | | PHPK2184501 | 9/26/2020 | 9/26/2021 | EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 HNOA \$ 1,000,000 COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ |
| A | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY | | | PHPK2184501 | 9/26/2020 | 9/26/2021 | BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$ | | | PHUB747681 | 11/25/2020 | 9/26/2021 | EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below | | N/A | X 52WBCAE1KS5 | 9/26/2020 | 9/26/2021 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 |
| A | Errors & Omissions | | | PHPK2184501 | 9/26/2020 | 9/26/2021 | Each claim \$ 3,000,000 |
| A | Internet Liability | | | PHPK2184507 | 9/26/2020 | 9/26/2021 | Each claim \$ 3,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Certificate holder is an additional insured per attached PI-MANU-1

CERTIFICATE HOLDER**CANCELLATION**

Okaloosa County Board of County Commissioners
 5479A Old Bethel Road
 Crestview, FL 32536

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

General Liability Deluxe Endorsement: Integrated Tech

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY DELUXE ENDORSEMENT: INTEGRATED TECHNOLOGY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverage provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

Coverage Applicable

| | |
|--|-------------------|
| Damage to Premises Rented to You | \$1,000,000 |
| Expected or Intended Injury - Property Damage | Included |
| Limited Rental Lease Agreement Contractual Liability | \$50,000 |
| Non-Owned Watercraft | Less than 58 feet |
| Damage to Property You Own, Rent or Occupy | \$30,000 |
| Medical Payments | \$20,000 |
| Medical Payments Reporting Period | 3 Years |
| Athletic Activities | Amended |
| Supplementary Payments - Bail Bonds | \$2,500 |
| Supplementary Payments - Loss of Earnings | \$500 per day |
| Employee Indemnification Defense Coverage | \$25,000 |
| Who Is An Insured | Included |
| -Employees and Volunteer Workers - Good Samaritan Acts | |
| -Additional Insured - Newly Acquired or Formed Organization | |
| -Additional Insured - Managers and Supervisors (with Fellow Employee Coverage) | |
| -Additional Insured - Broadened Named Insured | |
| -Additional Insured - Blanket Additional Insureds When Required by Contract | |
| -Additional Insured - Lessees of Premises | |

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

| | |
|--|---------------|
| -Additional Insured - Independent Contractors | |
| Duties in the Event of Occurrence, Offense, Claim or Suit | Included |
| Transfer of Rights of Recovery Against Others To Us | Clarification |
| Liberalization | Included |
| Unintentional Failure to Disclose Hazards | Included |
| Bodily Injury - Includes Mental Anguish | Included |
| Personal and Advertising Injury - Includes Abuse of Process, Discrimination | Included |

A. Damage to Premises Rented to You

If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part:

1. The Damage To Premises Rented To You Limit section of the Declarations is amended to the greater of:

- a. \$1,000,000; or
- b. The amount shown in the Declarations as the Damage to Premises Rented to You Limit.

This is the most we will pay for all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, smoke, or leaks from automatic fire protective systems or any combination thereof;

2. The word fire is changed to fire, lightning, explosion, smoke, or leakage from automatic fire protective systems where it appears in:

- a. The last paragraph of SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection 2. Exclusions;
- b. SECTION III - LIMITS OF INSURANCE, Paragraph 6.; and
- c. SECTION V - DEFINITIONS, Paragraph 9.a.; and

3. The words fire insurance are changed to insurance for fire, lightning, explosion, smoke, or leakage from automatic fire protective systems where it appears in SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, Subsection

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

4. Other Insurance, Paragraph b. Excess Insurance.

B. Expected or Intended Injury - Property Damage

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, Paragraph a. Expected Or Intended Injury is deleted in its entirety and replaced by the following:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

C. Limited Rental Lease Agreement Contractual Liability

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, Paragraph b. Contractual Liability is amended by adding the following:

Based on the named insured's request at the time of claim, we agree to indemnify the named insured for their liability assumed in a contract or agreement regarding the rental or lease of a premises on behalf of their client, up to \$50,000.

This coverage extension only applies to rental lease agreements and is excess over any renter's liability insurance of the client.

D. Non-Owned Watercraft

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, g. Aircraft, Auto Or Watercraft, Paragraph (2) is amended to read as follows:

- (2) A watercraft you do not own that is: (a) Less than 58 feet long; and
- (b) Not being used to carry persons or property for a charge;

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

This provision applies to any person, who with your consent, either uses or is responsible for the use of a watercraft. This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess or contingent.

E. Damage to Property You Own, Rent or Occupy

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, j. Damage To Property, Paragraph (1) is deleted in its entirety and replaced with the following:

(1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property, unless the damage to property is caused by your client, up to a \$30,000 limit. A client is defined as a person under your direct care and supervision.

F. Medical Payments

1. If COVERAGE C MEDICAL PAYMENTS is not otherwise excluded from this Coverage Part the Medical Expense Limit is changed subject to all of the terms of SECTION III - LIMITS OF INSURANCE to the greater of:

a. \$20,000; or

b. The Medical Expense Limit shown in the Declarations of this Coverage Part.

2. Under SECTION I - COVERAGES, COVERAGE C MEDICAL PAYMENTS, Subsection 1.

Insuring Agreement, Paragraph a., Item (b) is amended to read:

(b) The expenses are incurred and reported to us within three years of the date of the accident; and

G. Athletic Activities

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

SECTION I - COVERAGES, COVERAGE C MEDICAL PAYMENTS, 2. Exclusions, Paragraph e. Athletics Activities is deleted in its entirety and replaced with the following:

e. Athletics Activities

To a person injured while taking part in athletics.

H. Supplementary Payments

SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B, Items 1.b. and 1.d. are amended as follows:

b. The limit for the cost of bail bonds is changed from \$250 to \$2,500; and d. The limit for loss of earnings is changed from \$250 a day to \$500 a day.

I. Employee Indemnification Defense Coverage

SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B is amended to include the following:

We will pay, on your behalf, defense costs incurred by an "employee" in a criminal proceeding.

The most we will pay for any "employee" who is directly involved in a criminal proceeding is \$25,000 regardless of the numbers of "employees," claims or "suits" brought or persons or organizations making claims or bringing "suits."

J. Who is An Insured

SECTION II - WHO IS AN INSURED is amended as follows:

1. Paragraph 2.a.(1) is deleted in its entirety and replaced with the following: Each of the following is also an insured:
 - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

"executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1) (a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1) (a) or (b) above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

However:

Paragraphs (1) (a) and (1) (d) do not apply to your "employees" or "volunteer workers," who are not employed by you or volunteering for you as health care professionals, for "bodily injury" arising out of Good Samaritan Acts while the "employee" or "volunteer worker" is performing duties related to the conduct of your business. Good Samaritan Acts mean any assistance of a medical nature rendered or provided in an emergency situation for which no remuneration is demanded or received.

2. Newly Acquired or Formed Organization

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

If coverage for newly acquired or formed organizations is not otherwise excluded from this

Coverage Part, Paragraph 3.a. is amended to read:

a. Coverage under this provision is afforded until the end of the policy period;

3. Each of the following is also an insured:

a. Managers and Supervisors - Your managers and supervisors are also insureds, but only with respect to their duties as your managers and supervisors. Managers and supervisors who are your "employees" are also insureds for "bodily injury" to a co- "employee" while in the course of his or her employment by you or performing duties related to the conduct of your business.

This provision does not change Item 2.a.(1)(a) as it applies to managers of a limited liability company.

b. Broadened Named Insured - Any organization and subsidiary thereof which you control and actively manage on the effective date of this Coverage Part. However, coverage does not apply to any organization or subsidiary not named in the Declarations as Named Insured, if they are also insured under another similar policy, but for its termination or the exhaustion of its limits of insurance.

c. Blanket Additional Insureds When Required by Contract - Any person or organization where required by a written contract executed prior to the occurrence of a loss. Such person or organization is an additional insured for "bodily injury," "property damage" or "personal and advertising injury" but only for liability arising out of the negligence of the named insured. The limits of insurance applicable to these additional insureds are the lesser of the policy limits or those limits specified in a contract or agreement. These limits are included within and not in addition to the limits of insurance shown in the Declarations.

d. Lessees of Premises - Any person or organization who leases or rents a part of the premises you own or manage who you are required to add as an

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

additional insured on this policy under a written contract or written agreement, but only with respect to liability arising out of your ownership, maintenance or repair of that part of the premises which is not reserved for the exclusive use or occupancy of such person or organization or any other tenant or lessee.

This provision does not apply:

(1) To liability arising out of such person's or organization's sole negligence; or

(2) After the person or organization ceases to lease or rent premises from you.

e. Independent Contractors - Any independent contractor, but only while acting within the scope of a written contract and only with respect to liability arising out of your products or your work.

K. Duties in the Event of Occurrence, Offense, Claim or Suit

1. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2.a. the requirement that you must see to it that we are notified as soon as practicable of an "occurrence" or an offense, applies only when the "occurrence" or offense is known to:

a. You, if you are an individual;

b. A partner, if you are a partnership; or

c. An "executive officer" or insurance manager, if you are a corporation.

2. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. b. the requirement

that you must see to it that we receive notice of a claim or "suit" as soon as practicable will not be considered breached unless the breach occurs after such claim or "suit" is known to:

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

- a. You, if you are an individual;
- b. A partner, if you are a partnership; or
- c. An "executive officer" or insurance manager, if you are a corporation.

3. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. is amended to include the following additional provision:

Your rights under this coverage part will not be prejudiced if you fail to give us notice of an "occurrence," offense, claim or "suit" and that failure is solely due to your reasonable belief that the "bodily injury" or "property damage" is not covered under this coverage part. However, you shall give written notice of this "occurrence," offense, claim or "suit" to us as soon as you are aware that this insurance may apply to such "occurrence", offense claim or "suit."

L. Transfer of Rights of Recovery Against Others To Us

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us includes the following clarification:

Therefore, the insured can waive the insurer's rights of recovery prior to the occurrence of a loss, provided the waiver is made in a written contract.

M. Liberalization

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended to include the following additional condition:

Liberalization

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

N. Unintentional Failure To Disclose Hazards

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended to include the following additional condition:

Unintentional Failure To Disclose Hazards

It is agreed that, based on our reliance on your representations as to existing hazards, if you should unintentionally fail to disclose all such hazards prior to the beginning of the policy period of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

O. Bodily Injury - Mental Anguish

SECTION V - DEFINITIONS, Paragraph 3. is amended to read: "Bodily injury":

a. Means bodily injury, sickness or disease sustained by a person, and includes mental anguish resulting from any of these; and

b. Except for mental anguish, includes death resulting from the foregoing (Item a. above) at any time.

P. Personal and Advertising Injury - Abuse of Process, Discrimination

If COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE is not otherwise excluded from this Coverage Part, the definition of "personal and advertising injury" is amended as follows:

1. SECTION V - DEFINITIONS, Paragraph 14., Item b. is revised to read:

b. Malicious prosecution or abuse of process;

2. SECTION V - DEFINITIONS, Paragraph 14. is amended to include the following:

"Personal and advertising injury" also means discrimination based on race,

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

color, religion, sex, age or national origin, except when:

a. Done intentionally by or at the direction of, or with the knowledge or consent of:

(1) Any insured; or

(2) Any executive officer, director, stockholder, partner or member of the insured; or

b. Directly or indirectly related to the employment, former or prospective employment, termination of employment, or application for employment of any person or persons by an insured; or

c. Directly or indirectly related to the sale, rental, lease or sublease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured; or

d. Insurance for such discrimination is prohibited by or held in violation of law, public policy, legislation, court decision or administrative ruling.

The above does not apply to fines or penalties imposed because of discrimination.

All other terms and conditions of this Policy remain unchanged.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

Policy Number: 52 WBC AE1KS5

Endorsement Number:

Effective Date: 09/26/20

Effective hour is the same as stated on the Information Page of the policy.

Named Insured and Address: BYWATER SOLUTIONS, LLC

PO BOX 1346

SANTA BARBARA CA 93102

This policy is subject to the following additional Conditions:

- A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B. If this policy is cancelled by the Company non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

DeRita Mason

From: Jane Evans
Sent: Tuesday, March 23, 2021 7:50 AM
To: DeRita Mason
Subject: RE: Contract with ByWater

Following all the emails yesterday, it is approved for grant purposes.
Jane

From: DeRita Mason
Sent: Tuesday, March 23, 2021 7:33 AM
To: Jane Evans <jevans@myokaloosa.com>
Subject: Contract with ByWater

Good morning,
Can you tell me if the referenced contract is good with grants?
I wanted to try to get this on the 1st board meeting in April.
Thank you,

DeRita Mason



DeRita Mason, CPPB, NIGP-CPP
Senior Contracts and Lease Coordinator
Okaloosa County Purchasing Department
5479A Old Bethel Road
Crestview, Florida 32536
(850) 689-5960
dmason@myokaloosa.com

"Please note: Due to Florida's very broad public records laws, most written communications to or from County employees regarding County business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure."

DeRita Mason

From: Parsons, Kerry <KParsons@ngn-tally.com>
Sent: Monday, March 22, 2021 7:43 AM
To: DeRita Mason
Cc: Lynn Hoshihara; Lisa Price; Jane Evans
Subject: RE: ByWater Draft Agreement ITB LIB 18-21

This is approved for legal purposes.

Kerry A. Parsons, Esq.

**Nabors
Giblin &
Nickerson**
ATTORNEYS AT LAW

1500 Mahan Dr. Ste. 200
Tallahassee, FL 32308
T. (850) 224-4070
kparsons@ngn-tally.com

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From: DeRita Mason <dmason@myokaloosa.com>
Sent: Monday, March 22, 2021 8:35 AM
To: Parsons, Kerry <KParsons@ngn-tally.com>
Cc: Lynn Hoshihara <lhoshihara@myokaloosa.com>; Lisa Price <lprice@myokaloosa.com>; Jane Evans <jevans@myokaloosa.com>
Subject: RE: ByWater Draft Agreement ITB LIB 18-21

Kerry,

Please see updated contract with your changes.

Jane or Vicky either of you get me a copy of the state aid grant and also let me know if they need to see this before it is signed.

Thank you,

DeRita Mason



DeRita Mason

From: Lisa Price
Sent: Friday, March 12, 2021 12:22 PM
To: DeRita Mason
Subject: RE: ByWater Draft Agreement ITB LIB 18-21

This is approved by Risk for insurance purposes.

Lisa Price
Public Records & Contracts Specialist
302 N Wilson Street, Suite 301
Crestview, FL 32536
(850) 689-5979
lprice@myokaloosa.com



"Kindness is the language which the deaf can hear and the blind can see"
Mark Twain

For all things Wellness please visit:
<http://www.myokaloosa.com/wellness>

Due to Florida's very broad public records laws, most written communications to or from county employees regarding county business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.

From: DeRita Mason <dmason@myokaloosa.com>
Sent: Friday, March 12, 2021 10:32 AM
To: 'Parsons, Kerry' <KParsons@ngn-tally.com>
Cc: Lynn Hoshihara <lhoshihara@myokaloosa.com>; Lisa Price <lprice@myokaloosa.com>; Jane Evans <jevans@myokaloosa.com>
Subject: ByWater Draft Agreement ITB LIB 18-21

Good morning,

Please review and approve the attached.

Jane, Vicky stated that some of the funds would come from 701871/546900-so I will need grant to sign off on the contract as well.

Thank you,

DeRita Mason



Board of County Commissioners Purchasing Department

State of Florida

March 12, 2021

OKALOOSA COUNTY PURCHASING DEPARTMENT
NOTICE OF AWARD
ITB LIB 18-21
Koha & Aspen Open Source Integrated Library System

Okaloosa County would like to thank all businesses which submitted responses Koha & Aspen Open Source Integrated Library System.

After in-depth examination of all responses in accordance with the County's Purchasing Manual, the County announces its intent to award the contract/purchase order to the following:

ByWater Solutions, LLC
P.O. Box 1346
Santa Barbara, CA 93102

Any person/entity desiring to file a procurement protest must meet all the standards and criteria in accordance with Section 31 of the Okaloosa County Purchasing Manual. Failure to file a protest within the time prescribed in Section 31.02 of the Okaloosa County Purchasing Manual, shall constitute a waiver of protest proceedings.

Respectfully,


Jeffrey Hyde
Purchasing Manager

▲ ALERT: SAM.gov will be down for scheduled maintenance Sunday, 03/14/2021 from 8:00 AM to 8:00 PM.

