

**RESOLUTION NO. 2018-133**

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AWARDED TO NATIONWIDE RETIREMENT SOLUTIONS, INC., A FIVE YEAR AGREEMENT IN SUBSTANTIAL FORM ATTACHED AS EXHIBIT "1", FOR DEFERRED COMPENSATION PLAN PROVIDER RECORD KEEPING SERVICES FOR 401 DEFINED CONTRIBUTION AND 457 DEFERRED COMPENSATION PLANS FOR ITS EMPLOYEES; WITH OPTIONS TO RENEW THE AGREEMENT IN THE CITY'S DISCRETION FOR ADDITIONAL TERMS OF FIVE YEARS AT THE END OF EACH TERM; SUBJECT TO THE CITY'S OPTION TO TERMINATE THE AGREEMENT YEARLY ON OR BEFORE JANUARY 1 OF EACH YEAR; AND AUTHORIZING THE MAYOR AND THE ACTING CITY CLERK, ON BEHALF OF THE CITY TO EXECUTE SUCH AGREEMENT IN FURTHERANCE THEREOF.

**WHEREAS**, on November 5, 2018, at its regular quarterly meeting, the Deferred Compensation and Defined Benefit Committee approved the consolidation of recordkeeping services for the City participants in the Nationwide Retirement Solutions, Inc., and ICMA plans to enhance efficiency and reduce participant's administrative costs, and the Committee recommended piggybacking to a City of Coral Gables agreement for recordkeeping services to the Mayor and the City Council; and

**WHEREAS**, the agreement recommended by the Committee provided by Nationwide to the City of Coral Gables are for services substantially similar to those required by the City of Hialeah pursuant to an agreement entitled: Professional Services

Agreement (the “PSA”) dated January 6, 2017, for a period of 5 years, and with optional renewals of 3 years, then of 2 years; and

**WHEREAS**, the PSA was awarded by the City of Coral Gables to Nationwide Retirement Solutions, Inc., in response to the City of Coral Gables RFP-2016.03VF entitled: “401(a) Defined Contribution and 457(b) Deferred Compensation Plan Provider Services”, the “RFP”, advertised and issued on March 16, 2016; and

**WHEREAS**, § 2-818 of the City Charter allows when advantageous to the City, the City to utilize bids that have been awarded or are under contract by the state, county or other governmental agencies without competitive bidding; and

**WHEREAS**, the City of Hialeah finds that it is in the best interest of the City and its employees to award an agreement to Nationwide Retirement Solutions, Inc., for deferred compensation plan provider record keeping services for 401 defined contribution and 457 deferred compensation plans.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations contained in the preamble to this resolution are hereby adopted and incorporated by reference as if fully set forth herein.

**Section 2:** The City of Hialeah, Florida hereby awards to Nationwide Retirement Solutions, Inc., the agreement in substantial form attached as Exhibit “1”, for a period of five years for deferred compensation plan provider record keeping services for 401 defined contribution and 457 deferred compensation plans for its employees; with options to renew the agreement in the City’s discretion for additional terms of five years

at the end of each term; subject to the City's option to terminate the agreement yearly on or before January 1 of each year.

**Section 3:** The City of Hialeah, Florida hereby directs the Law Department to draft and negotiate the agreement attached as Exhibit "1" as may be necessary, and further authorizes the Mayor and the City Clerk, on behalf of the City, to execute such agreement in furtherance thereof.

PASSED AND ADOPTED this 11 day of December, 2018.

  
Vivian Casals Muñoz  
Council President

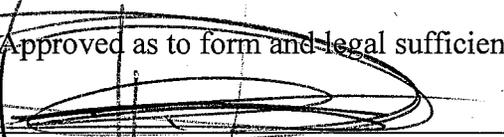
Attest:

  
Marbelys Fatjo, City Clerk

Approved on this 3 day of January, 2018. 

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
Lorena E. Bravo, City Attorney

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Resolution was adopted by a 7-0 vote with Councilmembers, Zogby, Lozano, Casáls-Munoz, Garcia-Martinez, Caragol, Cueva-Fuente, Hernandez, voting "Yes."

**PROFESSIONAL SERVICES AGREEMENT FOR DEFERRED COMPENSATION PLAN PROVIDER RECORD KEEPING SERVICES BY AND BETWEEN THE CITY OF HIALEAH, FLORIDA AND NATIONWIDE RETIREMENT SOLUTIONS, INC.**

This Deferred Compensation Plan Provider Record Keeping Services Agreement ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 201\_ ("Effective Date"), by and between the **City of Hialeah, a Florida municipality** ("CITY"), and **Nationwide Retirement Solutions, Inc.**, a Delaware Corporation, properly registered and doing business in Florida ("CONTRACTOR") jointly the "PARTIES."

