

## AGREEMENT FOR ADMINISTRATIVE SERVICES

This agreement (“Agreement”) is made this 9<sup>th</sup> day of May, 2017, between Phase II Systems, a corporation organized and existing under the laws of the State of California, doing business as Public Agency Retirement Services and PARS (hereinafter “PARS”) and the County of Nevada (“Agency”).

WHEREAS, the Agency has adopted the PARS Public Agencies Post-Employment Benefits Trust for the purpose of pre-funding pension obligations and/or OPEB obligations (“Plan”), and is desirous of retaining PARS as Trust Administrator to the Trust, to provide administrative services.

NOW THEREFORE, the parties agree:

1. **Services.** PARS will provide the services pertaining to the Plan as described in the exhibit attached hereto as “Exhibit 1A” (“Services”) in a timely manner, subject to the further provisions of this Agreement.
2. **Fees for Services.** PARS will be compensated for performance of the Services as described in the exhibit attached hereto as “Exhibit 1B”.
3. **Payment Terms.** Payment for the Services will be remitted directly from Plan assets unless the Agency chooses to make payment directly to PARS. In the event that the Agency chooses to make payment directly to PARS, it shall be the responsibility of the Agency to remit payment directly to PARS based upon an invoice prepared by PARS and delivered to the Agency. If payment is not received by PARS within thirty (30) days of the invoice delivery date, the balance due shall bear interest at the rate of 1.5% per month. If payment is not received from the Agency within sixty (60) days of the invoice delivery date, payment plus accrued interest will be remitted directly from Plan assets, unless PARS has previously received written communication disputing the subject invoice that is signed by a duly authorized representative of the Agency.
4. **Fees for Services Beyond Scope.** Fees for services beyond those specified in this Agreement will be billed to the Agency at the rates indicated in the PARS’ standard fee schedule in effect at the time the services are provided and shall be payable as described in Section 3 of this Agreement. Before any such services are performed, PARS will provide the Agency with a detailed description of the services, terms, and applicable rates for such services. Such services, terms, and applicable rates shall be agreed upon in writing and executed by both parties.
5. **Information Furnished to PARS.** PARS will provide the Services contingent upon the Agency’s providing PARS the information specified in the exhibit attached hereto as “Exhibit 1C” (“Data”). It shall be the responsibility of the Agency to certify the accuracy, content and completeness of the Data so that PARS may rely on such information without further audit. It shall further be the responsibility of the Agency to deliver the Data to PARS in such a manner that allows for a reasonable amount of time for the Services to be performed. Unless specified in Exhibit 1A, PARS shall be under no duty to question Data

received from the Agency, to compute contributions made to the Plan, to determine or inquire whether contributions are adequate to meet and discharge liabilities under the Plan, or to determine or inquire whether contributions made to the Plan are in compliance with the Plan or applicable law. In addition, PARS shall not be liable for non performance of Services to the extent such non performance is caused by or results from erroneous and/or late delivery of Data from the Agency. In the event that the Agency fails to provide Data in a complete, accurate and timely manner and pursuant to the specifications in Exhibit 1C, PARS reserves the right, notwithstanding the further provisions of this Agreement, to terminate this Agreement upon no less than ninety (90) days written notice to the Agency.

6. **Records.** Throughout the duration of this Agreement, and for a period of five (5) years after termination of this Agreement, PARS shall provide duly authorized representatives of Agency access to all records and material relating to calculation of PARS' fees under this Agreement. Such access shall include the right to inspect, audit and reproduce such records and material and to verify reports furnished in compliance with the provisions of this Agreement. All information so obtained shall be accorded confidential treatment as provided under applicable law.
7. **Confidentiality.** Without the Agency's consent, PARS shall not disclose any information relating to the Plan except to duly authorized officials of the Agency, subject to applicable law, and to parties retained by PARS to perform specific services within this Agreement. The Agency shall not disclose any information relating to the Plan to individuals not employed by the Agency without the prior written consent of PARS, except as such disclosures may be required by applicable law.
8. **Independent Contractor.** PARS is and at all times hereunder shall be an independent contractor. As such, neither the Agency nor any of its officers, employees or agents shall have the power to control the conduct of PARS, its officers, employees or agents, except as specifically set forth and provided for herein. PARS shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters. PARS shall indemnify and hold Agency, its Districts, Special Districts, Departments, their respective directors, officers, Board of Supervisors, and representative harmless from wage and hour claims filed by PARS workers.
- 9.