Entity Dashboard

BYWATER SOLUTIONS LLC
DUNS: 056510380 CAGE Code: 8VM44
Status: Active
Expiration Date: 02/10/2022
Purpose of Registration: All Awards

1226 SE 52ND AVE
PORTLAND, OR, 97215-2635,
UNITED STATES

▶ [Entity Overview](#)

▶ [Entity Registration](#)

▶ [Core Data](#)

▶ [Assertions](#)

▶ [Reps & Certs](#)

▶ [POCs](#)

▶ [Exclusions](#)

▶ [Active Exclusions](#)

▶ [Inactive Exclusions](#)

▶ [Excluded Family Members](#)

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Entity Overview

Entity Registration Summary

Name: BYWATER SOLUTIONS LLC
Business Type: Business or Organization
Last Updated By: Cindy Norman
Registration Status: Active
Activation Date: 02/22/2021
Expiration Date: 02/10/2022

Exclusion Summary

Active Exclusion Records? No



IBM-P-20210209-114S
WWW7

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Detail by FEI/EIN Number

Foreign Limited Liability Company
BYWATER SOLUTIONS LLC

Filing Information

Document Number M20000007951
FEI/EIN Number 26-4608793
Date Filed 09/14/2020
State CA
Status ACTIVE

Principal Address

1226 SE 52ND AVE
PORTLAND, OR 97215

Mailing Address

PO BOX 1346
SANTA BARBARA, CA 93102

Registered Agent Name & Address

BACHOWSKI, DONA
3067 ZANDER DRIVE
GRAND ISLAND, FL 32735

Authorized Person(s) Detail

Name & Address

Title CEO/OWNER

GALLAGHER, BRENDAN
1226 SE 52ND AVE
PORTLAND, OR 97215

Title CRO/OWNER

CURULLA, NATHAN
53 RED BARN RD
TRUMBULL, CT 06611

Title MGR

NORMAN, CINDY
4430 VIEJA DR.
SANTA BARBARA. CA 93110

Annual Reports

| Report Year | Filed Date |
|--------------------|-------------------|
| 2021 | 01/26/2021 |
| 2021 | 02/01/2021 |

Document Images

| | |
|--|--|
| <u>02/01/2021 -- AMENDED ANNUAL REPORT</u> | View image in PDF format |
| <u>01/26/2021 -- ANNUAL REPORT</u> | View image in PDF format |
| <u>09/14/2020 -- Foreign Limited</u> | View image in PDF format |

CONTRACT#: C21-3062-LIB
BYWATER SOLUTIONS, INC.
PROVIDE A KOHNA & ASPEN OPEN SOURCE
INTEGRATED LIBRARY SYSTEM
EXPIRES: 04/05/2024 W/2 1 YR RENEWALS

**AGREEMENT BETWEEN OKALOOSA COUNTY, FLORIDA
AND BYWATER SOLUTIONS, LLC**

THIS AGREEMENT (hereinafter referred to as the "Agreement") is made this 6th, day of April, 2021, by and between Okaloosa County, a political subdivision of the state of Florida, (hereinafter referred to as the "County"), with a mailing address of 1250 N. Eglin Parkway, Suite 100, Shalimar, Florida, 32579, and ByWater Solutions, LLC, a Foreign Limited Liability Company authorized to do business in the State of Florida, whose address is P.O. Box 1346, Santa Barbara, CA 93102 (hereinafter referred to as "Contractor") whose Federal I.D. # is 26-4608793.

RECITALS

WHEREAS, the County is in need of a contractor to provide Koha & Aspen Open Source Integrated Library System ("Services"); and

WHEREAS, pursuant to the Okaloosa County Purchasing Manual, the County issued an Initiation to Bid to competitively procure the Services and received responses to perform these Services. A copy of the procurement and Contractor's responsive to the procurement is included as Attachment "A"; and

WHEREAS, Contractor is a certified and insured entity with the necessary experience to provide the desired Services; and

WHEREAS, the County wishes to enter into this Agreement with Contractor to provide the Services to the County for an amount of thirty-six thousand four hundred Dollars for the one-time turn-key installation (\$36,400.00) and twenty-four thousand dollars for year one (1) ongoing maintenance and support (\$24,000.00), as further detailed below.

NOW THEREFORE, in consideration of the promises and the mutual covenants herein, the parties agree as follows:

1. Recitals and Attachments. The Recitals set forth above are hereby incorporated into this Agreement and made part hereof for reference. The following documents are attached to this Agreement and are incorporated herein.

Attachment "A" – Procurement ITB LIB 18-21 and Contractor's Response;
Attachment "B" – Insurance Requirements;
Attachment "C" – Title VI list of pertinent nondiscrimination acts and authorities; and
Attachment "D" – State Aid to Libraries Grant Agreement.

Services. Contractor agrees to perform the following services, Koha & Aspen Open Source Integrated Library System. The Services to be provided are further detailed in the Contractor's proposal attached as Attachment "A" and incorporated herein by reference. The Services shall be performed by Contractor to the full satisfaction of the County. Contractor agrees to have a qualified representative to audit and inspect the Services provided on a regular basis to ensure all

Services are being performed in accordance with the County's needs and pursuant to the terms of this Agreement and shall report to the County accordingly. Contractor agrees to immediately inform the County via telephone and in writing of any problems that could cause damage to the County. Contractor will require its employees to perform their work in a manner befitting the type and scope of work to be performed.

2. Term and Renewal. The term of this Agreement shall begin when all parties have signed, and shall continue for a period of three (3) years from the date of full execution of this Agreement, subject to the County's ability to terminate in accordance with Section 7 of this Agreement. The terms of Section 20 entitled "Indemnification and Waiver of Liability" shall survive termination of this Agreement.

This agreement may be renewed upon mutual written agreement of the parties for a period of up to two (2) one (1) year renewals.

3. Compensation. The Contractor agrees to provide the Services to the County, including materials and labor, in a total amount of thirty-six thousand four hundred Dollars for the one-time turn-key installation (\$36,400.00) and twenty-four thousand dollars for year one (1) ongoing maintenance and support (\$24,000.00).

- a. Contractor shall submit an invoice to the County upon completion of installation and then yearly for maintenance and support. The invoice shall indicate that all services have been completed for that invoice period. The yearly maintenance and support fee of \$24,000.00 shall be invoiced to the County and paid in advance upon the go-live, which is scheduled for September 2021. In addition, Contractor agrees to provide the County with any additional documentation requested to process the invoices.
- b. Disbursement. Check one:

There are no reimbursable expenses associated with this Agreement.

- d. Payment Schedule. Invoices received from the Contractor pursuant to this Agreement will be reviewed by the initiating County Department. Payment will be disbursed as set forth above. If services have been rendered in conformity with the Agreement, the invoice will be sent to the Finance Department for payment. Invoices must reference the contract number assigned by the County after execution of this Agreement. Invoices will be paid in accordance with the State of Florida Local Government Prompt Payment Act.
- e. Availability of Funds. The County's performance and obligation to pay under this Agreement is contingent upon annual appropriation for its purpose by the County Commission.

Contractor shall make no other charges to the County for supplies, labor, taxes, licenses, permits, overhead or any other expenses or costs unless any such expenses or cost is incurred by Contractor with the prior written approval of the County. If the County disputes any charges on the invoices, it may make payment of the uncontested amounts and withhold payment on the contested amounts

until they are resolved by agreement with the Contractor. Contractor shall not pledge the County's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The Contractor further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

4. Ownership of Documents and Equipment. All documents prepared by the Contractor pursuant to this Agreement and related Services to this Agreement are intended and represented for the ownership of the County only. Any other use by Contractor or other parties shall be approved in writing by the County. If requested, Contractor shall deliver the documents to the County within fifteen (15) calendar days.

5. Insurance. Contractor shall, at its sole cost and expense, during the period of any work being performed under this Agreement, procure and maintain the minimum insurance coverage required as set forth in Attachment "B" attached hereto and incorporated herein, to protect the County and Contractor against all loss, claims, damages and liabilities caused by Contractor, its agents, or employees.

6. Termination and Remedies for Breach.

- a. If, through any cause within its reasonable control, the Contractor shall fail to fulfill in a timely manner or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the County shall have the right to terminate the Services then remaining to be performed. Prior to the exercise of its option to terminate for cause, the County shall notify the Contractor of its violation of the particular terms of the Agreement and grant Contractor thirty (30) days to cure such default. If the default remains uncured after thirty (30) days the County may terminate this Agreement, and the County shall receive a refund from the Contractor in an amount equal to the actual cost of a third party to cure such failure. If Contractor fails, refuses or is unable to perform any term of this Agreement, County shall pay for services rendered as of the date of termination.
 - i. In the event of termination, all finished and unfinished documents, data and other work product prepared by Contractor (and sub-Contractor (s)) shall be delivered to the County and the County shall compensate the Contractor for all Services satisfactorily performed prior to the date of termination, as provided in Section 4 herein.
 - ii. Notwithstanding the foregoing, the Contractor shall not be relieved of liability to the County for damages sustained by it by virtue of a breach of the Agreement by Contractor and the County may reasonably withhold payment to Contractor for the purposes of set-off until such time as the exact amount of damages due the County from the Contractor is determined.
- b. Termination for Convenience of County. The County may, for its convenience and without cause immediately terminate the Services then remaining to be performed at

any time by giving written notice. The terms of Section 7 Paragraphs a(i) and a(ii) above shall be applicable hereunder.

- c. Termination for Insolvency. The County also reserves the right to terminate the remaining Services to be performed in the event the Contractor is placed either in voluntary or involuntary bankruptcy or makes any assignment for the benefit of creditors.
- d. Termination for failure to adhere to the Public Records Law. Failure of the Contractor to adhere to the requirements of Chapter 119 of the Florida Statutes and Section 9 below, may result in immediate termination of this Agreement.

7. Governing Law, Venue and Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any dispute or controversy arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder shall be brought exclusively in the First Judicial Circuit in and for Okaloosa County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. In the event it becomes necessary for the County to file a lawsuit to enforce any term or provision under this Agreement, then the County shall be entitled to its costs and attorney's fees at the pretrial, trial and appellate levels. BY ENTERING INTO THIS AGREEMENT, CONTRACTOR AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the County pursuant to Section 768.28, Florida Statutes. In the event it becomes necessary for the County to file a lawsuit to enforce any term or provision under this Agreement, then the prevailing party shall be entitled to its cost and attorney's fees at the pretrial, trial and appellate levels

8. Public Records. Any record created by either party in accordance with this Contract shall be retained and maintained in accordance with the public records law, Florida Statutes, Chapter 119. Contractor must comply with the public records laws, Florida Statute chapter 119, specifically Contractor must:

- a. Keep and maintain public records required by the County to perform the service.
- b. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119 Florida Statutes or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the County.

- d. Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the contractor or keep and maintain public records required by the County to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the public agency, upon the request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT OKALOOSA COUNTY RISK MANAGEMENT DEPARTMENT 302 N. WILSON ST., CRESTVIEW, FL 32536 PHONE: (850) 689-5977 riskinfo@myokaloosa.com.

9. Audit. The County and/or its designee shall have the right from time to time at its sole expense to audit the compliance by the Contractor with the terms, conditions, obligations, limitations, restrictions, and requirements of this Contract and such right shall extend for a period of three (3) years after termination of this Contract.

10. Notices. All notices and other communications required or permitted to be given under this Agreement by either party to the other shall be in writing and shall be sent (except as otherwise provided herein) (i) by certified mail, first class postage prepaid, return receipt requested, (ii) by guaranteed overnight delivery by a nationally recognized courier service, or (iii) by facsimile with confirmation receipt (with a copy simultaneously sent by certified mail, first class postage prepaid, return receipt requested or by overnight delivery by traditionally recognized courier service), addressed to such party as follows:

| | | |
|--------------------------|--|---|
| If to the County: | Vicky Stever Okaloosa County Public Library 206 N. Partin Drive Niceville, FL 32578 850-609-5102 vstever@myokaloosa.com | With a copy to: County Attorney Office 1250 N. Eglin Pkwy, Suite 100 Shalimar, FL 32579 (850) 224-4070 |
|--------------------------|--|---|

| | | |
|------------------------------|--|--|
| If to the Contractor: | Nathan A. Curulla, Owner ByWater Solutions, LLC P.O. Box 1346 Santa Barbara, CA 93102 888-900-8944 sales@bywatersolutions.com | |
|------------------------------|--|--|

11. Assignment. Contractor shall not assign this Agreement or any part thereof, without the prior consent in writing of the County. If Contractor does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward the County.

12. Subcontracting. Contractor shall not subcontract any services or work to be provided to County without the prior written approval of the County's Representative. The County reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Agreement. The County's acceptance of a subcontractor shall not be unreasonably withheld. The Contractor is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities. Additionally, any subcontract entered into between the Contractor and subcontractor will need to be approved by the County prior to it being entered into and said agreement shall incorporate in all required terms in accordance with local, state and Federal regulations.

13. Civil Rights. The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

14. Compliance with Nondiscrimination Requirements. During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest, agrees as follows:

a. Compliance with Regulations: The Contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated and attached hereto as Attachment "C".

b. Nondiscrimination: The Contractor, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

c. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

d. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County or other governmental entity to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the County or the other governmental entity, as appropriate, and will set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the County will impose such contract sanctions as it or another applicable state or federal governmental entity may determine to be appropriate, including, but not limited to:

a. Withholding payments to the Contractor under the Agreement until the Contractor complies; and/or

b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

f. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the County may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the County to enter into any litigation to protect the interests of the County. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

15. Compliance with Laws. Contractor shall secure any and all permits, licenses and approvals that may be required in order to perform the Services, shall exercise full and complete authority over Contractor's personnel, shall comply with all workers' compensation, employer's liability and all other federal, state, county, and municipal laws, ordinances, rules and regulations required of an employer performing services such as the Services, and shall make all reports and remit all withholdings or other deductions from the compensation paid to Contractor's personnel as may be required by any federal, state, county, or municipal law, ordinance, rule, or regulation.

16. Conflict of Interest. The Contractor covenants that it presently has no interest and shall not acquire any interest, directly or indirectly which could conflict in any manner or degree with the performance of the Services. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall knowingly be employed by the Contractor. The Contractor guarantees that he/she has not offered or given to any member of, delegate to the Congress of the United States, any or part of this contract or to any benefit arising therefrom.

17. Independent Contractor. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Further, it is acknowledge by Contractor that they are not considered a contractor of the state of Florida, nor has this Agreement created a contractual relationship between the state and Florida and Contractor. All services shall be performed only by Contractor and Contractor's employees. Under no circumstances shall Contractor or any of Contractor's employees look to the County as his/her employer, or as partner, agent or principal. Neither Contractor, nor any of Contractor's employees, shall be entitled to any benefits accorded to the County's employees, including without limitation worker's compensation, disability insurance, vacation or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in Contractor's name, unemployment, disability, worker's compensation and other insurance as well as licenses and permits usual and necessary for conducting the services to be provided under this Agreement.

18. Third Party Beneficiaries. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

19. Indemnification and Waiver of Liability. The Contractor agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the County, its agents, representatives, officers, directors, officials and employees from and against claims, damages, losses and expenses (including but not limited to attorney's fees, court costs and costs of appellate proceedings) relating to, arising out of or resulting from the Contractor's negligent acts, errors, mistakes or omissions relating to professional Services performed under this Agreement. The Contractor's duty to defend, hold harmless and indemnify the County its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury; sickness; disease; death; or injury to impairment, or destruction of tangible property including loss of use resulting therefrom, caused by any negligent acts, errors, mistakes or omissions related to Services in the performance of this Agreement including any person for whose acts, errors, mistakes or omissions the Contractor may be legally liable. The parties agree that TEN DOLLARS (\$10.00) represents specific consideration to the Contractor for the indemnification set forth herein.

The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of the County to enforce any of the provisions hereof shall not be construed to be a waiver of the right of the County thereafter to enforce such provisions.

20. Taxes and Assessments. Contractor agrees to pay all sales, use, or other taxes, assessments and other similar charges when due now or in the future, required by any local, state or federal law, including but not limited to such taxes and assessments as may from time to time be imposed by the County in accordance with this Agreement. Contractor further agrees that it shall protect, reimburse and indemnify County from and assume all liability for its tax and assessment obligations under the terms of the Agreement.

The County is exempt from payment of Florida state sales and use taxes. The Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the County, nor is the Contractor authorized to use the County's tax exemption number in securing such materials.

The Contractor shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

21. Prohibition Against Contracting with Scrutinized Companies. Pursuant to Florida Statutes Section 215.4725, contracting with any entity that is listed on the Scrutinized Companies that Boycott Israel List or that is engaged in the boycott of Israel is prohibited. Contractors must certify that the company is not participating in a boycott of Israel. Any contract for goods or services of One Million Dollars (\$1,000,000) or more shall be terminated at the County's option if it is discovered that the entity submitted false documents of certification, is listed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria after July 1, 2018.

Any contract entered into or renewed after July 1, 2018 shall be terminated at the County's option if the company is listed on the Scrutinized Companies that Boycott Israel List or engaged in the boycott of Israel. Contractors must submit the certification that is attached to this agreement as Attachment "D". Submitting a false certification shall be deemed a material breach of contract. The County shall provide notice, in writing, to the Contractor of the County's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination was in error. If the Contractor does not demonstrate that the County's determination of false certification was made in error, then the County shall have the right to terminate the contract and seek civil remedies pursuant to Florida Statute Section 215.4725.

22. Inconsistencies and Entire Agreement. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any attachment attached hereto, any document or events referred to herein, or any document incorporated into this Agreement, the term, statement, requirement, or provision contained in this Agreement shall prevail and be given superior effect and priority over any conflicting or inconsistent term, statement, requirement or provision contained in any other document or attachment, including but not limited to Attachments listed in Section 1.

23. Severability. If any term or condition of this Contract shall be deemed, by a court having appropriate jurisdiction, invalid or unenforceable, the remainder of the terms and conditions of this

Contract shall remain in full force and effect. This Contract shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all the terms and provisions hereof.

24. Entire Agreement. This Agreement contains the entire agreement of the parties, and may be amended, waived, changed, modified, extended or rescinded only by in writing signed by the party against whom any such amendment, waiver, change, modification, extension and/or rescission is sought.

25. Representation of Authority to Contractor/Signatory. The individual signing this Agreement on behalf of Contractor represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. The signatory represents and warrants to the County that the execution and delivery of this Agreement and the performance of the Services and obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on the Contractor and enforceable in accordance with its terms.

26. Grant Documents. Contractor shall adhere to the requirements relevant to Contractor as set forth in the State Aid to Libraries Grant attached hereto as Attachment "D" and incorporated herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year first written above.

