



Evelyn Minor-Lawrence  
Director

DEPARTMENT OF HUMAN RESOURCES

PUBLIC SERVICES BUILDING  
2051 Kaen Road | Oregon City, OR 97045

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of contract with Voya Financial to provide record keeping services

<b>Purpose/Outcomes</b>	Approve the contract for record keeping services between Voya Retirement Insurance and Annuity Company, dba Voya Financial and the Clackamas County and the Housing Authority of Clackamas County Deferred Compensation 457(b) Retirement Plans.
<b>Dollar Amount and Fiscal Impact</b>	Assuming an average \$25 million per year increase to Deferred Compensation plan assets we estimate the cost over the duration of the 5 year contract to be as follows: FY 21-22 \$247,500; FY 22-23 \$275,000; FY 23-24 \$302,500; FY 24-25 \$330,000; FY 25-26 \$357,000. All fees come from participant contributions. There are no fees paid directly by the County.
<b>Funding Source</b>	Deferred Compensation Plan Participant Fees
<b>Duration</b>	Implementation 10/1/2021 with the initial expiration of December 31, 2026. The Contract has four (4) optional 1-year renewals thereafter.
<b>Previous Board Action</b>	Policy Session 02/23/2021
<b>Strategic Plan Alignment</b>	1. This project provides cost-effective, responsive and comprehensive Deferred Compensation plan benefits to Clackamas County and Housing Authority plan participants. 2. This project directly supports Human Resource's Strategic Result #5 to align wellness programs with workforce needs.
<b>Counsel Review</b>	Date of Counsel review: 09-14-2021 Initials of County Counsel performing review. AN
<b>Procurement Review</b>	Was the item processed through Procurement? yes X no <input type="checkbox"/> If no, provide brief explanation:
<b>Contact Person</b>	Kristi Durham, HR Benefits Manager 503-742-5470
<b>Contract No.</b>	#4028

**BACKGROUND:**

A Deferred Compensation 457(b) Plan record keeper provides services to plan participants and the plan sponsor in the areas of retirement investments, timely processing of enrollments and contributions, participant education (digital, print & in-person) and the administration of withdrawals, distributions, appeals and domestic relations orders.

The Board of County Commissioners is the primary fiduciary for the Deferred Compensation 457(b) Retirement Plan provided to eligible County employees. A function of this fiduciary responsibility includes providing plan participants with the best plan at the lowest possible price by choosing record keepers and investment consultants that meet those needs.

The last record keeper RFP was completed in 2008 and with VOYA's current contract expiring it was necessary from a fiduciary standpoint to see what had changed in the record keeper marketplace since then. Another benefit to this competitive process is the opportunity to reduce participant fees.

The Deferred Compensation Committee with the assistance of our investment consultant NW Capital Management and County Procurement carried out the RFP process.

A sub-committee consisting of four committee members evaluated the proposals submitted by vendors in response to RFP #2020-30. After all proposers submitted their Best and Final Offers regarding their fees, the sub-committee invited the top two scorers, VOYA and Prudential for interviews. Final sub-committee scores submitted after the interviews established VOYA at #1 with Prudential close behind at #2.

The sub-committee presented its findings to the rest of the Deferred Compensation Committee who unanimously voted in a public meeting to submit the recommendation to the Board of County Commissioners that VOYA Retirement Insurance and Annuity Company, dba VOYA Financial be awarded the contract.

On February 23, 2021, the Board granted approval to enter into contract negotiations for record keeping services with Voya Retirement Insurance and Annuity Company, dba Voya Financial for the Clackamas County and the Housing Authority of Clackamas County Deferred Compensation 457(b) Plans.

#### **PROCUREMENT PROCESS:**

This project was advertised in accordance with ORS and LCRB Rules on August 6, 2020. Proposals were opened on September 24, 2020. . The County received five (5) proposals from: Great West Life dba Empower Retirement, ICMA-RC, Lincoln Retirement Service Company, Prudential Investment Management Services and Voya Retirement and Insurance Company. The evaluation committee consisted of 12 county employees and two from the County's consultant Northwest Capital Management. After a series of questions and interviews with the proposers, the evaluation committee recommended to the Board that Voya Retirement and Insurance Company be awarded the Contract. Upon Contract award, the final statement of work was negotiated and finalized.

#### **RECOMMENDATION:**

Staff respectfully recommends that the Board approve and sign this Deferred Compensation Record Keeper Contract between Voya Retirement Insurance and Annuity Company, dba Voya Financial and the Clackamas County and the Housing Authority of Clackamas County Deferred Compensation 457(b) Retirement Plans and requests to be added to the September 30, 2021 Consent Agenda.

Sincerely,

Kristi Durham

Digitally signed by Kristi  
Durham  
Date: 2021.09.15  
10:47:13 -07'00'

Kristi Durham,  
HR Benefits Manager

Placed on the BCC Agenda \_\_\_\_\_ by Procurement

**Clackamas County & Clackamas Housing Authority  
457(b) Deferred Compensation Plan “666890 & 666891”**

**RETIREMENT PLAN SERVICES AGREEMENT  
County Contract # 4082**

**(RFP 2020-30 Deferred Compensation Record Keeper)**

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## RETIREMENT PLAN SERVICES AGREEMENT

This Agreement is made and entered into this 1st day of **October, 2021**, by and among **Clackamas County, Oregon**, (the "Plan Sponsor") and **Voya Retirement Insurance and Annuity Company** ("VRIAC"), a corporation organized and existing under the laws of the State of Connecticut and **Voya Financial Partners, LLC** a limited liability company organized and existing under the laws of the State of Delaware and registered as a broker-dealer under the federal securities laws (the "Broker-Dealer"). VRIAC and the Broker-Dealer are hereinafter collectively called the "Contractor." This Agreement governs the services the Contractor will provide to **Clackamas County** and **Clackamas County Housing Authority Deferred Compensation Plan** (the "457(b) Plans"), and unless specified otherwise, will collectively be referred to herein as the "Plan". This Agreement is separate and apart from any other contract issued to the Plan or Plan Sponsor by VRIAC, including any group annuity contract, funding agreement, or custodial / trust agreement.

### RECITALS

WHEREAS, the Plan will be construed, administered and enforced according to the Internal Revenue Code (the "Code") and the laws of the jurisdiction of issue identified in section 5.06; and

WHEREAS, the Plan Sponsor has selected certain investment products offered or otherwise made available by or through VRIAC or the Broker-Dealer, respectively, for the investment of the Plan's assets (the "Program"); and

WHEREAS, the Plan Sponsor further wishes to engage the Contractor as an administrative service provider to facilitate the administration of the Plan by providing services that shall include without limitation, accounting for deferrals or contributions, disbursement of funds, withholding of taxes, investment education, retirement counseling, investment of assets in the appropriate Plan investment options and proper recordkeeping of participant accounts; and

WHEREAS, the Contractor wishes to provide such administrative services to the Plan.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties do hereby agree as follows:

### **Section 1. Services**

- 1.01 Good Order: The Contractor and the Plan Sponsor acknowledge that for purposes of this Agreement "Good Order" is defined as the receipt at the Contractor's designated location of a transaction request, instructions or data that is complete, accurate and in an acceptable format, and which do not require the Contractor to apply any research or discretionary judgment. To qualify as current business day instructions, a transaction request, instructions or data sent electronically, by telephone, facsimile or mail must be received by the Contractor no later than the close of the New York Stock Exchange ("NYSE") (typically 4:00 p.m. ET). If the Contractor receives a transaction request, instructions or data in Good Order after the close of the NYSE, the Contractor will process the data or request on the next business day that the NYSE is open. The parties understand and acknowledge that a transaction request, instructions or data deemed by the Contractor as being received not in Good Order may be returned for correction and processed upon resubmission in Good Order.
- 1.02 Allocation of Contractor Responsibilities: The Broker-Dealer or other broker-dealers with which Voya Financial Partners, LLC has a selling agreement shall service or perform all marketing communications, enrollment and securities transactions settlement and processing functions assigned to the Contractor. VRIAC shall perform all other responsibilities assigned to the Contractor, including Plan and participant recordkeeping. For plans that have multiple providers of investment products and administrative services, VRIAC will provide recordkeeping services solely for that portion of the Plan utilizing assets record kept by the Contractor.
- 1.03 Plan Specifications: The relevant characteristics of the Plan that will govern the administration of the Plan are documented within the Plan Specifications section of this Agreement.
- 1.04 Scope of Services: The Contractor agrees to provide the Plan with the services listed on Schedule A for the term of this Agreement.

