

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

409



FROM: Human Resources Department

SUBMITTAL DATE:
January 29, 2014

SUBJECT: The Deferred Compensation Plan Administrative Services Agreements for the 457(b) plan between the County and Nationwide Retirement Solutions from February 1, 2014 through June 30, 2018. [District - All] [Total Cost - \$0] [SOURCE OF FUNDS - Plan assets]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and approve the 457 Deferred Compensation Plan Administrative Services Agreement between Nationwide Retirement Solutions (NRS), effective February 1, 2014 (Attachment A);
2. Ratify and approve the Amendment to the Nationwide Life Insurance Company Governmental Plans Fixed Group Annuity Contract No. 0063 - Non Participating, effective February 1, 2014 (Attachment B);
3. Authorize the Chairperson to sign four (4) copies of each document, retain one (1) copy of the signed documents, and return three (3) copies of each to Human Resources for distribution.

BACKGROUND:

Summary

The County of Riverside provides employees an option to allocate pre-tax and post-tax contributions into the County's 457 Deferred Compensation retirement savings plan. Employees are offered two choices of vendors, Variable Annuity Life Insurance Company (VALIC) and Nationwide Retirement Solutions (NRS),

Michael T. Stock
Asst. County Executive Officer/
Human Resources Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$	\$	\$	\$	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$	\$	\$	\$	

SOURCE OF FUNDS: Plan fees are charged against the Plan assets.	Budget Adjustment:
	For Fiscal Year: 2013/14

C.E.O. RECOMMENDATION:

APPROVE

BY: 2/18/14
Samuel Wong

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: February 25, 2014
xc: H.R.

Kecia Harper-Ihem
Clerk of the Board
By: Deputy

Prev. Agn. Ref.: 07/15/2008, 3.40 | District: All | Agenda Number:

3-21

FORM APPROVED BY COUNTY COUNSEL
BY: 2/15/14
NEAL R. KIPNIS DATE

Departmental Concurrence

- A-30
- 4/5 Vote
- Positions Added
- Change Order

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: The Deferred Compensation Plan Administrative Services Agreements for the 457(b) plan
between the County and Nationwide Retirement Solutions from February 1, 2014 through June 30,
2018. [District - All] [Total Cost - \$0] [SOURCE OF FUNDS - Plan assets]**

DATE: January 29, 2014

PAGE: 2 of 3

BACKGROUND:

Summary (continued)

to allocate their elections on a bi-weekly basis.

Due to the fluctuation of the economic climate, Human Resources requested Hewitt EnnisKnupp (HEK), a company of Aon Hewitt, the County's Health and Welfare Consultant, to conduct a fee and expense analysis of the Deferred Compensation Retirement plans. The analysis included the review of current fee structures to determine if the plan fees are reasonable and appropriate for today's market trends and volatile interest rates.

After a thorough review of the plan and negotiations with NRS and VALIC, both vendor proposed to reduce the annual administrative costs paid to the vendors and proposed a new fee structure for fixed rate products.

VALIC

Human Resources and VALIC are finalizing the terms of the VALIC agreement. The VALIC agreement will be brought to the Board at a later date.

NRS

Current

The NRS Fixed Account product receives approximately \$1,125,977 in revenue sharing from the plans Mutual Fund companies each year. NRS requires approximately \$1,038,139 in revenue each year to administer the plan. The County receives the remaining balance from NRS as expense reimbursement to offset the County's plan administrative cost.

Under the existing NRS contract, the NRS Fixed Account product offers a 3.50% guaranteed floor rate and a crediting rate of 3.50%. The current NRS expense reimbursement to the County is \$87,838 per year.

Proposed

NRS proposed a rate structure change to the Fixed Account product. The fixed rate option offers a 3.00% guaranteed floor rate and a crediting rating of 3.50%. The reduction in the guaranteed floor rate is a result of the unpredictable interest rates. However, the reduction in the guaranteed floor rate will be minimal in comparison to the significant savings achieved through the negotiated reduction of the annual administrative costs.

The annual administrative cost will decrease from \$111 per year per participant to \$75 per year per participant, reducing NRS's required revenue from \$1,038,139 per year to \$702,450 per year. As a result, the expense reimbursement to the County is estimated to significantly increase and range between \$424,000 - \$749,000 each year over the duration of the five (5) year agreement.