BYWATER SOLUTIONS, LLC:

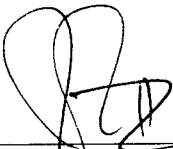


Signature

TITLE: Owner/CRO

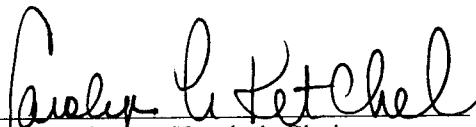
Nathan A. Curulla
Print Name

ATTEST:

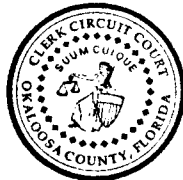


J.D. Peacock II, Clerk of Courts

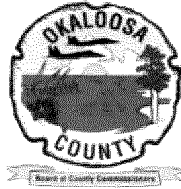
OKALOOSA COUNTY, FLORIDA

BY: 

Carolyn N. Ketchel, Chairman



Attachment "A"
Bid Response



INVITATION TO BID (ITB) & RESPONDENT'S ACKNOWLEDGEMENT

ITB TITLE:
Koha & Aspen Open Source Integrated Library System

ITB NUMBER:
ITB LIB 18-21

ISSUE DATE:

February 8, 2021

LAST DAY FOR QUESTIONS:

February 19, 2021 3:00 P.M. cst

ITB OPENING DATE & TIME:

March 3, 2021 3:30 P.M. cst

NOTE: BIDS RECEIVED AFTER THE BID OPENING DATE & TIME WILL NOT BE CONSIDERED.

Okaloosa County, Florida solicits your company to submit a bid on the above referenced goods or services. All terms, specifications and conditions set forth in this ITB are incorporated into your response. A bid will not be accepted unless all conditions have been met. All bids must have an authorized signature in the space provided below. All envelopes containing sealed bids must reference the "ITB Title", "ITB Number" and the "ITB Opening Date & Time". Okaloosa County is not responsible for lost or late delivery of bids by the U.S. Postal Service or other delivery services used by the respondent. Neither faxed nor electronically submitted bids will be accepted. Bids may not be withdrawn for a period of sixty (60) days after the bid opening unless otherwise specified.

RESPONDENT ACKNOWLEDGEMENT FORM BELOW MUST BE COMPLETED, SIGNED, AND RETURNED AS PART OF YOUR BID. BIDS WILL NOT BE ACCEPTED WITHOUT THIS FORM, SIGNED BY AN AUTHORIZED AGENT OF THE RESPONDENT.

COMPANY NAME ByWater Solutions LLC

MAILING ADDRESS PO Box 1346


CITY, STATE, ZIP Santa Barbara, CA 93102

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER (FEIN): 26-4608793

TELEPHONE NUMBER: 888-900-8944 EXT: 2 FAX: 888-900-8944

EMAIL: sales@bywatersolutions.com

I CERTIFY THAT THIS BID IS MADE WITHOUT PRIOR UNDERSTANDING, AGREEMENT, OR CONNECTION WITH ANY OTHER RESPONDENT SUBMITTING A BID FOR THE SAME MATERIALS, SUPPLIES, EQUIPMENT OR SERVICES, AND IS IN ALL RESPECTS FAIR AND WITHOUT COLLUSION OR FRAUD. I AGREE TO ABIDE BY ALL TERMS AND CONDITIONS OF THIS BID AND CERTIFY THAT I AM AUTHORIZED TO SIGN THIS BID FOR THE RESPONDENT.

AUTHORIZED SIGNATURE:  TYPED OR PRINTED NAME Nathan A Curulla

TITLE: Owner/CRO DATE 2/18/21

NOTICE TO RESPONDENTS
ITB LIB 18-21

Notice is hereby given that the Board of County Commissioners of Okaloosa County, FL, will accept sealed bids until **3:30 p.m. (CST) March 3, 2021**, for the **Koha & Aspen Open Source Integrated Library System**.

Interested respondents desiring consideration shall provide one (1) original and two (2) copies (total of 3) of their Invitation to Bids (ITB) response with the respondent's areas of expertise identified. Submissions shall be portrait orientation, unbound, and 8 ½" x 11" where practical.

All originals must have original signatures in blue ink.

Bid documents are available for download by accessing the following sites:

<http://www.myokaloosa.com/purchasing/home>

<https://www.bidnetdirect.com/florida>

https://www.demandstar.com/supplier/bids/agency_inc/bid_list.asp?f=search&mi=2442519

At **3:30 p.m. CST March 3, 2021** all bids will be submitted will be opened and read aloud. All bids must be in sealed envelopes reflecting on the outside thereof the Respondent's name and "**Koha & Aspen Open Source Integrated Library System**". The County will consider all bids properly submitted at its scheduled bid opening in the **Okaloosa County Purchasing Department** located at 5479A Old Bethel Rd., Crestview, FL 32536. If delivering on the bid opening day, delivery must be in person to 5479A Old Bethel Rd, Crestview, FL 32536.

The County reserves the right to award the bid to the lowest responsive respondent and to waive any irregularity or technicality in bids received. Okaloosa County shall be the sole judge of the bid and the resulting Agreement that is in its best interest and its decision shall be final.

Any Respondent failing to mark outside of the envelope as set forth herein may not be entitled to have their bid considered.

All bids should be addressed as follows:

Koha & Aspen Open Source Integrated Library System

ITB LIB 18-21

Okaloosa County Purchasing Department

5479A Old Bethel Rd.

Crestview FL 32536

Jeffrey Hyde
Purchasing Manager

Date

OKALOOSA COUNTY
BOARD OF COUNTY COMMISSIONERS
CAROLYN N. KETCHEL, CHAIRMAN

BID REQUIREMENTS
ITB LIB 18-21
KOHA & ASPEN OPEN SOURCE INTERGRATED LIBRARY SYSTEM

BID REQUIREMENTS

SCOPE OF WORK:

1. Introduction and General Requirements.

1.1 The Okaloosa County Board of County Commissioners (BCC) and the Okaloosa County Public Library Cooperative (OCPLC) are requesting competitive sealed bids for a new Koha open source Integrated Library System (ILS) and open source Aspen Discovery, specifically the non-proprietary community versions. The vendor should provide a hosting option, setup and services for data migration, software configuration, training and ongoing support. For continuity of support, the same vendor must be able to host and support both products.

OCPLC is a single-county cooperative comprised of 6 member libraries who have a combined 68,000 registered customers, a collection of 298,000 cataloged items and a circulation count of 668,000 checkouts per year.

In order to be considered, vendors must demonstrate successful experience implementing and supporting both Koha and Aspen for organizations of similar or greater size and circulation volume, and for library consortiums with varying policies and customizations among member libraries. Vendors must have specific experience importing and configuring data that has been exported from SirsiDynix Symphony/Enterprise (system being replaced).

1.2 The Koha solution provided by the vendor shall include, but is not limited to, the following fully functional modules:

- 1.2.1 Acquisitions (ordering, receiving, and invoicing materials)
- 1.2.2 Cataloging (classifying and indexing materials)
- 1.2.3 Circulation (lending and receiving materials to and from patrons)
- 1.2.4 Serials (tracking magazine and newspaper holdings)
- 1.2.5 OPAC (public interface for users)

2. Minimum Functional Requirements for Koha

2.1 OCPLC is seeking a cooperative partnership that will embrace the letter and spirit of open source principles, and utilize the skills and resources provided by the vendor, the OCPLC internal team, and other Koha community participants. OCPLC requests bids that will use the most recent stable release of the standard “community” Koha system. OCPLC requires that all software code provided under the terms of this bid will be promptly released to the Koha community for inclusion in the next version of Koha. Proposals for a development path that diverges from the standard Koha release path will not be considered.

2.2 Koha must have the following circulation functionality prior to go-live:

- 2.2.1 The ability to create custom fee categories (outside regular library transactions) for individual libraries and the ability to report on them.
- 2.2.2 Detailed payment/transaction receipt detailing the payment amount, change due, and fees paid by that money.

2.2.3 Functionality which allows staff to enter a dollar amount given (the amount to be paid) such that Koha can calculate the change due and record the change given back on the receipt.

2.2.4 The ability to report on line item transactions by library that each library's finance team deems necessary.

2.2.5 The ability to prioritize hold fulfilment based upon home library of patron and owning library.

2.3 Implementation of Koha must include the following at no additional cost:

2.3.1 Creation of test system for training and testing purposes prior to go-live.

2.3.2 Go-live date of system must be prior to October 1, 2021.

2.3.3 Integration services for the library's third party services and devices at no additional cost, including OverDrive; Envisionware's LPT One, PC Reservations, ProlineRFID and Vending Kiosk; 3-M Self-Check, and Lending Library.

2.3.4 Configuration and maintenance of all CIP, SIP2 and/or LDAP connections.

2.3.5 Data manipulation and cleanup upon request of the client. Data cleanup must fall into the parameters of command line database maintenance.

2.3.6 Migration of all obtainable bibliographic, item, patron, holds, list, fines, serials and acquisitions data, as well as any obtainable custom fields found in exiting system.

2.3.7 Ability to view the Koha OPAC with full mobile optimization using a mobile device.

2.3.8 OPAC customization using current mobile Koha OPAC themes.

2.3.9 Administrative configuration of system.

2.4 Support interface for Koha must include the following at no additional cost:

2.4.1 24 hour, 7 day per week technical consulting and problem solving.

2.4.2 24 hour, 7 day per week server monitoring.

2.4.3 Training questions and multiple days of in-person training before go-live date unless library later requests that live training be delivered online due to safety considerations.

2.4.4 Consultation with network configuration.

2.4.5 Initial and ongoing customizations and "tweaking" to the OPAC and staff-side interfaces.

2.4.6 Custom Report generation.

2.4.7 Bug-fixes and the application of community-released bug fix enhancements on a regular schedule.

2.4.8 Management and updating of community or customer sponsored enhancements.

2.4.9 Training for all major updates to Koha's functionality via webinar to OCPLC at no additional cost.

2.4.10 Integration services for the library's third-party services and devices at no additional cost. These systems contain but are not limited to, computer time management systems (Envisionware PC Reservations), print management software (Envisionware LPT One), self-check stations (3-M Self-Check, Envisionware Vending Kiosk and ILS Lending Library formerly Brodart/PIK) RFID (Envisionware Proline RFID), Interlibrary Loan system (FLIN SHAREit), and digital lending (OverDrive).

2.4.11 Regular updates to the Koha system as new functionality becomes available, as well as the application of new releases to the OCPLC system as they are made available

(typically every 4-6 months).

3. The Aspen solution provided by the vendor shall include, but is not limited to, the following fully functional features:
 - 3.1.1 Complete integration with Koha ILS
 - 3.1.2 Administrator web page creation within Aspen
 - 3.1.3 Integrate library catalog with e-content, digital archives and enrichment services from third-party providers including OverDrive and Envisionware's LPT One and PC Reservations. Must be able to accept a patron barcode, analyze and pass back an "allows" or "blocks" message based on specific parameters set by individual libraries.
 - 3.1.4 Utilize FRBR to display all formats of titles within one result
 - 3.1.5 Library events calendar (if not fully functional by go-live date, estimated delivery date is required)
 - 3.1.6 Report generator
 - 3.1.7 Online patron registration
 - 3.1.8 Patron account access with ability to view and manipulate holds, personal PIN, and contact preferences

4. Minimal Functional Requirements for Aspen
 - 4.1 OCPLC is seeking a cooperative partnership that will embrace the letter and spirit of open source principles, and utilize the skills and resources provided by the vendor, the OCPLC internal team, and other Aspen community participants. OCPLC requests bids that will use the most recent stable release of the standard "community" Aspen system. OCPLC requires that all software code provided under the terms of this bid will be promptly released to the Aspen community for inclusion in the next version of Aspen. Proposals for a development path that diverges from the standard Aspen release path will not be considered.

 - 4.2 Support interface for Aspen must include the following at no additional cost:
 - 4.2.1 24 hour, 7 day per week technical consulting and problem solving.
 - 4.2.2 24 hour, 7 day per week server monitoring.
 - 4.2.3 Regular backups to library data and servers.
 - 4.2.4 Training before go-live date.
 - 4.2.5 Custom branding with initial and ongoing customizations and "tweaking"
 - 4.2.6 Custom Report generation.
 - 4.2.7 Bug-fixes and the application of community-released bug fix enhancements on a regular schedule.
 - 4.2.8 Management and updating of community or customer sponsored enhancements.
 - 4.2.9 Training for major updates to Aspen's functionality via webinar to OCPLC.
 - 4.2.10 Regular updates to the Aspen system as new functionality becomes available, as well as the application of new releases to the OCPLC system as they are made available (typically every 4-6 months).

5. The Koha/Aspen provider must be and/or utilize a server hosting company with certified physical server site security and system security.
 - 5.1.1 Provide encryption through SSL at no additional charge for all staff and catalog clients.
 - 5.1.2 Employ standard security practices for both physical and system security to protect

customer data in accordance with federal, state and local requirements including adherence to standards and certifications. Vendor must provide specifications of how data is protected from distribution. SOC 2 Certification preferred for data store.

5.1.3 Provide a secure and redundant process to regularly back up library data and restore as necessary, at minimum a daily backup of all system data stored in the cloud. Submit back up schedule.

5.1.4 Store data redundantly on off-site servers. Submit server network topology diagram for cloud system.

5.1.5 Maintain archival backups: daily backups retained at least three days, weekly backups retained at least one month, bi-monthly backups retained for one year.

5.1.6 Respond within one hour of reported server outage to begin damage assessment and recovery operations. Submit expected uptime documentation.

5.1.7 Customer notification within 24 hours of discovery of any security breach.

Customer expects monitoring, restoration, full report on the incident, and steps to prevent recurrence.

5.1.8 Provide statement detailing company's liability position in case of a data breach.

6. In the event of a separation of the two entities, the Koha ILS/Aspen support provider will allow the library copies of all required data needed for operation of a new ILS such as patron and materials databases, historical statistics and reports. Data residing within the software is the property of the library. Vendor will routinely make available data backups that the library can store on a quarterly basis and by request to be delivered in a reasonable time period.

TERM OF CONTRACT:

The term of this contract will be for three (3) years with the option to renew for two (2) one year periods upon mutual agreement in writing.

GENERAL SERVICES INSURANCE REQUIREMENTS – w/CYBER LIABILITY

CONTRACTORS INSURANCE

1. The Contractor shall not commence any work in connection with this Agreement until he has obtained all required insurance and the certificate of insurance has been approved by the Okaloosa County Risk Manager or designee.
2. All insurance policies shall be with insurers authorized to do business in the State of Florida and having a minimum rating of A, Class X in the Best Key Rating Guide published by A.M. Best & Co. Inc.
3. All insurance shall include the interest of all entities named and their respective officials, employees & volunteers of each and all other interests as may be reasonably required by Okaloosa County. The coverage afforded the Additional Insured under this policy shall be primary insurance. If the Additional Insured have other insurance that is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the company's liability under this policy shall not be reduced by the existence of such other insurance.
4. With the exception of Workers' Compensation policies, the County shall be shown as an Additional Insured with a Waiver of Subrogation on the Certificate of Insurance.
5. The County shall retain the right to reject all insurance policies that do not meet the requirement of this Agreement. Further, the County reserves the right to change these insurance requirements with 60-day notice to the Contractor.
6. The County reserves the right at any time to require the Contractor to provide copies of any insurance policies to document the insurance coverage specified in this Agreement.
7. Any subsidiaries used shall also be required to obtain and maintain the same insurance requirements as are being required herein of the Contractor.
8. Any exclusions or provisions in the insurance maintained by the Contractor that excludes coverage for work contemplated in this agreement shall be deemed unacceptable and shall be considered a breach of contract.

WORKERS' COMPENSATION INSURANCE

1. The Contractor shall secure and maintain during the life of this Agreement Workers' Compensation insurance for all of his employees employed for the project or any site connected with the work, including supervision, administration or management, of this project and in case any work is sublet, with the approval of the County, the Contractor shall require the Subcontractor similarly to provide Workers' Compensation insurance for all employees employed at the site of the project, and such evidence of insurance shall be furnished to the County not less than ten (10) days prior to the commencement of any and all sub-contractual Agreements which have been approved by the County.

2. Contractor must be in compliance with all applicable State and Federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act or Jones Act, if applicable.
3. No class of employee, including the Contractor himself, shall be excluded from the Workers' Compensation insurance coverage. The Workers' Compensation insurance shall also include Employer's Liability coverage.
4. A Waiver of Subrogation is required to be shown on all Workers Compensation Certificates of Insurance.

BUSINESS AUTOMOBILE LIABILITY

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 (One Million Dollars) combined single limit each accident. If the contractor does not own vehicles, the contractor shall maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Policy. Contractor must maintain this insurance coverage throughout the life of this Agreement.

COMMERCIAL GENERAL LIABILITY INSURANCE

1. The Contractor shall carry Commercial General Liability insurance against all claims for Bodily Injury, Property Damage and Personal and Advertising Injury caused by the Contractor.
2. Commercial General Liability coverage shall include the following:
 - 1.) Premises & Operations Liability
 - 2.) Bodily Injury and Property Damage Liability
 - 3.) Independent Contractors Liability
 - 4.) Contractual Liability
 - 5.) Products and Completed Operations Liability
3. Contractor shall agree to keep in continuous force Commercial General Liability coverage for the length of the contract.

CYBER LIABILITY

The Contractor shall carry Cyber Liability insurance coverage for third party liability. Coverage will include ID Theft Monitoring, Credit Monitoring (if necessary) & Notification. Coverage must be afforded for negligent retention of data as well as notification and related costs for actual or alleged breaches of data.

INSURANCE LIMITS OF LIABILITY

The insurance required shall be written for not less than the following, or greater if required by law and shall include Employer's liability with limits as prescribed in this contract:

| | <u>LIMIT</u> |
|------------------------------------|--|
| 1. Workers' Compensation | |
| 1.) State | Statutory |
| 2.) Employer's Liability | \$500,000 each accident |
| 2. Business Automobile | \$1,000,000 each accident (A combined single limit) |
| 3. Commercial General Liability | \$1,000,000 each occurrence Bodily Injury & Property Damage \$1,000,000 each occurrence Products and completed operations |
| 4. Personal and Advertising Injury | \$1,000,000 each occurrence |
| 5. Cyber Liability | \$1,000,000 per claim |

NOTICE OF CLAIMS OR LITIGATION

The Contractor agrees to report any incident or claim that results from performance of this Agreement. The County representative shall receive written notice in the form of a detailed written report describing the incident or claim within ten (10) days of the Contractor's knowledge. In the event such incident or claim involves injury and/or property damage to a third party, verbal notification shall be given the same day the Contractor becomes aware of the incident or claim followed by a written detailed report within ten (10) days of verbal notification.

