

PERSONAL SERVICES CONTRACT

County of Nevada, California

This Personal Services Contract is made between the COUNTY OF NEVADA (herein "County"), and

Nationwide Retirement Solutions, Inc.

(herein "Contractor"), wherein County desires to retain a person or entity to provide the following services, materials and products generally described as follows:

(§1) **Third-party recordkeeping, administration, education and investment services for the Nevada County 457(b) Deferred Compensation Plan and Nevada County 401(a) Plan.**

SUMMARY OF MATERIAL TERMS

(§2) **Maximum Contract Price:** See Exhibit B
(§3) **Contract Beginning Date:** 1/28/2020 **Contract Termination Date:** 12/31/2025
(§4) **Liquidated Damages:** See Exhibit C, Paragraph 4

INSURANCE POLICIES

Designate all required policies:

		Req'd	Not Req'd
(§6)	Commercial General Liability (\$2,000,000)	<u>X</u>	<u> </u>
(§7)	Automobile Liability (\$ 300,000) Personal Auto	<u> </u>	<u>X</u>
	(\$1,000,000) Business Rated	<u>X</u>	<u> </u>
	(\$1,000,000) Commercial Policy	<u> </u>	<u>X</u>
(§8)	Worker's Compensation	<u>X</u>	<u> </u>
(§9)	Errors and Omissions (\$1,000,000)	<u>X</u>	<u> </u>

LICENSES AND PREVAILING WAGES

(§14) Designate all required licenses:

NOTICE & IDENTIFICATION

(§33) **Contractor:** Nationwide Retirement Solutions, Inc.
Contact Person: Jacob Sours
(619) 708-1320
e-mail: soursj1@nationwide.com
County of Nevada: County of Nevada
Contact Person: Steven Rose
(530) 265-7046
e-mail: steven.rose@co.nevada.ca.us

Contractor is a: (check all that apply)

Corporation: Calif., X Other, LLC, Non-profit
Partnership: Calif., Other, LLP, Limited
Person: Individ., Dba, Ass'n, Other

EDD: Independent Contractor Worksheet Required: Yes No

HIPAA: Schedule of Required Provisions (Exhibit D): Yes No

ATTACHMENTS

Designate all required attachments:

	Req'd	Not Req'd
Exhibit A: Schedule of Services (Provided by Contractor)	<u>X</u>	<u> </u>
Exhibit B: Schedule of Charges and Payments (Paid by County)	<u>X</u>	<u> </u>
Exhibit C: Schedule of Changes (Additions, Deletions & Amendments)	<u>X</u>	<u> </u>
Exhibit D: Schedule of HIPAA Provisions (Protected Health Information)	<u> </u>	<u>X</u>

Terms

Each term of this Contract below specifically incorporates the information set forth in the Summary at page one (1) above as to each respective section (§) therein, as the case may be.

Services

1. **Scope of Services:**

Contractor shall provide all of the services, materials and products (herein "Services") generally described in **Exhibit "A"**, according to a performance schedule, if applicable, as set forth in said exhibit (herein "Performance Schedule"). If requested, Contractor agrees to serve as an expert witness for County in any third-party action or proceeding arising out of this Contract.

Payment

2. **Charges and Payments:**

The charges (herein "Charges") for furnishing the aforesaid Services under this Contract are set forth in **Exhibit "B"**, including, if applicable, hourly rates, unit pricing, and expense, mileage and cost limits. Said Charges shall be presented monthly by invoice and shall be due within thirty (30) days of receipt unless payment is otherwise set forth in said **Exhibit "B"**, and shall remain in effect for the entire term of this Contract, and any extension hereof. In no event will the cost to County for Services to be provided under this Contract, including direct non-salary expenses, exceed the **Maximum Contract Price** set forth at §2, page one (1), above.

Time for Performance

3. **Contract Term:**

This Contract shall commence on the **Contract Beginning Date** set forth at §3, page one (1), above. All Services required to be provided by this Contract shall be completed and ready for acceptance no later than the **Contract Termination Date** set forth at §~~Error! Reference source not found.~~, page one (1), above.

4. **Liquidated Damages:**

County and Contractor agree that damages to County due to delays in timely providing Services in accordance with the aforesaid Performance Schedule and Contract Termination Date are impractical and difficult to ascertain. Therefore, if §4 at page one (1) hereof shall indicate a daily amount as **Liquidated Damages**, County shall have the right to assess said daily sum, not as a penalty, but as and for damages to County due to delays in providing Services not in accordance with the said Performance Schedule, or later than the Contract Termination Date (herein "Delay"). Liquidated Damages shall be offset against amounts owing to Contractor, including retention sums.

To the extent that any Delay is a result of matters or circumstances wholly beyond the control of Contractor, County may excuse said Liquidated Damages; provided however, that County may condition such excuse upon Contractor having given prompt notice to County of such delay immediately by telephone and thereafter by written explanation within a reasonable time. The time for Contractor's performance shall be extended by the period of delay, or such other period as County may elect.

