

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



ITEM: 3.32
(ID # 20519)

MEETING DATE:

Tuesday, November 29, 2022

FROM : HUMAN RESOURCES:

SUBJECT: HUMAN RESOURCES: Approve the Restated Nationwide Administrative Services Agreement for the County of Riverside's Deferred Compensation Plan, Money Purchase Plan, and Supplemental Contribution Plan as Proposed by the Deferred Compensation Advisory Committee, All Districts. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Restated Administrative Services Agreement with Nationwide Financial Services Inc effective January 1, 2023 for services with respect to the County of Riverside 457(b) Deferred Compensation Plan, 401(a) Money Purchase Plan, and Supplemental Contribution Plan and authorize the Chair of the Board to execute the agreement on behalf of the County.
2. Direct the Clerk of the Board to retain one (1) copy of each signed document and return two (2) signed copies of each document to Human Resources for distribution.

ACTION:

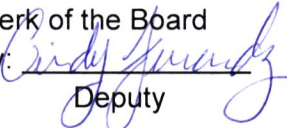

Michael Bowers, Assistant HR Director 11/4/2022

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Hewitt, and Perez
Nays: None
Absent: None
Date: November 29, 2022
xc: HR

Kecia R. Harper
Clerk of the Board

By: 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment: No	
			For Fiscal Year: 2022-2023	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The County of Riverside provides a Deferred Compensation Program to employees governed by Section 457(b) and 401(a) of the Internal Revenue Code. The Plan is intended to comply with all applicable laws and regulations. The Plan allows participants to defer a portion of their salary from investment options provided through the Plan. Participants' earnings from investments are tax deferred until the money is withdrawn from the Plan.

The investment options available from the Plan cover a broad range of investment risk and potential reward appropriate for this kind of retirement savings program. The investment options (funds) made available are recommended by the Deferred Compensation Advisory Committee and may be changed from time to time to achieve optimal fund performance.

The Deferred Compensation Advisory Committee is composed of five members, which include one member from the Board of Supervisors, Executive Office, Auditor-Controller, Treasurer/Tax Collector, and Human Resources. The Plan is jointly administered by the County of Riverside Human Resources Director and the Deferred Compensation Advisory Committee. The Deferred Compensation Advisory Committee meets, at least annually, to review and assess the continuing compliance of the Plan's investment options.

A Request for Proposal (HRARC-085) for a Deferred Compensation plan provider(s) was conducted. The awards for the top two vendors are Nationwide Retirement Solutions and VALIC Retirement Services Company.

Human Resources has partnered with the Hyas Consulting Group to assist as the co-fiduciary for the deferred compensation plans and negotiated significant savings for plan participants. The Hyas Consulting Group will provide guidance and recommendations to the Deferred Compensation Advisory Committee.

Impact on Residents and Businesses

There is no direct impact on residents or business in the County of Riverside.

ATTACHMENTS:

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

Attachment A: Restated Administrative Services Agreement



Kristine Bell-Valdez, Supervising Deputy County Counsel 11/16/2022

COUNTY OF RIVERSIDE, CALIFORNIA
457 DEFERRED COMPENSATION PLAN, SUPPLEMENTAL CONTRIBUTION PLAN
AND MONEY PURCHASE PLAN RESTATED ADMINISTRATIVE SERVICES
AGREEMENT

This restated Administrative Services Agreement ("Agreement") is effective as of January 1, 2023 (the "Effective Date"), 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 ("Code"), established and sponsors the County of Riverside Deferred Compensation Plan, a Code Section 457(b) Plan ("457(b) Plan"), Riverside County Money Purchase Plan, and County of Riverside Supplemental Contribution Plan, Code Section 401(a) Plans ("401(a) Plans), collectively the "Plan" or "Plans", as appropriate.

WHEREAS, The County acknowledges that this Agreement covers all participating employers that have adopted one or more of the County's plans in accordance with their respective Adoption Agreements; and

WHEREAS, The County desires to have Nationwide continue to perform the non-discretionary recordkeeping and administrative services described in this Agreement for the Plans ("Administrative Services"); and

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

NOW THEREFORE, Nationwide and the County desire to enter into this Agreement and abide by the terms therein.