INDEMNIFICATION & HOLD HARMLESS

To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the County, its officers and employees from liabilities, damages, losses, and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness, or wrongful conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of this contract.

CERTIFICATE OF INSURANCE

1. Certificates of insurance indicating the project name and number and evidencing all required coverage must be submitted not less than 10 days prior to the commencement of any of the work. The certificate holder(s) shall be as follows: Okaloosa County, 5479A Old Bethel Road, Crestview, Florida, 32536.
2. The contractor shall provide a Certificate of Insurance to the County with a thirty (30) day prior written notice of cancellation; ten (10) days' prior written notice if cancellation is for nonpayment of premium.

3. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the contractor to provide the proper notice to the County. Such notification shall be in writing by registered mail, return receipt requested, and addressed to the Okaloosa County Purchasing Department at 5479-A Old Bethel Road, Crestview, FL 32536.
4. In the event the contract term goes beyond the expiration date of the insurance policy, the contractor shall provide the County with an updated Certificate of insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The County reserves the right to suspend the contract until this requirement is met.
5. The certificate shall indicate if coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the certificate will show a retroactive date, which should be the same date of the initial contract or prior.
6. All certificates shall be subject to Okaloosa County's approval of adequacy of protection.
7. All deductibles or self-insured retentions (SIRs), whether approved by Okaloosa County or not, shall be the Contractor's full responsibility.
8. In no way will the entities listed as Additional Insured be responsible for, pay for, be damaged by, or limited to coverage required by this schedule due to the existence of a deductible or SIR.

GENERAL TERMS

Any type of insurance or increase of limits of liability not described above which, the Contractor required for its own protection or on account of statute shall be its own responsibility and at its own expense.

Any exclusions or provisions in the insurance maintained by the contractor that excludes coverage for work contemplated in this contract shall be deemed unacceptable and shall be considered breach of contract.

The carrying of the insurance described shall in no way be interpreted as relieving the Contractor of any responsibility under this contract.

Should the Contractor engage a subcontractor or sub-subcontractor, the same conditions will apply under this Agreement to each subcontractor and sub-subcontractor.

The Contractor hereby waives all rights of subrogation against Okaloosa County and its employees under all the foregoing policies of insurance.

EXCESS/UMBRELLA INSURANCE

The Contractor shall have the right to meet the liability insurance requirements with the purchase of an EXCESS/UMBRELLA insurance policy. In all instances, the combination of primary and EXCESS/UMBRELLA liability coverage must equal or exceed the minimum liability insurance limits stated in this Agreement. An Excess liability policy must be submitted indicating which policy it applies to.

GENERAL BID CONDITIONS

1. PRE-BID ACTIVITY -

Except as provided in this section, respondents are prohibited from contacting or lobbying the County, County Administrator, Commissioners, County staff, and Review Committee members, or any other person authorized on behalf of the County related or involved with the solicitation. All inquiries on the scope of work, specifications, additional requirements, attachments, terms and general conditions or instructions, or any issue must be directed in writing, by US mail or email to:

Okaloosa County Purchasing Department
5479A Old Bethel Road
Crestview, FL 32536
Email: dmason@myokaloosa.com
(850) 689-5960

All questions or inquiries must be received no later than the last day for questions (reference ITB & Respondent's Acknowledgement form). Any addenda or other modification to the bid documents will be issued by the County five (5) days prior to the date and time of bid closing, as written addenda, and will be posted to the following sites:

<http://www.myokaloosa.com/purchasing/hom>

<https://www.bidnetdirect.com/florida>

https://www.demandstar.com/supplier/bids/agency_inc/bid_list.asp?f=search&mi=2442519

Such written addenda or modification shall be part of the bid documents and shall be binding upon each respondent. Each respondent is required to acknowledge receipt of any and all addenda in writing and submit with their bid. No respondent may rely upon any verbal modification or interpretation.

- 2. PREPARATION OF BID** – The bid form is included with the bid documents. Additional copies may be obtained from the County. The respondent shall submit bids in accordance with the public notice.

All blanks in the bid documents shall be completed by printing in ink or by typewriter in both words and numbers with the amounts extended, totaled and the bid signed. A bid price shall be indicated for each section, bid item, alternative, adjustment unit price item, and unit price item listed therein, or the words “No Bid”, “No Change”, or “Not Applicable” entered. No changes shall be made to the phraseology of the form or in the items mentioned therein. In case of any discrepancy between the written amount and the numerical figures, the written amount shall govern. Any bid which contains any omissions, erasures, alterations, additions, irregularities of any kind, or items not called for which shall in any manner fail to conform to the conditions of public notice inviting bids may be rejected.

A bid submitted by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature). The official address of the partnership shall be shown below the signature.

A bid submitted by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown below the signature.

A bid submitted by an individual shall show the respondent's name and official address.

A bid submitted by a joint venture shall be executed by each joint venture in the manner indicated on the bid form. The official address of the joint venture must be shown below the signature. It is preferred that all signatures be in blue ink with the names type or printed below the signature. Okaloosa County does not accept electronic signatures.

The bid shall contain an acknowledgement of receipt of all Addenda, the numbers of which shall be filled in on the form. The address and telephone # for communications regarding the bid shall be shown.

If the respondent is an out-of-state corporation, the bid shall contain evidence of respondent's authority and qualification to do business as an out-of-state corporation in the State of Florida. A state contractor license # for the State of Florida shall also be included on the bid form. Respondent shall be licensed in accordance with the requirements of Chapter 489, Florida Statutes.

3. **INTEGRITY OF BID DOCUMENTS** - Respondents shall use the original Bid documents provided by the Purchasing Department and enter information only in the spaces where a response is requested. Respondents may use an attachment as an addendum to the Bid documents if sufficient space is not available. Any modifications or alterations to the original bid documents by the respondent, whether intentional or otherwise, will constitute grounds for rejection of a bid. Any such modification or alteration that a respondent wish to propose must be clearly stated in the respondent's response in the form of an addendum to the original bid documents.
4. **SUBMITTAL OF BID** – A bid shall be submitted no later than the date and time prescribed and at the place indicated in the advertisement or invitation to bid and shall be enclosed in an opaque sealed envelope plainly marked with the project title (and, if applicable, the designated portion of the project for which the bid is submitted), the name and address of the respondent, and shall be accompanied by the bid security and other required documents. It is the respondent's responsibility to assure that its bid is delivered at the proper time and place. Offers by telegram, facsimile, or telephone will **NOT** be accepted.

Note: Crestview is not a next day delivery site for overnight carriers.

5. **MODIFICATION & WITHDRAWAL OF BID** - A bid may be modified or withdrawn by an appropriate document duly executed in the manner that a bid must be executed and delivered to the place where bids are to be submitted prior to the date and time for the opening of bids.

If within 24 hours after bids are opened any respondent files a duly signed written notice with the County and promptly thereafter demonstrates to the reasonable satisfaction of the County that there

was a material substantial mistake in the preparation of its bid, that respondent may withdraw its bid, and the bid security may be returned. Thereafter, if the work is rebid, that respondent will be disqualified from 1) further bidding on the work, and 2) doing any work on the contract, either as a subcontractor or in any other capacity.

6. **BIDS TO REMAIN SUBJECT TO ACCEPTANCE** – All bids will remain subject to acceptance or rejection for sixty (60) calendar days after the day of the bid opening, but the County may, in its sole discretion, release any bid and return the bid security prior to the end of this period.
7. **IDENTICAL TIE BIDS** - – In cases of identical procurement responses, the award shall be determined either by lot or on the basis of factors deemed to serve the best interest of the County. In the case of the latter, there must be adequate documentation to support such a decision.
8. **CONDITIONAL & INCOMPLETE BIDS** - Okaloosa County specifically reserves the right to reject any conditional bid and bids which make it impossible to determine the true amount of the bid.
9. **PRICING** – The bid price shall include all equipment, labor, materials, freight, taxes etc. Okaloosa County reserves the right to select that bid most responsive to our needs.
10. **ADDITION/DELETION OF ITEM**– The County reserves the right to add or delete any item from this bid or resulting contract when deemed to be in the County’s best interest.
11. **SPECIFICATION EXCEPTIONS** – Specifications are based on the most current literature available. Respondent shall clearly list any change in the manufacturer’s specifications which conflict with the bid specifications. Respondent must also explain any deviation from the bid specification in writing, as a foot note on the applicable bid page and enclose a copy of the manufacturer’s specifications data detailing the changed item(s) with their bid. Failure of the respondent to comply with these provisions will result in respondents being held responsible for all costs required to bring the equipment in compliance with bid specifications.
12. **APPLICABLE LAWS & REGULATIONS** – All applicable Federal and State laws, County and municipal ordinances, orders, rules and regulations of all authorities having jurisdiction over the project shall apply to the bid throughout, and they will be deemed to be included in the contract the same as though they were written in full therein.
13. **DISQUALIFICATION OF RESPONDENTS** - Any of the following reasons may be considered as sufficient for the disqualification of a respondent and the rejection of its bid:
 - a. Submission of more than one proposal for the same work from an individual, firm or corporation under the same or different name.
 - b. Evidence that the respondent has a financial interest in the firm of another respondent for the same work.
 - c. Evidence of collusion among respondents. Participants in such collusion will receive no recognition as respondents for any future work of the County until such participant has been reinstated as a qualified respondent.

- d. Uncompleted work which in the judgment of the County might hinder or prevent the prompt completion of additional work if awarded.
- e. Failure to pay or satisfactorily settle all bills due for labor and material on former contracts in force at the time of advertisement of proposals.
- f. Default under previous contract.
- g. Listing of the respondent by any Local, State or Federal Government on its barred/suspended vendor list.

14. AWARD OF BID

- A. **Okaloosa County Review** - Okaloosa County designated Staff will review all bids and will participate in the Recommendation to Award.
- B. The County will award the bid to the responsive and responsible vendor(s) with the lowest responsive bid(s), and the County reserves the right to award the bid to the respondent submitting a responsive bid with a resulting negotiated agreement which is most advantageous and in the best interest of the County, and to reject any and all bids or to waive any irregularity or technicality in bids received. Okaloosa County shall be the sole judge of the bid and the resulting negotiated agreement that is in its best interest and its decision shall be final. The County reserves the right to award to multiple vendors.
- C. Okaloosa County reserves the right to waive any informalities or reject any and all bids, in whole or part, to utilize any applicable state contracts in lieu of or in addition to this bid and to accept the bid that in its judgment will best serve the interest of the County.
- D. Okaloosa County specifically reserves the right to reject any conditional bids and will normally reject those which made it impossible to determine the true amount of the bid. Each item must be bid separately and no attempt is to be made to tie any item or items to any other item or items.

15. PAYMENTS – The respondent shall be paid upon submission of invoices and approval of acceptance by Okaloosa County Board of County Commissioners, Finance Office, 302 N. Wilson St., #203, Crestview FL 32536, for the prices stipulated herein for articles delivered and accepted. Invoices must show Contract #.

16. DISCRIMINATION - An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

17. PUBLIC ENTITY CRIME INFORMATION - Pursuant to Florida Statute 287.133, a respondent may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of

the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

18. CONFLICT OF INTEREST - The award hereunder is subject to the provisions of Chapter 112, Florida Statutes. All respondents must disclose with their bids the name of any officer, director, or agent who is also a public officer or an employee of the Okaloosa Board of County Commissioners, or any of its agencies. Furthermore, all respondents must disclose the name of any County officer or employee who owns, directly or indirectly, an interest of five percent (5%) or more in the firm or any of its branches.

Note: For respondent's convenience, this certification form is enclosed and is made a part of the bid package.

19. REORGANIZATION OR BANKRUPTCY PROCEEDINGS – Bids will not be considered from respondents who are currently involved in official financial reorganization or bankruptcy proceedings.

20. INVESTIGATION OF RESPONDENT – The County may make such investigations, as it deems necessary to determine the stability of the respondent to perform the work and that there is no conflict of interest as it relates to the project. The respondent shall furnish to the Owner any additional information and financial data for this purpose as the County may request.

21. CONE OF SILENCE CLAUSE - The Okaloosa County Board of County Commissioners has established a solicitation silence policy (**Cone of Silence Clause**) that prohibits oral and written communication regarding all formal solicitations for goods and services (formal bids, Request for Proposals, Requests for Qualifications) issued by the Board through the County Purchasing Department. The period commences from the date of advertisement until award of contract.

All communications shall be directed to the Purchasing Department -see attached form.

Note: For respondent's convenience, this certification form is enclosed and is made a part of the bid package.

22. REVIEW OF PROCUREMENT DOCUMENTS - Per Florida Statute 119.071 (2) 2 sealed bids, proposals, or replies received by the County pursuant to a competitive solicitation are exempt from public disclosure until such time as the County provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.

23. COMPLIANCE WITH FLORIDA STATUTE 119.0701 - The Respondent shall comply with all the provisions of section 119.0701, Florida Statutes relating to the public records which requires, among other things, that the Respondent: (a) Keep and maintain public records; (b) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the respondent upon termination of the contract.

24. PROTECTION OF RESIDENT WORKERS – The Okaloosa County Board of County Commissioners actively supports the Immigration and Nationality Act (INA) which includes provisions addressing employment eligibility, employment verifications, and nondiscrimination. Under the INA, employers may hire only persons who may legally work in the United States (i.e., citizens and nationals of the U.S.) and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verifications. The respondent shall establish appropriate procedures and controls so no services or products under the Contract Documents will be performed or manufactured by any worker who is not legally eligible to perform such services or employment. Okaloosa County reserves the right to request documentation showing compliance with the requirements.

Respondents doing construction business with Okaloosa County are required to use the Federal Government Department of Homeland Security's website and use the E-Verify Employment Eligibility Verifications System to confirm eligibility of all employees to work in the United States.

25. SUSPENSION OR TERMINATION FOR CONVENIENCE - The County may, at any time, without cause, order Respondent in writing to suspend, delay or interrupt the work in whole or in part for such period of time as the County may determine, or to terminate all or a portion of the Contract for the County's convenience. Upon such termination, the Contract Price earned to the date of termination shall be paid to Respondent, but Respondent waives any claim for damages, including loss of profits arising out of or related to the early termination. Those Contract provisions which by their nature survive final acceptance shall remain in full force and effect. If the County orders a suspension, the Contract price and Contract time may be adjusted for increases in the cost and time caused by suspension, delay or interruption. No adjustment shall be made to the extent that performance is, was or would have been so suspended, delayed or interrupted by reason for which Respondent is responsible; or that an equitable adjustment is made or denied under another provision of this Contract.

26. FAILURE OF PERFORMANCE/DELIVERY - In case of default by the respondent, the County after due notice (oral or written) may procure the necessary supplies or services from other sources and hold the respondent responsible for difference in cost incurred. Continuous instances of default shall result in cancellation of the award and removal of the respondent from the bid list for duration of one (1) year, at the option of the County.

27. AUDIT - If requested, respondent shall permit the County or an authorized, independent audit agency to inspect all data and records of respondent relating to its performance and its subcontracts under this bid from the date of the award through three (3) years after the expiration of contract.

28. EQUAL EMPLOYMENT OPPORTUNITY; NON DISCRIMINATION – Respondent will not discriminate against any employee or an applicant for employment because of race, color, religion, gender, sexual orientation, national origin, age, familial status or handicap.

29. NON-COLLUSION – Respondent certifies that it has entered into no agreement to commit a fraudulent, deceitful, unlawful or wrongful act, or any act which may result in an unfair advantage over other respondents. See Florida Statute 838.22.

30. UNAUTHORIZED ALIENS/PATRIOT'S ACT – The knowing employment by respondent or its subcontractors of any alien not authorized to work by the immigration laws is prohibited and shall be a default of the contract. In the event that the respondent is notified or becomes aware of

such default, the respondent shall take steps as are necessary to terminate said employment with 24 hours of notification or actual knowledge that an alien is being employed. Respondent's failure to take such steps as are necessary to terminate the employment of any said alien within 24 hours of notification or actual knowledge that an alien is being employed shall be grounds for immediate termination of the contract. Respondent shall take all commercially reasonable precautions to ensure that it and its subcontractors do not employ persons who are not authorized to work by the immigration laws.

31. CERTIFICATE OF GOOD STANDING FOR STATE OF FLORIDA - Florida Statute 607.1501 requires that all vendors who wish to do business in the State of Florida be licensed to do business through the Department of State of Florida and be in good standing with the State of Florida. As such, to do business with Okaloosa County a vendor must provide a Certificate of Good Standing with their bid/proposal package to the County. For more information on doing business in the State of Florida, please refer to the Florida Department of State. The website to register is <https://dos.myflorida.com/sunbiz>

32. AUTHORITY TO PIGGYBACK – All respondents submitting a response to this Request for Bid agree that such response also constitutes a proposal to other Florida local governments under the same conditions, for the same contract price, and for the same effective period, should the respondent feel it is in their best interest to do so.

Each governmental agency desiring to accept this proposal and make and award thereof shall do so independently of any other governmental agency. Each agency shall be responsible for its own purchases and each shall be liable only for materials and/or services ordered and received by it, and no agency assumes any liability by virtue of the ITB. This provision in no way restricts or interferes with the right of any governmental agency to independently procure any or all items.

33. The following documents shall be submitted with the bid packet. Failure to provide required forms may result in contractor disqualification.