Impact on Residents and Businesses

There is no direct impact to residents or private businesses in the County of Riverside.

SUPPLEMENTAL:

Additional Fiscal Information

County employees have an estimated total of \$391 million invested in plan assets with NRS.

This new agreement is expected to save the County an estimated \$2.2 million in savings over the five (5) year period of this agreement.

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DATE: January 29, 2014

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Contract History and Price Reasonableness

NRS is a Fortune 500 company that has been in business for more than 80 years and has provided financial services to the County since 1987.

NRS has provided the County exceptional service for more than a decade. They provide retirement educational tools and services, financial planning, and investment services support for County employees and retirees. NRS committed in writing that under the terms of the revised fees that there will be no reduction in the quality and level of services provided.

The proposed fees significantly reduce the annual administrative costs paid to the vendor by an amount in excess of 30%.

ATTACHMENTS (if needed, in this order):

- A. 457 Deferred Compensation Plan Administrative Services Agreement
- B. Amendment to the Governmental Plans Fixed Group Annuity Contract No. 0063 – Non Participating

ATTACHMENT A

457 Deferred Compensation Plan

Administrative Services Agreement

**COUNTY OF RIVERSIDE, CALIFORNIA
457 DEFERRED COMPENSATION PLAN
ADMINISTRATIVE SERVICES AGREEMENT**

This Administrative Services Agreement (“Agreement”) is effective the first day of February, 2014 by and between Nationwide Retirement Solutions, Inc., a Delaware corporation and an affiliate and subsidiary of Nationwide Financial Services, Inc., a Delaware corporation (“Nationwide”), and the County of Riverside, a political subdivision of the State of California (the “County”).

WHEREAS, the County, pursuant to and in compliance with the Internal Revenue Code of 1986, as amended (the “Code”), established and sponsors the County of Riverside Deferred Compensation Plan pursuant to Section 457 of the Code (the “Plan”);

WHEREAS, the County desires to have Nationwide perform the non-discretionary recordkeeping and administrative services described in this Agreement (hereinafter referred to as “Administrative Services”); and

WHEREAS, Nationwide desires to provide such Administrative Services subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions contained herein, Nationwide and the County agree as follows:

1. DESIGNATION

The County designates Nationwide as the County’s nondiscretionary provider of Administrative Services for the Plan in accordance with the terms of this Agreement.

2. APPOINTMENTS AND RESPONSIBILITIES

The County:

The County is responsible for maintaining the Plan and for maintaining the tax-qualified status of the Plan. The County represents and warrants that the Plan has been properly adopted and established in accordance with any applicable state or local laws or regulations governing the County’s ability to sponsor the Plan. The County warrants that the Plan was established, and will be maintained by the County, in accordance with the provisions of Section 457 of the Code. County further acknowledges and agrees the County is an eligible employer as defined by Section 457 of the Code.

The County hereby appoints Nationwide to act as one of the County’s providers of Administrative Services for the Plan. Any duties or services not specifically described herein as being provided by Nationwide are the responsibility of the County.

Nationwide:

Nationwide will serve the County, in a non-fiduciary capacity, as the provider of Administrative Services for the County with respect to the Plan. Nationwide will not exercise any discretionary control or authority over the Plan or the assets of the Plan, and this Agreement does not require Nationwide to do so. Nationwide agrees to perform all Administrative Services for the County with respect to the Plan as described in this Agreement. This Agreement does not require, nor

shall this Agreement be construed as requiring, Nationwide to provide investment, legal, or tax advice to the County or to the participants of the Plan.

3. **TERM**

Unless terminated earlier as provided in Section 7 of this Agreement, this Agreement shall remain in effect for a period of five (5) years beginning on October 1, 2013.

4. **COMPENSATION AND REIMBURSEMENTS**

A. COMPENSATION

(1) Nationwide shall be entitled to compensation for performance of the Administrative Services for the Plan under this Agreement. Unless otherwise permitted under this Agreement, such compensation shall be in the form of payments made to Nationwide's affiliates including Nationwide Life Insurance Company, an Ohio corporation ("NLIC"), under individual arrangements.