5. **Time of the Essence:**

Time is of the essence with respect to Contractor's performance under this Contract. Delay in meeting the time commitments contemplated herein will result in the assessment of liquidated damages, if indicated at §4 at page one (1), hereof. If Liquidated Damages are not so indicated, damages shall be as otherwise provided by law.

Insurance

6. **Commercial General Liability Insurance:** (County Resolution No. 90674)

If §6 at page one (1) hereof shall indicate a **Commercial General Liability** insurance policy is required, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:

- (i) Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount indicated at said §6;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) day notice for non-payment of premium).

7. Automobile Liability Insurance: (County Resolution No. 90676)

If §7 at page one (1) hereof shall require either a Business Rated or a Commercial Automobile Liability insurance policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

- (i) Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount indicated at said §7;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) day notice for non-payment of premium).

If §7 at page one (1) hereof shall require a Personal Auto policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance for a minimum of three hundred thousand dollars, (\$300,000), in combined single limits, and naming the County as additionally insured.

8. Worker's Compensation: (County Resolution No. 90674)

If §8 at page one (1) hereof shall indicate a **Worker's Compensation** insurance policy is required, Contractor shall maintain said policy as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

Before commencing to utilize employees in providing Services under this Contract, Contractor warrants that it will comply with the provisions of the California Labor Code, requiring Contractor to be insured for worker's compensation liability or to undertake a program of self-insurance therefor.

9. Errors and Omissions:

If §9 at page one (1) hereof shall indicate **Errors and Omissions** insurance is required, Contractor shall maintain Technology Professional Liability Errors and Omissions Insurance in the minimum amount indicated, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Contractor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

- (i) The Policy shall include, or be endorsed to include, **property damage liability coverage** for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the County in the care, custody, or control of the Contractor. If not covered under the Contractor's liability policy, such "property"

coverage of the County may be endorsed onto the Contractor's Cyber Liability Policy as covered property as follows:

- (ii) **Cyber Liability coverage** in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the County that will be in the care, custody, or control of Contractor.
- (iii) The Insurance obligations under this agreement shall be the greater of 1—all the Insurance coverage and limits carried by or available to the Contractor; or 2—the minimum Insurance requirements shown in this agreement. Any insurance proceeds in excess of the specified limits and coverage required, which are applicable to a given loss, shall be available to County. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the indemnity or other obligations of the Contractor under this agreement.

10. Miscellaneous Insurance Provisions: (County Resolution No. 90675)

All policies of insurance required by this Contract shall remain in full force and effect throughout the life of this Contract and shall be payable on a "per occurrence" basis unless County specifically consents to "claims made" coverage. If the County does consent to "claims made" coverage and if Contractor changes insurance carriers during the term of this Contract or any extensions hereof, then Contractor shall carry prior acts coverage.

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by County, its officers, agents and/or employees, shall be excess only and not contributing with insurance required or provided under this agreement.

At all times, Contractor shall keep and maintain in full force and effect throughout the duration of this Contract, policies of insurance required by this Contract which policies shall be issued by companies with a Best's Rating of B+ or higher (B+, B++, A-, A, A+ or A++), or a Best's Financial Performance Rating (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County Risk Manager. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required to forthwith secure alternate policies which comply with the rating required by this paragraph or be in material breach of this Contract.

Failure to provide and maintain the insurance policies (including Best's ratings), endorsements, or certificates of insurance required by this Contract shall constitute a material breach of this agreement (herein "Material Breach"); and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both. (See §13, ¶2, below, as these provisions additionally apply to subcontractors.)

11. Indemnity:

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify, defend and hold harmless the County and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) which result from the negligent act, willful misconduct, or error or omission of Contractor, except such loss or damage which was caused by the sole negligence or willful misconduct of County or its officers, officials, employees, agents and volunteers.

Personal Services

12. Contractor as Independent:

In providing services herein, Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as agents or employees of County.

13. Assignment and Subcontracting:

Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Contract are personal to the Contractor and may not be transferred, subcontracted, or assigned without the prior written consent of County. Contractor shall not substitute nor replace any personnel for those specifically named herein or in its proposal without the prior written consent of County.

Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at §§6, 7, 8, 9 and 10, to the extent such insurance provisions are required of Contractor under this Contract. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee shall constitute a Material Breach of this agreement, and,

in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

14. Licensing and Permits:

Contractor warrants (i) Contractor is qualified and competent to provide all Services under this contract; (ii) Contractor and all employees of Contractor hold all necessary and appropriate licenses therefor, including those licenses set forth at §14, page one (1) hereof; and, (iii) Contractor shall obtain, and remain in compliance with, all permits necessary and appropriate to provide said Services. Contractor shall cause said licenses and permits to be maintained throughout the life of this Contract. Failure to do so shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

Public Contracts

15. Prevailing Wage and Apprentices:

To the extent made applicable by law, performance of this Contract shall be in conformity with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, commencing with Section 1720 relating to prevailing wages which must be paid to workers employed on a public work as defined in Labor Code §§1720, et seq.; and shall be in conformity with Title 8 of the California Code of Regulations §§200 et seq., relating to apprenticeship. Where applicable:

(i) Contractor shall comply with the provisions thereof at the commencement of Services to be provided herein, and thereafter during the term of this Contract. A breach of the requirements of this section shall be deemed a material breach of this contract. Applicable prevailing wage determinations are available on the California Department of Industrial Relations website at <http://www.dir.ca.gov/OPRL/PWD>.