1. DESIGNATION

- a. The County designates Nationwide as a non-fiduciary, non-discretionary provider of Administrative Services for the Plans in accordance with the terms of this Agreement.
- b. The County represents that the selection and designation of Nationwide complies with any procurement statutes applicable to the County.
- c. Any duties or services not specifically described herein or delegated in the Plan's documents as being provided by Nationwide are the responsibility of the County.
- d. Services in addition to those in this Agreement or delegated in the Plan's documents may be added by mutual agreement of Nationwide and the County.

2. ELIGIBLE EMPLOYER

The County has determined that it is an “eligible employer” and meets the requirements of Code Sections 457(e)(1)(A) and 414(d).

3. TERM

- a. The initial term of this Agreement is five years from the Effective Date, unless terminated earlier in accordance with Section 22.
- b. The County may renew this Agreement for up to two additional one-year periods. Each renewal is based on the existing terms, conditions, Nationwide’s performance, pricing, and the County’s fiscal year funding availability, as evidenced by formal written approval of the County and Nationwide.
- c. If at the expiration of the initial term or renewal periods the County has not provided Nationwide with instructions for the transfer of administration of the Plan, this Agreement will convert to an “evergreen” agreement and will remain in effect until terminated in accordance with Section 22.

4. GENERAL

- a. The County adopts Nationwide’s established policies and procedures with respect to the administration of 457(b) and 401(a) plans on its administrative system. Nationwide and the County shall mutually agree to any procedures which require customization, *e.g.*, loan procedures.
- b. The County acknowledges and agrees that Nationwide is not responsible for monitoring deferrals to other Section 457, 403(b), 401(a), and/or 414(h) plans.
- c. The County acknowledges and agrees that Nationwide is not responsible for monitoring inter-plan coordination between the Plans administered by Nationwide and any other plan which the County may have.
- d. This Agreement does not require, nor will this Agreement be construed as requiring, Nationwide to exercise any discretionary control or authority over the Plans or the assets of the Plans.
- e. 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 Plan Participants.

5. THE COUNTY’S RESPONSIBILITIES

- a. The County is responsible for timely providing all information that the County and Nationwide mutually agree is necessary for Nationwide to perform the Administrative Services under this Agreement.
- b. The County is responsible for timely providing updated information regarding Plan Participants.

- c. The County is responsible for ensuring that the provided information is accurate and complete. Nationwide is 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.
- d. The County acknowledges that inaccurate or late information could result in tax penalties, Participant/beneficiary legal claims, or both. Nationwide assumes no responsibility for, and will not have any liability for, any consequences that result from Nationwide'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 Nationwide.
- e. The County agrees to be responsible for all maximum deferral limit testing for these Plans.

6. SERVICES RELATED TO PARTICIPANT ENROLLMENT

- a. The County is responsible for determining employees eligible to participate in the Plans.
- b. Nationwide agrees to process the enrollment of employees eligible to participate in the Plans.
- c. Nationwide agrees to conduct enrollment meetings with the County's employees in such number and manner as determined by the parties.
- d. The County agrees to allow and facilitate the periodic distribution of materials to Participants at the time and in the manner determined by the County; provided, however, that all reasonable expenses associated with such distribution will be paid by Nationwide.

7. SERVICES WITH RESPECT TO PARTICIPANT PLAN ACCOUNTS AND ACCOUNT ACCESS

- a. Nationwide agrees to establish an account for each enrolled Participant, beneficiary, and alternate payee of the Plans (for purposes of this Agreement only, hereinafter referred to as "Participants").
- b. For each Participant account, at a minimum, Nationwide will maintain the following information, if provided:
 - i. Name;
 - ii. Social Security number;
 - iii. Mailing address;
 - iv. Date of birth;
 - v. Current investment allocation direction;
 - vi. Contributions allocated and invested;
 - vii. Investment transfers;
 - viii. Benefit payments;

