

**AGREEMENT  
COUNTY OF TULARE  
SERVICES AGREEMENT  
Defined Contribution Plans Consultant**

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**THIS AGREEMENT** ("Agreement") is entered into as of \_\_\_\_\_, between the **COUNTY OF TULARE**, a political subdivision of the State of California ("COUNTY"), and **NFP Retirement, Incorporated**, a California corporation ("CONTRACTOR"). COUNTY and CONTRACTOR are each a "Party" and together are the "Parties" to this Agreement, which is made with reference to the following:

- A. COUNTY is a duly-constituted government entity authorized to implement defined contribution plans pursuant to law, and has instituted 457 Plans for its regular and part-time, seasonal, and temporary employees, and has adopted, but not yet implemented, a 401(a) Plan for certain employees (hereinafter "Plans"); and
- B. The Defined Contribution Committee administers the Plans and desires consultant services in connection with administration of the Plans including investment options, investment performance evaluation, record-keeping, request for proposals from third-party plan providers, and other matters related to the Plans; and
- C. CONTRACTOR has the necessary experience and expertise to provide such consulting services for COUNTY.

**THE PARTIES AGREE AS FOLLOWS:**

1. **TERM:** This Agreement becomes effective as of January 1, 2019 and expires at 11:59 PM on December 31, 2021, unless earlier terminated as provided below, or unless the Parties extend the term by a written amendment to this Agreement.
2. **SERVICES:** See attached Exhibit A.
3. **PAYMENT FOR SERVICES:** See attached Exhibit B.
4. **INSURANCE:** Before approval of this Agreement by COUNTY, CONTRACTOR must file with the Clerk of the Board of Supervisors evidence of the required insurance as set forth in the attached **Exhibit C**.
5. **GENERAL AGREEMENT TERMS AND CONDITIONS:** COUNTY'S "General Agreement Terms and Conditions" are hereby incorporated by reference and made a part of this Agreement as if fully set forth herein. COUNTY'S "General Agreement Terms and Conditions" can be viewed at <http://tularecountycounsel.org/default/index.cfm/public-information/>.
6. **ADDITIONAL EXHIBITS:** CONTRACTOR shall comply with the terms and conditions of the Exhibits listed below and identified with a checked box, which are by this reference made a part of this Agreement.

|                          |                  |   |
|--------------------------|------------------|---|
| <input type="checkbox"/> | <b>Exhibit D</b> | Additional terms and conditions for federally-funded contracts. This Exhibit can be viewed at <a href="http://tularecountycounsel.org/default/index.cfm/public-information/">http://tularecountycounsel.org/default/index.cfm/public-information/</a> |
|--------------------------|------------------|---|

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**7. NOTICES:** (a) Except as may be otherwise required by law, any notice to be given must be written and must be either personally delivered, sent by facsimile transmission or sent by first class mail, postage pre-paid and addressed as follows:

**COUNTY:**

Cass Cook, Auditor-Controller/Treas-Tax Coll  
PLAN ADMINISTRATOR  
221 S. Mooney Blvd., Rm. 101-E  
Visalia, CA 93291

Phone No.: 559-636-5200  
Fax No.: 559-730-2547

**With a Copy to:**

COUNTY ADMINISTRATIVE OFFICER  
2800 W. Burrel Ave.  
Visalia, CA 93291

Phone No.: 559-636-5005  
Fax No.: 559- 733-6318

**CONTRACTOR:**

Nicholas Della Vedova, President  
NFP Retirement, Inc.  
120 Vantis, Suite 4000  
Alisa Viejo, CA 92656

Phone No.: 800-969-0071  
Fax No.: 949-460-9883  
Email: [nick.dellavedova@nfp.com](mailto:nick.dellavedova@nfp.com)

**With a Copy to:**

Bill Tugaw, Managing Director Government Plans  
NFP Retirement, Inc.  
4364 Town Center Blvd., Suite 213  
El Dorado Hills, CA 95762

Phone No.: 866-443-1557, ext. 103  
Fax No.: 916-939-1419  
Email: [bill.tugaw@nfp.com](mailto:bill.tugaw@nfp.com)

(b) Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail will be deemed received on the fifth calendar day after the date of mailing. Either Party may change the above address by giving written notice under this section.

**8. AUTHORITY:** CONTRACTOR represents and warrants to COUNTY that the individual(s) signing this Agreement on its behalf are duly authorized and have legal capacity to sign this Agreement and bind CONTRACTOR to its terms. CONTRACTOR acknowledges that COUNTY has relied upon this representation and warranty in entering into this Agreement.