- A. Drug-Free Workplace Certification Form
- B. Conflict of Interest
- C. Federal E-Verify
- D. Cone of Silence Form
- E. Recycled Content Form
- F. Indemnification and Hold Harmless
- G. Company Data
- H. System of Awards Management
- I. Addendum Acknowledgement
- J. Prohibition to Lobbying
- K. Governmental Debarment & Suspension
- L. Vendors on Scrutinized Companies List
- M. List of References
- N. Bid Sheet
- O. Anti-Collusion Statement
- P. Certificate of Good Standing for State of Florida-see above*

DRUG-FREE WORKPLACE CERTIFICATION

THE BELOW SIGNED RESPONDENT CERTIFIES that it has implemented a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under quote a copy of the statement specified in subsection 1.
4. In the statement specified in subsection 1, notify the employees that, as a condition of working on the commodities or contractual services that are under quote, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in, drug abuse assistance or rehabilitation program if such is available in employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

DATE: 2/18/21

SIGNATURE: 

COMPANY: ByWater Solutions

NAME: Nathan A Curulla
(Typed or Printed)

ADDRESS: PO Box 1346

Santa Barbara, CA 93102

TITLE: Owner/CRO

E-MAIL: nate@bywatersolutions.com

PHONE #: 888-900-8944

CONFLICT OF INTEREST DISCLOSURE FORM

For purposes of determining any possible conflict of interest, all Respondents, must disclose if any Okaloosa Board of County Commissioner, employee(s), elected officials(s), or if any of its agencies is also an owner, corporate officer, agency, employee, etc., of their business.

Indicate either "yes" (a county employee, elected official, or agency is also associated with your business), or "no." If yes, give person(s) name(s) and position(s) with your business.

YES: _____

NO: X

NAME(S)

POSITION(S)

FIRM NAME: ByWater Solutions

BY (PRINTED): Nathan A Curulla

BY
(SIGNATURE):  _____

TITLE: Owner/CRO

ADDRESS: PO Box 1346 Santa Barbara, CA 93102

PHONE NO.: 888-900-8944

E-MAIL: nate@bywatersolutions.com

DATE: 2/18/21

FEDERAL E-VERIFY COMPLIANCE CERTIFICATION

In accordance with Okaloosa County Policy and Executive Order Number 11-116 from the office of the Governor of the State of Florida, Respondent hereby certifies that the U.S. Department of Homeland Security's E-Verify system will be used to verify the employment eligibility of all new employees hired by the Respondent during the contract term, and shall expressly require any subcontractors performing work or providing services pursuant to the contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term; and shall provide documentation such verification to the COUNTY upon request.

As the person authorized to sign this statement, I certify that this company complies/will comply fully with the above requirements.

DATE: 2/18/21

SIGNATURE: _____



COMPANY: ByWater Solutions

NAME: Nathan A Curulla

ADDRESS: PO Box 1346

TITLE: Owner/CRO

Santa Barbara, CA 93102

E-MAIL: nate@bywatersolutions.com

PHONE NO.: 888-900-8944

CONE OF SILENCE

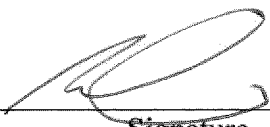
The Board of County Commissioners have established a solicitation silence policy (Cone of Silence) that prohibits oral and written communication regarding all formal solicitations for goods and services (ITB, RFP, ITQ, ITN, and RFQ) or other competitive solicitation between the bidder (or its agents or representatives) or other entity with the potential for a financial interest in the award (or their respective agents or representatives) regarding such competitive solicitation, and any County Commissioner or County employee, selection committee member or other persons authorized to act on behalf of the Board including the County’s Architect, Engineer or their sub-consultants, or anyone designated to provide a recommendation to award a particular contract, other than the Purchasing Department Staff.

The period commences from the time of advertisement until contract award.

Any information thought to affect the committee or staff recommendation submitted after bids are due, should be directed to the Purchasing Manager or an appointed representative. It shall be the Purchasing Manager’s decision whether to consider this information in the decision process.

Any violation of this policy shall be grounds to disqualify the Respondent from consideration during the selection process.

All Respondents must agree to comply with this policy by signing the following statement and including it with their submittal.


I  representing ByWater Solutions, LLC
Signature Company Name

On this 18th day of February 2021, I hereby agree to abide by the County’s “Cone of Silence Clause” and understand violation of this policy shall result in disqualification of my proposal/submittal.

INDEMNIFICATION AND HOLD HARMLESS

Respondent shall indemnify and hold harmless the County, its officers and employees from liabilities, damages, losses, and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Respondent and other persons employed or utilized by the Respondent in the performance of this Agreement.

ByWater Solutions, LLC
Respondent's Company Name


Authorized Signature – Manual

1226 SE 52nd Ave, Portland OR 97215
Physical Address

Nathan A Curulla
Authorized Signature – Typed

PO Box 1346, Santa Barbara CA 93102
Mailing Address

Owner/CRO
Title

888-900-8944 xt 2
Phone Number

888-900-8944
FAX Number

203-685-7207
Cellular Number

888-900-8944
After-Hours Number(s)

2/18/2021
Date

nate@bywatersolutions.com
Email

LOBBYING - 31 U.S.C. 1352, 49 CFR Part 19, 49 CFR Part 20

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)


The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1) -(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, ByWater Solutions, LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.



Nathan Curulla, Owner/CRO Signature of Contractor's Authorized Official
Name and Title of Contractor's Authorized Official
2/18/2021 Date

Government Debarment & Suspension

Instructions

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person(s) to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Orders 12549, at Subpart C of OMB 2 C.F.R. Part 180 and 3000.332. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the System for Award Management (SAM) database.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension,
Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions**

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552(a), as amended). This certification is required by the regulations implementing Executive Orders 12549, Debarment and Suspension, and OMB 2 C.F.R. Part 180, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880.

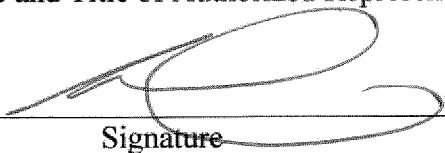
[READ INSTRUCTIONS ON PREVIOUS PAGE BEFORE COMPLETING CERTIFICATION]

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal or State department or agency;

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal

Printed Name and Title of Authorized Representative

Nathan A Curulla


Signature

2/18/2021

Date

VENDORS ON SCRUTINIZED COMPANIES LISTS

By executing this Certificate, the bid proposer, certifies that it is not: (1) listed on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, (2) engaged in a boycott of Israel, (3) listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, or (4) engaged in business operations in Cuba or Syria. Pursuant to section 287.135(5), Florida Statutes, the County may disqualify the bid proper immediately or immediately terminate any agreement entered into for cause if the bid proposer is found to have submitted a false certification as to the above or if the Contractor is placed on the Scrutinized Companies that Boycott Israel List, is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, during the term of the Agreement. If the County determines that the bid proposer has submitted a false certification, the County will provide written notice to the bid proposer. Unless the bid proposer demonstrates in writing, within 90 calendar days of receipt of the notice, that the County's determination of false certification was made in error, the County shall bring a civil action against the bid proposer. If the County's determination is upheld, a civil penalty shall apply, and the bid proposer will be ineligible to bid on any Agreement with a Florida agency or local governmental entity for three years after the date of County's determination of false certification by bid proposer.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

DATE: 2/18/2021

SIGNATURE: 

COMPANY: ByWater Solutions LLC

NAME: Nathan A Curulla
(Typed or Printed)

ADDRESS: PO Box 1346

TITLE: Owner/CRO

Santa Barbara, CA 93102

E-MAIL: nate@bywatersolutions.com

PHONE NO.: 888-900-8944

ANTI-COLLUSION STATEMENT: The below signed bidder has not divulged to, discussed or compared his bid with other bidders and has not **colluded with any other bidder or parties to bid whatever.**
Note: No premiums, rebates, or gratuities permitted either with, prior to, or after any delivery of materials. Any such violation will result in the cancellation and/or return of material (as applicable) and the removal from bid list(s).


ByWater Solutions LLC
Bidder's Company Name

PO Box 1346
Address

Santa Barbara, CA 93102
Address

888-900-8944
Phone #

26-4608793
Federal ID # or SS #


Authorized Signature – Manual

Nathan A Curulla
Authorized Signature – Typed

Owner/CRO
Title

888-900-8944
Fax #

SYSTEM FOR AWARD MANAGEMENT (OCT 2016)

(a) Definitions. As used in this provision.

“Electronic Funds Transfer (EFT) indicator” means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see subpart 32.11) for the same entity.

“Registered in the System for Award Management (SAM) database” means that.

(1) The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14) into the SAM database;

(2) The offeror has completed the Core, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record “Active”.

“Unique entity identifier” means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “Unique Entity Identifier” followed by the unique entity identifier that identifies the Offeror’s name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable. The unique entity identifier will be used by the Contracting Officer to verify that the Offeror is registered in the SAM database.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

- (1) Company legal business name.
- (2) Tradestyle, doing business, or other name by which your entity is commonly recognized.
- (3) Company Physical Street Address, City, State, and Zip Code.
- (4) Company Mailing Address, City, State and Zip Code (if separate from physical).
- (5) Company telephone number.
- (6) Date the company was started.
- (7) Number of employees at your location.
- (8) Chief executive officer/key manager.

(9) Line of business (industry).

(10) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) Offerors may obtain information on registration at <https://www.acquisition.gov>.

Offerors SAM information:

Entity Name: ByWater Solutions, LLC

Entity Address: PO Box 1346, Santa Barbara CA 93102

Duns Number: 05-651-0380

CAGE Code: Currently in process (see below)

BYWATER SOLUTIONS LLC

Status: Submitted

You submitted your registration on Feb 10, 2021. It is now being processed. Your taxpayer information was validated by the IRS. Your registration is pending assignment or validation of your CAGE Code. This can take up to ten business days. You will be notified by e-mail when that review is complete.

| | | | | | | |
|-----------|------------|--------------|-----------|-----------|-------------|--------|
| Core Data | Assertions | Regs & Certs | POCs | Submit | Processing | Active |
| Completed | Completed | Completed | Completed | Completed | In Progress | |

**ADDENDUM ACKNOWLEDGEMENT
ITB LIB 18-21**

Acknowledgment is hereby made of the following addenda (identified by number) received since issuance of solicitation:

ADDENDUM NO.

DATE

N/A

NOTE: Prior to submitting the response to this solicitation, it is the responsibility of the Respondent to confirm if any addenda have been issued. If such addenda have been issued, acknowledge receipt by noting number(s) and date(s) above.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/10/2021

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.

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.

PRODUCER: Portland Office, PayneWest Insurance, Inc.
INSURED: ByWater Solutions, LLC
CONTACT NAME:
PHONE (AC, No, Ext): (971) 888-7950
FAX (AC, No): (855) 883-6100
INSURER(S) AFFORDING COVERAGE:
INSURER A: Philadelphia Indemnity Insurance Company 18058
INSURER B: Hartford Fire Insurance Company 19682

COVERAGES CERTIFICATE NUMBER: 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.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liab, Workers Compensation and Employers' Liability, Errors & Omissions, and Internet Liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate holder is an additional insured for General Liability per attached form PI-MANU-1, as required by written contract.

CERTIFICATE HOLDER: Vicky Stever, 206 North Partin Drive, Niceville, FL 32578
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: Sarah Garcia

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

General Liability Deluxe Endorsement: Integrated Tech

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY DELUXE ENDORSEMENT: INTEGRATED TECHNOLOGY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverage provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

| | |
|--|-------------------|
| Coverage Applicable | |
| Damage to Premises Rented to You | \$1,000,000 |
| Expected or Intended Injury - Property Damage | Included |
| Limited Rental Lease Agreement Contractual Liability | \$50,000 |
| Non-Owned Watercraft | Less than 58 feet |
| Damage to Property You Own, Rent or Occupy | \$30,000 |
| Medical Payments | \$20,000 |
| Medical Payments Reporting Period | 3 Years |
| Athletic Activities | Amended |
| Supplementary Payments - Bail Bonds | \$2,500 |
| Supplementary Payments - Loss of Earnings | \$500 per day |
| Employee Indemnification Defense Coverage | \$25,000 |
| Who Is An Insured | Included |
| -Employees and Volunteer Workers - Good Samaritan Acts | |
| -Additional Insured - Newly Acquired or Formed Organization | |
| -Additional Insured - Managers and Supervisors (with Fellow Employee Coverage) | |
| -Additional Insured - Broadened Named Insured | |
| -Additional Insured - Blanket Additional Insureds When Required by Contract | |
| -Additional Insured - Lessees of Premises | |

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

| | |
|---|---------------|
| -Additional Insured - Independent Contractors | |
| Duties in the Event of Occurrence, Offense, Claim or Suit | Included |
| Transfer of Rights of Recovery Against Others To Us | Clarification |
| Liberalization | Included |
| Unintentional Failure to Disclose Hazards | Included |
| Bodily Injury - Includes Mental Anguish | Included |
| Personal and Advertising Injury - Includes Abuse of Process, Discrimination | Included |

A. Damage to Premises Rented to You

If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part:

1. The Damage To Premises Rented To You Limit section of the Declarations is amended to the greater of:

- a. \$1,000,000; or
- b. The amount shown in the Declarations as the Damage to Premises Rented to You Limit.

This is the most we will pay for all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, smoke, or leaks from automatic fire protective systems or any combination thereof;

2. The word fire is changed to fire, lightning, explosion, smoke, or leakage from automatic fire protective systems where it appears in:

a. The last paragraph of SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection 2. Exclusions;

b. SECTION III - LIMITS OF INSURANCE, Paragraph 6.; and

c. SECTION V - DEFINITIONS, Paragraph 9.a.; and

3. The words fire insurance are changed to insurance for fire, lightning, explosion, smoke, or leakage from automatic fire protective systems where it appears in SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, Subsection

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

4. Other Insurance, Paragraph b. Excess Insurance.

B. Expected or Intended Injury - Property Damage

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE
LIABILITY, 2. Exclusions, Paragraph a. Expected Or Intended Injury is
deleted in its entirety and replaced by the following:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the
standpoint of the insured. This exclusion does not apply to "bodily injury"
or "property damage" resulting from the use of reasonable force to protect
persons or property.

C. Limited Rental Lease Agreement Contractual Liability

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE
LIABILITY, 2. Exclusions, Paragraph b. Contractual Liability is amended by
adding the following:

Based on the named insured's request at the time of claim, we agree to
indemnify the named insured for their liability assumed in a contract or
agreement regarding the rental or lease of a premises on behalf of their
client, up to \$50,000.

This coverage extension only applies to rental lease agreements and is
excess over any renter's liability insurance of the client.

D. Non-Owned Watercraft

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE
LIABILITY, 2. Exclusions, g. Aircraft, Auto Or Watercraft, Paragraph (2) is
amended to read as follows:

(2) A watercraft you do not own that is: (a) Less than 58 feet long; and
(b) Not being used to carry persons or property for a charge;

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

This provision applies to any person, who with your consent, either uses or is responsible for the use of a watercraft. This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess or contingent.

E. Damage to Property You Own, Rent or Occupy

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, j. Damage To Property, Paragraph (1) is deleted in its entirety and replaced with the following:

(1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property, unless the damage to property is caused by your client, up to a \$30,000 limit. A client is defined as a person under your direct care and supervision.

F. Medical Payments

1. If COVERAGE C MEDICAL PAYMENTS is not otherwise excluded from this Coverage Part the Medical Expense Limit is changed subject to all of the terms of SECTION III - LIMITS OF INSURANCE to the greater of:

a. \$20,000; or

b. The Medical Expense Limit shown in the Declarations of this Coverage Part.

2. Under SECTION I - COVERAGES, COVERAGE C MEDICAL PAYMENTS, Subsection 1.

Insuring Agreement, Paragraph a., Item (b) is amended to read:

(b) The expenses are incurred and reported to us within three years of the date of the accident; and

G. Athletic Activities

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

SECTION I - COVERAGES, COVERAGE C MEDICAL PAYMENTS, 2. Exclusions, Paragraph e. Athletics Activities is deleted in its entirety and replaced with the following:

e. Athletics Activities

To a person injured while taking part in athletics.

H. Supplementary Payments

SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B, Items 1.b. and 1.d. are amended as follows:

b. The limit for the cost of bail bonds is changed from \$250 to \$2,500; and d. The limit for loss of earnings is changed from \$250 a day to \$500 a day.

I. Employee Indemnification Defense Coverage

SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B is amended to include the following:

We will pay, on your behalf, defense costs incurred by an "employee" in a criminal proceeding.

The most we will pay for any "employee" who is directly involved in a criminal proceeding is \$25,000 regardless of the numbers of "employees," claims or "suits" brought or persons or organizations making claims or bringing "suits."

J. Who is An Insured

SECTION II - WHO IS AN INSURED is amended as follows:

1. Paragraph 2.a.(1) is deleted in its entirety and replaced with the following: Each of the following is also an insured:

a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

"executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these

"employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

However:

Paragraphs (1)(a) and (1)(d) do not apply to your "employees" or "volunteer workers," who are not employed by you or volunteering for you as health care professionals, for "bodily injury" arising out of Good Samaritan Acts while the "employee" or "volunteer worker" is performing duties related to the conduct of your business. Good Samaritan Acts mean any assistance of a medical nature rendered or provided in an emergency situation for which no remuneration is demanded or received.

2. Newly Acquired or Formed Organization

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

If coverage for newly acquired or formed organizations is not otherwise excluded from this

Coverage Part, Paragraph 3.a. is amended to read:

a. Coverage under this provision is afforded until the end of the policy period;

3. Each of the following is also an insured:

a. Managers and Supervisors - Your managers and supervisors are also insureds, but only with respect to their duties as your managers and supervisors. Managers and supervisors who are your "employees" are also insureds for "bodily injury" to a co- "employee" while in the course of his or her employment by you or performing duties related to the conduct of your business.