- ix. Current account balance;
 - x. Transaction history since funding under the Agreement;
 - xi. Contributions since funding under the Agreement;
 - xii. E-mail address;
 - xiii. Beneficiary designation, if applicable;
 - xiv. Benefit tax withholding information; and
 - xv. Such other information as agreed upon by the County and Nationwide.
- c. Participants will have the unlimited ability to increase (within the limitations of Code Section 457(b)) or decrease contributions to the 457(b) Plan. Nationwide will process all requests to increase or decrease contribution amounts within five Business Days of receipt of the request, but the request cannot be effective until the earliest date permissible under the Code or, if later, the date the contribution change can be processed by the County given the County's payroll processing schedule. 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.
- d. Participants will have the ability to exchange existing account balances, in full or in part, and to redirect future contributions from one available investment option to another on any Business Day subject to Nationwide policies and any applicable restrictions or penalties applied by the investment options.
- e. Nationwide will provide reports to the County within thirty days following the end of each calendar quarter reporting period summarizing the following:
- i. All Participant activity that transpired during the reporting period;
 - ii. Total contributions allocated to each investment or insurance option under the Plans; and
 - iii. Total withdrawals by Participant. This report shall include the amount, type and date of withdrawal.
- f. 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 years after termination of this Agreement. Nationwide shall make such documents available to the County for inspection, copying, and auditing on request. This section shall survive the termination of this agreement
- g. 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.

8. SERVICES RELATED TO PLAN CONTRIBUTIONS

- a. The County agrees to send all Plan contribution information and related funds to Nationwide on a timely basis that complies with all applicable legal requirements.
- b. The County will provide all contribution allocation information with respect to Participant accounts to Nationwide in a mutually agreed upon format. Contribution allocation instructions include direction via electronic sources.
- c. Nationwide will allocate contribution amounts transmitted by the County to Participant accounts in accordance with the latest instructions from Participants or the County (as applicable) on file with Nationwide, when such instructions are in good order.
- d. Nationwide agrees to post funds received in good order (as defined below) from the County in accordance with the separate funding arrangements between the County and Nationwide or any of its affiliates.
- e. The County may send funds 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.
- f. The term "in good order" means the receipt of required information by Nationwide, in a form deemed reasonably acceptable to Nationwide, with respect to the processing of a request or the completion of a task by Nationwide 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:
 - i. All records must include the correct and complete Participant name, Social Security number (or other unique identifier), and the amount to be credited to the Participant's account(s);
 - ii. The source of funds must be identified (e.g., 457(b) salary reduction, employer contribution);
 - iii. The Plan name and Plan number must be clearly identified;
 - iv. Both the Participant allocation detail and the total contribution amount must be received, and these two totals must match each other; and
 - v. All Participants making or receiving a contribution must have an account established on the recordkeeping system.
- g. If Nationwide determines that the contribution or allocation detail is not in good order ("NIGO"), Nationwide will notify the County. After such notification, the parties will continue to try to resolve the NIGO status. If the parties do not achieve resolution, Nationwide will return the funds to the County within thirty Business 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 NIGO.

9. SERVICES WITH RESPECT TO DISTRIBUTIONS

- a. Nationwide shall make all distributions in accordance with the Plan documents.
- b. Except as provided in subsection d, below, Nationwide shall make all distributions as directed by a Participant or the County. Participants are responsible for selecting a form of payment from those available under the terms of the Plan and making all other elections regarding available distribution options.
- c. All distributions will be made pro-rata from each of the Participant's investment options and money sources unless directed otherwise by the Participant.
- d. Nationwide will provide notice and a distribution form to each Participant attaining age 72 (or such other age as determined by current law) or older in the current calendar year. The notice will inform the Participant that required minimum distributions ("RMD") must begin no later than the April 1 of the calendar year following the later of attainment of age 72 (or such other age as determined by current law) or retirement (subject to the terms of the Plans). Nationwide will automatically distribute the RMD to the Participant if no direction is received from the Participant.

10. TAX REPORTING

- a. For each Participant that has received a benefit payment, Nationwide shall furnish tax reporting forms. The forms will be provided in the manner and time prescribed by federal and state law.
- b. 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.
- c. The County will be responsible for all tax reporting requirements for periods after the termination date of this Agreement, unless otherwise agreed to in writing by the parties to this Agreement.