- 1.05 Administrative Requirements: The Contractor agrees to comply with the requirements set forth on Schedule B in the performance of this Agreement.
- 1.06 Performance Standards: The Contractor agrees to comply with the standards set forth on Schedule C in the performance of this Agreement. At the Plan Sponsor's request, the Contractor shall report to the Plan Sponsor how it measures compared to these performance standards (See Schedule C, Performance Standards). Any non-performance fee payable pursuant to the terms of this Agreement shall be in addition to any damages or other remedies available to the Plan, participants or the Plan Sponsor hereunder. The Contractor and the Plan Sponsor will review these performance standards at the Plan Sponsor's request and make adjustments as necessary and mutually agreed.
- 1.07 Selection of Investment Options: The Plan Sponsor acknowledges that it is responsible for choosing the investment options to be made available to participants under the Plan. The Contractor agrees to provide Plan participants with a selection of investment options.
- 1.08 Investment Provider Minimum Standards: Subject to the minimum standards set forth in Schedule D, the Contractor will provide its administrative services in connection with the Plan Sponsor's selection of investment products to fund the Plan.
- 1.09 Modification to Investment Options: In order to confirm the fund selected by the Plan Sponsor can be record-kept by the Contractor, the addition or removal of any investment option to the Plan must be mutually agreed to by the Contractor and the Plan Sponsor and will be made in accordance with a mutually agreed upon schedule for implementing the change.
- (1) Subject to mutual agreement between the parties to add an investment option;
    - (i) The Plan Sponsor may direct the Contractor to add or remove an investment option from the range of investment products the Contractor currently offers, and that are currently available in the Program, upon forty-five (45) days written notice of the proposed change.
    - (ii) The Plan Sponsor may direct the Contractor to add an investment option that the Contractor does not currently offer or an investment option that the Contractor currently offers but is not currently available in the Program, upon at least ninety (90) days written notice of the proposed change. Any investment option additions made pursuant to this Subsection 1.09(1)(ii) will be made in accordance with the Contractor's scheduled quarterly fund updates.
  - (2) The Contractor reserves the right to reject any new investment option that imposes short-term trading (redemption) fees on participant accounts.
  - (3) To the extent an existing investment option imposes short-term trading (redemption) fees on participant accounts, the investment option may be discontinued or short-term trading (redemption) fees may be deducted from participant accounts.
- 1.10 Limits Imposed by Underlying Funds: The Plan Sponsor understands and acknowledges that orders for the purchase of fund shares may be subject to acceptance by the fund. The Contractor reserves the right to reject, without prior notice, any allocation of payments to the variable investment option (which, depending on the Contractor's product offering, may be a fund offered directly to the Plan, or a subaccount of a separate account which in turn invests in an underlying fund), if the Contractor's purchase order for the corresponding fund is not accepted by the fund for any reason.
- 1.11 Limits Imposed by Contractor on Frequent Transfers: The Plan Sponsor understands and acknowledges that the investment products offered or otherwise made available by or through the Contractor are not designed to serve as vehicles for frequent trading in response to short-term fluctuations in the market. Such frequent trading can disrupt management of a fund and raise its expenses. This in turn can have an adverse effect on fund performance. Accordingly, the Plan Sponsor agrees to adhere to the Contractor's current Excessive Trading Policy, as set forth in Schedule E (the "Excessive Trading Policy"). The Contractor reserves the right to modify the Excessive Trading

Policy in whole or in part at any time and without prior notice, depending on the needs of the underlying fund(s), the best interest of contract owners and fund investors, and/or state or federal regulatory requirements.

- 1.12 Access to Investment Advice: The Contractor agrees to make available to Plan participants, an independent third party online investment advisory service, as specified in separately signed agreements.
- 1.13 Access to Self Directed Brokerage Account: The Contractor agrees to make available to Plan participants, a self directed brokerage account option ("SDBO"), as specified in a separately signed agreement.

## **Section 2. Participant Information**

- 2.01 Provision of Certain Participant Information: The Plan Sponsor or its authorized representative shall facilitate the transmission to the Contractor of all current Plan participant level records including, but not limited to: name; address; social security number; active or terminated employment status; loan information; and deferral amount information. The Contractor shall be able to rely on the information provided by the Plan Sponsor. We are not responsible for any errors, omissions or other inaccuracies in the data you or an unaffiliated third party, including without limitation, prior service providers furnish us. Over the term of this Agreement, the Contractor and the Plan Sponsor will develop procedures for the Plan Sponsor to notify the Contractor of changes in employment status and, to the extent the Plan Sponsor has knowledge of the death of any participant, the Plan Sponsor will notify the Contractor of such death. The Plan Sponsor shall provide such information on a timely basis and use its best efforts to assure the accuracy and completeness of all information provided to the Contractor.
- 2.02 Changes in Deferral or Contribution Information; New Participant Deferral or Contribution Information: The Contractor and the Plan Sponsor will develop procedures to coordinate the processing of (i) changes in deferral or contribution amount information and (ii) initial deferral or contribution information pertaining to participants joining the Plan on or after the date the Contractor commences the provision of services under this Agreement. Specific rules apply for when 457(b) deferral elections can begin. Generally the requirement is that the election be made by the last day of the month prior to the month in which the deferral is implemented. The Plan Sponsor is responsible for ensuring that payroll contributions representing the deferral elections are made in compliance with this requirement.
- 2.03 Participants' Ability to Direct Investments: Participants shall have the ability to choose their investment allocations and to make participant-directed transfers between investment options, subject to any limitations of the Plan and of the Contractor's investment product. If the Plan is or becomes subject to ERISA, or is otherwise employer-controlled, the Plan Sponsor hereby provides written direction to the Contractor allowing participants to make such investment choices, subject to the Plan Sponsor's right to revoke this authorization if allowed by the Plan.
- 2.04 Restricting Participant Accounts (Administrative Holds): The Plan Sponsor directs the Contractor to place an administrative hold on a participant's account upon receipt of a signed or draft domestic relations order (DROs) or joinder, federal tax levy, or upon the receipt of other types of court orders that assert a claim to plan benefits. Placing an administrative hold on the participant's account(s) will prevent the participant from taking distributions, including loans. The participant will continue to have the ability to make allocation changes and fund transfers to account. With the exception of DROs, the restriction will remain on the account until such time that the Contractor is advised to remove the administrative hold either by the Plan Sponsor or upon receipt of a court order indicating that the matter has been resolved and the hold is no longer needed.

Administrative holds placed on a participant's account due to DROs shall remain on the account for a period up to 18 months, or if earlier, until the date the Contractor is advised to remove the administrative hold either by the Plan Sponsor or a court order indicating that the matter has been resolved and the hold is no longer needed. If a subsequent order is received a new 18-month period will be activated.

Notwithstanding the foregoing, with respect to joinders issued pursuant to California Family Code 9 (if applicable), Section 2060, the restriction will not be removed until the Contractor receives either: (1) a QDRO; (2) a court order vacating/dismissing the joinder; or (3) a final judgment that awards the participant all of the plan benefits.



- 2.05 Power of Attorney, Guardianship or Conservatorships: The Contractor will determine the validity of the documentation received relative to a power of attorney, guardianship or conservatorship. Once the documentation is determined to be in Good Order, the Contractor will set up or modify the existing account as directed in the documentation received.

### Section 3. Compensation

- 3.01 Contractor's Compensation: The Contractor's overall annual revenue requirement is 0.10% ("revenue required") and will assess an additional 0.06% as directed by the Sponsor to pay the Plans' consultant fees and other Plan expenses. The Contractor will assess a total Annual Asset-Based Service Fee of 0.16%. The Contractor's services under the Agreement are independent of the Plan Sponsor's selection of investment products offered by or through the Contractor, including the Voya Stable Value Fund 35. The mutual fund revenue sharing paid to the Contractor from such investment products, if any, shall not be a source of compensation for the services rendered under this Agreement, but will instead be returned to plan participants as outlined in Appendix I to Schedule F and herein referred to as the "fee levelization service." The Contractor will assess an Annual Asset-Based Service Fee of 0.16% to achieve the revenue required. The Annual Asset-Based Service Fee will be calculated monthly based on the average daily fund balances including the stability of principal option, and will be deducted monthly across all funds, on a pro rata basis excluding the Self Directed Brokerage Account, and/or any outstanding loan balances, if available. The fee will be deducted from the participant's money sources in the sequence elected by the Plan Sponsor for participant-initiated withdrawals in the Plan Specifications section of this Agreement. The Contractor reserves the right to revise the Annual Asset-Based Service Fee if plan characteristics change from what was originally assumed, or if the Plan Sponsor terminates the fee levelization service. Plan Sponsor reserves the right to re-negotiate the Annual Asset-Based Service Fee if plan service level as identified in Schedules A or M are no longer offered.

If, at any time during the contract period the County determines the proprietary Voya Stable Value Fund 35 no longer satisfies requirements of the County's Investment Policy Statement, the County may elect to replace the fund as an investment.

Additional transactional fees and charges may apply for optional services such as loans, investment advisory services and Self Directed Brokerage Account. Refer to Schedule F ("Additional Plan Services and Fees") for additional fees and charges.

- 3.02 Assumptions Regarding Pricing: Any fees, reimbursements, products and services rendered in connection with this Agreement are contingent on the Contractor being the exclusive provider of investment products and administrative services to the Plan during the Term of this Agreement and any subsequent renewal periods (as described in Section 4.01). The addition of any other provider or providers to the Plan during the Term of this Agreement and any subsequent renewal periods or changes in the Plan document may impact any fees, reimbursements, products and services under this Agreement. The Plan Sponsor will notify the Contractor of any such changes in a timely manner.

This Agreement and fees are contingent on the Plan provisions in effect on the date of this Agreement. Any amendment to the Plan may impact this Agreement and fees.

The Plan Sponsor understands and acknowledges that the compensation to the Contractor is subject to the certain general provisions, as set forth in Schedule G (the "General Compensation Provisions"). The Contractor reserves the right to modify the Indirect Compensation provisions in whole or in part at any time and without prior notice, depending on the needs of the underlying fund(s), the best interest of contract owners and fund investors, and/or state or federal regulatory requirements.