**9. COUNTERPARTS:** The Parties may sign this Agreement in counterparts, each of which is an original and all of which taken together form one single document.

[THIS SPACE LEFT BLANK INTENTIONALLY; SIGNATURES FOLLOW ON NEXT PAGE]

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**THE PARTIES**, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

**NFP RETIREMENT, INC.**

Date: 11-12-2018

By Nick Della Vedova

Print Name Nick Della Vedova

Title President

Date: 11-12-2018

By Jami A Chapman

Print Name Jami A Chapman

Title COO

[Pursuant to Corporations Code section 313, County policy requires that contracts with a Corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract. Similarly, pursuant to California Corporations Code section 17703.01, County policy requires that contracts with a Limited Liability Company be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.]

**COUNTY OF TULARE**

Date: \_\_\_\_\_

By \_\_\_\_\_

Chairman, Board of Supervisors

ATTEST: JASON T. BRITT

County Administrative Officer/Clerk of the Board  
of Supervisors of the County of Tulare

Date: \_\_\_\_\_

By \_\_\_\_\_

Deputy Clerk

Approved as to Form  
County Counsel

Date: 12-4-18

By [Signature]

Deputy

Matter # DC Plan-20181128

## **EXHIBIT A**

### **Scope of Work**

CONTRACTOR shall provide consulting services which include, but are not limited to the following:

#### **A. General Consulting**

1. Evaluate the Plan's recordkeeping, custodial, education and investment management services, and the pricing structure(s) to ensure that it is competitive and fair for the services received and the Plan's needs.

#### **B. Investment Performance Monitoring**

1. Conduct Annual fund performance reviews that include at a minimum:
  - a. Ongoing monitoring of investment options, including benchmarking against appropriate benchmarks of the funds.
  - b. Comparison of investment options in each asset category to appropriate benchmarks.
  - c. Manager and/or fund investment strategy changes.
  - d. Historical performance returns, major holdings, sector weightings, manager information and portfolio statistics (ratings, asset size, stewardship).
  - e. If a mutual fund or collective investment trust fund, provide accurate pricing of marketable securities and calculation of income accruals
  - f. Annual review of Investment Policy Statement.
  - g. Provide consulting services during investment review committee meetings at TCERA headquarters or other venue in Visalia, CA.

#### **C. Fiduciary Status.**

1. CONTRACTOR is a Co-Fiduciary as it relates to the selection and monitoring of investments.
2. CONTRACTOR will provide research and analysis with regard to investment advice and investment due diligence services for COUNTY identical to the process, and performed with the same standard of care, that CONTRACTOR delivers to the Qualified Retirement Plan which CONTRACTOR is a Co-Fiduciary as it relates to the selection and monitoring of investments. The goal of the investment due diligence process is to establish a logical, technical, and comprehensive process that is consistently employed in the selection and ongoing monitoring of funds for plan sponsors and individuals, accompanied by an investment policy statement (for plan sponsors only), that defines the process utilized to recommend prudent investment actions to plan fiduciaries, or their representatives. In providing the investment advice to COUNTY's plan, the CONTRACTOR will follow the investment policy statement and undertake procedural due diligence to arrive upon, or facilitate, prudent investment-related recommendations.

3. CONTRACTOR does not have discretionary authority over the COUNTY's account. As such, CONTRACTOR does not have any authority to implement or effect any recommendation made by the CONTRACTOR in the COUNTY's account. COUNTY shall make all decisions with respect to any recommendation made by the CONTRACTOR, especially under the following cases: (i) to direct, manage, and/or change the investment and reinvestment of the assets in the COUNTY's account to include any applicable proceeds thereof; (ii) to buy, sell, exchange, convert and otherwise trade in any and all stocks, bonds, and other securities products or investment instruments as the CONTRACTOR may select; and (iii) to establish and deal through accounts with one or more securities brokerage firms, dealers or banks as the CONTRACTOR may select.

#### **D. Investment Option Selection**

1. Provide ongoing assistance with investment options, including, but not limited to:
  - a. Informing the Defined Contribution Committee of industry and plan sponsor trends, as well as new investment products or methods of offering investment products.
  - b. Reviewing existing method of providing investment options and evaluating suitability of other methods.
  - c. Assist in developing a well-defined investment process compatible with the investment objections of the Plan, as described in the Plan's Investment Policy Statement ("IPS"), and adding and/or eliminating investment options by reviewing funds in accordance with the IPS.
  - d. Review and design of disclosures and fact sheets for fund choices.
2. Investment Policy Statement (IPS): Provide ongoing assistance with investment options, including, but not limited to:
  - a. Provide ongoing review and advice to avoid administrative and legal complications
  - b. Assisting the Committee with application of the IPS to decision-making.
  - c. Recommending language changes as appropriate.
  - d. Assisting in finalizing the IPS.