11. UNCLAIMED PROPERTY

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

12. SERVICES RELATED TO PARTICIPANT COMMUNICATION AND EDUCATION

a. Communication and Education

- i. Participant Statements

1. Participants will receive consolidated quarterly statements detailing their account activity and account balances for the Plans.
2. Nationwide agrees to deliver account statements (by U.S. mail or electronically) to Participants within thirty calendar days after the end of each calendar quarter. This timeframe is contingent upon Nationwide receiving fund returns from the mutual fund providers within four Business Days after the end of each quarter.

b. Website

- i. Nationwide will provide and maintain a website for the use of Participants as described herein. Participants may access the website via a secured internet site at www.riversidecountycdc.com to review and make changes to their accounts. The website shall comply with applicable data protection and privacy laws. The website is the exclusive property of Nationwide.
- ii. 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 Nationwide to honor instructions regarding such transactions that a Participant submits using the secure Internet site. Nationwide 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.
- iii. The website shall be available twenty-four hours a day, except for routine maintenance of the system.
- iv. The Participant website experience will include access to an education library offering investment education. Content is delivered via multiple formats which can include short videos, print materials, and workshop modules.

c. INTERACTIVE VOICE RESPONSE SYSTEM

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

d. CUSTOMER SERVICE

Nationwide agrees that its 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, except for certain holidays as dictated by the New York Stock Exchange holiday trading schedule.

13. SERVICES RELATED TO INVESTMENT OPTIONS

- a. The County acknowledges that it has exercised its fiduciary duties in selecting the Plans funding vehicles and the applicable investment line-up under such funding vehicles.
- b. The County agrees to accept the terms and conditions of the annuity contracts, mutual funds, any other investment products, and investment advice agreements after being provided with a copy of same.
- c. With respect to funding vehicles that engage an independent investment advisor to establish and maintain the investment line-up, the County agrees that failure to follow the independent investment advisor's recommendation in accordance with the terms of its agreement with the independent investment advisor will cause the County to become the investment fiduciary for the Plans.
- d. Nationwide agrees to accept contributions to the Plans for investment in the investment options selected by the County, a product's independent investment advisor, or other responsible Plan fiduciary in its sole discretion and agreed to by Nationwide.

14. ADDITIONAL SERVICES FOR GOVERNMENTAL 401(a) PLAN

Nationwide may provide the following services to the County for the 401(a) Plans as mutually agreed upon in writing by the County and Nationwide:

- Eligible Employee Verification
- Year End Valuation
- Contribution and Forfeiture Allocation
- Contribution Verification
- Vesting Calculation and Maintenance
- Contribution Limit Testing (This will be done on an individual plan basis. Nationwide will not be responsible for monitoring aggregate contribution limits to multiple plans or for reviewing or taking into account contributions to any other plan sponsored by the County or contributions the record of which is kept by another vendor.)

15. COMPENSATION

- a. As compensation for the performance of the Administrative Services provided by Nationwide pursuant to this Agreement, the County and Nationwide agree that Nationwide shall be entitled to receive an annualized compensation requirement of 0.015% (1.5 basis points) of the Plans account value held by Nationwide ("Compensation Requirement") to be calculated and collected according to Nationwide's standard business practices. Nationwide's Compensation Requirement will be taken in the form of an explicit asset fee applied against all Plan assets under management, including Plan balances held in the Self-Directed Brokerage Account ("SDBA") and as outstanding Participant loan balances. The explicit asset fee of 1.5 basis points will be taken against Participant loans by applying an additional finance charge to the loan interest rate. In addition to the foregoing, the parties acknowledge and agree that Nationwide may receive revenue associated with annuity contracts, revenue from mutual fund providers, as well as fees associated with specific services or products.