(2) The County acknowledges that Nationwide and its affiliates receive payments in connection with the sale and servicing of investments allocated to participant Plan accounts ("Investment Option Payments"). Investment Option Payments may include revenue associated with annuity contracts offered by NLIC, Mutual Fund Payments as described in Exhibit 1 attached hereto and, by this reference incorporated in and made a part of this Agreement, and other payments received from investment option providers. Further, for mutual fund investment options selected by the County and made available to the Plan's participants, the County understands and agrees that Nationwide may receive service fee payments from the investment providers (or their affiliates) on assets not related to the Plan.

(3) As compensation for the services provided in this Agreement, the parties agree that Nationwide and its affiliates are entitled to receive a portion of the Investment Option Payments, not to exceed seventy-five dollars (\$75.00) annually per account. Nationwide's compensation will be calculated on a quarterly basis by multiplying \$18.75 by the number of accounts with a balance at the end of each quarter. If a participant takes a full distribution during the quarter, Nationwide will receive payment for that quarter only and will not assess a fee for subsequent quarters for participants with a \$0.00 balance. Nationwide will provide the County a quarterly report of participants and fee calculation within 30 business days after the end of each quarter.

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

B. REIMBURSEMENTS

The County has directed Nationwide to reimburse the County that portion of the Investment Option Payments that exceed Nationwide's compensation of seventy-five dollars (\$75.00) per participant as outlined in 4.A above (the "Reimbursement"). The reimbursements will be provided to the County to defray the cost of Plan expenses and will be placed in an account for the Plan (the "Reimbursement Account") established for the exclusive benefit of the County on a quarterly basis. Additional disclosures about the Reimbursement Account are described in Exhibit 2 attached hereto and, by this reference incorporated in and made a part of this Agreement. The County may submit invoices to Nationwide instructing Nationwide to pay reasonable plan expenses from the Reimbursement Account such as due diligence expenses and other administrative expenses as determined by the County.

The County will select the investment vehicle for the Reimbursement Account. The balance, transactions (including Investment Option Payments) and investment experience will be reported to the County no later than 30 "Business Days" after the end of the quarter. The reporting will reflect the Investment Option Payments based on the average total monthly value of the Plan's assets held by Nationwide based on month-end values, but will not include assets held in the self-directed option or assets distributed to participants as loans. The report will not include participant fees associated with the self-directed option and loan fees which are charged directly to each participant's account. The Plan's line-up and participant per head fee will be reviewed as mutually agreed upon to determine any shortfall or overage. If changes to the Plan's fund line-up are necessary, Nationwide will work with the County and Plan's consultant to address necessary changes.

As used in this Agreement, the term "Business Day" means each Monday through Friday that the New York Stock Exchange is open for business.

C. SEPARATE PARTICIPANT FEES

1. Loans - Each loan application will be subject to a \$50 non-refundable fee, which is deducted directly from the participant's account. In addition, each participant with an outstanding loan balance will be charged an annual \$50 administrative fee, which is deducted from the participant's account. Should the participant default on the loan, a \$50 non-refundable default fee will be assessed against the participant's account at the time of default, in addition to the annual \$50 administrative fee. Interest will be charged at the rate of interest in effect at the time of the initial loan. Interest will continue to accrue after a default until the outstanding loan balance (principal, interest and fees) is repaid in full or offset against the remainder of the participant's account balance.
2. Self-Directed Brokerage Account (SDBA) -The SDBA investment option is available for qualifying participants in the Plan. There is a non refundable initial fee of \$35, which is deducted from the participant's account. Thereafter, a \$35 annual administrative fee will be deducted from the participant's account. In addition, Charles Schwab & Co. Inc. may assess transaction and other fees related to the SDBA. Nationwide reserves the right to increase this amount to \$50 should assets in the SDBA exceed \$5 million.
3. Managed account services (Nationwide ProAccount) are expressly excluded from this Agreement. Managed account services are offered by Nationwide Investment Advisors, LLC, an Ohio limited liability company (NIA), an affiliate of Nationwide, and the County must execute a separate agreement with NIA if the County wants to add ProAccount to the Plan. Only participants who choose managed account services are assessed fees. Such fees are authorized in a separate agreement between the participant and NIA, and are assessed pursuant to the terms and conditions of the services agreement.