#### **E. Education/Communication and Training**

1. Provide expert comprehensive guidance to the Committee and Plan Administrator and Plan Counsel to assist their administration of the Plan, including, but not limited to:
  - a. Identify, review and design input for Committee education programs.
  - b. Attend Committee meetings, and special meetings as requested.
  - c. Advise the Committee of key trends and recent developments in fiduciary responsibility and plan administration.
  - d. Provide ongoing information updates to the Committee, Plan Administrator, and Plan Counsel regarding proposed or passed legislation affecting or related to Section 457, Roth 457, and 401(a), as well as issued letters, opinions and interpretive bulletins by the Department of Labor.
  - e. Provide requested articles or input for departmental newsletters or publications.

- f. Provide information on market theories and risk measurement and management.
- g. Recommend and provide fiduciary liability training for the Committee, Plan Administrator, or as otherwise requested.
- h. Provide advice and assistance in developing and evaluating participant assessments. Participant assessments may include but are not limited to participant surveys, focus groups, customer satisfaction evaluations, and other knowledge/awareness assessments.
- i. Provide 457 University or 457 Graduate School as requested.
- j. Annual review of Education Policy Statement.

**F. Contract Review/Request for Proposal Process:**

1. In 2021, the Plan's recordkeeping service agreement with Empower Retirement Services expires and COUNTY will likely undertake a comprehensive RFP process. The successful Proposer must be capable of drafting RFP questionnaires, evaluation criteria, scoring methodologies, response summaries and other information as necessary to assist the Plan in evaluating the capabilities and soundness of firms submitting proposals, including but not limited to:
  - a. Provide assistance to the Committee in the development/review of proposed contracts for recordkeeping.
  - b. Educate Committee regarding selection processes, and options for obtaining a cost effective, full-service recordkeeper.
  - c. Assist in establishing evaluation criteria, and also in evaluating responses to the proposal recordkeeper.
  - d. Assist with identifying and weighting selection requirements.
  - e. Analyze submitted proposals and review findings with committee.
  - f. Facilitate qualifying bidders' presentations and interviews.
  - g. Develop reference-check script, and conduct reference interviews and review results with Committee.
  - h. Assist in generating recommendations to the Committee and to the Tulare County Board of Supervisors for action.
  - i. Assist the Committee with fee negotiations and review of all service contracts and funding agreements with final fund selections.
  - j. Identify other services which in your experience have been useful for a successful RFP process.
  - k. Draft, and/or review and provide advice regarding amendments or extensions to existing contracts for all plans offered.

**G. Miscellaneous:**

1. Facilitate and collaborate on the design of the Plan webpage regarding content, database, functionality and product disclosure.
2. Periodic training of appropriate staff on investment and defined contribution issues.
3. Assist in creating educational mediums.

**EXHIBIT B**  
**Payment for Services**  
**(Including Annual Investment Performance Reviews)**

| Compliance Assistance                                 |                 |
|---|-----------------|
| Service   | Fee             |
| Reviewing & Revising Investment Policy                | \$2,500         |
| Attending Quarterly Meetings – On Site                | \$10,000        |
| Training Services: 457 University/Graduate School     | Included        |
| Monitoring Vendor Performance                         | \$4,000         |
| Monitoring Investment Performance                     | \$7,500         |
| Assisting with Selecting/Deselecting Investment Funds | Included        |
| <b>Total Fee:</b>                                     | <b>\$24,000</b> |

**Review and Revise Investment Policy**

- Detailed analysis to insure that Investment Policy is up to date with changes that have occurred in the investment industry, as well as regulatory clarification.
- Meeting with the Committee to discuss changes to the policy to meet the County's current needs.
- An electronic copy of the final Investment Policy for printing and distributing by the County.

**Quarterly Meetings - On-Site**

- Attendance at regularly scheduled quarterly Defined Contribution Committee meetings.
- Stakeholder education including 457 University.
- Regulatory & legislative updates.
- Industry best practices update.
- Watch List review.