- b. The County directs Nationwide to assess and collect an additional asset fee of 0.085% (8.5 basis points), to be applied against all Plan assets under management, including Plan balances held in the Self-Directed Brokerage Account but excluding Participant loan balances, to be remitted to and used by the County for reasonable and necessary Plan related expenses. This additional asset fee will be calculated and collected from Participant accounts according to Nationwide's standard business practices. The amount of the Plan expense charge may be changed once annually at the direction of the County in writing with 60 days advance notice, as approved by the County's Deferred Compensation Committee, without amendment to this Agreement. This Plan expense charge will be in addition to Nationwide's Compensation Requirement described in Section 15.a above.
- c. 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"). The Investment Option Payments include mutual fund service fee payments as described in detail at www.riversidecountydca.com , and other payments received from investment option providers. The County directs Nationwide to credit all Investment Option Payments to the Plan Expense Account, to be used for reasonable Plan expenses.
- d. The County directs Nationwide to establish and maintain a separate account (the "Plan Expense Account") to which the asset fee of 8.5 basis points referred to in Section 15.b will be credited along with any Investment Option Payments referenced in 15.c. The Plan Expense Account will be funded on a quarterly basis. The County will select a single investment vehicle to be used for the Plan Expense Account, which cannot be an investment vehicle included in the Participant investment option line-up. The County will direct Nationwide, in writing, to pay reasonable and necessary Plan expenses directly to a Plan service provider.
 - i. When each invoice is submitted to Nationwide for payment, the County shall certify in writing that the expenses represented by the invoice are reasonable and necessary Plan expenses. As the fiduciary of the Plan, the County is solely responsible for making determinations with respect to the appropriateness of all expenses of the Plan and how the Plan Expense Account is managed. Nationwide does not accept this responsibility.
 - ii. The account balance, account transactions and investment experience of the Plan Expense Account will be reported to the County no later than thirty (30) Business Days after the end of each calendar quarter.
 - iii. The County will maintain the cumulative balance held in the Plan Expense Account at a reasonable level given the size of the Plan and the Plans total annual expenses. Should the cumulative balance of the Plan Expense Account exceed a reasonable level, County will direct Nationwide to allocate any excess accumulation to Participant accounts on a pro-rata basis based on their total account balance.
 - iv. Notwithstanding Section 15.d.iii. above, at the direction of County, any balance in the Plan Expense Account that has not been applied to pay for reasonable and necessary Plan expenses can be allocated to Participant accounts on a pro-rata basis based on their total account balance on an annual basis to be mutually determined and agreed to by the parties.
- e. The County acknowledges that it has received all information it has reasonably requested about compensation paid to Nationwide as the County and has determined that the total amount of

compensation paid to Nationwide as described in this Section 15 is reasonable and appropriate for the services provided

- f. To the extent offered under the Plan, in addition to the above described fees, Nationwide shall also receive fees with respect to a Participant's use of Participant loan administration, the Self-Directed Brokerage Account ("SDBA"), and Nationwide's managed account service ("ProAccount") as follows:
 - i. Loans – If requested by the County and permitted under the terms of the Plan, Nationwide will assist the County in processing Participant loan requests pursuant to Participant loan administrative procedures approved by the County and Nationwide. All Participant loan fees are governed by Nationwide's Plan Loan Procedures document, a copy of which has been provided to the County.
 - ii. Self-Directed Brokerage Account – The Plan offers an SDBA investment option for qualifying Participants in the 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 Nationwide.
 - iii. Managed account services (Nationwide ProAccount) – Managed account services are offered by Nationwide Investment Advisors ("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 to utilize Nationwide's ProAccount managed account service are assessed fees. Such fees are authorized in a separate ProAccount agreement between the Participant and NIA, and are assessed pursuant to the terms and conditions of such agreement.

Fees related to participant loans, the SDBA and Nationwide ProAccount are in addition to the fees in Sections 15.a., b., and d.

- g. 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.

16. FRAUD

- a. Nationwide will investigate suspected fraud in accordance with its standard procedures.
- b. Nationwide will report any fraud that is confirmed after performing its investigation to the County.
- c. Nationwide will work with the County to determine the appropriate action to mitigate or rectify any discovered fraud.
- d. If Nationwide suspects fraud with respect to an ACH transfer, the County agrees that Nationwide may issue a physical check to the Participant instead.