**9.1 Indemnification.** Agency shall hereby indemnify and hold PARS harmless, including its officers, directors, employees, agents and attorneys, from any claim, loss, demand, liability, or expense, including reasonable attorneys' fees and costs, incurred by the other as a consequence of, to the extent, of Agency's, active negligent acts, errors or omissions with respect to the performance of Agency's duties hereunder.

PARS agrees to indemnify and hold harmless Agency, including its agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, and representative (individually and collectively

hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of PARS, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the negligent acts, errors or omissions in the performance of PARS, its officers, employees subcontractors, agent or representatives Indemnitors from this Agreement, however, only to the extent caused by, and on a percentage basis of fault as ultimately determined by a court of competent jurisdiction.

With respect to any action or claim subject to indemnification herein by PARS, PARS shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of Agency; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes PARS' indemnification to Indemnitees as set forth herein.

PARS; obligation hereunder shall be satisfied when PARS has provided to Agency the appropriate form of dismissal relieving Agency from any liability for the action or claim involved.

The specific insurance limits required in this Agreement shall in no way limit or circumscribe PARS' obligations to indemnify and hold harmless the Indemnitees herein third party claims.

**9.2 Insurance.** Without limiting or diminishing PARS' obligation to indemnify or hold the Agency harmless, PARS shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of the Agreement. As respects to the insurance section only, Agency herein refers to the County of Nevada, its agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, or representatives as Additional Insureds under the Commercial General Liability, and Automobile Liability policies.

**A. Workers' Compensation:**

If PARS has employees as defined by the State of California, PARS shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupation Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Nevada.

**B. Commercial General Liability:**

Commercial General Liability insurance coverage, including but not limited to, premises liability, limited contractual liability, products and completed operations liability, personal and advertising injury and cross liability coverage, covering claims which may arise from or out of PARS' performance of its obligations hereunder. Policy shall name the Agency as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined

single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

#### C. Vehicle Liability:

If vehicles or mobile equipment is used in the performance of the obligations under this Agreement, then PARS shall maintain liability insurance for all owned, non-owned, or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be not less than two (2) times the occurrence limit. Policy shall name the Agency as Additional Insureds.

D. Professional Liability: PARS shall maintain Professional Liability Insurance providing coverage for the PARS' performance of professional services included within this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If PARS' Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and PARS shall at its sole expense either 1) an Extended Reporting Endorsement (also, know as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that PRS has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1, 2), or 3) will continue as long as the law allows.

#### E. General Insurance Provisions – All lines:

- 1) Any insurance carrier providing insurance coverage hereunder shall have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the Agency Risk Manager. If the Agency's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.
- 2) PARS must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the Agency Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the Agency, and at the election of the Agency's Risk Manager, PARS' carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the Agency, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- 3) PARS shall cause PARS' insurance carrier(s) to furnish the Agency with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the Agency Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments

thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the Agency prior to any material modification, cancellation, expiration or reduction in coverage of such insurance, 10-day notice of cancellation for non-payment of premium. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the Agency receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. PARS shall not commence operations until the Agency has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier shall sign the original endorsements for each policy and the Certificate of Insurance.

4) It is understood and agreed to by the parties hereto that the PARS' insurance shall be construed as primary insurance, and the Agency's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the Agency reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the Agency Risk Manager's reasonable judgment, the amount or type of insurance carried by the PARS has become inadequate.

6) PARS shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the Agency.

8) PARS agrees to notify Agency of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

- 10. Compliance with Applicable Law.** The Agency shall observe and comply with federal, state and local laws in effect when this Agreement is executed, or which may come into effect during the term of this Agreement, regarding the administration of the Plan. PARS shall observe and comply with federal, state and local laws in effect when this Agreement is executed, or which may come into effect during the term of this Agreement, regarding Plan administrative services provided under this Agreement.

11. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event any party institutes legal proceedings to enforce or interpret this Agreement, venue and jurisdiction shall be in any state court of competent jurisdiction.
12. **Force Majeure.** When a party's nonperformance hereunder was beyond the control and not due to the fault of the party not performing, a party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by such cause, including but not limited to: any incidence of fire, flood, acts of God, acts of terrorism or war, commandeering of material, products, plants or facilities by the federal, state or local government, or a material act or omission by the other party.
13. **Ownership of Reports and Documents.** The originals of all letters, documents, reports, and data produced for the purposes of this Agreement shall be delivered to, and become the property of the Agency. Copies may be made for PARS but shall not be furnished to others without written authorization from Agency.
14. **Designees.** The Plan Administrator of the Agency, or their designee, shall have the authority to act for and exercise any of the rights of the Agency as set forth in this Agreement, subsequent to and in accordance with the written authority granted by the Governing Body of the Agency, a copy of which writing shall be delivered to PARS. Any officer of PARS, or his or her designees, shall have the authority to act for and exercise any of the rights of PARS as set forth in this Agreement.
15. **Notices.** All notices hereunder and communications regarding the interpretation of the terms of this Agreement, or changes thereto, shall be effected by delivery of the notices in person or by depositing the notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:
  - (A) To PARS: PARS; 4350 Von Karman Avenue, Suite 100, Newport Beach, CA 92660; Attention: President
  - (B) To Agency: County of Nevada; 950 Maidu Avenue, Nevada City, CA 95959; Attention: County Executive OfficerNotices shall be deemed given on the date received by the addressee.
16. **Term of Agreement.** This Agreement shall remain in effect for the period beginning April 25, 2017 and ending April 30, 2020 ("Term"). This Agreement may be terminated at any time by giving thirty (30) days written notice to the other party of the intent to terminate. Absent a thirty (30) day written notice to the other party of the intent to terminate, this Agreement will continue unchanged for successive twelve month periods following the Term.
17. **Amendment.** This Agreement may not be amended orally, but only by a written instrument executed by the parties hereto.

18. **Entire Agreement.** This Agreement, including exhibits, contains the entire understanding of the parties with respect to the subject matter set forth in this Agreement. In the event a conflict arises between the parties with respect to any term, condition or provision of this Agreement, the remaining terms, conditions and provisions shall remain in full force and legal effect. No waiver of any term or condition of this Agreement by any party shall be construed by the other as a continuing waiver of such term or condition.
19. **Attorneys Fees.** In the event any action is taken by a party hereto to enforce the terms of this Agreement the prevailing party herein shall be entitled to receive its reasonable attorney's fees.
20. **Counterparts.** This Agreement may be executed in any number of counterparts, and in that event, each counterpart shall be deemed a complete original and be enforceable without reference to any other counterpart.
21. **Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.
22. **Effective Date.** This Agreement shall be effective on the date first above written, and also shall be the date the Agreement is executed.
23. **Assignment and Delegation.** PARS shall not delegate or assign the administrative services describe in this Agreement to be provided by third parties of PARS without prior written consent of the Agency. Any attempted assignment or delegation of contravention of this provision shall be deemed void and of no force or effect. With respect to any assigned or delegated administrative services by PARS that are approved, in writing, by Agency, it is the sole responsibility of PARS to ensure that such assignment or delegation is performed by third parties in accordance with all applicable law and regulations and are in full compliance with this Agreement. PARS shall maintain ultimate responsibility for the performance of the administrative services under Exhibit 1A of this Agreement, and shall remain accountable to Agency.
24. **Disputes.** Prior to the filing of a claim under the Government Claims Act (Government Code 900 et seq.) or the filing of any legal action, the parties agree to meet and confer in good faith to resolve any disputes that may arise out of or in any way relate to this Agreement. The parties shall attempt to resolve any disputes relating to this Agreement at the management level. Unless this Agreement is terminated by either party, the parties shall proceed diligently with the performance of the Agreement pending the resolution of the dispute.
25. **Severability.** In the event any provision in this Agreement is held by a court of competition jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
26. **Licenses and Permits.** PARS shall comply with all State or other licensing requirements necessary for the provisions of services hereunder. PARS warrants that it has all

necessary licenses, permits, approvals, certificates, waivers and exemptions necessary for performance of the Agreement as required by the laws and regulations of the United States, the State of California, the County of Nevada and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

27. **Public Disclosure of Documents.** Notwithstanding any provisions set forth in this Agreement, PARS acknowledges and agrees that information, communications and documents given by PARS to Agency and meetings involving Agency may be subject to disclosure by Agency under the public records and meetings laws and regulations of the State of California. PARS shall use best efforts to cooperate with Agency in order that Agency may fully comply with the requirements of such laws and regulations.

28. **Subcontract for Work or Services.** No contract shall be made by PARS with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the Agency; but this provision shall not require the approval of contracts of employment between PARS and personnel assigned under this Agreement, or for other parties identified and agreed to under this Agreement, including parties retained by PARS to perform periodic trust audits.