**Training Services: 457 University/Graduate School**

**Monitor Vendor Performance**

- Review and analysis of performance guarantees provided contractually.
- Written executive summary of performance results that enables the Defined Contribution Committee to obtain financially "at risk" performance standards or other evaluative measurement.

**Monitor Investment Performance**

- External, neutral investment indices that identify the performance of funds within identified asset classes.
- Comparison of funds, portfolio returns with other pre-determined employers who offer similar plans with similar investment options.
- Written summary of year-end performance for the Committee's review and use, especially related to funds that may not be performing to standards.

**Assist Selecting / Deleting Investment Options**

- External review of investments based upon a one (1), three (3), five (5) and ten (10) year performance history compared to the relevant benchmark index.
- Comparison of each investment with other current investments by asset class and asset category.
- Written summary of investments and investments on the Watch List.

| Request for Proposal Assistance   |                 |
|---|-----------------|
| Service   | Fee             |
| Request for Disclosure – Analysis of Current Plan                                 | \$1,500         |
| Development of RFP Objectives (includes review and revision of Investment Policy) | \$1,500         |
| Development of Automated RFP  | \$6,000         |
| Finalize RFP  | \$2,000         |
| Evaluation/Analysis of Proposals  | \$8,000         |
| Finalist Interview/Recommendation(s)  | \$3,000         |
| Implementation/Transition Services  | \$1,500         |
| Communication with Participants/Stakeholders                                      | \$1,000         |
| <b>Total Fee:</b>   | <b>\$24,500</b> |

#### Request for Disclosure - Analysis of Current Plans

- Determination of existing participation, asset holdings and balances, review of historical rates of return and investment performance as compared against predetermined indices and "net to participant" accumulated investment return analysis.
- Determination of existing investment fund objectives, standard industry risk analysis and ratings.
- Disclosure of current fees, charges and expenses associated with each investment option.
- Specific determination of any potential deferred sales charges, surrender charges, market value adjustments or fund liquidation charges.
- Review of stable value/fixed interest account to determine encumbrances at participant or Plan levels.
- Review of existing contracts, reports and services offered.

#### Development of RFP Objectives

- Summarize key strengths/weaknesses of the current plan both in terms of investment returns and administrative services.
- Develop critical objectives upon which proposals will be evaluated.
- Identify key asset classes and categories to emphasize with prospective respondents (e.g. funds covering the largest number of plan participants or greatest amount of assets). These funds are identified through the Request for Disclosure analysis.
- Develop pertinent questions to obtain best interest rate for the assets currently in the fixed interest account. Questions will be designed to have providers articulate the strength and support of the fixed interest account and the rate, as well as highlight any proposals with encumbrances for the participant and/or the Plan.
- Finalize data requirements provided by both the County and the current administrator to prospective respondents.

#### Development of Automated RFP

- Submission requirements are the basis of eligibility for consideration. This can include proposal guarantees for fees, contract length, legal parameters and other basic requirements respondents must meet to be considered.
- Primary criteria are the basis for selecting finalists. These criteria include fund options and diversity, fund performance standards (key funds, other funds), all administrative and fund fees and educational services for decision-makers and participants.



- Secondary criteria are solicited from all respondents but reviewed only for those respondents who are selected as finalists. These criteria include customer services, proposal and reporting services, transition services, legal requirements, exit services, performance standards and guarantees.
- References for those respondents who are considered finalists. Although we can provide reference-checking services (at an additional \$1,500) we recommend that the County assume responsibility for this task.

#### **Customize and Finalize RFP**

- Modify the RFP to include the County's recommended changes.
- Work with legal counsel to assure compliance with internal policies and procedures.
- Identify a list of potential respondents which can be augmented by the County
- Distribution of RFP to identified respondents.

#### **Evaluation/Analysis of Proposals - Primary Criteria**

- Rank investment returns on funds and fixed interest/stable value accounts for all respondents in writing.
- Rank investment administrative charges and expenses in writing for all respondents.
- Discuss and summarize strengths and weaknesses of primary criteria.
- Recommend top 2-4 finalists based on primary criteria and the strength of funds, including the fixed interest/stable value accounts as identified by the consultants and the County.
- Develop questions related to investment and administrative issues in each response for use in finalist interviews.

#### **Evaluation/Analysis of Proposals - Secondary Criteria**

- Executive summary of secondary criteria strengths and weaknesses for each of the finalists.
- Questions and issues to be discussed with each finalist to clarify the proposal and improve weaknesses.
- Specific issues in primary and secondary criteria that should be incorporated into reference checking.