This provision does not change Item 2.a.(1)(a) as it applies to managers of a limited liability company.

b. Broadened Named Insured - Any organization and subsidiary thereof which you control and actively manage on the effective date of this Coverage Part. However, coverage does not apply to any organization or subsidiary not named in the Declarations as Named Insured, if they are also insured under another similar policy, but for its termination or the exhaustion of its limits of insurance.

c. Blanket Additional Insureds When Required by Contract - Any person or organization where required by a written contract executed prior to the occurrence of a loss. Such person or organization is an additional insured for "bodily injury," "property damage" or "personal and advertising injury" but only for liability arising out of the negligence of the named insured. The limits of insurance applicable to these additional insureds are the lesser of the policy limits or those limits specified in a contract or agreement. These limits are included within and not in addition to the limits of insurance shown in the Declarations.

d. Lessees of Premises - Any person or organization who leases or rents a part of the premises you own or manage who you are required to add as an

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

additional insured on this policy under a written contract or written agreement, but only with respect to liability arising out of your ownership, maintenance or repair of that part of the premises which is not reserved for the exclusive use or occupancy of such person or organization or any other tenant or lessee.

This provision does not apply:

- (1) To liability arising out of such person's or organization's sole negligence; or
- (2) After the person or organization ceases to lease or rent premises from you.

e. Independent Contractors - Any independent contractor, but only while acting within the scope of a written contract and only with respect to liability arising out of your products or your work.

K. Duties in the Event of Occurrence, Offense, Claim or Suit

1. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2.a. the requirement that you must see to it that we are notified as soon as practicable of an "occurrence" or an offense, applies only when the "occurrence" or offense is known to:

- a. You, if you are an individual;
- b. A partner, if you are a partnership; or
- c. An "executive officer" or insurance manager, if you are a corporation.

2. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. b. the requirement that you must see to it that we receive notice of a claim or "suit" as soon as practicable will not be considered breached unless the breach occurs after such claim or "suit" is known to:

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

- a. You, if you are an individual;
- b. A partner, if you are a partnership; or
- c. An "executive officer" or insurance manager, if you are a corporation.

3. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. is amended to include the following additional provision:

Your rights under this coverage part will not be prejudiced if you fail to give us notice of an "occurrence," offense, claim or "suit" and that failure is solely due to your reasonable belief that the "bodily injury" or "property damage" is not covered under this coverage part. However, you shall give written notice of this "occurrence," offense, claim or "suit" to us as soon as you are aware that this insurance may apply to such "occurrence", offense claim or "suit."

L. Transfer of Rights of Recovery Against Others To Us

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us includes the following clarification:

Therefore, the insured can waive the insurer's rights of recovery prior to the occurrence of a loss, provided the waiver is made in a written contract.

M. Liberalization

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended to include the following additional condition:

Liberalization

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

N. Unintentional Failure To Disclose Hazards

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended to include the following additional condition:

Unintentional Failure To Disclose Hazards

It is agreed that, based on our reliance on your representations as to existing hazards, if you should unintentionally fail to disclose all such hazards prior to the beginning of the policy period of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

O. Bodily Injury - Mental Anguish

SECTION V - DEFINITIONS, Paragraph 3. is amended to read: "Bodily injury":

- a. Means bodily injury, sickness or disease sustained by a person, and includes mental anguish resulting from any of these; and
- b. Except for mental anguish, includes death resulting from the foregoing (Item a. above) at any time.

P. Personal and Advertising Injury - Abuse of Process, Discrimination

If COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE is not otherwise excluded from this Coverage Part, the definition of "personal and advertising injury" is amended as follows:

1. SECTION V - DEFINITIONS, Paragraph 14., Item b. is revised to read:

- b. Malicious prosecution or abuse of process;

2. SECTION V - DEFINITIONS, Paragraph 14. is amended to include the following:

"Personal and advertising injury" also means discrimination based on race,

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

color, religion, sex, age or national origin, except when:

a. Done intentionally by or at the direction of, or with the knowledge or consent of:

(1) Any insured; or

(2) Any executive officer, director, stockholder, partner or member of the insured; or

b. Directly or indirectly related to the employment, former or prospective employment, termination of employment, or application for employment of any person or persons by an insured; or

c. Directly or indirectly related to the sale, rental, lease or sublease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured; or

d. Insurance for such discrimination is prohibited by or held in violation of law, public policy, legislation, court decision or administrative ruling.

The above does not apply to fines or penalties imposed because of discrimination.

All other terms and conditions of this Policy remain unchanged.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

Policy Number: 52 WBC AE1KS5

Endorsement Number:

Effective Date: 09/26/20

Effective hour is the same as stated on the Information Page of the policy.

Named Insured and Address: BYWATER SOLUTIONS, LLC

PO BOX 1346

SANTA BARBARA CA 93102

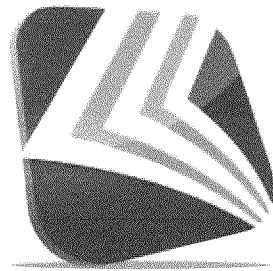
This policy is subject to the following additional Conditions:

- A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B. If this policy is cancelled by the Company non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.



ByWater
SOLUTIONS

**Koha & Aspen Open Source Integrated
Library System
Bid Number: ITB LIB 18-21**



Check It Out

Okaloosa County
Public Library
Cooperative

 *koha*

FREE LIBRARY SYSTEM

<http://bywatersolutions.com>

Headquarters: Portland, OR

East Coast Office: Redding, CT

Phone/Fax: 888-900-8944

sales@bywatersolutions.com

Introduction:

ByWater Solutions was created with the express goal of changing the way libraries interact with their software systems and the vendors who support them. We are a small grass roots company made up of librarians, technology specialists and customer service fanatics who believe that libraries deserve the freedom to own their software and to decide who supports it. We believe that an LSP vendor needs to constantly work to keep their customers happy, and not rely on long contract terms to maintain a strong customer base. Libraries stay with ByWater because they want to, not because they are legally bound. We believe that libraries deserve to have access to a personalized, comprehensive support system at a reasonable cost. Our service solutions are all inclusive and are tailored to take the complexity out of interacting with an LSP vendor. Because the support package covers essentially everything, your staff will never have to worry if a question or problem will carry an extra price to fix. We fully understand that because Koha is an open source product, our partners can pick and choose from many different companies to support their software.

We take the same approach when conducting the initial migration of a new partner to Koha. The entire migration process is tailored to minimize disruption to your staff and patrons and includes the creation of a Koha test system that is used for training and testing leading up to your go live date. Having this system populated with your own data strengthens your staff's understanding of the system and keeps the excitement level up during what is always a stressful time. We understand the importance of a smooth transition to the initial buy-in of both your staff and patrons and take this responsibility very seriously.

ByWater Solutions has reviewed the scope of work as listed in the bid and can confirm that we will provide all of the features and functionality required.

ByWater is a company of librarians for librarians supporting a product that was created by librarians for librarians. We use high levels of communication to ensure that your needs are being met and that we are living up to the reputation we have come to be known for.

ByWater Solutions is thrilled to have the opportunity to reply to the Okaloosa County Public Library Cooperative's request for proposal and we appreciate the opportunity to be involved in your exploration of possible library systems. We hope to have the chance to partner with the Okaloosa County Public Library System and look forward to coming developments. Thank you very much for your consideration.

Very Best Regards,

Nathan Curulla, Owner, CRO

BID RESPONSE
ITB LIB 18-21
KOHA & ASPEN OPEN SOURCE INTERGRATED LIBRARY SYSTEM

| Item No. | Description | Quote |
|----------|--|--------------------|
| 1 | Complete, turn-key installation, data migration and implementation of Koha ILS and Aspen Discovery, as specified herein (lump sum) | \$36,400.00 |
| 2 | Ongoing annual maintenance and support, as specified herein (per year – first year) | \$24,000.00 |
| 3 | Maximum annual percentage increase for ongoing annual maintenance and support (percentage per year) | 2% |

Please use the below chart to confirm that all required items have been submitted with bid package.

| Reference Section | Required Submissions | <input checked="" type="checkbox"/> |
|-------------------|---|-------------------------------------|
| 5.1.2 | Specifications of how data is protected from distribution | Included |
| 5.1.3 | Back-up schedule | Included |
| 5.1.4 | Server network topology diagram for cloud system | Included |
| 5.1.6 | Expected uptime documentation | Included |
| 5.1.8 | Company liability position in case of data breach | Included |

Date Submitted: _____

Submitted By: _____

LIST OF REFERENCES

1. Owner's Name and Address: **Citrus County Library System**
425 West Roosevelt Blvd. Beverly Hills, FL 34465
Contact Person: **Eric Head** Telephone # (**352**) **513-5960**
Email: **eric.head@citruslibraries.org**

2. Owner's Name and Address: **Washington County Public Library**
1444 Jackson Ave. Chipley, FL 32428
Contact Person: **Renaë Rountree** Telephone # (**850**) **638-1314**
Email: **director@wcpfl.com**

3. Owner's Name and Address: **Hernando County Public Library**
238 Howell Ave. Brooksville, FL 34601
Contact Person: **Juan Barreto** Telephone # (**352**) **540-6385**
Email: **jbarreto@hernandocounty.us**

4. Owner's Name and Address: **Three Rivers Regional Library System**
176 SW Community Circle, Suite B Mayo, FL 32066
Contact Person: **Dale Collum** Telephone # (**386**) **294-3858**
Email: **dcollum@3riverslibrary.com**

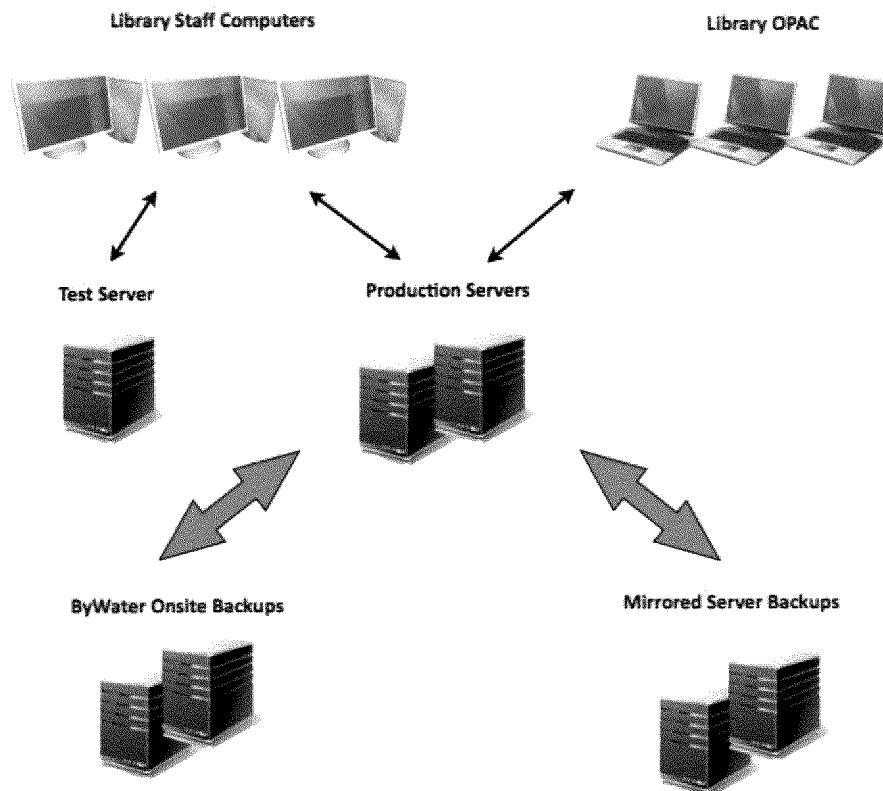
5. Owner's Name and Address: **Panhandle Public Library Cooperative (PPLCS)**
2862 Madison St. Marianna, FL 32448
Contract Person: **Mary Balint** Telephone # (**850**) **482-9296**
Email: **mbalint@pplcs.net**



Server and Backup Plan

ByWater Solutions plans and prepares for the worst by taking the following precautions and installing the following safeguards to protect your data. We perform a daily backup of all system data stored on the cloud. This information is saved both on-site and off-site, and is comprised of the all of the system data, and all other information found on the main server.

In addition to the daily backups listed above, we maintain a copy of your code-base on our servers for the most part located at the Rackspace data center in Dallas/Fort Worth (we also utilize other Rackspace data centers in Canada and Virginia). In the event that the entire cloud server fails, we can have your system replicated on a new server, and up and running within a matter of hours. ByWater Solutions maintains archival backups as follows: daily backups for the last three days, weekly backups for one month (kept off site of Rackspace at BackBlaze Data Center in Sacramento CA), bi- monthly backups for up to one year (also located at BackBlaze).



ByWater servers are cloud-based Virtual Machines. Access to the Koha application by library staff and patrons is entirely web-based, so no additional local security devices or controls are required.



Server Restoration Plan

In the event of a hardware failure, ByWater will try to keep the data loss to as little as possible. If the hardware failure occurs during business hours, any transactions between the time of incident and the last backup will be lost.

Notification of incident affecting the site

If during working hours:

Upon observation or notification of a potentially serious situation (server crash due to a hardware failure) during normal working hours at the Rackspace Data Center, a member of the ByWater team will notify the Systems Administrator of the outage/server failure, and then notify the library of the outage. The System Administrator will conduct a detailed damage assessment of the server and proceed with an appropriate course of action.

If outside of hours:

ByWater staff will notify the Assistant System Administrator or a member of the System's team of the incident as soon as they arrive in the morning (after 8am ET).

Stand Alone Servers - Conduct detailed damage assessment (This may also be performed prior to declaring a disaster)

Within the first 1 hour of the reported outage

- 1) System Administrator will establish if the server is 'dead' and can not be restored due to a hardware failure
- 2) System Administrator will provision a new server (within the same data center if the data center is operational). If the data center is not operational the System Administrator will establish a connection to the next geographic data center within the same provider network.

Within the first 2 hours of the reported outage

- 1) After the a new server has been established and the OS has been installed, the System Administrator will re-assign the IP address to the new server
- 2) Koha will be reinstalled on the new server
- 3) The System Administrator will restore the database from a most recent backup

Within the first 3 hours of the reported outage

- 1) Once the koha server has been restored the System Administrator will rebuild the indexes (depending on the size of the library's database the rebuilding of indexes can take anywhere from 1 – 48 hours)
- 2) Access will be restored and the library notified that their system is back up and functional.



Server Restoration Plan

Cluster Server Failure - Conduct detailed damage assessment (This may also be performed prior to declaring a disaster)

(Cluster server is a group of servers and other resources that act like a single system enabling load balancing and parallel processing and can have multiple libraries sharing the same resources)

Within the first 1 hour of the reported outage

- 1) System Administrator will establish if the cluster server is 'dead' and can not be restored due to a hardware failure
- 2) Once a failure of a cluster has been declared, the System Administrator will notify the Support Leads and the Outreach team who will begin to contact the libraries impacted by the failure and keep them updated on the progress.
- 3) System Administrator will provision a new cluster server (within the same data center if the data center is operational). If the data center is not operational the System Administrator will establish a connection to the next geographic data center within the same provider network.

Within the first 2 hours of the reported outage

- 1) After the a new server has been established, the System Administrator will begin to configure and install individual instances on the server with an OS, the System Administrator will re-assign the IP address to the new instance(s) working through all the libraries impacted on that cluster server.
- 2) As soon as an instance has been created, the Assistant System Administrator will begin to install koha.
- 3) Once koha has been installed, the Assistant System Administrator will notify the Migration and Development team and those teams will restore the database from a most recent backup for that instance.

Within the first 4 hours of the reported outage

- 1) Once the koha instance for that library has been restored the Migration or Development team will rebuild the indexes and notify the Support Leads and Outreach team that the library instance is up and a re-index is occurring.
- 2) The Support Leads and Outreach teams once notified that the re-index is occurring will notify that library with a status update. (depending on the size of the library's database the rebuilding of indexes can take anywhere from 1 – 48 hours)
- 3) Access will be restored and the library notified that their system is back up and functional. (depending on the size of the cluster this can take up to a full week to bring all the libraries back up)



Security Overview

ByWater Solutions takes security very seriously on behalf of our partners. The following outlines some additional information about the security measures we employ.

Direct access (i.e. command line) to the koha server is by SSH (so all traffic to and from the server is encrypted). SSH access is limited to only connections coming from ByWater gateway servers, and is limited to ByWater staff only. All ByWater staff have accounts on the server, and must login as themselves (i.e. no access using a shared account). Remote access by the root account is not allowed. Access to the ByWater gateway servers requires staff to use secure private keys. When passwords need to be generated by the Systems Administrator, they are generally a minimum of 12-14 characters in length, and include letters, numbers and special characters, resulting in a very strong password that is immune to dictionary attacks. Our cloud provider, Rackspace, does NOT have SSH access to our servers, and cannot view MySQL databases or backups.

ByWater provides free encryption using SSL (i.e. HTTPS) for all catalog and staff clients hosted by ByWater.

ByWater employs iptables firewall rules on every server. Access to all ports is disabled by default, and only those ports needed are opened.

All patron data and transactions are stored in koha's MySQL database. Unless the partner specifically requests otherwise, the MySQL database server only listens for connections coming from the localhost, so attempts to directly login to MySQL remotely are not possible. When a partner does request ODBC access to their MySQL database (e.g. for reports not provided by koha), those accounts are read-only and are limited to specific IP addresses. In addition, the koha Community guidelines for programmers specify that all code must abide by set standards to prevent SQL injection attacks (see http://wiki.koha-community.org/wiki/Coding_Guidelines#SQL10:_Placeholders).

Within the koha ILS itself, patrons can only view their own data, and only after logging in to the catalog using username/password. (If desired, this functionality can be turned off.) Library staff with the proper credentials can see all patron records in the Staff Interface. Care should be taken in assigning permissions to staff accounts, and in the choice of passwords for those accounts.

In the case of a security breach ByWater will promptly notify the library of any incident that takes place within 24 hours of discovery. ByWater will take all actions reasonable and necessary to remedy any security breaches, to the best of our ability and the technology allows. ByWater

will take all reasonable action to assess and shut down any exposed vulnerabilities regarding access to data and provide a detailed report outlining the following:

- The nature and cause of the incident
- Any customer data that was compromised as a result of the incident
- Steps taken by ByWater to address the vulnerability, stop its progression and report the offense to the appropriate authorities
- Provide any other data related to the incident contained in the Koha logs that does not further compromise the security of the system
- Identify steps for affected individuals to take based on the nature of the incident

ByWater Solutions regularly reviews and updates its incident response plan on an annual basis.