**WHEREAS**, the City provides 401 Defined Contribution and 457 Deferred Compensation Plans for its employees that allows employees to save and invest money for retirement with tax benefits managed by CONTRACTOR and the International City/County Management Association "ICMA"; and

**WHEREAS**, pursuant to Hialeah Code of Ordinances § 2-818 the CITY is authorized to piggyback and enter into contracts without competitive bidding by utilizing existing bids awarded by local, state or other governmental authorities that followed a competitive bidding procedure leading to the award of a contract; and

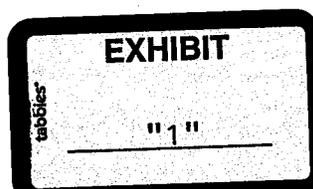
**WHEREAS**, the CONTRACTOR provides services substantially similar to those required by the CITY pursuant to an agreement entitled: Professional Services Agreement, Exhibit "1" dated January 6, 2017, and accompanying exhibits thereto: Exhibit "A"-the City of Coral Gables Resolution awarding the PSA; Exhibit "B"- RFP-2016.03VF entitled: 401(a) Defined Contribution and 457(b) Deferred Compensation Plan Provider Services, the "Coral Gables RFP", advertised and issued on March 16, 2016, and awarded to CONTRACTOR on September 13, 2016; Exhibit "C"-Nationwide's response to the Coral Gables RFP; Exhibit "D"- Pricing Schedule; and Exhibit "E"- Insurance Certificates;

**WHEREAS**, the Coral Gables PSA is for a period of 5 years, with options to renew at the City of Coral Gables' sole discretion for a term of 3 years, and for a second renewal option for a term of 2 years; and

**WHEREAS**, the Coral Gables PSA was amended three times with a first amendment signed by the City of Coral Gables on September 19, 2017 and Nationwide on September 20, 2017, Exhibit "G"; a second amendment signed by the City of Coral Gables on January 11, 2018, and Nationwide on January 16, 2018, Exhibit "H"; and the third amendment signed by the City of Coral Gables on April 27, 2018, and Nationwide on May 4, 2018, Exhibit "F"; and

**WHEREAS**, the CITY has relied on the CONTRACTOR'S response to the Coral Gables RFP, and the CONTRACTOR'S experience, capability, and ability to provide the services contemplated in this Agreement; and

**WHEREAS**, the CITY has elected to purchase off the Coral Gables RFP/PSA, subject to modifications herein to address local needs and requirements; and



**WHEREAS**, the CITY and the CONTRACTOR wish to document their agreement concerning their respective obligations.

**NOW THEREFORE**, for an in consideration of the mutual promises set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the PARTIES agree to the following terms and conditions:

1. **Term.** Effective the date above written for a period of 5 years with an option at the CITY's discretion to renew for additional terms of 5 years, at the end of each five-year period. The CITY shall have the option to terminate this Agreement yearly, on or before January 1 of each year.

2. **Incorporation by Reference; conflicts; merger.** The Coral Gables Professional Services Agreement together with Exhibits B through and including Exhibit F, only, as identified in the preamble to this Agreement, are incorporated herein by reference in their entirety and shall jointly be referred to in this Agreement as the "Coral Gables PSA". Neither Exhibits A – the City of Coral Gables Resolution awarding the PSA, G- the Frist Amendment to the Coral Gables Professional Services Agreement or Exhibit H – the Second Amendment to the Coral Gables Professional Services Agreement are incorporated into this Agreement and as such shall have no effect and shall not be binding on the Parties. If a conflict or inconsistency in any term, provision or condition exists between the Coral Gables PSA and this Agreement, the provisions of this Agreement shall govern. Any conflict or inconsistency between the documents incorporated by reference and referred to as the Coral Gables PSA, shall be decided pursuant to the provisions set forth in those documents. This Agreement embodies the whole agreement of the PARTIES with respect to the subject matter hereof, and there are no promises, terms, conditions, or obligations other than those herein contained. This Agreement shall supersede all previous communications, discussions, representations, or agreements, either verbal or written, between the PARTIES.