5. INVESTMENT OPTIONS

Nationwide agrees to accept Plan funds for investment in the investment options as mutually agreeable to the parties.

Nationwide, at the request of the County, will provide investment option information, including performance history, risk analysis, and market information to assist the County in the selection of the Plan's investment options. Notwithstanding anything to the contrary, it is understood and agreed that the County is the fiduciary of the Plan and the sole decision maker with regard to the Plan and the investments offered within the Plan.

In addition, the County agrees that:

- Investment option providers (including Nationwide or its affiliates) may impose restrictions and/or fees on purchases or redemptions;
- Any fees, including investment management fees, associated with the investment options are separate from fees imposed by Nationwide as the provider of Administrative Services to the Plan;
- Nationwide may impose policies (in addition to policies imposed by the investment providers and/or regulatory agencies) intended to detect and deter harmful trading activities; and
- Participants and the Plan will be subject to the terms and conditions of the investment options in the Plan. Participants will be permitted to change their investment options as often as they wish; provided, however, they will be subject to any applicable penalty or charge or restriction imposed for such changes.

6. **ADMINISTRATION SERVICES**

A. ENROLLMENT AND COMMUNICATION/EDUCATION SERVICES

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

- (a) name;
- (b) Social Security number and/or identifying account number;
- (c) mailing address;
- (d) date of birth;
- (e) current investment allocation direction;
- (f) contributions allocated and invested;
- (g) investment transfers;
- (h) benefit payments;
- (i) current account balance;
- (j) transaction history since funding under the Agreement;
- (k) contributions since funding under the Agreement;
- (l) e-mail address (optional);
- (m) benefit tax withholding information; and
- (n) such other information as agreed upon by the County and Nationwide.
- (o) beneficiary designation

Nationwide will post and credit the amounts transmitted by the County to the accounts of Plan participants in accordance with the latest written instructions from participants or the County (as applicable) on file with Nationwide.

Nationwide agrees to process the enrollment of employees eligible to participate in the Plan as determined by the County. The County agrees to 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 Nationwide. The County, at its sole discretion, may agree to allow and facilitate the periodic distribution to its employees of materials prepared by Nationwide regarding products and services offered by Nationwide, or its affiliates, which Nationwide reasonably believes would be beneficial to such Plan participants.

B. PLAN CONTRIBUTIONS

If funds received as contributions and contribution detail are received in good order before the close of the New York Stock Exchange, Nationwide agrees to post the funds on the same business day. The term "in good order", as used in this Agreement, means the receipt of required information by Nationwide, in a form deemed reasonably acceptable to Nationwide (in Nationwide's sole discretion), with respect to the processing of a request or the completion of a task by Nationwide that reasonably requires information from a third-party. For transactions that are not in good order, Nationwide shall return the funds to the County within thirty (30) calendar days. Nationwide 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 Nationwide's instructions to the central processing site designated by Nationwide, or for any delay in posting that results from the receipt of funds and/or contribution allocation that Nationwide determines to be not in good order.

To comply with good order requirements, the County agrees to:

1. Transmit Plan contributions to Nationwide and identify money source.
2. Provide to Nationwide, in a mutually agreed upon electronic, or paper, contribution allocation information with respect to participant accounts to include not less than the following:
 - Name of participant
 - Social security number of participant and/or identifying account number/plan number
 - Amount to be credited to participant's account(s) by money source
 - Funds reconcile with contribution detail including any adjustments

Funds may be sent by wire transfer, through an automated clearinghouse or by check in accordance with written instructions provided by Nationwide. Failure to follow the written instructions provided by Nationwide may result in delay of posting to participant accounts.

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

C. SERVICES WITH RESPECT TO PARTICIPANT PLAN ACCOUNTS

1. Nationwide will provide a secure Internet site. Using this site, participants may: (i) obtain such information regarding their accounts and (ii) conduct transactions with respect to their accounts. The County authorizes Nationwide to honor instructions regarding such transactions that may be submitted by a participant using the secure Internet site. Nationwide will operate its Internet site in accordance with reasonable provisions to ensure the security of such service. Such provisions include, but are not limited to:
 - Information sent over the Internet is encrypted. The messages are changed by using security technology called Secure Sockets Layer (SSL) so that only the intended recipient can read them.