- 3.03 Reimbursement of Plan Expenses: The Contractor shall reimburse the Plan for reasonable administrative expenses as set forth in Schedule I as directed by the Plan Sponsor.
- 3.04 Compensation Paid to Sales Professionals:  
The compensation paid to sales professionals will be derived exclusively from the Contractor's compensation, defined in Schedule G. Sales professionals may also be eligible for additional expense reimbursement.

Compensation may also be paid at the time of participant election of an annuitization distribution option and will be disclosed to the participant at the time the distribution option is elected.

- 3.05 Float: VRIAC and its affiliated companies (collectively referred to as “Voya®” for purposes of this Section 3.05) earn income in the form of bank service credits on contributions awaiting investment and on payments awaiting distribution from the bank accounts that Voya maintains (or “float”). The bank service credits are applied against the bank service fees that apply to the bank accounts that Voya maintains and may not be redeemed for cash. Specifically, the bank accounts have been established to receive and hold for a reasonable time:
- contributions or other amounts to be invested in your retirement Plan, or
  - amounts redeemed to pay a distribution or disbursement from your Plan.

Voya will receive income in the form of bank service credits (as described below) and offset such credits against bank service fees that are charged to Voya for the use of such bank accounts and for services provided by the banks for processing receipts or disbursements.

Float Generated by Contributions:

Voya uses a bank account to receive and hold contributions or other Plan deposit amounts to be invested. Contributions or other deposit amounts are held until authorized instructions are received in Good Order. Income in the form of bank service credits are earned on the bank account during any waiting period for authorized instructions. For authorized instructions received in Good Order, contributions or other deposit amounts will be invested on that business day. For authorized instructions received in Good Order after the close of the New York Stock Exchange, contributions or other deposit amounts will be processed on the next business day.

Float Generated by Distributions:

Voya receives income in the form of bank service credits in connection with distributions or disbursements that Voya pays on the Plan’s behalf. The bank service credits accrue during the period beginning when an amount is redeemed from the Plan’s investment to fund a distribution or disbursement check and ending when the check is presented for payment.

Additionally, from time to time, Voya may receive money market like rates of return on other deposit or short term investment products in which distributions may be held until such time as the check is presented for payment.

- 3.06 Transaction Processing: VRIAC seeks to avoid transaction processing errors to the greatest extent possible, but inadvertent errors do occur from time to time. When a transaction processing error for which VRIAC is directly responsible occurs, VRIAC will attempt to correct the error as soon as reasonably practicable after identification of the error. Once all necessary information has been gathered, VRIAC will promptly take corrective action to put the Plan and its participants in a position financially equivalent to the position they would have been in if the VRIAC processing error had not occurred.

VRIAC processes your Plan’s investment instructions on an “omnibus” or aggregated basis. If VRIAC’s correction of a VRIAC processing error results in a loss to your Plan or its participants, VRIAC will absorb the loss. If any gain results in connection with the correction of an VRIAC processing error, VRIAC will net any such gain against other losses absorbed by VRIAC and retain any resulting net gain as a component of its compensation for transaction processing services, including its agreement to make Plan and participant accounts whole for losses resulting from VRIAC processing errors. For more information on our error correction policy, please refer to Voya Retirement Insurance and Annuity Company’s Policy for Correction of Processing Errors (“VRIAC Policy”), which is included in Schedule J. The VRIAC Policy and any updates to the VRIAC Policy are posted in the Sponsor Disclosure section of Sponsor Web.

- 3.07 Installation Charge: N/A

- 3.08 Fund Management Fees: Fund management fees and other fund operating expenses will also apply to the variable investment options under the Plan. Fees depend on the investment options chosen.

#### **Section 4. Term, Termination, and Amendment**

- 4.01 Term: This Agreement shall commence on **October 1, 2021** and, unless sooner terminated as set forth in this Section 4, shall continue through December 31, 2026 (“Initial Term”) with four 1-year optional extensions thereafter. Either the Plan Sponsor or the Contractor may provide written notice to the other party of its intent not to renew this Agreement at least ) one-hundred eighty (180) calendar days before the end of the then current term.
- 4.02 Termination Without Cause: At any time following the Initial Term, either the Plan Sponsor or Contractor may terminate this Agreement upon at least one-hundred eighty (180) calendar days’ advance written notice to the other party. The Plan Sponsor and Contractor may also mutually agree in writing to terminate this Agreement at any time.
- 4.03 Termination For Cause: Notwithstanding Section 4.01, either party may terminate this Agreement immediately at any time upon written notice “for cause.” For purposes of this Agreement, “for cause” shall mean: (1) failure of the other party to comply substantially with this Agreement and the attached schedules hereto which, when called to the attention of the other party in writing has not been corrected within thirty (30) calendar days of such notice; (2) the fraud or embezzlement on the part of the other party or provider of investment advice; (3) if the other party ceases to conduct business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of the rights of creditors; (4) failure of the other party to pay any fees under this Agreement following thirty (30) days’ notice with an opportunity to cure; or (5) if pursuant to Section 1.09 the Plan Sponsor requests the addition or removal of an investment option under the Plans, that is reasonably anticipated by the Contractor to result in a reduction in revenues under the Plans and no mutual agreement is reached between the parties on the recoupment of such lost revenues, the Contractor shall have the right to terminate this Agreement.
- 4.04 Transfer of Records: In the event of the termination of this Agreement, the Contractor shall provide all electronic data records to the Plan’s designated representative or to a new contractor in an agreed upon format at no cost and within 180 days of written notice of intent to terminate this Agreement.

#### **Section 5. General**

- 5.01 Circumstances Excusing Performance: Neither the Plan Sponsor nor the Contractor shall be liable to the other for any delays or damages or any failure to act due, occasioned, or caused by reason of restrictions imposed by any government or government agency, acts of God, strikes, labor disputes, action of the elements, or causes beyond the control of the parties affected thereby.
- 5.02 Business Recovery Plan: The Contractor acknowledges that it has a Business Recovery Plan in place for its computer environment, specifying steps to be taken in the event of a disaster. The plan is built around a worst-case scenario involving loss of the facility or loss of access to the facility. It is also adaptable to less severe disasters. Generally, there are three phases to the Contractor’s Business Recovery Plan:
- ♦ Immediate response, damage assessment and critical notifications
  - ♦ Environmental and operation restoration
  - ♦ Operational readiness, testing and business resumption.

A critical part of this plan is the Contractor’s System Recovery Plan, which itself has three components:

Hardware: the Contractor maintains a primary data center to support its mainframe applications and a portion of its mid-range and Intel based distributed environment. The Contractor has contracted with an outside vendor to provide hot site recovery capabilities for the primary data center in case of a site level disaster. The vendor maintains equipment that the Contractor will use to restore its applications in case of emergency. In addition, the Contractor has several data centers located throughout the U.S. with mid-range and distributed equipment to lessen the risk from any one site. On-site generators and UPS systems provide continuous power to the

Contractor's facilities. A fully redundant wide area network connects all of the data centers in the U.S. as well as to the hot site vendor facility.

Application software: the Contractor secures program libraries, to tape cartridges weekly, storing them in both on-site and off-site vaults.

Production data: the Contractor's system and database files are backed up periodically, many on a daily basis, to tape cartridges stored in both on-site and off-site vaults.

The Contractor's internal auditors have reviewed its disaster recovery procedures. Portions of the plan are tested on an annual basis.

- 5.03 Ownership and Use of the Content Copyright: Each party owns all right, title and interest in its pre-existing intellectual property. Plan Sponsor acknowledges and agrees that, except for plan sponsors pre-existing intellectual property, all information and content distributed through or displayed on a Contractor Web site, printed or electronic literature, including but not limited to all text, graphics, images, software applications and code, video, audio, and user interface design ("Content") is the property of the Contractor and its affiliates or its third party licensors. Plan Sponsor has a limited, non-exclusive license to use the Content during the term of this Agreement. If Plan Sponsor or any appointee thereof, provides the Contractor with Content for distribution or display on a Contractor Web site, or in printed or electronic literature, plan sponsor is responsible for obtaining permission from the owner or licensor for use of the Content.
- 5.04 Parties Bound: This Agreement and the provisions thereof shall be binding upon the respective parties and shall inure to the benefit of the same.
- 5.05 Applicable Law: This Agreement shall be construed in accordance with the laws of the State of Oregon, referred to as the jurisdiction of issue. The Contractor and the Plan Sponsor shall comply with all state and federal laws and regulations applicable to the services to be performed.
- 5.06 Mediation: The parties agree that any dispute regarding this Agreement or our services may be submitted to mediation or arbitration (or similar process) by a mutually agreed upon third party. The parties agree to negotiate in good faith concerning the terms and conditions of such submission.
- 5.07 Severability: If any provision of this Agreement shall be found to be illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of this Agreement and the remainder of this Agreement shall be construed and enforced as if said illegal or invalid provision had never been inserted herein. Neither party shall be required to perform any services under this Agreement which would violate any law, regulation or ruling.
- 5.08 Acknowledgment: The Plan Sponsor acknowledges the following.
- (a) The Contractor is performing non-discretionary, ministerial administrative services at the direction of the Plan and its authorized representatives.
  - (b) Neither the Contractor nor its affiliates is the Plan administrator or a fiduciary under state law, the Investment Advisors Act of 1940 or, as applicable ERISA, and the Contractor is not responsible for the selection or supervision of fiduciaries to the Plan or of service providers not associated with the Contractor.
  - (c) The Plan Sponsor is solely responsible for maintaining the qualified status of the Plan, if applicable.
  - (d) The Plan Sponsor has consulted with a tax or legal advisor regarding the tax consequences of the Plan.
  - (e) The Plan Sponsor is responsible for selecting the Plan design and investment options that best meet its objectives. The Plan Sponsor understands that it has selected a program that may include a stability of principal option and/or variable annuities funded through a group annuity contract and/or mutual funds offered through a custodial or trust agreement to fund a tax-qualified arrangement; that the tax laws provide for deferral of taxation on earnings on participant account balances (excluding Roth or after-tax contribution sources); and that, although the annuity provides features and benefits that may be of value

to participants, it does not provide additional deferral of taxation beyond that provided by the tax qualified arrangement itself. To the extent mutual funds are available as investment options under the Plan, there may be one or more classes of shares with respect to each mutual fund and each class of shares may have different rules, requirements and expense ratios and Plan Sponsor has made the determination that the class of shares chosen for the Plan is the appropriate class and is suitable for the Plan. All discretion and control with respect to the terms, administration of assets of the Plan shall remain with the Plan Sponsor or with the named fiduciaries under the Plan.