(ii) Contractor and all subcontractors must comply with the requirements of Labor Code Section 1771.1(a) pertaining to registration of contractors pursuant to Section 1725.5. Registration and all related requirements of those Sections must be maintained throughout the performance of the Contract.

(iii) Contracts to which these prevailing wage requirements apply are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Each contractor and subcontractor must furnish certified payroll records to the Labor Commissioner at least monthly.

(iv) The County is required to provide notice to the Department of Industrial Relations of any public work contract subject to prevailing wages within five (5) days of award.

16. Accessibility (County Resolution No. 00190):

It is the policy of the County of Nevada that all County services, programs, meetings, activities and facilities shall be accessible to all persons, and shall be in compliance with the provisions of the Americans With Disabilities Act and Title 24, California Code of Regulations. To the extent this Contract shall call for Contractor to provide County contracted services directly to the public, Contractor shall certify that said direct Services are and shall be accessible to all persons.

17. Nondiscriminatory Employment:

In providing Services hereunder, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.

18. Prior Nevada County Employment (County Resolution No. 03-353):

Effective July 22, 2003, it is the policy of the County of Nevada that former members of the Board of Supervisors, a former CEO, or a former Purchasing Agent, for a period of twelve (12) months following the last day of employment, shall not enter into any relationship wherein that former employee or former Board member receives direct remuneration from a legal entity that, during the last twelve (12) months of said employment or Board member's service, entered into a contract with, or received a grant from the County of Nevada. Provided however, that this prohibition shall not apply to any employee that did not personally approve a contract with or grant to said legal entity during the last twelve (12) months of said employment, and shall not apply when the Board of Supervisors did not approve a contact with or grant to said legal entity during the last twelve (12) months of said Board member's service.

A violation of this policy shall subject Contractor to all of the remedies enumerated in said resolution and as otherwise provided in law, which remedies shall include but not be limited to injunctive relief, cancellation and voiding of this contract by County, a return of grant money, a cause of action for breach of contract, and entitlement to costs and reasonable attorney fees in any action based upon a breach of contract under this provision.

19. Cost Disclosure:

In accordance with Government Code Section 7550, should a written report be prepared under or required by the provisions of this Contract, Contractor agrees to state in a separate section of said report the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of said report

Default and Termination

20. Termination:

A Material Breach of this Contract pursuant to the terms hereof or otherwise, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to immediately suspend payments hereunder, or terminate this contract, or both, **without notice**.

If Contractor fails to timely provide in any manner the services materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving **five (5) days written notice** to Contractor.

Either party may terminate this Contract for any reason, or without cause, by giving **thirty (30) calendar days written notice** to the other, which notice shall be sent by registered mail in conformity with the notice provisions, below. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Contractor shall be excused for failure to perform services herein if such performance is prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

County, upon giving **sixty (60) calendar days written notice** to Contractor, shall have the right to terminate its obligations under this Contract at the end of any fiscal year if the County or the State of California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

Miscellaneous

21. Books of Record and Audit Provision:

Contractor shall maintain complete records relating to this Contract for a period of five (5) years from the completion of Services hereunder. Said records shall include but not be limited to bids and all supporting documents, original entry books, canceled checks, receipts, invoices, payroll records including subsistence, travel and field expenses, together with a general ledger itemizing all debits and credits

Contractor shall permit County to audit said records as well as such related records of any business entity controlled by Contractor. Said audit may be conducted on Contractor's premises or at a location designated by County, upon fifteen (15) day notice. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charged of five percent (5%) or more of the Maximum Contract Price.

22. Intellectual Property:

All original photographs, diagrams, plans, documents, information, reports, computer code and all recordable media together with all copyright interests thereto (herein "Intellectual Property"), which concern or relate to this Contract and which have been prepared by, for or submitted to Contractor, shall be the property of County, and upon fifteen (15) days demand therefor, shall be promptly delivered to County without exception. Provided however, for personal purposes only and not for commercial, economic or any other purpose, Contractor may retain a copy of Contractor's work product hereunder.

23. Entire Agreement:

This Contract represents the entire agreement of the parties, and no representations have been made or relied upon except as set forth herein. This Contract may be amended or modified only by written, fully executed agreement of the parties.