ByWater and Rackspace will conform to the Minnesota Government Data Practices Act and the breach notification laws of the fifty states

At any time, upon request, our partners have the right to review and comment on the ByWater IRP, and such comments will be taken into consideration to the best of our ability, and within technological constraints..

The following page contains all of the security features employed by our hosting provider, Rackspace:

RACKSPACE® SECURITY

Triple-strength Security Backed by Fanatical Support®

Rackspace Hosting Security is a powerful, fully integrated portfolio of services, managed devices and best practices — all designed to ensure the highest levels of security for customer data.

Our portfolio covers all three critical security areas: physical security; operational security; and system security. Physical security includes locking down and logging all physical access to servers at our data center. Operational security involves creating business processes that follow security best practices to limit access to confidential information and maintain tight security over time. System security involves locking down customer systems from the inside, starting with hardened operating systems and up-to-date patching. Rackspace offers a full range of options to take system security to the next level.

As with all Rackspace offerings, our promise of Fanatical Support stands behind our security solutions. We will do whatever it takes to ensure that all our customers are satisfied.



Rackspace Security supports all three areas of data security, ensuring maximum protection for customer data.

RACKSPACE SECURITY AT A GLANCE

Physical Security

- Data center access limited to Rackspace data center technicians
- Biometric scanning for controlled data center access
- Security camera monitoring at all data center locations
- 24x7 onsite staff provides additional protection against unauthorized entry
- Unmarked facilities to help maintain low profile
- Physical security audited by an independent firm

System Security

- System installation using hardened, patched OS
- System patching configured by Rackspace to provide ongoing protection from exploits
- Dedicated firewall and VPN services to help block unauthorized system access
- Data protection with Rackspace managed backup solutions
- Optional, dedicated intrusion detection devices to provide an additional layer of protection against unauthorized system access
- Distributed Denial of Service (DDoS) mitigation services based on our proprietary Rackspace PreventTier™ system
- Risk assessment and security consultation by Rackspace professional services teams

Operational Security – the Rackspace Infrastructure

- ISO17799-based policies and procedures, regularly reviewed as part of our SAS70 Type II audit process
- All employees trained on documented information security and privacy procedures
- Access to confidential information restricted to authorized personnel only, according to documented processes
- Systems access logged and tracked for auditing purposes
- Secure document-destruction policies for all sensitive information
- Fully documented change-management procedures
- Independently audited disaster recovery and business continuity plans in place for Rackspace headquarters and support services

Operational Security – Customer's Application Environment

- Best practices used in the random generation of initial passwords
- All passwords encrypted during transmission and while in storage at Rackspace
- Secure media handling and destruction procedures for all customer data
- Support-ticket history available for review via the MyRackspace® customer portal
- Help available from Rackspace in configuring system logging to create a system audit trail
- Rackspace Security Services can provide guidance in developing security processes for compliance programs

experience fanatical support®

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FERPA Compliance Statement

Introduction

Bywater Solutions provides support for Koha implementations for public, private, and educational libraries. The purpose of this document is to provide insight as to how we are able to meet FERPA requirements for partners requiring compliance.

I. Upstream provider information

Bywater Solutions uses Rackspace public cloud as our provider. Rackspace has achieved a wide range of compliance requirements. Details of their statements of compliance are available at <https://www.rackspace.com/compliance>

Rackspace implements a “shared responsibility” model that requires their clients assume responsibility at the application and operation level. The rest of this document describes the processes Bywater Solutions implements to achieve FERPA compliance.

II. Data storage

Data storage occurs on two levels in Koha: Database storage and file system storage.

A. Filesystem storage

Storage is allocated from the Rackspace SAN devices, which are RAID 10 devices that encrypt blocks of data. This allows us to be able to have your instance isolated from other occupants of the cloud as well as unreadable from Rackspace.

B. Database storage

Database disk space is provided from similar SAN devices as Filesystem storage. Databases are accessible only from your instance of Koha and our support team through the ‘bwssupport’ account that all members use. Actions from all accounts are logged in the ‘action_logs’ table in Koha so that you are able to see exactly what events accounts took on your data, including the ‘bwssupport’ account. If using local authentication, passwords are encrypted using the ‘bcrypt’ algorithm and only hashes are stored.

III. Data Transmission

All data communications are encrypted using SSL certificates between the server and the browser. These certificates are renewed every 90 days and automatically updated.

IV. Backups

All backups, including file system and databases, are compressed and encrypted with a GPG key. The local backup server is jailed to prevent partners from having access to other partners backups. Offsite backups are transferred via either SCP or posted to an HTTPS endpoint providing full encryption point to point. Backups require both authentication to the service and possession of the GPG key in order to decrypt contents. All keys are stored in an encrypted vault.

V. Conclusion

With the implementation of these procedures and the compliance certifications achieved by Rackspace end to end achievement of FERPA is achieved. If your staff is operating within FERPA definitions, your Koha is as well.

COMPANY DATA

Respondent's Company Name: ByWater Solutions, LLC

Physical Address & Phone #: 1226 SE 52nd Ave, Portland OR 97215

PO Box 1346, Santa Barbara CA 93102

888-900-8944

Contact Person (Typed-Printed): Nathan A Curulla

Phone #: 888-900-8944 xt 2

Cell #: 203-685-7207

Email: nate@bywatersolutions.com

Federal ID or SS #: 26-4608793

Respondent's License #: FL Business Document #: M20000007951

Respondent's DUNS #: 05-651-0380

Fax #: 888-900-8944

Emergency #'s After Hours,
Weekends & Holidays: 888-900-8944

Attachment "B"
Insurance Requirements

GENERAL SERVICES INSURANCE REQUIREMENTS – w/CYBER LIABILITY

CONTRACTORS INSURANCE

1. The Contractor shall not commence any work in connection with this Agreement until he has obtained all required insurance and the certificate of insurance has been approved by the Okaloosa County Risk Manager or designee.
2. All insurance policies shall be with insurers authorized to do business in the State of Florida and having a minimum rating of A, Class X in the Best Key Rating Guide published by A.M. Best & Co. Inc.
3. All insurance shall include the interest of all entities named and their respective officials, employees & volunteers of each and all other interests as may be reasonably required by Okaloosa County. The coverage afforded the Additional Insured under this policy shall be primary insurance. If the Additional Insured have other insurance that is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the company's liability under this policy shall not be reduced by the existence of such other insurance.
4. With the exception of Workers' Compensation policies, the County shall be shown as an Additional Insured with a Waiver of Subrogation on the Certificate of Insurance.
5. The County shall retain the right to reject all insurance policies that do not meet the requirement of this Agreement. Further, the County reserves the right to change these insurance requirements with 60-day notice to the Contractor.
6. The County reserves the right at any time to require the Contractor to provide copies of any insurance policies to document the insurance coverage specified in this Agreement.
7. Any subsidiaries used shall also be required to obtain and maintain the same insurance requirements as are being required herein of the Contractor.
8. Any exclusions or provisions in the insurance maintained by the Contractor that excludes coverage for work contemplated in this agreement shall be deemed unacceptable and shall be considered a breach of contract.

WORKERS' COMPENSATION INSURANCE

1. The Contractor shall secure and maintain during the life of this Agreement Workers' Compensation insurance for all of his employees employed for the project or any site connected with the work, including supervision, administration or management, of this project and in case any work is sublet, with the approval of the County, the Contractor shall require the Subcontractor similarly to provide Workers' Compensation insurance for all employees employed at the site of the project, and such evidence of insurance shall be furnished to the County not less than ten (10) days prior to the commencement of any and all sub-contractual Agreements which have been approved by the County.
2. Contractor must be in compliance with all applicable State and Federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act or Jones Act, if applicable.
3. No class of employee, including the Contractor himself, shall be excluded from the Workers' Compensation insurance coverage. The Workers' Compensation insurance shall also include Employer's Liability coverage.
4. A Waiver of Subrogation is required to be shown on all Workers Compensation Certificates of Insurance.

BUSINESS AUTOMOBILE LIABILITY

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 (One Million Dollars) combined single limit each accident. If the contractor does not own vehicles, the contractor shall maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Policy. Contractor must maintain this insurance coverage throughout the life of this Agreement.

COMMERCIAL GENERAL LIABILITY INSURANCE

1. The Contractor shall carry Commercial General Liability insurance against all claims for Bodily Injury, Property Damage and Personal and Advertising Injury caused by the Contractor.
2. Commercial General Liability coverage shall include the following:
 - 1.) Premises & Operations Liability
 - 2.) Bodily Injury and Property Damage Liability
 - 3.) Independent Contractors Liability
 - 4.) Contractual Liability
 - 5.) Products and Completed Operations Liability

3. Contractor shall agree to keep in continuous force Commercial General Liability coverage for the length of the contract.

CYBER LIABILITY

The Contractor shall carry Cyber Liability insurance coverage for third party liability. Coverage will include ID Theft Monitoring, Credit Monitoring (if necessary) & Notification. Coverage must be afforded for negligent retention of data as well as notification and related costs for actual or alleged breaches of data.

INSURANCE LIMITS OF LIABILITY

The insurance required shall be written for not less than the following, or greater if required by law and shall include Employer's liability with limits as prescribed in this contract:

| | <u>LIMIT</u> |
|---|---|
| 1. Workers' Compensation | |
| 1.) State | Statutory |
| 2.) Employer's Liability | \$500,000 each accident |
| 2. Business Automobile | \$1,000,000 each accident (A combined single limit) |
| 3. Commercial General Liability occurrence | \$1,000,000 each Bodily Injury & Property Damage \$1,000,000 each occurrence Products and completed operations |
| 4. Personal and Advertising Injury | \$1,000,000 each occurrence |
| 5. Cyber Liability | \$1,000,000 per claim |

NOTICE OF CLAIMS OR LITIGATION

The Contractor agrees to report any incident or claim that results from performance of this Agreement. The County representative shall receive written notice in the form of a detailed written report describing the incident or claim within ten (10) days of the Contractor's knowledge. In the event such incident or claim involves injury and/or property damage to a third party, verbal notification shall be given the same day the Contractor becomes aware

of the incident or claim followed by a written detailed report within ten (10) days of verbal notification.

INDEMNIFICATION & HOLD HARMLESS

To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the County, its officers and employees from liabilities, damages, losses, and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness, or wrongful conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of this contract.

CERTIFICATE OF INSURANCE

1. Certificates of insurance indicating the project name and number and evidencing all required coverage must be submitted not less than 10 days prior to the commencement of any of the work. The certificate holder(s) shall be as follows: Okaloosa County, 5479A Old Bethel Road, Crestview, Florida, 32536.
2. The contractor shall provide a Certificate of Insurance to the County with a thirty (30) day prior written notice of cancellation; ten (10) days' prior written notice if cancellation is for nonpayment of premium.
3. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the contractor to provide the proper notice to the County. Such notification shall be in writing by registered mail, return receipt requested, and addressed to the Okaloosa County Purchasing Department at 5479-A Old Bethel Road, Crestview, FL 32536.
4. In the event the contract term goes beyond the expiration date of the insurance policy, the contractor shall provide the County with an updated Certificate of insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The County reserves the right to suspend the contract until this requirement is met.
5. The certificate shall indicate if coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the certificate will show a retroactive date, which should be the same date of the initial contract or prior.
6. All certificates shall be subject to Okaloosa County's approval of adequacy of protection.
7. All deductibles or self-insured retentions (SIRs), whether approved by Okaloosa County or not, shall be the Contractor's full responsibility.
8. In no way will the entities listed as Additional Insured be responsible for, pay for, be damaged by, or limited to coverage required by this schedule due to the existence of a

deductible or SIR.

GENERAL TERMS

Any type of insurance or increase of limits of liability not described above which, the Contractor required for its own protection or on account of statute shall be its own responsibility and at its own expense.

Any exclusions or provisions in the insurance maintained by the contractor that excludes coverage for work contemplated in this contract shall be deemed unacceptable and shall be considered breach of contract.

The carrying of the insurance described shall in no way be interpreted as relieving the Contractor of any responsibility under this contract.

Should the Contractor engage a subcontractor or sub-subcontractor, the same conditions will apply under this Agreement to each subcontractor and sub-subcontractor.

The Contractor hereby waives all rights of subrogation against Okaloosa County and its employees under all the foregoing policies of insurance.

EXCESS/UMBRELLA INSURANCE

The Contractor shall have the right to meet the liability insurance requirements with the purchase of an EXCESS/UMBRELLA insurance policy. In all instances, the combination of primary and EXCESS/UMBRELLA liability coverage must equal or exceed the minimum liability insurance limits stated in this Agreement. An Excess liability policy must be submitted indicating which policy it applies to.

**Attachment “D”
Grant Agreement**

**STATE AID TO LIBRARIES GRANT
AGREEMENT BETWEEN
THE STATE OF FLORIDA, DEPARTMENT OF STATE
AND**

**Okaloosa County Public Library Cooperative for and on behalf of Okaloosa
County Public Library Cooperative**

This Agreement is by and between the State of Florida, Department of State, Division of Library and Information Services, hereinafter referred to as the "Division," and the Okaloosa County Public Library Cooperative for and on behalf of Okaloosa County Public Library Cooperative, hereinafter referred to as the "Grantee."

The Grantee has submitted an application and has met all eligibility requirements and has been awarded a State Aid to Libraries Grant (CSFA 45.030) by the Division in the amount specified on the "Fiscal Year 2017-18 State Aid to Libraries Final Grants" document (which is incorporated as part of this Agreement and entitled Attachment B). The Division has the authority to administer this grant in accordance with Section 257, *Florida Statutes*. By reference, the application and any approved revisions are hereby made a part of this agreement.

In consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. **Grant Purpose.** This grant shall be used exclusively for the "State Aid to Libraries Grant," the public purpose for which these funds were appropriated.

a. The Grantee shall perform the following Scope of Work as identified in Section 257.17, *Florida Statutes*:

Manage or coordinate free library service to the residents of its legal service area. The Grantee shall:

1. Have a single administrative head employed full time by the library's governing body;
2. Provide free library service, including loaning materials available for circulation free of charge and providing reference and information services free of charge;
3. Provide access to materials, information and services for all residents of the area served; and
4. Have at least one library, branch library or member library open 40 hours or more each week.

b. The Grantee agrees to provide the following **Deliverables** related to the Scope of Work for payments to be awarded.

Payment 1, Deliverable/Task 1:

- Payment will be a fixed price in the amount of 100% of the grant award. The Grantee will:
 - Adopt or approve current year library budget;
 - Have at least one library, branch library or member library open 40 hours or more each week (excluding holidays) during the grantee's fiscal year; and
 - Adopt or approve the Annual Plan of Service for the grantee's fiscal year.

2. **Length of Agreement.** This Agreement shall begin the date the agreement is signed by both the Grantee's Governing Body and the Division and continue until all grant funds have been expended, unless terminated in accordance with the provisions of Section 28 of this Agreement.
3. **Expenditure of Grant Funds.** The Grantee cannot obligate or expend any grant funds before the Agreement has been signed by all parties. No costs incurred after termination of the Agreement shall be allowed unless specifically authorized by the Division.
4. **Contract Administration.** The parties are legally bound by the requirements of this agreement. Each party's contract manager, named below, will be responsible for monitoring its performance under this Agreement and will be the official contact for each party. Any notice(s) or other communications in regard to this agreement shall be directed to or delivered to the other party's contract manager by utilizing the information below. Any change in the contact information below should be submitted in writing to the contract manager within 10 days of the change.

For the Division of Library and Information Services:

Marian Deeney, Library Program Administrator
Florida Department of State
R.A. Gray Building
Mail Station # 9D
500 South Bronough Street
Tallahassee, Florida 32399-0250
Phone: 850.245.6620
Facsimile: 850.245.6643
Email: marian.deeney@dos.myflorida.com

For the Grantee:

Vicky Stever, Project Manager
206 North Partin Drive Niceville, Florida 32578
Phone: 850.609.5102
Facsimile: 850.609.5103
Email: vstever@co.okaloosa.fl.us

5. **Grant Payments.** The total grant award shall not exceed the amount specified on the "Fiscal Year 2017-18 State Aid to Libraries Final Grants" document (Attachment B), which shall be paid by the Division in consideration for the Grantee's minimum performance as set forth by the terms and conditions of this Agreement. Payment will be a fixed price in the amount of 100% of the grant award as specified in Attachment B. Payment will be made in accordance with the completion of the Deliverables.
6. **Electronic Payments.** The Grantee can choose to use electronic funds transfer (EFT) to receive grant payments. All grantees wishing to receive their award through EFT must submit a Vendor Direct Deposit Authorization form (incorporated by reference) to the Florida Department of Financial Services. If EFT has already been set up for your organization, you do not need to submit another authorization form unless you have changed bank accounts. To download this form visit myfloridacfo.com/Division/AA/Forms/DFS-A1-26E.pdf. The form also includes tools and information that allow you to check on payments.

7. **Florida Substitute Form W-9.** A completed Substitute Form W-9 is required from any entity that receives a payment from the State of Florida that may be subject to 1099 reporting. The Department of Financial Services (DFS) must have the correct Taxpayer Identification Number (TIN) and other related information in order to report accurate tax information to the Internal Revenue Service (IRS). To register or access a Florida Substitute Form W-9 visit flvendor.myfloridacfo.com/. **A copy of the Grantee's Florida Substitute Form W-9 must be submitted by the Grantee to the Division with the executed Agreement.**
8. **Financial Consequences.** The Department shall apply the following financial consequences for failure to perform the minimum level of services required by this Agreement in accordance with Sections 215.971 and 287.058, *Florida Statutes*:

Should the library fail to provide free library service to the public or to be open for at least 40 hours per week, it will no longer be eligible to receive State Aid to Libraries grant funding, and its funding will be reduced to zero.

Payment will be withheld if Deliverables are not satisfactorily completed.