- (f) The Plan Sponsor and its authorized representatives have sole responsibility for the overall administration of the Plan, including periodically providing participants with any notices required under the Code and related Regulations to which the Plan is subject and for making all benefit determinations. The Contractor and its affiliates shall not have any discretion with respect to the management or administration of the Plan or with respect to determining or changing the rules or policies pertaining to eligibility or entitlement of any participant in the Plan to benefits under the Plan. The Contractor and its affiliates shall not have any control or authority with respect to any assets of the Plan, including the investment or disposition thereof.
- (g) Plan Sponsor confirms that Contractor's practices are consistent with the terms and administrative practices of the Plan, where applicable. The Plan Sponsor may delegate the day-to-day administration of certain Plan Sponsor responsibilities to the Contractor as indicated in Schedule A.
- (h) The Plan Sponsor and its authorized representative have the sole authority for the review and final disposition of a Plan participant's appeal of any benefit determination made by the Contractor under the Plan.
- (i) The Contractor does not directly provide any investment advice to the Plan Sponsor with respect to the Plan's assets.
- (j) In performing services under this Agreement, the Contractor is entitled to rely on any information the Plan Sponsor, or its authorized representatives identified in Schedule K, or the Plan participants provide. The Contractor has a reasonable duty to inquire as to the authenticity or the accuracy of such information or the actual authority of such person to provide it.
- (k) The Plan Sponsor will provide the Contractor with an up-to-date copy of the Plan document(s) and complete information governing the terms and operation of the Plan (including a written explanation of any practices and procedures not reflected in the Plan document). The Plan Sponsor will promptly provide to the Contractor any proposed amendments to the Plan for review and comment by the Contractor at least 90 days prior to the proposed amendment effective date.
- (l) Generally, only fees relating to the ongoing administration of the Plan may be passed through to participants. Plan Sponsor will direct Contractor to deduct from participant accounts those fees outlined in Schedule F. The Plan Sponsor is responsible for determining if an expense is deductible from Plan assets.
- (m) **VRIAC Error.** VRIAC's responsibility with respect to providing the services is limited to correcting errors, within a reasonable time, which result from its computer system malfunctions, its staff errors or are otherwise caused by VRIAC's negligent acts. VRIAC shall make a good faith effort to correct any such error as soon as reasonably practicable after identification of the error when such correction is reasonably necessary and practical under the circumstances. For more information on our error correction policy, please refer to Voya Retirement Insurance and Annuity Company's policy for Correction of Processing Errors ("VRIAC Policy"), which is included in Schedule J. The VRIAC Policy and any updates to the VRIAC Policy are also posted in the Sponsor Disclosure section of Sponsor Web.
- (n) **Plan Sponsor Error.** VRIAC will attempt to correct, at Plan Sponsor's expense, processing errors resulting from Plan Sponsor, or Plan Sponsor's representative, or otherwise caused by the negligent acts of Plan Sponsor; provided that Plan Sponsor promptly notifies VRIAC of such error and furnishes all data to VRIAC reasonably necessary to make such corrections. Plan Sponsor shall pay VRIAC its reasonable expenses incurred in making such corrections.

5.09 Notices: Each party will promptly provide the other with notice and copy of any attempts to levy or attach amounts held under the Plan and/or any litigation affecting the Plan of which it becomes aware and/or any notices or

demands to be given under this Agreement. All such notices, demands or other communications hereunder shall be in writing and duly provided if sent certified mail, return receipt requested, addressed to the party to be notified or upon whom a demand is being made, at the addresses set forth in this Agreement or such other place as either party shall from time to time designate in writing. The date of service of a notice or demand shall be the receipt date on any certified mail receipt.

Notices to the Contractor shall be sent to:

Voya Retirement Insurance and Annuity Company  
Attn: Deputy General Counsel  
Legal Department, C2N  
One Orange Way  
Windsor, CT 06095

Notices to the Plan Sponsor shall be sent to:

Office of County Counsel  
Clackamas County  
Clackamas County Deferred Compensation Plan  
2051 Kaen Road  
Oregon City, OR 97045

**AND**

Human Resources  
Clackamas County Deferred Compensation Plan  
2051 Kaen Road  
Oregon City, OR 97045

- 5.10 Copies of Agreement: This Agreement may be executed in any number of counterpart copies, each of which when fully executed shall be considered as an original.
- 5.11 Headings: Headings are for convenience of reference only. Headings do not limit or expand the scope of the text and are not intended to emphasize any portion thereof.
- 5.12 Independent Contractor: The Contractor is associated with the Plan Sponsor only for the purposes and to the extent specified in this Agreement. With respect to the performance of the contracted services pursuant to this Agreement, the Contractor shall have the sole right to supervise, manage, operate, control and direct performance of the details incident to its duties under this Agreement.
- 5.13 Contractor Primary Contact: The Contractor designates certain individual(s) to serve as the primary point of contact for the Agreement. These individuals are identified in Schedule M.
- 5.14 Licensed Representative: The Contractor agrees to provide licensed representatives to perform enrollment and education services, and to assist participants with account balance inquiries, investment selection changes, interfund transfers or exchanges, and transaction initiation. These individuals are identified in Schedule M.
- 5.15 Subcontracting: The Contractor may enter into subcontracting agreements for work contemplated under the Agreement. Any subcontractor shall be subject to the same terms and conditions as the Contractor. The Contractor shall be fully responsible for the performance of any subcontractor.
- 5.16 Contract Assignability: Without the prior written consent of the Plan Sponsor, the Agreement is not assignable by the Contractor either in whole or in part.
- 5.17 Licenses and Permits: The Contractor shall ensure that it has all necessary licenses and permits required by federal, state, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses and permits in effect for the duration of this Agreement. The Contractor will notify the Plan Sponsor immediately of

loss or suspension of any such licenses and permits. Failure to maintain a required license or permit may result in immediate termination of this Agreement.

- 5.18 Conflict of Interest: The Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, agents or subcontractors and the Plan Sponsor. The Contractor shall make a reasonable effort to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others such as those with whom they have family, business, or other ties.
- 5.19 Improper Consideration: The Contractor shall not offer or be forced to provide (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, services, the provision of travel or entertainment, or any items of value to any officer, employee, group of employees, or agent of the Plan Sponsor in an attempt to secure favorable treatment or consideration.
- 5.20 Indemnification: The Contractor agrees to indemnify, defend, and hold the Plan Sponsor, its officers, employees and agents harmless from any loss, liability, claim, suit, fees (including reasonable attorneys' fees) or judgment resulting from work or acts done or omitted by Contractor or any of its officers, employees or agents in carrying out the Contractor's responsibilities as set forth in this Agreement to the proportionate extent that it results from the negligence or wrongdoing of the Contractor or any of its officers, employees or agents. The Contractor obligation to indemnify shall not extend to any injury or damage which results solely from the Contractor's reliance on information transmitted by the Plan Sponsor.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claim Act, the Plan Sponsor agrees to indemnify and hold the Contractor, its officers, employees and agents harmless from any loss, liability, claim, suit, fees (including reasonable attorneys' fees) or judgment resulting from work or acts done or omitted by the Plan Sponsor in carrying out the Plan Sponsor's responsibilities as set forth in this Agreement to the proportionate extent that it results from the negligence or wrongdoing of the Plan Sponsor.

- 5.21 Insurance: During the term of this Agreement, the Contractor shall maintain Comprehensive General Liability and Cyber Liability insurance with limits of not less than five million dollars per event, per client, as well as automotive and Workers' Compensation insurance policies. Also, the Contractor shall maintain Professional Liability in the amount of not less than five million dollars. A Certificate of Insurance evidencing said coverage shall be provided prior to commencement of performance of this Agreement. Throughout the term of this Agreement, the Contractor shall provide upon request an updated Certificate of Insurance upon expiration of the current Certificate.
- 5.22 Right to Monitor: The Plan Sponsor or any appointee thereof, shall have the right to review and audit all records, books, documents, and other pertinent items as requested, and shall have the right to monitor the performance of the Contractor in the delivery of services provided under this Agreement. Full cooperation shall be given by the Contractor in the implementation, and in any auditing or monitoring conducted.
- 5.23 Confidentiality: The Contractor acknowledges that all information made available by the Plan Sponsor about its employees shall be considered confidential. The Contractor agrees that it will not distribute, disclose or release to any third party any such confidential information except as otherwise agreed upon between the parties, or as otherwise required by law.