- A thorough authentication process occurs when using username/SSN and Password to logon.
- To protect accounts from unauthorized viewing, the Service Center will automatically disconnect the session if the participant does not actively use it for 15 minutes.

As part of its Event Management Program, Nationwide and its affiliates have in place an Incident Management Policies and Procedures that provide robust procedures around the identification of events involving the unauthorized disclosure of confidential customer and associate information and Nationwide's response to such unauthorized disclosure. If it is determined that a breach has occurred pursuant to these policies and procedures, Nationwide will notify the County and affected participants as soon as possible after the determination that a breach has occurred. In the event of such breach or unauthorized disclosure, Nationwide shall indemnify, hold harmless and defend the County, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, and agents under Section 14 of this Agreement.

2. 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 Plan to another on any Business Day, subject to Nationwide policies and any restrictions required by the investment options.
3. Participants will receive quarterly statements detailing their account activity for the Plan. Nationwide 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 Nationwide receiving index fund returns from the mutual fund providers within four (4) Business Days after the end of each quarter.

D. DISTRIBUTIONS

1. Nationwide shall make all distributions as permitted by the Plan. Participants are responsible for selecting a form of payment from those available under the terms of the Plan and making all other determinations regarding available distributions options, e.g., rollover to an individual retirement annuity or another eligible retirement plan, etc.
2. Nationwide shall furnish each participant who has received a benefit payment tax reporting forms in the manner and time prescribed by federal and state law.
3. To the extent required by federal and state law, Nationwide will calculate and withhold from each benefit payment federal and state income taxes. Nationwide will report such withholding to the federal and state governments as required by applicable law

E. PLAN ADMINISTRATION

Nationwide shall establish policies and develop procedures to administer the Plan in accordance with the Plan and regulations related to the administration of Section 457 of the Code. Nationwide agrees to serve the Plan as a non-discretionary provider of certain administrative, recordkeeping, and investment education services as set forth herein and will not be exercising control or authority over the Plan or Plan assets. Nationwide agrees to perform all services to the Plan as an expert in defined contribution/deferred compensation administration and agrees to hold itself out as possessing greater

knowledge and skill than the average person with respect to the Plan's third-party administrator services.

7. **TERMINATION**

Either the County or Nationwide may terminate this Agreement for any reason upon providing ninety (90) days written notice to the other party. Provision of such written notice of termination by County, as the Plan Sponsor, to Nationwide does not relieve the County of any termination requirements that may be associated with specific investment options.

8. **DUTIES UPON TERMINATION**

Upon the effective date of termination of this Agreement, the following shall occur:

- A. Nationwide will no longer accept any additional deferrals to the Plan except by mutual agreement of the parties.
- B. On the effective date of termination pursuant to Section 7 of this Agreement, or as otherwise agreed upon by the parties, Nationwide will provide the County, or such other entity as the County may designate in writing, a copy of all records relating to services rendered under this Agreement, including Participant sub-accounts, in a format and media agreed upon by the parties.
- C. On the effective date of termination pursuant to Section 7 of this Agreement, or as otherwise agreed upon by the parties, Nationwide will transfer all Plan assets under its control to the County or to such other entity as the County may designate in writing. Nationwide agrees to provide a final accounting of all Plan assets for which Nationwide provides recordkeeping.

9. **ASSIGNABILITY**

Neither party to this Agreement shall assign any duties or rights under this Agreement to any person or entity without first obtaining the express written consent of the other party, which consent shall not be unreasonably withheld. This provision shall not restrict Nationwide's right to delegate certain duties to Nationwide Life Insurance Company. Unless agreed to by the parties, no such assignment and/or delegation shall relieve any party to this Agreement of any duties or responsibilities herein.