29. **Certification of Signatory Authority.** Agency and PARS certify that the individuals signing below have the authority to execute this Agreement on behalf of Agency and PARS, respectively, and that such signatories have authority to legally bind Agency and PARS, respectively, to the terms and conditions of this Agreement, including any attachments hereto.

30. **Third Party Beneficiaries.** This Agreement creates rights and duties only between the Agency and PARS. No other party, or third party, is intended to have or be deemed to have any rights under this Agreement as an intended third party beneficiary.

IN WITNESS WHEREOF, the parties have executed this Agreement for Administrative Services as of the Effective Date.

**AGENCY:**

BY: \_\_\_\_\_  
Richard A. Haffey

TITLE: County Executive Officer

DATE: \_\_\_\_\_

**PARS:**

BY: \_\_\_\_\_  
Tod Hammeras



TITLE: Chief Financial Officer

DATE: May 9, 2017

EXHIBIT 1A

SERVICES

PARS will provide the following services for the County of Nevada Public Agencies Post-Employment Benefits Trust:

1. Plan Installation Services:

- (A) Meeting with appropriate Agency personnel to discuss plan provisions, implementation timelines, actuarial valuation process, funding strategies, benefit communication strategies, data reporting, and submission requirements for contributions/reimbursements/distributions;
- (B) Providing the necessary analysis and advisory services to finalize these elements of the Plan;
- (C) Providing the documentation needed to establish the Plan to be reviewed and approved by Agency legal counsel. Resulting final Plan documentation must be approved by the Agency prior to the commencement of PARS Plan Administration Services outlined in Exhibit 1A, paragraph 2 below.

2. Plan Administration Services:

- (A) Monitoring the receipt of Plan contributions made by the Agency to the trustee of the PARS Public Agencies Post-Employment Benefits Trust (“Trustee”), based upon information received from the Agency and the Trustee;
- (B) Performing periodic accounting of Plan assets, reimbursements/distributions, and investment activity, based upon information received from the Agency and/or Trustee;
- (C) Coordinating the processing of distribution payments pursuant to authorized direction by the Agency, and the provisions of the Plan, and, to the extent possible, based upon Agency-provided Data;
- (D) Coordinating actions with the Trustee as directed by the Plan Administrator within the scope this Agreement;
- (E) Preparing and submitting a monthly report of Plan activity to the Agency, unless directed by the Agency otherwise;
- (F) Preparing and submitting an annual report of Plan activity to the Agency;
- (G) Facilitating actuarial valuation updates and funding modifications for compliance with GASB 45/75, if prefunding OPEB obligations;
- (H) Coordinating periodic audits of the Trust;
- (I) Monitoring Plan and Trust compliance with federal and state laws.

3. PARS is not licensed to provide and does not offer tax, accounting, legal, investment or actuarial advice.

**EXHIBIT 1B**  
**FEES FOR SERVICES**

PARS will be compensated for performance of Services, as described in Exhibit 1A based upon the following schedule:

An annual asset fee shall be paid from Plan Assets based on the following schedule:

<b><u>For Plan Assets from:</u></b>			<b><u>Annual Rate:</u></b>
\$0	to	\$10,000,000	0.25%
\$10,000,001	to	\$15,000,000	0.20%
\$15,000,001	to	\$50,000,000	0.15%
\$50,000,001	and	above	0.10%

Annual rates are prorated and paid monthly. The annual asset fee shall be calculated by the following formula [Annual Rate divided by 12 (months of the year) multiplied by the Plan asset balance at the end of the month]. Trustee and Investment Management Fees are not included.

EXHIBIT 1C  
DATA REQUIREMENTS

PARS will provide the Services under this Agreement contingent upon receiving the following information:

1. Executed Legal Documents:
  - (A) Certified Resolution
  - (B) Adoption Agreement to the Public Agencies Post-Employment Benefits Trust
  - (C) Trustee Investment Forms
  
2. Contribution – completed Contribution Transmittal Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
  - (A) Agency name
  - (B) Contribution amount
  - (C) Contribution date
  - (D) Contribution method (Check, ACH, Wire)
  
3. Distribution – completed Payment Reimbursement/Distribution Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
  - (A) Agency name
  - (B) Payment reimbursement/distribution amount
  - (C) Applicable statement date
  - (D) Copy of applicable premium, claim, statement, warrant, and/or administrative expense evidencing payment
  - (E) Signed certification of reimbursement/distribution from the Plan Administrator (or authorized Designee)
  
4. Other information pertinent to the Services as reasonably requested by PARS and Actuarial Provider.