## **Section 6. RFP and RFP Response**


- 6.01 RFP and RFP Response: The Clackamas County Request for Proposal #2020-30 as issued August 6, 2020 and Contractor's responsive proposal (collectively the "RFP Response") are hereby incorporated by reference and made a part of this Agreement. Contractor agrees that it will comply with all obligations undertaken in the RFP Response.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement (including all referenced and attached Schedules and Appendices) to be executed by their respective officers thereunto duly authorized on this **1st day of August, 2021**.

**CLACKAMAS COUNTY, OREGON**

**VOYA RETIREMENT INSURANCE  
AND ANNUITY COMPANY**

By: \_\_\_\_\_

By: 

Printed Name: \_\_\_\_\_

Printed Name Melissa M. McAuliffe

Title: \_\_\_\_\_

Title: Vice President

\_\_\_\_\_  
**Recording Secretary                      Date**

**Approved as to form:**

See Governmental Addendum

\_\_\_\_\_  
County Counsel    Date

**VOYA FINANCIAL PARTNERS, LLC**

By: 

Printed Name: Carol B. Keen

Title: Vice President



## Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan Plan Specifications

The following reflects the relevant provisions of the Plan document that will govern the administration of the Plan. The Plan Sponsor acknowledges it has reviewed and confirmed that these accurately reflect the provisions of the Plan as of the effective date of this Agreement.

ERISA Status: The 457(b) Plan are not subject to Title I of the Employee Retirement Income Security Act of 1974 ("ERISA").

### Contribution Sources.

The sources of contribution permitted under the 457(b) Plans are:

- Employee Pre-tax
- 457(b) Rollover
- Non-457(b) Rollover
- Designated Roth Contributions
  - Roth 457(b) Rollover
  - Roth Non-457(b) Rollover
  - In Plan Roth Rollover 457(b)
  - Rollover of In Plan Roth Rollover Non-457(b)
- Employer Contribution: (*specify contribution name*) \_\_\_\_\_

Vesting Schedule. The Employer source(s) of contributions under the Plan are subject to the following vesting schedule. The Contractor will maintain participant vesting information, if applicable, according to the Plan. The Contractor will allocate forfeitures (if applicable) according to the provisions of the Plan.

- 100% Immediate or no vesting schedule applicable

### Permissible In-Service Withdrawal Options

The following participant-initiated withdrawals and/or transfers from a participant account are permitted under the 457(b) Plan (*check all that apply*):

- Unforeseeable Emergency Withdrawal
- In-Service Distribution of Rollover Account(s)
- In-Service Withdrawal for Governmental 457(b) Plans (aka de minimus withdrawal)
- Purchase of Governmental Defined Benefit Plan Service Credit
- Tax-Free Distribution for Health and Long Term Care Insurance (for retired public safety officers)
- Age Based Withdrawal – *identify the age level to allow withdrawal* 59.5
- Qualified Birth or Adoption- Secure ACT

### In-Plan Roth Transfer of Non-Distributable Amounts.

For In-Plan Roth Transfer of Non-Distributable amounts permitted under the 457(b) Plan, indicate from which source the participant may elect to transfer amounts from.

- Employee Pre-tax
- 457(b) Rollover
- Non-457(b) Rollover
- Employer Contribution: (*specify contribution name*) \_\_\_\_\_
- Other (*specify by name*): (*specify contribution name*) \_\_\_\_\_
- All available money sources, excluding Roth sources

**Permitted Frequency** – Default is no restrictions on how often a participant may request an In-Plan Roth Transfer of Non-Distributable amounts. If Plan provides for a restriction describe here. *Leave blank if no restriction.*

- \_\_\_\_\_ (*specify a number*) In-Plan Roth Transfer every
- calendar quarter    semi-annual    calendar year

### Final Distribution Payment Options

The following payment options are available under the 457(b) Plan to a participant upon separation from service (*check all that applies*). The default options are checked below – if no change is made, these are the payment options that will apply to participant-initiated distributions processed under the Plan.

- In cash (*check applicable option*):
  - full lump sum only  partial or full lump sum
- In installment payments over a period not to exceed the life expectancy of the participant or the joint and last survivor life expectancy of the participant and their designated primary Beneficiary. This includes the Systematic Withdrawal Option (SWO) and Estate Conservation Option (ECO) as described in the product information booklet.
- Applied to the purchase of an annuity contract (*must be checked if J&S annuity is the normal form of benefit under the Plan*)
- Rollover to another eligible retirement plan or IRA
- Plan to plan transfer (after severance from employment)
- Combination of all permitted payment options

1. Money Source Withdrawal Sequence

The withdrawal or liquidation sequence for money sources available to fund a withdrawal from the 457(b) Plans is identified below. Money will be withdrawn from participant investment options on a pro-rata basis.

Employee Elective Deferrals  
Rollovers from another 457(b) Plan  
Rollovers from a 401(a)/(k) or 403(b) Plan or IRA  
Designated Roth  
Roth Rollovers from another 457(b) Plan  
Roth Rollovers from a 401(k) or 403(b) Plan  
In Plan Roth Rollover  
Rollover of In Plan Roth Rollover from a 401(k) or 403(b) Plan  
Other (Please specify) Employer Sources

2. Mandatory Distributions

Mandatory distributions for terminated participants apply under:

- The 457(b) plan  N/A - no mandatory distributions permitted.

## **Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan**

### **Schedule A: Scope of Contractor Services**

The Contractor agrees to provide the Plan with the services listed within this Schedule for the term of this Agreement. For purposes of this Schedule, all references to “participant” are intended to apply equally to all account holders under the Plan. This includes participants, beneficiaries and alternate payees.

1. The one-time preparation and implementation of a Plan-specific product and service conversion or transition schedule which shall include notice to all Plan participants.
2. The initial installation of overall Plan records and individual Plan participant records.
3. The development of Plan enrollment materials, including basic investment education material. The distribution of such materials, shall be as mutually agreed upon by the parties.
4. Ongoing provision of employee enrollment and education services, including the provision of enrollment materials which include the necessary information for employees to enroll and make investment choices. Enrollment materials will be made available via the Contractor’s website.
5. Ongoing allocation of Plan contributions received in Good Order to individual participant accounts, and reconciliation of Plan and participant activity on a daily basis. For purposes of this provision, Plan contributions are deemed to include loan repayments (if applicable) and non-routine contributions, such as rollovers or plan to plan transfers, if permitted under the Plan.
6. Contractor will perform one test per month beginning in October through December on each participant account per Plan covered by this Agreement for the limit on elective deferrals pursuant to Code section 402(g) and/or 457(e)(15) and on the annual additions limit in accordance with Code section 415(c), if applicable. If the Plan Sponsor sponsors more than one plan, the Contractor will not aggregate the plans for testing purposes, unless specifically agreed to within this Agreement.
7. Ongoing maintenance of participant beneficiary designations under the Plan based upon mutually agreed upon procedures which shall be reflected in the Plan document. Participants may designate a beneficiary via the Contractor’s participant internet site or by speaking with a customer service representative via a toll free telephone line. Alternatively, participants may designate a beneficiary by completing and submitting a paper form.

#### Community Property Edit

This optional feature of the online beneficiary maintenance service will take into account community property laws applicable in the participant’s resident state at the time that making a beneficiary designation. When this service has been elected, the Contractor’s online beneficiary maintenance service will require any participant who has identified themselves as being married or in a registered domestic partnership or a civil union and who does not designate a person identified as their spouse or domestic partner as a primary beneficiary for at least the percentage prescribed under the community property laws to complete and submit a paper beneficiary designation form.

The Plan Sponsor elects to utilize the Contractor’s Community Property Edit feature as described above.

8. Ongoing maintenance, recordkeeping of individual participant account records and processing in a timely manner of all transactions permitted under the Plan as authorized or approved by the Plan Sponsor. Any delegation of the Plan Sponsor’s role of authorizing or approving transactions under the Plan to the Contractor will be as directed later within this Schedule or other written instrument between the parties. Such direction shall not be construed as delegating Contractor discretion with respect to such decision.
9. Ongoing generation of periodic Plan activity reports for Plan Sponsor use, as mutually agreed upon, to be made available through a secure website.

10. **Sponsor Fee Disclosure for Non-ERISA\* plans only**

Post monthly plan-level fee and expense disclosure reports (as outlined in DOL regulation §2550.408b-2) to Sponsor Web (and Third Party Administrator Website, if applicable) if elected below.

- Yes
- No

\* Required for ERISA plans

Participant Fee Disclosure for Non-ERISA\* plans only

Post monthly Participant Fee Disclosure report (in accordance with DOL (in accordance with DOL §2550.404a-5) to Sponsor Web, Participant Web and Third Party Administrator Website, if applicable) if elected below.

- Yes
- No

\* Required for ERISA plans

- 11. Ongoing processing of participant-initiated benefit payment requests received in Good Order, calculation and withholding of federal and state taxes, and the provision of necessary tax forms on a timely basis to participants who received taxable distributions during the previous year.
- 12. Establish and maintain an electronic interface with the Plan Sponsor for participant enrollment information (including "EZ Enroll" enrollments) and changes to the participant's contribution amount or rate, as provided in Appendix I, II and III to Schedule A.
- 13. Access to customer service representatives via a toll free telephone line to respond to Plan participant inquiries, provide information about participants' accounts and investment options, help facilitate the enrollment of an employee into the Plan and to distribute administrative forms.
- 14. Access to an automated voice response system via toll free telephone lines, through which participants may obtain updated account and investment information and initiate transactions permitted under the Plan.