- e. If a distribution is completed due to a failure of a Nationwide control and is promptly reported, Nationwide will restore the unrecoverable amount of the unauthorized withdrawal as of the date of the original transaction.
- f. The restoration of the unrecoverable amounts is subject to certain limitations and restrictions, including, but not limited to:
 - i. Participants are required to submit to Nationwide an Affidavit of Forgery and a copy of a filed police report and required to fully cooperate with Nationwide in assessing the fraud.
 - ii. Nationwide does not cover losses that result from a participant's, their designee's, family member's or acquaintance's negligence or fraudulent acts and/or from the sharing of information or account credentials.
 - iii. Nationwide does not cover legal fees, expenses or tax consequences, and/or indirect or nonmonetary damages incurred by the participant.
 - iv. Losses will not be covered when caused by a failure of an authorized third party (e.g., the County, a financial professional, an administrator, a consultant, etc.) with access to the account, but Nationwide will partner on a resolution.

17. ASSIGNABILITY AND PROVISION OF SERVICES

- a. Excepted as otherwise specifically provided for in this Agreement, the County acknowledges that the Administrative Services under this agreement will be performed by Nationwide or one of its affiliates.
- b. Except as provided for in Subsection "a", above, no party to the Agreement will assign the performance of services without the express written consent of the other party, which consent shall not be unreasonably withheld. Unless agreed to by the parties, such assignment shall not relieve any party to this Agreement of any duties or responsibilities herein. This provision does not restrict Nationwide's right to delegate certain services to an agents, affiliates, and vendors.

18. CONFIDENTIALITY

- a. Nationwide agrees to maintain all information obtained from or related to all Plan Participants as confidential.
- b. The County authorizes Nationwide to disclose Plan and employee information to its agents, affiliates, vendors, brokers, registered representatives, and professional advisors (such as attorneys, accountants and actuaries) to enable or assist them in the performance of their duties hereunder and other plan-related activities.
- c. The County agrees to allow 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.

- d. Except as provided for in Section 18.b., the County agrees that 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.
- e. 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 that may arise in connection with the Agreement, the investment arrangement funding the Plans, or the Plans; provided, however, in no event will Nationwide release any information to any person or entity except as permitted by applicable law.

19. INDEMNIFICATION

- a. Nationwide agrees to indemnify, defend and hold harmless the County, its officers, directors, agents, and employees 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 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.
- b. To the extent not prohibited by state law, the 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 the County's non-performance of the provisions of the Agreement under the County's exclusive control, or negligence or willful misconduct in the performance of its duties and obligations under this Agreement. In addition, the County represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that the County will not assert a position contrary to such representation in any judicial or administrative proceeding.

20. 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. 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.

21. MODIFICATION

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

- b. Notwithstanding the above, if Nationwide determines that an amendment to the Agreement is necessary that affects more than one plan sponsor and this change is communicated in writing to all affected plan sponsors, Nationwide reserves the right to implement the amendment on a prospective basis for any plan whose plan sponsor fails to respond to the request for written approval of the amendment in a timely fashion. The County hereby approves all such amendments unless a proper and timely response is made to Nationwide regarding any Agreement modification communicated to the County.

22. TERMINATION

- a. Either the County or Nationwide may terminate the Agreement for any reason upon providing 120 days written notice to the other party.
- b. In the event either party fails to perform any or all of its obligations as defined in the Agreement, the non-defaulting party shall give the defaulting party written notice, specifying the particulars of the default. If such default is not cured within 60 days from the date in which notice of default is given, the non-defaulting party may terminate the Agreement upon 60 days written notice to the defaulting party.
- c. Provision of such written notice of termination by the 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 Plans are 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 Plans except by agreement of the parties.
 - ii. Nationwide will:
 - 1. Provide the County, or such other entity as the County may designate in writing, with a copy of all Participant records in an electronic format and within a time frame as mutually agreed upon between Nationwide and the County.
 - 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 accordance with the time frame agreed to by the parties for the delivery of Participant records.
 - 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.

23. CIRCUMSTANCES EXCUSING PERFORMANCE

- a. Neither party to the Agreement will 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, severe malware or cyber-attack, fires, floods, epidemics, quarantine or restrictions, freight embargoes, and unusually severe weather.
- b. Neither party will 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 will 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.
- c. "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.