#### **Finalist Interview/Recommendations**

- Develop questions/clarifications and issues for finalist review and response before finalist interviews.
- Lead and attend finalist interview including the development of an agenda and the written provision of questions/issues to finalists in advance of the interviews to permit their preparation of written responses.
- Debrief with Committee on the strengths and weaknesses of respondents and consultant recommendations.

#### **Implementation/Transition Services**

- Mapping RFP standards, guarantees and other mutually agreed upon administrator actions from RFP to contract.
- Assisting in a transition meeting to assign responsibilities and timeframes to the implementation process.
- Review initial provider communication proposal to assure that participants are being provided appropriate Proposal in advance of any transition to new funds.

#### **Communication with Participants/Stakeholders**

- Developing initial communication to participants and other identified recipients to disclose the beginning of a review and selection process covering their defined contribution benefits.
- Describing initial responses and preliminary evaluation of primary criteria to re-enforce key objectives and keep participants and other informed of the progress.
- Summarizing preliminary recommendations to final decision-makers to assure that any concerns or issues are addressed prior to final actions by the County.

**HOURLY RATES**

Below are the hourly fees for services that fall outside the Scope of Services:

|  |       |
|--|-------|
| Bill Tugaw, IAR, Lead Consultant         | \$325 |
| Chuck Sklader, IAR, Senior Consultant    | \$300 |
| Paul Hackleman, Senior Consultant        | \$300 |
| Mindy Harris, Senior Consultant          | \$300 |
| Scott Dauenhauer, IAR, Senior Consultant | \$275 |
| Barbara Healy, Consultant                | \$275 |
| Bobbi Tugaw, IAR, Consultant             | \$250 |
| Sandra Oakes, Senior Administration      | \$125 |
| Ally Phillips, Communication Specialist  | \$100 |

**INVOICING:**

CONTRACTOR will submit invoices to COUNTY for services on a quarterly basis, in arrears. Invoices will be paid in accordance with the COUNTY's normal pay cycle.

## EXHIBIT C

### INSURANCE REQUIREMENTS

CONTRACTOR shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise from, or in connection with, performance under the Agreement by the CONTRACTOR, his agents, representatives, employees and subcontractors, if applicable.

#### A. Minimum Scope & Limits of Insurance

1. Coverage at least as broad as Commercial General Liability, insurance Services Office Commercial General Liability coverage occurrence form GC 00 01, with limits no less than \$1,000,000 per occurrence including products and completed operations, property damage, bodily injury and personal & advertising injury. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability of \$1,000,000 per occurrence including any auto or, if the CONTRACTOR has no owned autos, hired and non-owned auto coverage. If an annual aggregate applies it must be no less than \$2,000,000.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. Professional Liability (Errors and Omissions) insurance appropriate to the CONTRACTOR's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

#### B. Specific Provisions of the Certificate

1. If the required insurance is written on a claims made form, the retroactive date must be before the date of the contract or the beginning of the contract work and must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work.
2. CONTRACTOR must submit endorsements to the General Liability reflecting the following provisions:
  - a. *The COUNTY, its officers, agents, officials, employees and volunteers are to be covered as additional insureds as respects; liability arising out of work or operations performed by or on behalf of the CONTRACTOR including material, parts, or equipment furnished in connection with such work or operations.*
  - b. *For any claims related to this project, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, agents, officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, agents, officials, employees or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.*
  - c. *CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of CONTRACTOR may acquire against the county by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.*

*d. Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days written notice has been provided to the COUNTY.*

3. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the CONTRACTOR, its employees, agents and subcontractors. CONTRACTOR waives all rights against the COUNTY and its officers, agents, officials, employees and volunteers for recovery of damages to the extent these damages are covered by the workers compensation and employers liability.

C. Deductibles and Self-Insured Retentions

Deductibles and Self-insured retentions must be declared and any deductible or self-insured retention that exceeds \$100,000 will be reviewed by the COUNTY Risk Manager for approval.

D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A-:VII and a Standard & Poor's Rating (if rated) of at least BBB and from a company approved by the Department of Insurance to conduct business in California. Any waiver of these standards is subject to approval by the County Risk Manager.

E. Verification of Coverage

Prior to approval of this Agreement by the COUNTY, the CONTRACTOR shall file with the submitting department, certificates of insurance with original endorsements effecting coverage in a form acceptable to the COUNTY. Endorsements must be signed by persons authorized to bind coverage on behalf of the insurer. The COUNTY reserves the right to require certified copies of all required insurance policies at any time.