24. Jurisdiction and Venue:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

25. Compliance with Applicable Laws:

The Contractor shall comply with any and all federal, state and local laws, codes, ordinances, rules and regulations which relate to, concern or affect the Services to be provided by this Contract.

26. Notices:

This Contract shall be managed and administered on County's behalf by the department and the person set forth at §26, page one (1) of this Contract, and all invoices shall be submitted to and approved by this Department. In addition to personal service, all notices may be given to County and to Contractor by first class mail addressed as set forth at said §26. Said notices shall be deemed received the fifth (5th) day following the date of mailing or the earlier date of personal service, as the case may be.

27. Authority:

All individuals executing this Contract on behalf of Contractor represent and warrant that they are authorized to execute and deliver this Contract on behalf of Contractor.

IN WITNESS WHEREOF, the parties have executed this Contract effective on the Beginning Date, above.

CONTRACTOR:

COUNTY OF NEVADA:

Name:

Honorable Heidi Hall

Title:

Chair, Board of Supervisors

Dated: _____

Dated: _____

Attest: _____

Julie Patterson Hunter
Clerk of the Board

EXHIBIT "A"

SCHEDULE OF SERVICES

(Provided By Contractor)

1. **Designation:**

County designates Contractor as County's non-discretionary provider of recordkeeping and administrative services for the Plans ("Administration Services") for the Nevada County 457(b) Deferred Compensation Plan and Nevada County 401(a) Plan ("Plan" or "Plans") and in accordance with the terms of this Contract.

2. **Appointments and Responsibilities:**

County: County is responsible for maintaining the Plans and for maintaining the tax-qualified status of the Plans. County represents and warrants that the Plans have been properly adopted and established in accordance with any applicable state or local laws or regulations governing the County's ability to sponsor the Plans. County warrants that the Plans were established, and will be maintained by County, in accordance with the provisions of Section 457(b) and 401(a) of the Internal Revenue Code of 1986 as amended (the "Code"). County further acknowledges and agrees the County is an eligible governmental employer as defined by Section 457(e)(1)(A) and 414(d) of the Code.

Any duties or services not specifically described herein as being provided by Contractor are the responsibility of the County, unless specifically delegated to Contractor in the Plan Document.

Contractor: Contractor will serve County, in a non-fiduciary capacity, as the provider of Administrative Services for the County with respect to the Plans. Contractor does not exercise any discretionary control or authority over the Plans or the assets of the Plans, and this Agreement does not require Contractor to do so. Contractor agrees to perform all Administrative Services for the County with respect to the Plans as described in this Agreement. This Agreement does not require, nor shall this Agreement be construed as requiring, Contractor to provide investment, legal, or tax advice to the County or to the participants of the Plans.

3. **Investment Options:**

Contractor agrees to accept contributions to the Plans for investment in the investment options selected for the Plans by the Contractor or other responsible plan fiduciary in its sole discretion and agreed to by Contractor.

County agrees to accept the terms and conditions of the annuity contracts, mutual funds, and any other investment products selected for the Plan after being provided with a copy of the same and given a reasonable opportunity to review and approve.

4. **Administration Services:**

A. Plan Documents:

1. Contractor will provide the County with Adoption Agreements and Plan Documents which has been designed to comply with the requirements of Section 457(b) and 401(a) of the Code. The Adoption Agreements and Plan Documents will be prepared by Contractor at the direction of the County and with the understanding that it will be reviewed by the County and the County's tax and legal advisors prior to execution. Contractor does not provide tax or legal advice. County agrees to provide Contractor with executed copies of the Adoption Agreements and any other related Plan documentation as requested by Contractor.

2. When directed by the County, or at such other times as it may determine, Contractor will prepare and provide draft Plan amendments for review and approval by the County. Such Plan amendments may include changes required to keep the Plan Document in compliance with the Code as the result of changes in federal law that affect the Plans. The County will remain responsible for the accuracy and timely adoption of any Plan amendments. The County is responsible for properly executing and retaining such documents and agrees to provide Contractor with executed copies of same.

3. Contractor will prepare the Adoption Agreements for review by the County utilizing information and representations provided by the County, which information and representations may include Plan provisions found in the prior Plan Documents not prepared by Contractor.

County acknowledges that:

- a. The accuracy and completeness of the information and representations provided by County in the Adoption Agreements prepared by Contractor, which determine the Plans' provisions used by Contractor to administer the Plans, are the sole responsibility of the County.
- b. Contractor does not review prior Plan Documents to ensure that all required amendments or restatements were properly and timely made, or that any of the prior Plan provisions are in compliance with applicable laws and regulations. The restatement of the County's Plans onto Contractor's specimen Plan Document does not retroactively correct any Plan documentary or operational errors that may have occurred prior to the date Administrative Services are provided by Contractor.