Access to an internet site and mobile app, through which participants may obtain updated account and investment information, and initiate transactions permitted under the Plan and request forms for initiating certain transactions as permitted under the Plan.

The Contractor provides a Personal Identification Number (PIN) for secure Participant online account registration as well as for customer service support by phone. A unique, temporary PIN is delivered by the U.S. Postal Service to Participants shortly after their account is established. To facilitate account access, temporary PINs can be delivered by email to Participants upon request. This process requires at least one Employer email domain to be provided to the Contractor.

- The Plan Sponsor authorizes the Contractor to provide temporary PINs by request of Participants to designated Employer email addresses. The following domains are registered to the Employer and provided for this purpose. *Example: @employer.com.*

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- 15. The Contractor has an ongoing commitment to advancing the retirement readiness of your participants which includes our continued addition of self-service planning tools to the participant internet site and mobile app along with the availability of phone and local Voya Financial Advisors representatives to assist individuals with their broader financial needs. These services are offered outside of the recordkeeping services described in this Agreement and are not subject to ERISA. If individuals elect fee-based services, fees are charged directly to the employee and will not be withheld from any plan participant account. In order to facilitate the delivery of the services, the Contractor may use participant data to the extent and for purposes authorized by the participant whose data is being used. Securities and investment advisory services offered through Voya Financial Advisors, Inc., member SIPC.

16. Access to a Sponsor Web site, through which a Sponsor may obtain reports. The Sponsor must select a primary contact by completing an administrative form to be provided by the Contractor.

17. Incoming Rollovers / Transfers Authorization

Ongoing review and processing of participant-initiated incoming rollover or transfer requests, on behalf of the Plan Sponsor, shall be based on mutually acceptable procedures for the review, and processing of these types of requests. Incoming rollover and transfer requests determined to be in Good Order will be processed on the same business day as the assets are received by the Contractor.

At the Plan Sponsor's direction, participants who have had a request denied shall be given the opportunity to appeal to the Plan Sponsor for review and final disposition of the determination.

18. Unforeseeable Emergency and/or Hardship Withdrawal Related provisions:

Indicate who will be responsible for authorizing unforeseeable emergency or hardship withdrawals. Select **one** of the following options:

- The Contractor\*
- Authorized Plan Sponsor representative
- planwithease.com® Authorized
- Other Aggregator Authorized: (firm name) \_\_\_\_\_
- Other (firm or individual/s name) \_\_\_\_\_

\* The Contractor will provide ongoing review and processing of participant unforeseeable emergency or hardship withdrawal requests on behalf of the Plan Sponsor, based on the standard for the review, qualification and processing of these withdrawals as provided in Appendix IV to Schedule A.

The Contractor will make a determination (approval and/or denial) within 5 business days of receipt of the request, and supporting documentation, in Good Order. If the request is approved, the request will be processed as of the date of favorable determination; with payment being mailed or made available electronically through ACH no later than 7 calendar days following the date of favorable determination.

**Permitted Frequency** – Default is no restrictions on how often a participant may request an unforeseeable emergency or hardship withdrawal. If Plan provides for a restriction on frequency, it is to be noted below. *Leave blank if no restriction.*

One withdrawal request every \_\_\_\_\_ months.

**Contribution Suspension Period:** N/A (effective January 1,2020, the 6 month suspension period is required to be eliminated for distributions initiated in 2020 and after).

**Loans will not be required for Hardship Withdrawals unless elected below:**

Loans will be required prior to taking a Hardship withdrawals.

19. Permissible In-Service Withdrawal Related Provisions

Indicate who will be responsible for authorizing in-service withdrawals permitted under the Plan. Select **one** of the following options:

- the Contractor \*
- Authorized Plan Sponsor representative
- planwithease.com® Authorized
- Other Aggregator Authorized: (firm name) \_\_\_\_\_
- Other (firm or individual's name) \_\_\_\_\_

The Contractor's ongoing review and processing of participant-initiated withdrawal or transfer requests, on behalf of the Plan Sponsor, shall be based on mutually acceptable procedures for the review and processing of these types of requests. Withdrawal or transfer requests are processed as of the date received in Good

Order, with payment being mailed or made available electronically through ACH no later than 7 calendar days following the date the request is received in Good Order.

At the Plan Sponsor's direction, participants who have had a request denied shall be given the opportunity to appeal to the Plan Sponsor for a review and final disposition of the determination.

**Permitted Frequency** – Default is no restrictions on how often a participant may request an in-service withdrawal. If Plan provides for a restriction on frequency, it is to be noted below. *Leave blank if no restriction.*

One withdrawal request every \_\_\_\_\_ months.

20. Domestic Relations Order Administration

Indicate who will be responsible for reviewing and qualifying Domestic Relations Orders (DRO) under the Plan.

Select **one** of the following options:

- the Contractor \*
- Authorized Plan Sponsor representative
- planwithease.com® Authorized
- Other Aggregator Authorized: (firm name) \_\_\_\_\_
- Other (firm or individual name) \_\_\_\_\_

\* Ongoing review and processing of DROs on behalf of the Plan Sponsor, based on the standard for the review, qualification and processing of DROs as provided in Appendix V to Schedule A.

The Contractor will make a determination within 5 business days of receipt of a DRO in Good Order. If the request is approved, the request will be processed as of the date of favorable determination; with confirmation being mailed within 2 business days following the date of favorable determination.

If a DRO is not received in good order, the Contractor will work with the respective parties until the order is presented in Good Order.

NOTE: If a DRO received from a state agency is related to child support payments, the Contractor will 1) set up the alternate payee account AND 2) obtain sponsor authorization if required to process the check made payment to the alternate payee or if minor, to the custodial parent for the benefit of the minor child and mail directly to the state agency per instructions in the DRO. Additional distribution paperwork and/or action from the alternate payee are not required.

21. Benefit Payment Related Provisions

Indicate who will be responsible for authorizing participant-initiated benefit payment requests (including annuity payments, if permitted, and death benefits) under the Plan. Select **one** of the following options:

- the Contractor\*
- Authorized Plan Sponsor representative
- planwithease.com® Authorized

\*The Contractor will provide ongoing review and processing of participant-initiated benefit payment requests (including annuity payments, if permitted, and death benefits) due to participant's separation from service or death, on behalf of the Plan Sponsor, based on mutually acceptable procedures for the review, qualification and processing of these requests. The Plan Sponsor is responsible for providing the Contractor with any and all participant termination data in the mutually agreed upon electronic format, within a reasonable time period following the participant's separation from service or death. In those individual circumstances where the Contractor does not have a beneficiary designation on file for the participant and where the Plan does not provide direction to make payment to the estate of the account holder, the Contractor will seek written direction from the Plan Sponsor as to who to make payment to pursuant to the Plan. The Contractor may not make the applicable benefit payment request transaction and/or paperwork available to the participant until the termination data is received from the Plan Sponsor in Good Order.

Benefit payment requests are processed as of the date received in Good Order; with payment being mailed or made available electronically through ACH no later than 7 calendar days following the date the request is received in Good Order. Accounts with administrative holds due to federal tax levies will not be distributed to the participant until such

time that the federal tax levy is satisfied or as otherwise resolved. Once the participant has a triggering event, or requests a distribution, if evidence of payment of federal tax levy is not received, the Contractor will first make payment to satisfy the federal tax levy and then pay any remaining distribution amount to the participant. Plan Sponsor direction for payment is required.

At the Plan Sponsor's direction, participants who have had a request denied shall be given the opportunity to appeal to the Plan Sponsor for a review and final disposition of the determination.

22. Access to counseling by licensed agents or representatives for Plan participants, who are retiring or otherwise requesting a benefit payment from the Plan, based on mutually acceptable standards.
23. Ongoing processing of Required Minimum Distributions ("RMD") in accordance with the rules of Code Section 401(a)(9) for eligible Plan participants and their beneficiaries as follows:
  - a. Participants: In the absence of an affirmative election or instructions received in Good Order from the participant on an annual basis for receiving the RMD, the Contractor is directed by the Plan Sponsor with respect to the 401(a)(k) or 457(b) Plan to calculate and distribute the RMD amount. The Contractor shall calculate the RMD in the following manner.
    - i. For participants with either (1) no beneficiary, (2) a non-spouse beneficiary, (3) a spouse beneficiary less than 10 years younger than the participant, (4) a spouse beneficiary without a date of birth, (5) a non-individual beneficiary (e.g., charitable organization), calculate the current year RMD by dividing the account balance on 12/31 of the prior year by the distribution period under the Uniform Lifetime Table using the participant's age on 12/31 of the current year.
    - ii. For participants with a spouse beneficiary more than 10 years younger than the participant, calculate the current year RMD by dividing the account balance on 12/31 of the prior year by the combined life expectancy factor under the Joint and Last Survivor Table using the ages of the participant and the spouse beneficiary on 12/31 of the current year.
    - iii. For participants who are at least 70-1/2 years of age in a calendar year ending on or before December 31, 2019, or age 72 in a later calendar year, and have separated from service with their employer, any distribution requested will first be reduced by the applicable RMD for the distribution calendar year.
  - b. Beneficiary(ies): In the absence of an affirmative election or instructions received in Good Order from the beneficiary (ies), the Plan Sponsor directs the Contractor to calculate the RMD amount in accordance with Code Section 401(a)(9) provided the Contractor has received in Good Order proper notification of the participant's death and complete beneficiary(ies) information (including the complete name and address of the beneficiary(ies)). In situations where the life expectancy rules are not available for the calculation of the RMD either because the Contractor has not received the requisite information by the date for issuing RMD payments or the beneficiary is not entitled to receive RMD under the life expectancy rules, the Plan Sponsor directs the Contractor to apply the five-year payout rule and force out a lump sum by December 31<sup>st</sup> of the fifth year following the year of the participant's death.