10. **CONFIDENTIALITY**

Nationwide agrees to maintain all information obtained from or related to all Plan participants as confidential. The County and Nationwide agree that Nationwide, its officers, employees, brokers, registered representatives, affiliates, vendors and professional advisors (such as attorneys, accountants and actuaries) may use and disclose Plan and participant information only to enable or assist them in the performance of Nationwide's duties under this Agreement. Plan and participant information may also be used or disclosed by Nationwide to other third parties pursuant to a written authorization signed by the County. Nationwide shall ensure that recipients of Plan and participant information shall maintain such information as confidential. Notwithstanding anything to the contrary contained herein, it is expressly understood that Nationwide retains the right to use any and all information in its possession in connection with its defense and/or prosecution of any litigation which may arise in connection with this Agreement, the investment arrangement funding the Plan, or the Plan; provided, however, in no event will Nationwide release any information to any person or entity except as required by applicable law.

This Section will survive the termination of this Agreement.

11. RECORDS AND DOCUMENTS

Except as otherwise provided in this Agreement, Nationwide shall maintain all accounts and records associated with the administration of the Plan for a period of six (6) years after termination of this Agreement. Nationwide shall make such documents available to the County for inspection, copying, and auditing on request.

This Agreement contains certain provisions that require Nationwide to provide reports to the County. Nationwide shall maintain, for six (6) years after termination of this Agreement pursuant to Section 3 of this Agreement, the records necessary to produce such reports. All records shall be the property of the County.

This Section shall survive the termination of this Agreement.

12. TITLE AND OWNERSHIP

In accordance with the provisions of Section 457 of the Code, all amounts of compensation deferred pursuant to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held for the exclusive benefit of the participants and beneficiaries under the Plan and shall be held in a trust, in an annuity contract and/or in one or more custodial accounts.

13. CIRCUMSTANCES EXCUSING PERFORMANCE

Neither party to this Agreement shall be in default by reason of failure to perform in accordance with its terms if such failure arises out of causes beyond their reasonable control and without fault or negligence on their part. Such causes may include, but are not limited to, Acts of God or public enemy, acts of the government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine or restrictions, freight embargoes, and unusually severe weather.

Neither party shall be responsible for performing all of that portion of services precluded by the foregoing events for such period of time as the County or Nationwide are precluded from performing such services in the normal course of business. Neither Nationwide nor the County shall be liable for lost profits, losses, damage or injury, including without limitation, special or consequential damages, resulting in whole or in part from the foregoing events.

“Acts of God” are defined as acts, events, happenings or occurrences due exclusively to natural causes and inevitable accident or disaster, exclusive from all human intervention.

14. INDEMNIFICATION

Nationwide agrees to indemnify, defend and hold harmless the County, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, and agents from and against any loss, damage or liability assessed against the County or incurred by the County arising out of or in connection with any claim, action, or suit brought or asserted against the County alleging or involving Nationwide’s non-performance of the provisions of this Agreement under Nationwide’s exclusive control, or negligence or willful misconduct in the performance of its services, duties and obligations under this Agreement.

The County agrees to indemnify, defend and hold harmless Nationwide, its affiliates, 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 the County's non-performance of the provisions of this Agreement under the County's exclusive control, or negligence or willful misconduct in the performance of its duties and obligations under this Agreement.

This Section shall survive the termination of this Agreement.

15. PARTIES BOUND

This Agreement and the provisions thereof shall be binding upon and shall inure to the benefit of the successors and assigns of Nationwide and the County. The Plan and Plan participants are not parties to this Agreement, and Nationwide has no contractual obligations to the Plan or Plan participants. This Agreement shall be enforceable only by the parties, not by Plan participants or other third-parties, and is intended to create no third party beneficiaries.

16. GOVERNING LAW AND VENUE

This Agreement shall be governed and construed by the laws of the State of California without regard to its conflict of laws principles. All actions and proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state and federal (if permitted by law and a party elects to file an action in federal court) courts located in the County of Riverside, State of California.

17. GOVERNMENT CLAIMS ACT

The provisions of the Government Claims Act (Government Code section 900 et seq.) must be followed first for any disputes arising under this Agreement.

18. MODIFICATION

This writing is intended both as the final expression of the Agreement between the parties and as a complete statement of the terms of the Agreement. Notwithstanding anything contained herein to the contrary, this Agreement may be amended from time to time and as mutually agreed upon by the parties. Except as otherwise provided herein, no modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

19. NO WAIVER

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver of that provision or of any other provision in this Agreement and either party may, at any time, enforce the provision previously unenforced, unless a modification to this Agreement has been executed that affects the provision previously unenforced.