9. **Credit Line(s) to Acknowledge Grant Funding.** The Division requires public acknowledgement of State Aid to Libraries Grant funding for activities and publications supported by grant funds. Any announcements, information, press releases, publications, brochures, videos, web pages, programs, etc. created as part of a State Aid to Libraries Grant project must include an acknowledgment that State Aid to Libraries Grant funds were used to create them.

Use the following text:

"This project has been funded under the provisions of the State Aid to Libraries Grant program, which is administered by the Florida Department of State's Division of Library and Information Services."

10. **Non-allowable Grant Expenditures.** The Grantee agrees to expend all grant funds received under this agreement solely for the purposes for which they were authorized and appropriated. Expenditures shall be in compliance with the state guidelines for allowable project costs as outlined in the Department of Financial Services' Reference Guide for State Expenditures (incorporated by reference), which are available online at myfloridacfo.com/aadir/reference_guide.

Grant funds may not be used for the purchase or construction of a library building or library quarters

11. **Travel Expenses.** The Subgrantee must pay any travel expenses, from grant or local matching funds, in accordance to the provisions of Section 112.061, *Florida Statutes*
12. **Unobligated and Unearned Funds and Allowable Costs.** In accordance with Section 215.971, *Florida Statutes*, the Grantee shall refund to the State of Florida any balance of unobligated funds which has been advanced or paid to the Grantee. In addition, funds paid in excess of the amount to which the recipient is entitled under the terms and conditions of the agreement must be refunded to the state agency. Further, the recipient may expend funds only for allowable costs resulting from obligations incurred during the specified agreement period. Expenditures of state financial assistance must be in compliance with the laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the *Reference Guide for State Expenditures*.

13. **Repayment.** All refunds or repayments to be made to the Department under this agreement are to be made payable to the order of "Department of State" and mailed directly to the following address: Florida Department of State, Attention: Marian Deeney, Division of Library and Information Services, 500 South Bronough Street, Mail Station #9D, Tallahassee, FL 32399. In accordance with Section 215.34(2), *Florida Statutes*, if a check or other draft is returned to the Department for collection, Recipient shall pay to the Department a service fee of \$15.00 or five percent (5%) of the face amount of the returned check or draft, whichever is greater.
14. **Single Audit Act.** Each grantee, other than a grantee that is a State agency, shall submit to an audit pursuant to Section 215.97, *Florida Statutes*. See Attachment A for additional information regarding this requirement. If a Grantee is not required by law to conduct an audit in accordance with the Florida Single Audit Act because it did not expend at least \$750,000 in state financial assistance, it must submit a Financial Report on its operations pursuant to Section 257.41(3), *Florida Statutes* within nine months of the close of its fiscal year.
15. **Retention of Accounting Records.** Financial records, supporting documents, statistical records and all other records, including electronic storage media pertinent to the Project, shall be retained for a period of five (5) fiscal years after the close out of the grant and release of the audit. If any litigation or audit is initiated or claim made before the expiration of the five-year period, the records shall be retained for five fiscal years after the litigation, audit or claim has been resolved.
16. **Obligation to Provide State Access to Grant Records.** The Grantee must make all grant records of expenditures, copies of reports, books, and related documentation available to the Division or a duly authorized representative of the State of Florida for inspection at reasonable times for the purpose of making audits, examinations, excerpts and transcripts.
17. **Obligation to Provide Public Access to Grant Records.** The Division reserves the right to unilaterally cancel this Agreement in the event that the Grantee refuses public access to all documents or other materials made or received by the Grantee that are subject to the provisions of Chapter 119, *Florida Statutes*, known as the *Florida Public Records Act*. The Grantee must immediately contact the Division's Contract Manager for assistance if it receives a public records request related to this Agreement.
18. **Noncompliance.** Any Grantee that is not following *Florida Statutes* or rules, the terms of the grant agreement, Florida Department of State policies and guidance, local policies, or other applicable law or that has not submitted required reports or satisfied other administrative requirements for other Division of Library and Information Services grants or grants from any other Office of Cultural, Historical, and Information Programs (OCHIP) Division will be in noncompliance status and subject to the OCHIP Grants Compliance Procedure. OCHIP Divisions include the Division of Cultural Affairs, the Division of Historical Resources, and the Division of Library and Information Services. Grant compliance issues must be resolved before a grant award agreement may be executed and before grant payments for any OCHIP grant may be released.

19. **Accounting Requirements.** The Grantee must maintain an accounting system that provides a complete record of the use of all grant funds as follows:
- a) The accounting system must be able to specifically identify and provide audit trails that trace the receipt, maintenance and expenditure of state funds;
 - b) Accounting records must adequately identify the sources and application of funds for all grant activities and must classify and identify grant funds by using the same budget categories that were approved in the grant application. If Grantee's accounting system accumulates data in a different format than the one in the grant application, subsidiary records must document and reconcile the amounts shown in the Grantee's accounting records to those amounts reported to the Division;
 - c) An interest-bearing checking account or accounts in a state or federally chartered institution may be used for revenues and expenses described in the Scope of Work and detailed in the Estimated Project Budget;
 - d) The name of the account(s) must include the grant award number;
 - e) The Grantee's accounting records must have effective control over and accountability for all funds, property and other assets; and
 - f) Accounting records must be supported by source documentation and be in sufficient detail to allow for a proper pre-audit and post-audit (such as invoices, bills and canceled checks).
20. **Availability of State Funds.** The State of Florida's performance and obligation to pay under this Agreement are contingent upon an annual appropriation by the Florida Legislature. In the event that the state funds upon which this Agreement is dependent are withdrawn, this Agreement will be automatically terminated and the Division shall have no further liability to the Grantee beyond those amounts already expended prior to the termination date. Such termination will not affect the responsibility of the Grantee under this Agreement as to those funds previously distributed. In the event of a state revenue shortfall, the total grant may be reduced accordingly.
21. **Lobbying.** The Subgrantee will not use any grant funds for lobbying the state legislature, the state judicial branch or any state agency.
22. **Independent Contractor Status of Grantee.** The Grantee, if not a state agency, agrees that its officers, agents and employees, in performance of this Agreement, shall act in the capacity of independent contractors and not as officers, agents or employees of the state. The Grantee is not entitled to accrue any benefits of state employment, including retirement benefits and any other rights or privileges connected with employment by the State of Florida.
23. **Grantee's Subcontractors.** The Grantee shall be responsible for all work performed and all expenses incurred in connection with this Agreement. The Grantee may subcontract, as necessary, to perform the services and to provide commodities required by this Agreement. The Division shall not be liable to any subcontractor(s) for any expenses or liabilities incurred under the Grantee's subcontract(s), and the Grantee shall be solely liable to its subcontractor(s) for all expenses and liabilities incurred under its subcontract(s). The Grantee must take the necessary steps to ensure that each of its subcontractors will be deemed to be independent contractors and will not be considered or permitted to be agents, servants, joint venturers or partners of the Division.

24. **Liability.** The Division will not assume any liability for the acts, omissions to act or negligence of the Grantee, its agents, servants or employees; nor may the Grantee exclude liability for its own acts, omissions to act or negligence to the Division.

a) The Grantee shall be responsible for claims of any nature, including but not limited to injury, death and property damage arising out of activities related to this Agreement by the Grantee, its agents, servants, employees and subcontractors. The Grantee shall indemnify and hold the Division harmless from any and all claims of any nature and shall investigate all such claims at its own expense. If the Grantee is governed by Section 768.28, *Florida Statutes*, it shall only be obligated in accordance with this Section.

b) Neither the state nor any agency or subdivision of the state waives any defense of sovereign immunity or increases the limits of its liability by entering into this Agreement.

c) The Division shall not be liable for attorney fees, interest, late charges or service fees, or cost of collection related to this Agreement.

d) The Grantee shall be responsible for all work performed and all expenses incurred in connection with the project. The Grantee may subcontract as necessary to perform the services set forth in this Agreement, including entering into subcontracts with vendors for services and commodities, provided that such subcontract has been approved in writing by the Department prior to its execution and provided that it is understood by the Grantee that the Department shall not be liable to the subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.

25. **Strict Compliance with Laws.** The Grantee shall perform all acts required by this Agreement in strict conformity with all applicable laws and regulations of the local, state and federal law. For consequences of noncompliance, see Section 18, Noncompliance.

26. **No Discrimination.** The Grantee may not discriminate against any employee employed under this Agreement or against any applicant for employment because of race, color, religion, gender, national origin, age, handicap, pregnancy or marital status. The Grantee shall insert a similar provision in all of its subcontracts for services under this Agreement.

27. **Breach of Agreement.** The Division will demand the return of grant funds already received, will withhold subsequent payments and/or will terminate this agreement if the Grantee improperly expends and manages grant funds; fails to prepare, preserve or surrender records required by this Agreement; or otherwise violates this Agreement.

28. **Termination of Agreement.** The Division will terminate or end this Agreement if the Grantee fails to fulfill its obligations herein. In such event, the Division will provide the Grantee a notice of its violation by letter and shall give the Grantee fifteen (15) calendar days from the date of receipt to cure its violation. If the violation is not cured within the stated period, the Division will terminate this Agreement. The notice of violation letter shall be delivered to the Grantee's Contract Manager, personally, or mailed to his/her specified address by a method that provides proof of receipt. In the event that the Division terminates this Agreement, the Grantee will be compensated for any work completed in accordance with this Agreement prior to the notification of termination if the Division deems this reasonable under the circumstances. Grant funds previously advanced and not expended on work completed in accordance with this Agreement shall be returned to the Division, with interest, within thirty (30) days after termination of this Agreement. The Division does not waive any of its rights to additional damages if grant funds are returned under this Section.
29. **Preservation of Remedies.** No delay or omission to exercise any right, power or remedy accruing to either party upon breach or violation by either party under this Agreement shall impair any such right, power or remedy of either party; nor shall such delay or omission be construed as a waiver of any such breach or default or any similar breach or default.
30. **Non-Assignment of Agreement.** The Grantee may not assign, sublicense or otherwise transfer its rights, duties or obligations under this Agreement without the prior written consent of the Division, which shall not unreasonably be withheld. The agreement transferee must demonstrate compliance with the requirements of the project. If the Division approves a transfer of the Grantee's obligations, the Grantee shall remain liable for all work performed and all expenses incurred in connection with this Agreement. In the event the Legislature transfers the rights, duties and obligations of the Division to another governmental entity, pursuant to Section 20.06, *Florida Statutes* or otherwise, the rights, duties and obligations under this Agreement shall be transferred to the succeeding governmental agency as if it was the original party to this Agreement.
31. **Required Procurement Procedures for Obtaining Goods and Services.** The Grantee shall provide maximum open competition when procuring goods and services related to the grant-assisted project in accordance with Section 287.057, *Florida Statutes*.
- a) Procurement of Goods and Services Not Exceeding \$35,000. The Grantee must use the applicable procurement method described below:
1. Purchases Up to \$2,500: Procurement of goods and services where individual purchases do not exceed \$2,500 do not require competition and may be conducted at the Grantee's discretion.
 2. Purchases or Contract Amounts Between \$2,500 and \$35,000: Goods and services costing between \$2,500 and \$35,000 require informal competition and may be procured by purchase order, acceptance of vendor proposals or other appropriate procurement document.
- b) Procurement of Goods and Services Exceeding \$35,000. Goods and services costing over \$35,000 may be procured by either Formal Invitation to Bid, Request for Proposals or Invitation to Negotiate and may be procured by purchase order, acceptance of vendor proposals or other appropriate procurement document.

32. **Conflicts of Interest.** The Grantee hereby certifies that it is cognizant of the prohibition of conflicts of interest described in Sections 112.311 through 112.326, *Florida Statutes* and affirms that it will not enter into or maintain a business or other relationship with any employee of the Department of State that would violate those provisions. The Grantee further agrees to seek authorization from the General Counsel for the Department of State prior to entering into any business or other relationship with a Department of State Employee to avoid a potential violation of those statutes.
33. **Binding of Successors.** This Agreement shall bind the successors, assigns and legal representatives of the Grantee and of any legal entity that succeeds to the obligations of the Division of Library and Information Services.
34. **Employment of Unauthorized Aliens.** The employment of unauthorized aliens by the Grantee is considered a violation of Section 274A (a) of the Immigration and Nationality Act. If the Grantee knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement.
35. **Severability.** If any term or provision of the Agreement is found to be illegal and unenforceable, the remainder will remain in full force and effect, and such term or provision shall be deemed stricken.
36. **Americans with Disabilities Act.** All programs and facilities related to this Agreement must meet the standards of Sections 553.501-553.513, *Florida Statutes* and the Americans with Disabilities Act of 1990.
37. **Governing Law.** This Agreement shall be construed, performed and enforced in all respects in accordance with the laws and rules of Florida. Venue or location for any legal action arising under this Agreement will be in Leon County, Florida.
38. **Entire Agreement.** The entire Agreement of the parties consists of the following documents:
 - a) This Agreement
 - b) Florida Single Audit Act Requirements (Attachment A)
 - c) Fiscal Year 2017-18 State Aid to Libraries Final Grants (Attachment B)

The Grantee hereby certifies that they have read this entire Agreement and will comply with all of its requirements.

Date of Agreement: September 20, 2017

Grantee:

By: [Signature]

Chair of Governing Body or

Chief Executive Officer

Nathan D. Boyles, Chair of Governing Body

Typed name and title

Gary J. Stanford

Clerk or Chief Financial Officer

Gary J. Stanford, Finance Officer

Typed name and title

9/6/17

Date

Department of State:

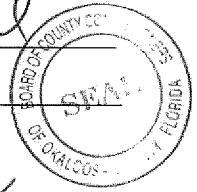
By: [Signature]

Carolyn N. Ketchel

Typed name and title

[Signature]

Witness



ATTACHMENT A

FEDERAL AND STATE OF FLORIDA SINGLE AUDIT ACT REQUIREMENTS

AUDIT REQUIREMENTS

The administration of resources awarded by the Department of State to the Grantee may be subject to audits and/or monitoring by the Department of State as described in this Addendum to the Grant Award Agreement.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200.501 Section 215.97, *Florida Statutes*, monitoring procedures may include, but not be limited to, on-site visits by Department of State staff, limited scope audits as defined by 2 CFR 2 §200.425, and/or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of State. In the event the Department of State determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department of State staff to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED:

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR 200.90, 200.64 & 200.70 as revised.

1. In the event that the recipient expends \$750,000 for fiscal years ending after December 31, 2014 or more during the non-Federal entity's fiscal year in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of 2CFR 200.501. Exhibit 1 to this agreement indicates Federal resources awarded through the Department of State. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR 200.502. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR 200.514, as revised, will meet the requirement of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508.
3. If the recipient expends less than \$750,000 for fiscal years ending after December 31, 2014 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of 2 CFR 200.501 is not required. In the event that the recipient expends less than \$750,000 for fiscal years ending after December 31, 2014 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200.501, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities). (d) Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 Relation to other audit requirements, but records must be available for

review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

The Internet web addresses listed below will assist recipients in locating documents referenced in the text of this agreement and the interpretation of compliance issues.

U.S. Government Printing Office www.ecfr.gov

PART II: STATE FUNDED:

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2) (1), *Florida Statutes*

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending after June 30, 2016), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, *Florida Statutes*; applicable rules of the Executive Office of the Governor and the Chief Financial Officer; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this agreement indicates state financial assistance awarded through the Department of State by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of State, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), *Florida Statutes*. This includes submission of a financial reporting package as defined by Section 215.97(2) (d), *Florida Statutes*, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal years ending after June 30, 2016), an audit conducted in accordance with the provisions of Section 215.97, *Florida Statutes*, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year ending after June 30, 2016 and elects to have an audit conducted in accordance with the provisions of Section 215.97, *Florida Statutes*, the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

The Internet web addresses listed below will assist recipients in locating documents referenced in the text of this agreement and the interpretation of compliance issues.

State of Florida Department Financial Services (Chief Financial Officer)

<http://www.fldfs.com/>

State of Florida Legislature (Statutes, Legislation relating to the Florida Single Audit Act)

<http://www.leg.state.fl.us/>

PART III: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:
 - A. The Department of State at each of the following addresses:

Office of Inspector General
Florida Department of State
R. A. Gray Building, Room 114A
500 South Bronough St.
Tallahassee, FL 32399-0250
 - B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132
 - C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.
2. Copies of financial reporting packages required by PART II of this agreement shall be submitted by or on behalf of the recipient directly to each of the following:
 - A. The Department of State at each of the following addresses:

Office of Inspector General
Florida Department of State
R. A. Gray Building, Room 114A
500 South Bronough St.
Tallahassee, FL 32399-0250
 - B. The Auditor General's Office at the following address:

Auditor General's Office
Room 401, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450
3. Any reports, management letter, or other information required to be submitted to the Department of State pursuant to this agreement shall be submitted timely in accordance with OMB Circular A-133, *Florida Statutes*, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
4. Recipients, when submitting financial reporting packages to the Department of State for audits done

in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

PART IV: RECORD RETENTION

1. The recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of five years from the date the audit report is issued, and shall allow the Department of State, or its designee, CFO, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of State, or its designee, CFO, or Auditor General upon request for a period of at least three years from the date the audit report is issued, unless extended in writing by the Department of State.

EXHIBIT – 1

FEDERAL RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Not Applicable.

COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

Not Applicable.

STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

MATCHING RESOURCES FOR FEDERAL PROGRAMS:

Not Applicable.

SUBJECT TO SECTION 215.97, *Florida Statutes*:

Florida Department of State, State Aid to Libraries; CSFA Number 45.030. Award Amount: See Attachment B.

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

The compliance requirements of this state project may be found in Part Four (State Project Compliance Requirements) of the State Projects Compliance Supplement located at <https://apps.fldfs.com/fsaa/>.

ATTACHMENT B

[Fiscal Year 2017-18 State Aid to Libraries Final Grants to be attached by the Division upon execution of the agreement]