24. NO WAIVER

The failure of either party to enforce any provision of the Agreement will not be construed as a waiver of that provision or of any other provision in the Agreement. Either party may, at any time, enforce a provision previously unenforced, unless a modification to the Agreement has been executed that makes such provision unenforceable.

25. SEVERABILITY

Any provision of the Agreement which is prohibited or unenforceable in any jurisdiction where performance is required will be ineffective to the extent such provision is prohibited or unenforceable without invalidating the remaining provisions. Any prohibited or unenforceable provision in any one jurisdiction will not prohibit or render unenforceable such provision in any other jurisdiction.

26. AUTHORIZED PERSONS

The County will furnish a list to Nationwide (and from time to time whenever there are changes therein) of the individuals authorized to transmit instructions to Nationwide concerning the Plans and/or assets in the Plans, and written direction regarding the form of such instructions.

27. 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 Plans and the administration thereof. Nothing contained herein will 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.

28. SURVIVAL OF REPRESENTATIONS, WARRANTIES, INDEMNITY, AND CONFIDENTIALITY

- a. Notwithstanding anything to the contrary, any representations and warranties contained herein will survive termination of the Agreement for the full period of any applicable statute of limitations that may apply to the Agreement. Further, the party making any representation or warranty shall notify the other party in writing within five business days of any representation or warranty that is no longer valid.
- b. Notwithstanding anything to the contrary, any indemnity provisions contained herein will survive the termination of the Agreement for the full period of any applicable statute of limitations that may apply to the Agreement.
- c. Notwithstanding anything to the contrary, any confidentiality provisions contained herein will survive the termination of the Agreement for the full period of any applicable statute of limitations that may apply to the Agreement.

29. PRIVACY OF CONTRACT

The County acknowledges and agrees that Nationwide and Participants of the Plans have no privity of contract with each other.

30. PUBLIC RECORDS

Notwithstanding any other provisions contained in this Agreement, Nationwide acknowledges 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.

31. APPLICABLE 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.

32. 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.

33. ATTORNEY'S FEES

Each party agrees that in the event of a claim, arbitration, or lawsuit filed by a party to this Agreement, each party will be responsible for its own attorneys' fees and/or any costs or expenses related to the bringing or defense of any such claim, arbitration, or lawsuit.

34. HEADINGS

separately to this Agreement or be no less than two (2) times the occurrence limit. Policy shall name the County as an Additional Insured.

- e. 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.
- f. Cyber Security Insurance: Nationwide shall procure and maintain for the duration of the contract insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work hereunder by Nationwide, its agents, representatives, or employees. Nationwide shall procure and maintain for the duration of the contract insurance claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, , invasion of privacy and breach of data.

Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. 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.

If Nationwide maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by Nationwide. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

- g. General Insurance Provisions — All lines:
 - 1. 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.
 - 2. 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 Generally Liability or Auto Liability insurance.
 - 3. 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.
 - 4. 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.

- 5. Nationwide shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.
- 6. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the County.
- 7. Nationwide agrees to notify the 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.

By executing this agreement, the County represents and warrants that it is an "eligible employer," as that term is defined in Code Section 457(e)(1)(A) and 414(d), which means "a State, political subdivision of a State, and any agency or instrumentality of a State or political subdivision of a State."

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first written below.

Nationwide Retirement Solutions, Inc.

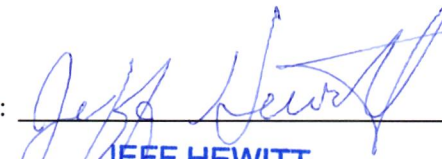
COUNTY OF RIVERSIDE

By: DocuSigned by:
Catherine M (Katie) Moore,
4DBE30C54E04471...

Name: Catherine Moore

Title: AVP Operations

Date: 11/1/2022 | 7:51:57 AM EDT

By: 
JEFF HEWITT

Name: JEFF HEWITT

Title: CHAIR, BOARD OF SUPERVISORS

Date: 11/29/22

ATTEST:
 KEVIN R. HARPER, Clerk
 By: 
 DEPUTY

FORM APPROVED COUNTY COUNSEL
 BY: MCT 15 NOV 22
 MICHAEL C THOMAS DATE