The Plan Sponsor acknowledges that the Contractor shall not be responsible for any tax penalties or excise taxes the Plan Sponsor, Plan participants, or beneficiaries may incur as a result of the Contractor's failure to calculate and distribute the RMD amount where the failure is due to the Plan Sponsor's, the Plan participant's or the beneficiaries' failure to provide the required information in a timely manner.

24. Ongoing facilitation of communications between the Contractor, the Plan Sponsor and the Plan participants based on mutually acceptable guidelines.

**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan  
Appendix I to Schedule A:**

**Enrollment Services**

**Plan Sponsor Responsibilities**

1. In addition to providing timely and accurate information for this service, the Plan Sponsor will be responsible for the following: Plan Sponsor will provide the Contractor with anniversary year-to-date and Plan year-to-date hours for all employees through the Effective Date of this Agreement. Subsequent submission of hours will be required on a pay period-to-date basis. If anniversary year-to-date and Plan year-to-date hours are not submitted with each payroll, the Contractor will not provide this service. Therefore, the Plan Sponsor will be responsible for tracking eligibility until such time as hours data is submitted with each payroll.
2. Plan Sponsor will notify Contractor of all rehired employees so that the employee status can be reflected properly on the Contractor's system.
3. Plan Sponsor will submit to the Contractor census data for eligibility tracking for all employees with each payroll. If census data is not submitted with each payroll, the Contractor will not provide this service. Therefore, the Plan Sponsor will be responsible for tracking eligibility until such time as census data is submitted with each payroll.
4. Should a participant make a deferral election through a means other than the Contractor's customer service representative, voice response system or internet site, it will be the Plan Sponsor responsibility to update its payroll system based upon the participant's election in accordance with applicable Code requirements and regulations governing the effective date of deferral elections to the Plan.

**Automatic Enrollment Service: Clackamas County Housing Authority Deferred Compensation Plan - 666891**

This service allows the Plan Sponsor to adopt an automatic enrollment feature and to establish an electronic interface with the Contractor for acceptance of enrollment / contribution rate information.

Plan Sponsor acknowledges its responsibility for ensuring that the Automatic Contribution Arrangement (automatic enrollment) complies with their state laws in regards to wage withholding. The payroll withholding laws of the Plan Sponsor's state should be reviewed prior to implementation of this program to determine if deductions without an employee's written consent are permitted.

The Plan elects the Contractor's Automatic Enrollment Service (*please check*)

**Notices to all eligible participants:**

Plan Sponsor understands that initial and annual notices are required to be provided to participants regarding their elections in accordance with applicable regulations.

**Initial Notice Requirements:** For plans with an Eligible Automatic Contribution Arrangement (EACA) or other Automatic Contribution Arrangement (ACA) provision, as defined under PPA and related regulations, each newly eligible employee must receive the initial notice no earlier than 90 days before the employee's eligibility date, and no later than the employee's eligibility date.

**Annual Notice Requirements:** For plans with an EACA or other ACA provision, each eligible employee must receive the annual notice no less than 30 days before the start of each plan year.

**Notification Service:** The Contractor provides a notification service to assist the Plan Sponsor with complying with the requirements noted above. The initial notices provide participants with an explanation of the respective feature and may include the following:

- the percentage of employees' pay to be contributed to the Plan,
- the investment option(s) available under the Plan,
- the default investment or qualified default investment alternative ("QDIA") if an employee chooses not to affirmatively enroll and select from the available investment options.

The notice will also advise employees of their right to revoke the automatic withholding and their rights to increase, decrease or stop contributions and instructions on how to do so. Annual notices are required to be provided to participants who have been automatically enrolled and remain in that status and have not changed their initial



contribution amount and/or default investment option. The “notices” will remind participants of their deferral amounts and of their right to increase, decrease or stop these contributions, also including the procedure to do so.

The Contractor will automatically provide both the initial and annual notices for plans that select the Contractor’s Eligibility Tracking, Automatic Enrollment and/or Automatic Contribution Increase Services.

**Initial Contribution Amount:**

Participants will be automatically enrolled in the Plan, unless the participant opts out, with an initial contribution amount of \$ \_\_\_\_\_ or 5 \_\_\_\_\_ %.

**Permissible Withdrawals:**

If allowed under the Plan, an employee who was automatically enrolled may request a return of their defaulted deferrals (as adjusted for gain or loss) within 90 days of the date the first defaulted elective deferral was deducted from the employee’s pay. Attributable matching contributions must be forfeited. The Plan Sponsor understands the applicable IRS regulations for automatic contribution arrangements only allow permissible withdrawals of defaulted elective deferrals under plans where the automatic contribution arrangements meet the EACA requirements. Please choose one of the following:

- Yes, the Plan will allow for permissible withdrawals.
- No, the Plan will not allow for permissible withdrawals.

**Enrollment Material Requirements**

Enrollment materials must be made available to each eligible employee at the time of enrollment (including automatic enrollment) into the Plan. The materials must include, but are not limited to the following: fact sheets for each of the available investment options, fund performance, and participant disclosure booklet. An adequate supply of enrollment materials will be provided to the Plan Sponsor by the Contractor if requested by the Plan Sponsor. Enrollment materials will be made available via the Contractor’s enrollment website.

The Contractor will generate a periodic report whenever employees have been identified as being eligible but not yet participating in the Plan. Included on the report will be those employees eligible to be automatically enrolled into the Plan, if the automatic enrollment service is utilized by the Plan. You must identify an individual to receive notification of when the report is available. The purpose of this report is to identify those employees who must receive a enrollment materials. It is understood and acknowledged by the Plan Sponsor and Contractor that the individual designated below is responsible for the distribution of enrollment materials to the employees identified on the report.

Please indicate who should be notified when the report is available. Select one.

- Licensed Representative  
Name: \_\_\_\_\_ Melissa M Handy on behalf of Wendy Stefani \_\_\_\_\_  
Telephone: 503.937.0351 \_\_\_\_\_  
E-mail: \_\_\_\_\_ melissa@lewis-stefani.com \_\_\_\_\_

*In the event that the identified individual is removed or replaced, the Contractor is responsible for notifying the Plan Sponsor immediately in writing.*

**Default Investment Arrangement –**

The Plan Sponsor understands that it has the fiduciary responsibility to choose the appropriate “default” investment option, and therefore, may choose from any of the investment options available under the Plan. **You may not choose the Voya Stable Value Fund as the default investment option.**

X **Yes**  No The default option elected below is intended to be a Qualified Default Investment Alternative (QDIA). Target Date Family\* from the “Investment Option Selection” section above.

X **Yes Target Date Suite** (All available investment options within the suite must be selected.) The Plan Sponsor has selected the Clackamas Timeframe Target as the “default” investment option or QDIA and understands that all contributions into these funds will be based on each participant’s age, not their anticipated retirement age as the

investment is designed. Plan participants will be allocated to the target date funds assuming the standard retirement age of 65.

The discretionary managed account option under a Participant Investment Advisory Services program (Note: Separate Agreement required - Can only be selected if noted as a QDIA.) -

Other Investment Option (100%) \_\_\_\_\_

Plan Sponsor understands that all contributions will be invested in this investment option until such time that a participant makes allocation changes and/or fund transfers.

**Enrollment Material Requirements**

The Licensed Representative will provide enrollment materials to each participant following default enrollment into the Plan. The materials must include, but are not limited to the following: fact sheets for each of the available investment options, fund performance, participant disclosure booklet and information on how a participant can access their account to make account changes.

The Plan Sponsor will notify the Licensed Representative of those employees who must receive enrollment materials. It is understood and acknowledged by the Plan Sponsor and Contractor that the Licensed Representative designated below is responsible for the distribution of enrollment materials to the employees identified as default enrolled into the Plan.

Please indicate who should be notified of a default enrollment by the Plan Sponsor.

Licensed Representative

Name: \_\_\_\_\_Melissa M Handy on behalf of Wendy Stefani\_\_\_\_\_

Telephone: \_\_\_\_\_503.937.0351\_\_\_\_\_

E-mail: \_\_\_\_\_melissa@leais-stefani.com\_\_\_\_\_

*In the event that the identified individual is removed or replaced, the Contractor is responsible for notifying the Plan Sponsor immediately in writing.*

The Plan Sponsor understands and acknowledges that the Plan Sponsor is responsible for the distribution of enrollment materials to the employees identified as default enrolled into the Plan. The Plan Sponsor will request enrollment materials from the Licensed Representative identified in Schedule M.

**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan  
Appendix II to Schedule A:**

**Education Services**

Voya shall provide the following participant education experience:

- The County is working on a 'Get Connected, Stay Connected' initiative with their health care providers. It would like to extend this initiative to their retirement plan. Voya will help facilitate an initial 12 to 18-month multi-media employee engagement, education and communication campaign. This will include topics such as online account registration, updating beneficiaries, participant deferral increases and plan asset retention. Voya will continue to help facilitate similar employee engagement, education and communication campaigns for the duration of the contract.
- Voya will provide quarterly updates that provide insights and metrics on the effectiveness of participant engagement, education and communication initiatives.