B. Participant Enrollment and Communication/Education Services:

Contractor agrees to establish an account for each Plan participant, beneficiary and alternate payee (for purposes of this Agreement only, hereinafter referred to as "Plan participants"). For each such account, Contractor will record and maintain the following information, provided Contractor is provided with the same:

1. name;
2. Social Security number;
3. mailing address;
4. date of birth;
5. current investment allocation direction;
6. contributions allocated and invested;
7. investment transfers;
8. benefit payments;
9. current account balance;
10. transaction history since funding under the Agreement;
11. contributions since funding under the Agreement;
12. email address;
13. beneficiary designation;
14. benefit tax withholding information; and
15. such other information as agreed upon by the County and Contractor.

Contractor will post and credit the amounts transmitted by the County to the accounts of Plan participants in accordance with the latest instructions from participants or the County (as applicable) on file with Contractor, which instructions can include direction via electronic sources such as the website or the interactive voice response system.

Contractor agrees to process the enrollment of employees eligible to participate in the Plans as determined by the County. Contractor also agrees to conduct enrollment meetings with County's employees in such number and manner as determined by the parties. The County, at its discretion, will allow and facilitate the periodic distribution of materials to Plan participants at the time and in the manner determined by the County; provided however, that all reasonable expenses associated with such distribution shall be paid by Contractor. The County further agrees to allow and facilitate the periodic distribution to its employees of materials prepared by Contractor regarding products and services offered by Contractor, or its affiliates, which Contractor reasonably believes would be beneficial to such Plan participants at the County's discretion.

C. Plan Contributions

The County agrees to send all Plan contributions to Contractor on a timely basis that is in compliance with all applicable legal requirements. Contractor agrees to post funds received as contributions to the Plans in accordance with the separate funding agreements between County and Contractor or any of its affiliates when received from the County in good order by Contractor. The term "in good order," as used in this Agreement, means the receipt of required information by Contractor, in a form deemed reasonably acceptable to Contractor, with respect to the processing of a request or the completion of a task by Contractor that reasonably requires information from a third-party. More specifically, Plan contributions and contribution allocation information must meet all of the following requirements in order to be deemed to be in good order:

- 1) All records must include the correct and complete participant name, Social Security number, and the amount to be credited to the participant's account(s);
- 2) The source of funds must be identified (e.g., 457(b) salary reduction, employer contribution);
- 3) The Plan name and Plan number must be clearly identified;
- 4) Both the participant allocation detail and the total contribution amount must be received, and these two totals must match each other; and
- 5) All participants making or receiving a contribution must have an active account in the Plan.

Funds may be sent by wire transfer, through an automated clearinghouse or by check in accordance with written instructions provided by Contractor. Failure to follow the written instructions provided by Contractor may result in delay of posting to participant accounts. All contribution allocation information with respect to participant accounts will be provided to Contractor in a mutually agreed upon format.

If Contractor makes a determination that the contribution or allocation detail is not in good order, Contractor shall notify the County of such determination upon discovery. After such notification, the parties will continue to try to resolve the not in good order status, but if resolution is not achieved, Contractor shall return the funds to the County within thirty (30) Business Days. Contractor will not be liable for any delay in posting if the County fails to send the funds representing contribution amounts or contribution allocation information in accordance with Contractor's instructions to the central processing site designated by Contractor, or for any delay in posting that results from the receipt of funds and/or contribution allocation that Contractor determines to be not in good order.

As used in this Agreement, the term "Business Day" means each Monday through Friday during the hours the New York Stock Exchange is open for business. No transactions can be completed on any Business Day after such time as the New York Stock Exchange closes. The County shall, upon request, timely provide all information required by Contractor to perform its services to the Plans as described in this Agreement. The County shall be responsible for ensuring that the provided information is accurate and complete. Contractor shall be entitled to rely exclusively on the information provided by the County or the County's advisors, whether oral or in writing, and will have no responsibility to independently verify the accuracy of that information. The County acknowledges that inaccurate and/or late information could result in tax penalties and/or participant/beneficiary legal claims. Contractor assumes no responsibility for, and shall not have any liability for, any consequences that result from Contractor's inability to complete its work in the ordinary course of its business due to the failure of the County to provide accurate and timely information to Contractor.

The County is responsible for providing updated information regarding Plan participants requested by Contractor that the County and Contractor mutually agree is necessary for Contractor to perform the Administrative Services to the County under this Agreement.

D. Services with Respect To Participant Plan Accounts

1. Contractor will provide a secure Internet site that complies with applicable data protection and privacy laws. Using this site, participants may: (i) obtain information regarding their accounts, and (ii) conduct certain routine transactions with respect to their accounts. The County authorizes Contractor to honor instructions regarding such transactions that may be submitted by a participant using the secure Internet site. Contractor shall implement reasonable physical and technical safeguards to protect personal information made available on its Internet site. Such safeguards shall be no less rigorous than generally accepted industry practices.