3. Whenever the Coral Gables PSA makes reference to the City of Coral Gables, the references therein shall be amended to mean the City of Hialeah. Any references in the Coral Gables PSA to City Manager shall be amended to mean the Mayor of the City of Hialeah or his duly authorized designee. Any references in the Coral Gables PSA to the Coral Gables City Commission shall be amended to mean the City Council of the City of Hialeah.

4. Any references to the ordinances, resolutions, rules, regulations or policies of the City of Coral Gables in the Coral Gables PSA shall be amended to make reference to the corresponding ordinances, resolutions, rules, regulations or policies of the City of Hialeah governing the same subject matter to the extent an ordinance, resolution, rule, regulation or policy exists.

5. The following references in the Coral Gables PSA between Contractor and the City of Coral Gables are amended and made a part of this Agreement as follows:

(a) Paragraph 1.2 *Agreement Period* of the Professional Services Agreement dated January 6, 2017 is deleted in its entirety. The term of this Agreement shall be as provided in paragraph 1 of this Agreement.

(b) Paragraphs 1.5, 1.6, 1.7, and 1.8 of the Professional Services Agreement dated January 6, 2017 are deleted in their entirety.

(c) Paragraph 2.2 *Director or designee* of the Professional Services Agreement dated January 6, 2017 shall be amended to specifically identify the CITY's Mayor or his designee to whom CONTRACTOR shall report.

(d) Paragraph 3.1 *Basic Compensation*, of the Professional Services Agreement dated January 6, 2017 and all references to basis points of compensation in Exhibit D- Pricing Schedule shall be amended to 0.06% or 6 basis points. In addition, this annualized charge will be taken in the form of an explicit asset management charge applied against all City assets under management, including the total City assets held in the Self-Directed Brokerage Account, outstanding participant loan balances, and an explicit asset charge against the City's assets in the Nationwide Fixed Account. Nationwide is guaranteeing a 3.5% return, in Nationwide's fixed account. Additionally, Nationwide will also allocate a total of \$10,000 in monetary risk funds toward performance standards.

(e) Paragraph 5.1 *Insurance certificates* of the Professional Services Agreement dated January 6, 2017 shall be amended to replace the Coral Gables agent identified for acceptance of certificates or evidence of insurance from the Contractor. All certificates or evidence of insurance for the City of Hialeah shall be delivered to: Risk Management Department, 501 Palm Avenue, City of Hialeah, FL 33010.

(f) Paragraph 5.2 *Insurance* of the Professional Services Agreement dated January 6, 2017 is amended to add a subsection k. providing for the following additional coverage at the following limits: Cyber Liability - \$1,000,000 each claim.

(g) Paragraph 13.1 *Notice* of the Professional Services Agreement dated January 6, 2017 shall be amended to identify the agent for the City of Hialeah as Retirement Dept., 501 Palm Avenue – 3<sup>rd</sup> Floor, City of Hialeah, FL 33010, attention Grisell Aedo, with a copy to City Attorney for the City of Hialeah at 4<sup>th</sup> Floor, Law Dept., 501 Palm Avenue; Hialeah, FL 33010.

(h) Paragraph 31.1 *Public Records* of the Professional Services Agreement dated January 6, 2017 shall be amended to identify the phone number, email and postal address for Marbelys Fatjo, the City Clerk, as the Records Custodian of the City of Hialeah as 305-883-5923, [CityClerk@hialeahfl.gov](mailto:CityClerk@hialeahfl.gov), 501 Palm Avenue – 3<sup>rd</sup> Floor, City of Hialeah, FL 33010.

(i) Section 2, Scope of Services in Exhibit B -the Coral Gables RFP shall be amended to eliminate paragraph 2.3 *Plan Details*. All Contractor Services shall be tailored specifically for the City of Hialeah Plan the details of which Contractor has completely and thoroughly reviewed and acknowledges an understanding of.

6. *Choice of Law*. This agreement and all questions of interpretation, construction, and enforcement shall be governed by and construed in accordance with the laws of the State of

Florida without regard to conflicts of law principles. Any legal action brought in connection with this Agreement shall be filed exclusively in Miami-Dade County, Florida.

7. *Construction.* CONTRACTOR acknowledges participating equally in the drafting of this Agreement and that, accordingly, no court construing this Agreement shall construe it more stringently against anyone party.

8. *Counterparts.* This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but, all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, and intending to be legally bound, the CITY and the CONTRACTOR by their duly authorized officers, has caused this Agreement to be properly executed.

**CONTRACTOR:**

**CITY:**

Nationwide Retirement Solutions, Inc., a Delaware Corporation	City of Hialeah
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By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____