20. SEVERABILITY

In the event any provision of this Agreement is found to be invalid or unenforceable by any court of competent jurisdiction, all other provisions shall remain in full force and effect and binding upon the parties.

21. COMPLIANCE WITH LAWS

Both the County and Nationwide agree to comply, in their respective roles under this Agreement, in all material respects with all applicable federal laws and regulations as they affect the Plan and the administration thereof. Nothing contained herein shall be construed to prohibit either party

from performing any act or not performing any act as either may be required by statute, court decision, or other authority having jurisdiction thereof.

22. PRIVITY OF CONTRACT

The County acknowledges and agrees that only Nationwide and the County have the right to enforce any rights or obligations hereunder and that this Agreement does not confer any rights or impose any obligations on any third party.

23. PUBLIC RECORDS

Notwithstanding any other provisions contained in this Agreement, Nationwide acknowledge and agrees that any information, communications, and documents given by Nationwide to the County and meetings involving the County may be subject to the public records and meeting laws and regulations of the State of California, including the California Public Records Act (Government Code Section 6250 et seq.) and the California Brown Act (Government Code Section 54950 et seq.). County may determine, at its sole discretion and without notice to Nationwide, whether or not the above-described information, communications, and documents if requested by a third party is disclosable pursuant to applicable law on public disclosures and/or public meetings.

24. HEADINGS

The headings of articles, paragraphs, and sections in this Agreement are included for convenience only and shall not be considered by either party in construing the meaning of this Agreement.

25. NOTICES

All notices and other communications required to be given under this Agreement shall be in writing and either delivered personally or by express delivery or United States mail at the addresses set forth below or at such other addresses as the parties may hereafter designate:

To the County of Riverside:

The County of Riverside
Attn: Stacey M. Beale
4080 Lemon St., 1st Floor
Riverside, CA 92501

To Nationwide:

Nationwide Retirement Solutions
Attn: Eric Stevenson
10 W. Nationwide Blvd.
Columbus, OH 43215

Any notice, demand or other communication given in a manner prescribed in this Section shall be deemed to have been delivered on receipt.

26. INSURANCE

26.1 Without limiting or diminishing Nationwide's obligation to indemnify or hold the County harmless, Nationwide shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage during the term of this Agreement. With respect to this

Section 21, Insurance, the term "County" as used herein shall refer to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives.

26.2 Workers' Compensation: If Nationwide has employees as defined by the State of California, Nationwide 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 Occupational 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.

26.3 Commercial General Liability: Commercial General Liability insurance coverage, including but not limited to, premises liability, insured contracts, products and completed operations liability, personal and advertising injury, and separation of insureds, covering claims which may arise from or out of Nationwide' performance of its obligations hereunder. Policy shall name the County as an 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.

26.4 Vehicle Liability: If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Nationwide 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 no less than two (2) times the occurrence limit. Policy shall name the County as an Additional Insured.

26.5 Professional Liability: Nationwide shall maintain Professional Liability Insurance providing coverage for Nationwide's performance of work 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 Nationwide's 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 Nationwide shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known 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 Nationwide 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.

26.6 General Insurance Provisions – All lines:

(a) Nationwide Mutual Insurance Company maintains non-cancelable Professional Liability Insurance for itself and all of its subsidiaries and affiliates with a deductible of \$15,000,000, which it considers appropriate for a company of its size and financial strength.

(b) Nationwide shall endeavor to provide or cause its insurance carrier(s) to furnish the County of Riverside with 30-days advance notice of cancellation of its Workers Compensation, Commercial General Liability or Auto Liability insurance. (c) It is understood and agreed to by the parties hereto that Nationwide's insurance shall be construed as primary insurance, and the County's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

(d) 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 County reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the Nationwide has become inadequate.

(e) Nationwide shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

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

(g) Nationwide agrees to notify County 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.

[The remainder of this page was intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused their duly appointed representatives to execute this Agreement effective on the date first written above.

ATTEST:
Clerk of the Board
Kecia Harper-Ihem

COUNTY OF RIVERSIDE:

By: 
Deputy

By: 
Chairman, Board of Supervisors
JEFF STONE

Date: FEB 25 2014

Date: FEB 25 2014

Approved as to form:

Pamela J. Walls
County Counsel

By:  2/5/14
Deputy County Counsel

Nationwide Retirement Solutions, Inc.