2. Participants will have the unlimited ability to increase in the 457(b) Plan (within the limitations of Section 457(b) of the Code) or decrease contributions to the 457(b) Plan. All requests to increase or decrease contribution amounts will be processed by Contractor within five (5) Business Days of receipt of the request, but cannot be effective until the later of (1) the first of the calendar month following the month in which the contribution change was requested, and (2) the date the contribution change can be processed by the County given County's payroll processing schedule.

3. Participants will have the ability to exchange existing account balances, in full or in part, and to redirect future contributions from one investment option offered by the Plans to another on any Business Day, subject to Contractor's policies and any applicable restrictions or penalties applied by the investment options.

4. Participants will receive consolidated quarterly statements detailing their account activity and account balances for the Plans. Participants shall be informed that they must notify Contractor of any errors within forty-five (45) days of receipt of their statements or confirmation of their investments. Contractor will not be liable for any errors not reported within this time frame. However, some situations permit an extended acceptance period.

5. Contractor agrees to deliver account statements (by U.S. mail or electronically) to participants within thirty (30) calendar days after the end of each calendar quarter. This timeframe is contingent upon Contractor receiving fund returns from the mutual fund providers within four (4) Business Days after the end of each quarter.

6. Contractor agrees to provide reports to the County within thirty (30) calendar days following the end of each calendar year quarterly reporting period (March 31, June 30, September 30, and December 31) summarizing the following:

a. All participant activity that transpired during the reporting period;

b. Total contributions allocated to each investment or insurance option under the Plans; and

c. Total withdrawals by Plan participant. This report shall include the amount, type and date of withdrawal.

7. During the term of this Agreement, Contractor agrees to maintain, the records necessary to produce any required reports. County agrees that all related paper and electronic records shall remain the property of Contractor.

E. Distributions

1. Contractor shall make all distributions as directed by a Plan participant or the County, in accordance with the Plan Document. All distributions will be made pro-rata from each of the participant's investment options and money sources unless directed otherwise by the Plan participant. Plan participants are responsible for selecting a form of payment from those available under the terms of the Plans and making all other elections regarding available distribution options, such as rollover elections.

2. Contractor shall furnish each participant, who has received a benefit payment, tax reporting forms in the manner and time prescribed by federal and state law. County shall be responsible for all tax reporting requirements for periods prior to the effective date of this Agreement, or after the termination date of this Agreement, unless otherwise agreed to in writing by the parties to this Agreement.

3. To the extent required by federal and state law, Contractor will calculate and withhold from each benefit payment federal and state income taxes. Contractor will report such withholding to the federal and state governments as required by applicable law. County shall be responsible for all tax reporting requirements for periods prior to the effective date of this Agreement, or after the termination date of this Agreement, unless otherwise agreed to in writing by the parties to this Agreement.

4. Contractor will provide notice and a distribution form to each Plan participant attaining age 70½ or older in the current calendar year. The notice will inform the Plan participant that required minimum distributions must begin no later than the April 1 of the calendar year following the later of attainment of age 70½ or retirement. All required minimum distributions will be made in accordance with the Plan Document.

5. Contractor shall administer Plan participant and beneficiary unclaimed property funds, including but not limited to uncashed distribution checks and death claims, in accordance with Contractor's standard unclaimed property procedures.

F. Qualified Domestic Relations Orders (QDROs)

If the Plans accept Qualified Domestic Relations Orders ("QDROs"), the County directs Contractor to process QDROs in accordance with Contractor's standard QDRO procedures, and the County hereby approves the use of such standard QDRO procedures.

G. Unforeseeable Emergency Withdrawals

If the 457(b) Plan offers unforeseeable emergency withdrawals, the County instructs Contractor to process all unforeseeable emergency withdrawal requests received in good order, and in a manner satisfactory to Contractor. Withdrawals will only be permitted due to an unforeseeable emergency resulting in a severe financial hardship to the Plan participant or beneficiary that cannot be alleviated by any other means available to the Plan participant, in accordance with Contractor's standard unforeseeable emergency procedures. County hereby approves the use of such standard unforeseeable emergency procedures to make these determinations.

5. Plan Participant Services

A. Website

Contractor will create and maintain a website for and on behalf of the County for the use of its Plan participants. Plan participants may access the website via the internet at www.nrsforu.com to review and make changes to their accounts. The website is the exclusive property of Contractor. The website is available twenty-four (24) hours a day, except for routine maintenance of the system.

B. Interactive Voice Response System

Contractor will provide an interactive voice response (IVR) toll free telephone number, which shall be operative twenty-four (24) hours per day, seven (7) days per week, except for routine maintenance of the system. Plan participants shall be able to conduct routine plan transactions and obtain account balance information through the IVR. The County authorizes Contractor to honor Plan participant instructions, which may be submitted using the toll-free number, either through the IVR or a live representative.

C. Customer Service

Contractor's customer service representatives will be available toll-free to answer participant questions and process applicable transactions between the hours of 8:00 a.m. and 11:00 p.m. Eastern Time each Monday through Friday, and between the hours of 9:00 a.m. and

6:00 p.m. Eastern Time each Saturday, with the exception of certain holidays as dictated by the New York Stock Exchange holiday trading schedule.