By: 

Printed Name: Kevin G. O'Brien

Title: Vice President & CFO

Date: January 13, 2014

FEB 25 2014 3-21

EXHIBIT 1

MUTUAL FUND PAYMENTS DISCLOSURE

Mutual Fund Payments: Nationwide Retirement Solutions, Inc. and its affiliates (Nationwide) offer a variety of investment options to public sector retirement plans through variable annuity contracts, trust or custodial accounts. Nationwide may receive payments from mutual funds or their affiliates in connection with those investment options. For more detail about the payments Nationwide receives, please visit www.nrsforu.com.

EXHIBIT 2

DISCLOSURES ABOUT THE REIMBURSEMENT ACCOUNT

As the fiduciary of the Plan, the County is responsible for making determinations with respect to the appropriateness of all expenses of the Plan. Nationwide does not make these types of determinations.

At the County's direction, Nationwide will provide the Reimbursement to the Plan in one of the following ways:

1. A direct payment to the County;
2. A payment to a separate trust or custodial account established for the Plan to hold the Reimbursement for the exclusive benefit of the participants and beneficiaries of the Plan; or
3. A payment to an investment account within the Plan to hold the Reimbursement.

If the County directs Nationwide to make a direct payment to the County, Nationwide will provide this payment to the County via a check or wire to an account established for the Plan.

If the County establishes a separate trust or custodial account to receive the Reimbursement, Nationwide will provide assistance in establishing such account, as requested by the County, with a bank or other financial institution of the County's choosing. The trust or custodial account will be established and maintained with the intent that such trust or custodial account will meet the requirements of the Code applicable to plan-level trusts and custodial accounts.

If the County directs Nationwide to establish a Reimbursement Account, such amounts will be invested in an investment option selected by the County. The Reimbursement Account will be maintained separately from participant accounts. The balance, transactions, and investment experience of the Reimbursement Account will be reported to the County quarterly.

At the County's direction, Nationwide will distribute amounts from the Reimbursement Account to the County.

If the County so directs, Nationwide will distribute amounts in the Reimbursement Account to participants' accounts within the Plan when the Reimbursement Account reaches a threshold mutually agreed upon by the County and Nationwide; provided, however, that such distribution shall not occur more than once annually.

ATTACHMENT B

Amendment to the Governmental Plans Fixed Group Annuity

Contract No. 0063 – Non Participating

NATIONWIDE LIFE INSURANCE COMPANY
ONE NATIONWIDE PLAZA
COLUMBUS, OHIO 43215

AMENDMENT
to the
Governmental Plans Fixed Group Annuity Contract No. 0063 – Non Participating

General Information Regarding this Amendment

To the extent the terms of the Contract and this Amendment are inconsistent, the terms of this Amendment shall control the Contract accordingly. Terms not defined in this Amendment have the meaning given to them in the Contract.

WHEREAS, the above-referenced group annuity contract was issued to the Contract Owner by Nationwide Life Insurance Company ("Nationwide"); and

WHEREAS, Nationwide and the Contract Owner wish to modify the Contract provisions pursuant to the Section 8.2 of the Contract;

NOW, THEREFORE, pursuant to the agreement of Nationwide and the Contract Owner, the Contract is hereby modified as follows:

1. Effective February 1, 2014, the Guaranteed Interest Rates, set forth on the Contract Summary Page will be reduced from 3.5% to 3.0%.

Except as otherwise provided herein all the terms and conditions of the agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed this 25 day of February, 2014.

APPROVED:

CONTRACT OWNER: County of Riverside NATIONWIDE LIFE INSURANCE COMPANY:
By: Jeff Stone By: [Signature]
JEFF STONE CHAIRMAN, BOARD OF SUPERVISORS
FEB 25 2014 Effective Date: 2-12-14

ATTEST:
KECIA HARPER-IHEM, Clerk
By: [Signature]
DEPUTY

FORM APPROVED COUNTY COUNSEL
BY: [Signature] DATE 2/25/14
NEAL R. KIPNIS