EXHIBIT "B"

SCHEDULE OF CHARGES AND PAYMENTS

Payment schedules shall set forth specific milestones which relate to the schedule of services to be provided, as set forth in **Exhibit "A"**, above.

- A. As compensation for the Administrative Services provided by Contractor pursuant to this Agreement, County and Contractor agree that Contractor shall be entitled to an annualized compensation requirement of 0.045% (4.5 basis points) of the Plans' account value held by Contractor ("Compensation Requirement") per year to be calculated and collected as an explicit asset fee according to Contractor's standard business practices. In calculating the 4.5 basis points, the total Plan assets will include Plan balances held in the Self-Directed Brokerage Account ("SDBA") and as outstanding participant loan balances. The explicit asset management charge of 4.5 basis points will be taken against participant loans by applying an additional finance charge to the loan interest rate.
- B. The County acknowledges that Contractor and its affiliates receive payments in connection with the sale and servicing of investments allocated to Plan participant Contractor acknowledge and agree that Contractor may receive revenue associated with annuity contracts, revenue from mutual fund providers, as well as fees associated with specific services or products. The Investment Option Payments include mutual fund service fee payments, which are described in detail at www.nrsforu.com, and other payments received from investment option providers. Contractor agrees to credit all Investment Option Payments to Plan participant accounts on a quarterly basis. The Investment Option Payments shall be credited to Plan participant accounts on a pro-rata basis based on each Plan participant's total assets held in all Plan investment options that generate the Investment Option Payments.
- C. Contractor will provide the County a quarterly report showing total participant account balances and the corresponding fee calculation within thirty (30) Business Days after the end of each quarter.
- D. The County acknowledges that it has received all information about compensation paid to Contractor as the County has reasonably requested.
- E. To the extent offered under the Plans, in addition to the above described fees, Contractor shall also receive fees with respect to a Plan participant's use of participant loan administration, the SDBA, and Contractor's managed account service ("ProAccount") as follows:
 - a. Loans – If requested by the County and permitted under the terms of the Plans, Contractor will assist the County in processing Plan participant loan requests pursuant to Plan participant loan administrative procedures approved by the County and Contractor. All Plan participant loan fees are governed by Contractor's Plan Loan Procedures document, a copy of which has been provided to the County.
 - b. Self-Directed Brokerage Account – The Plan offers an SDBA investment option for qualifying participants in both the 401(a) Plan and the 457(b) Plan. Initial and annual administrative fees may be charged as outlined in the separate fee agreement for the SDBA that will be provided to each participant by Contractor. At the time of the County's Request for Proposal, those fees were as follows:

Fee	Amount
Initiation:	\$50
Annual Administrative:	\$50

Fees are in addition to charges assessed by Charles Schwab.

- c. Managed account services (Contractor's ProAccount) – Managed account services are offered by Nationwide Investment Advisors ("NIA"), an affiliate of Contractor, and the County must execute a separate agreement with NIA if the County wants to add ProAccount to the Plans. Only Plan participants who choose to utilize Contractor's ProAccount managed account service are assessed fees. Such fees are authorized in a separate ProAccount agreement between the Plan participant and NIA and are assessed pursuant to the terms and conditions of such agreement.

Fees related to Plan participant loans, the SDBA and Contractor ProAccount are in addition to the Compensation Requirement for Administrative Services as provided in this Agreement.

- F. County may request Contractor and/or its affiliates to provide additional services not described in this Agreement by making such a request in writing, which Contractor may decide to perform for compensation to be negotiated by the parties prior to the commencement of the additional services.

EXHIBIT "C"

SCHEDULE OF CHANGES

(Amendments and Additions to Contract)

Page 2, Paragraph 4 (“Liquidated Damages”) is hereby amended and replaced in its entirety as follows:

4. Liquidated Damages:

County and Contractor agree that damages to County due to delays in timely providing Services in accordance with the aforesaid Performance Schedule and Contract Termination Date are impractical and difficult to ascertain. Therefore, County shall have the right to assess the sums set forth in the table below, not as a penalty, but as and for damages to County due to delays in providing Services not in accordance with the said Performance Schedule, or later than the Contract Termination Date (herein “Delay”). Liquidated Damages shall be offset against amounts owing to Contractor, including retention sums.

	Benchmark	Amount at Risk
Phone		
Plan sponsor services response time:	one Business Day	\$125 quarterly
Participant services response time:	80% within 20 seconds	\$125 quarterly
Return all calls to plan sponsor within:	one Business Day	\$125 quarterly
Return all calls to participants within:	one Business Day	\$125 quarterly
Statements		
Participant statement mail time:	Within 15 Business Days of the end of the period	\$125 quarterly
Sponsor plan statement mail time:	Within 30 Business Days of the end of the reporting period	\$125 quarterly
Participant online statement posting:	Within 15 Business Days of the end of the reporting period	\$125 quarterly
Sponsor online statement posting:	Within 30 Calendar days of the end of the reporting period	\$125 quarterly
Participant Services		
Number of on-site individual meetings:	150 annually	\$125 quarterly
Number of on-site group meetings:	12 annually	\$125 quarterly
Financial planning services:	Quarterly targeted email communications	\$0
Plan participation rate increases:	Nationwide will discuss expectations with the Plan	\$0
Deferral rate increases:	Nationwide will discuss expectations with the Plan	\$0
Transition	Nationwide will ensure a smooth consolidation with a \$10,000 performance guarantee. We will work with the Plan during the discovery phase to finalize mutually agreed upon targets according to your personalized needs.	
Timeline:	16 weeks	\$5,000

	Benchmark	Amount at Risk
Deliverables:	- One-day blackout period - Funds applied correctly - Employees educated on enhancements and consolidation	\$5,000
On-site meetings:	4 days	\$5,000
Administration		
Contribution posting:	Same business day if received in good order by 1 p.m. PT	\$0
Withdrawals processed:	Within 3 Business Days	\$0
Emergency withdrawals processed:	Within 3 Business Days	\$0
Rollovers/transfers out:	Within 3 Business Days of receipt in good order	\$0
Loan processing (if applicable):	Within 3 Business Days of receipt in good order	\$0
County Services		
Report delivery:	Within 30 Calendar days of the end of the reporting period	\$0
Training:	We would like to discuss requirements and expectations with the Plans	\$0
Overall Satisfaction		
Draft and distribute survey:	Our County survey is conducted periodically.	\$0
Satisfaction survey score:	Survey results are compiled and reported back to the Plans on a mutually agreeable frequency.	\$0

Page 4, paragraph 11 (“Indemnity”) is hereby amended and replaced in its entirety as follows:

11. Indemnity:

Nationwide agrees to indemnify, defend and hold harmless County, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against County or incurred by County arising out of or in connection with any claim, action, or suit brought or asserted against County alleging or involving Nationwide’s non-performance of the provisions of the Agreement under Nationwide’s exclusive control, or negligence or willful misconduct in the performance of its services, duties and obligations under the Agreement. In addition, Nationwide represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that Nationwide will not assert a position contrary to such representation in any judicial or administrative proceeding.

To the extent not prohibited by state law, County agrees to indemnify, defend and hold harmless Nationwide, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against Nationwide or incurred by Nationwide arising out of or in connection with any claim, action, or suit brought or asserted against Nationwide alleging or involving County’s non-performance of the provisions of the Agreement under County’s exclusive control, or negligence or willful misconduct in the performance of its duties and obligations under this Agreement. In addition, County represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that County will not assert a position contrary to such representation in any judicial or administrative proceeding.

Page 6, Paragraph 20 (“Termination”) is hereby amended and replaced in its entirety as follows:

20. Termination:

- a. Either the County or Nationwide may terminate the Agreement for any reason upon providing 150 calendar days written notice to the other party.
- b. In the event either party is deemed to be in material breach of this Agreement, the non-breaching party shall give the breaching party written notice, specifying the particulars of the breach. If such breach is not cured within thirty (30) calendar days from the date in which notice of breach is given, the non-breaching party may terminate the Agreement upon 120 days written notice to the breaching party, as well as seek any and all available legal remedies.
- c. Provision of such written notice of termination by County to Nationwide does not relieve the County of any termination requirements that may be associated with specific investment options.
- d. County further acknowledges and agrees that the Plan is responsible for any investment product liquidation fees, if applicable, and that neither Nationwide nor any of its affiliates assumes liability for any such fees.
- e. Upon the effective date of termination of this Agreement the following shall occur:
 - i. Nationwide will no longer accept contributions to the Plan except by agreement of the parties.
 - ii. Nationwide will:
 1. Provide County, or such other entity as the County may designate in writing, with a copy of all participant records in a commercially-recognized electronic format and within a time frame as mutually agreed upon between Nationwide and County, but not later than 30 calendar days after termination of the Agreement.
 2. Transfer any periodic distribution amounts and schedules, continuing loan repayments, or other ongoing participant transactional activity to the County, or such other entity as the County may designate in writing, in a commercially-recognized electronic format in accordance with the time frame agreed to by the parties for the delivery of participant records, but not later than 30 calendar days after termination of the Agreement..
 3. Transfer all Plan assets under its control to the County or to such other entity as the County may designate in writing in accordance with the funding arrangement terms. Nationwide agrees to provide a final accounting of all Plan assets for which Nationwide provides recordkeeping.
- f. If the Plan is not funded within 180 calendar days of the date this Agreement is signed by the parties or the Effective Date of the Agreement, if later, Nationwide reserves the right to terminate the Agreement by providing written notice of the termination to County.

Approved by County Counsel