Voya will provide one-on-one participant consultations, at the following minimum levels:

- Onsite/Virtual (Zoom) Meetings 5 to 7 days a month  
These meetings take place at the following County locations:
  - Public Services Building (PSB)
  - Development Services Building (DSB)
  - Alternating day between the Jail and Brooks building for the Sheriff's Office staff
  - Virtually (Zoom, etc.)
- Offsite 2 to 3 days a month (Non-County locations).

Voya will provide a minimum of 12 group presentations each year. This number may increase in response to changing retirement levels, legislative changes or the plan sponsor engagement initiative. These presentations may take place at the following locations:

- Public Services Building (PSB)
- Development Services Building (DSB)
- Virtually (Zoom Webinars)

Voya to provide a new hire education video and plan information materials to introduce new employees to the plan. Voya will provide updates to this information as needed.

**NOTE:** No solicitation of other services outside of the County 457(b) shall be done on any County owned property.

**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan  
Appendix III to Schedule A:**

**Contribution Rate Services**

**Contribution Rate Change Service:**

This service allows participants to make contribution rate changes via the Contractor's participant internet site or by speaking with a customer service representative of the Contractor. Please note it is your responsibility to notify the Contractor of terminated employees. Contribution rate changes in fractional percentages are supported after enrollment. This service supports the older worker catch-up contribution elections (if available under the Plan). No other types of catch-up or make-up contribution options available under the Plan are supported by the service.

Plan Sponsor acknowledges that it is responsible for ensuring that the Contribution Rate Change Service complies with their state laws in regards to wage withholding. The payroll withholding laws of the Plan Sponsor's state should be reviewed prior to implementation of this program to determine if deductions, and/or contribution rate changes, without an employee's written consent are permitted. The service includes increases, decreases, stops and restarts, either based on participant direction, or as directed by the Plan as a result of loans or unforeseeable emergency withdrawals

The Plan Sponsor elects to utilize the Contractor's Contribution Rate Change service and participant Directed Contribution Rate Escalator service (described below) in accordance with the following criteria (please check).

Minimum and Maximum Contribution Schedule:

Pursuant to the Plan document, indicate the minimum and maximum contribution amount or rate a participant can elect.

Percentage-based

Employee elective deferral contributions	Minimum	1	%	Maximum	99	%
Designated Roth contributions	Minimum	1	%	Maximum	99	%
Employee voluntary (after tax) contributions	Minimum		%	Maximum		%
Other (describe) _____	Minimum		%	Maximum		%

If applicable, indicate the maximum total contribution percentage allowed 99 %

Dollar-based

Employee elective deferral contributions	Minimum \$	13	Maximum \$	IRS Max
Designated Roth contributions	Minimum \$	13	Maximum \$	IRS Max
Employee voluntary (after tax) contributions	Minimum \$		Maximum \$	
Other (describe) _____	Minimum \$		Maximum \$	

**Participant Directed Contribution Rate Escalator Service**

This service allows participants to elect automatic increases in deferral rates via the Contractor's participant internet site or by speaking with a customer service representative of the Contractor. Participant will indicate the frequency and amount of the contribution rate increase. The Contractor will send a reminder to the participant 30 days prior to the automatic increase.

Restrictions and Limitations:

- This service is only available if the Plan Sponsor elects to utilize the Contractor's Contribution Rate Change Service.
- This service does not apply to catch-up contribution elections.
- If there is a conflict between a participant's Contribution Rate Escalator service and the contribution limits applicable to the Plan, the participant's contribution rate escalator election will be cancelled.
- The participant's contribution rate escalator election will be cancelled if participant submits a contribution rate change election pursuant to the Contribution Rate Change Service above.

**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan  
Appendix IV to Schedule A:**

**Payroll Feedback File**

**Payroll Feedback File**

If the Plan Sponsor has elected the Eligibility Tracking service, Automatic Enrollment service, the Contribution Rate Change service or offers loans, the Contractor will provide a periodic payroll feedback file through an automated process. It is the responsibility of the Plan Sponsor to update its payroll system based upon the data contained in the payroll feedback file in accordance with applicable Code requirements and regulations governing the effective date of deferral elections to the Plan.

The payroll feedback file is a .csv format file which can be uploaded to most payroll systems. As an alternative, a payroll feedback report in a .pdf format can be printed and used for manual entry into a payroll system.

**Electronic File Delivery:**

Please select **one** of the following delivery types (*required*):

**Email:** Contractor will send files in an encrypted format (access information will be provided). Please provide one or more email addresses:

**FTP (File Transfer Protocol):** Contractor will send files via FTP. Please provide the FTP delivery address, ID and password:

FTP Delivery Address: ftp:// \_\_\_\_\_

FTP ID: \_\_\_\_\_

FTP Password: \_\_\_\_\_

**Sponsor Web/Archive:** Plan Sponsor will obtain reporting data through the Contractor's plan sponsor internet site.

The Contractor will send the periodic electronic payroll feedback file based on the information selected above until a change is provided, in writing, by the Plan Sponsor.

**Reporting Frequency:**

The Contractor will provide the automated contribution rate reporting data on the frequency that best meets the needs of the Plan Sponsor.

**Notification of Report Availability:**

The Plan Sponsor must identify an individual to receive notification of when the payroll feedback file is available. It is understood and acknowledged by the Plan Sponsor and Contractor that the individual designated below is responsible for accessing the file when notified of its availability.

Name: \_\_\_\_\_ Billie Hurley \_\_\_\_\_

Telephone: \_\_\_\_\_ 503.742.5479 \_\_\_\_\_

E-mail: \_\_\_\_\_ BillieHur@clackamas.us \_\_\_\_\_

*In the event that any identified individual is removed or replaced, the Plan Sponsor is responsible for notifying the Contractor immediately in writing.*

**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan**  
**Appendix V to Schedule A**

**Unforeseeable Emergency and Hardship Withdrawal  
Review and Approval Requirements**

The Contractor is responsible for the ongoing review and processing of participant unforeseeable emergency and/or hardship withdrawal requests on behalf of the Plan Sponsor. The Contractor's process is based on the following procedures for the review, qualification and processing of these withdrawals under the Plan. The Contractor will review the request to determine whether it satisfies the IRS and Plan requirements for an unforeseeable emergency or hardship.

To request an unforeseeable emergency or hardship withdrawal, a participant must complete the relevant paperwork and provide the appropriate documentation to support the request.

**Unforeseeable Emergency Approval Requirements**

Specifically, an unforeseeable emergency means extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant including:

- severe financial hardship of the participant resulting from an illness or accident of a participant, the participant's spouse or of a participant's dependent (as defined in Code Section 152(a))\*;
- loss of the participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance); or
- other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

\*Effective in 2007, the Pension Protection Act of 2006 expanded this definition to include the participant's designated primary beneficiary.

**Hardship Withdrawal Approval Requirements**

A participant must establish they have an immediate and heavy financial need. The standard by which hardship requests will be evaluated shall be based upon the events that meet the safe harbor definition for an immediate and heavy financial need in compliance with the relevant hardship regulations under Internal Revenue Code Sections 401(k) and 401(m), as amended from time to time.

In its evaluation, The Contractor will limit the withdrawal to the amount reasonably necessary to satisfy the financial need, which may include any amounts necessary to pay Federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution. In addition, a withdrawal shall be allowed only to the extent that such emergency is or may not be relieved through: 1) reimbursement or compensation from insurance or otherwise; 2) liquidation of the participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or 3) cessation of the participant's deferrals under the Plan.

The determination of whether a request qualifies as an unforeseeable emergency or an immediate and heavy financial need in the case of a hardship will be based on all the facts and circumstances of the participant's specific situation. While it is a subjective decision, the Contractor's process incorporates three underlying principles: consistent application of the IRS rules to similar situations; decisions must be reasonable and not arbitrary; and when there is a close call, we err on the conservative side.

The Contractor takes this review process very seriously and understands the importance of consistently administering the IRS and Plan requirements. The Contractor recognizes that failure to do so, and thus treating the Plan like a savings account, can result in adverse tax consequences to the participant and to the Plan.

Withdrawal requests will be reviewed in a timely manner. For requests which are approved, the Contractor will process the withdrawal as of the date of the approval. A participant, who has had a withdrawal request denied because of insufficient documentation, can resubmit their request to the Contractor for re-review with all applicable documentation.

A participant whose request has been denied after submission of all relevant documentation has the opportunity to appeal the decision to the Plan Sponsor.

### **Appeals of Denied Requests**

The Plan Sponsor is the final authority for review of any withdrawal requests which have been denied by the Contractor.

1. A participant desiring to appeal the Contractor's decision must submit the appeal to the Plan Sponsor or its designee within 60 days of receipt of the denied request. The participant must document in a letter the reason they feel the request should be reevaluated and why the circumstances qualify as an unforeseeable emergency or as an immediate and heavy financial need in the case of a hardship.
2. Appeals must include all documentation submitted with the original request to the Contractor; the Contractor's determination letter and any additional supporting documentation not previously submitted.
3. The Plan Sponsor will review a participant's request within 15 business days of the date of receipt of an appeal request.
4. In reviewing the original decision, the Plan Sponsor will review the specific facts and circumstances of the participant's situation, the Contractor's analysis and the applicable IRS and Plan requirements. The Plan Sponsor's focus is on ensuring that the Contractor's decision was made in accordance with all of the IRS and Plan guidelines, as summarized above. In its appeal review, the intent of the Plan Sponsor is not to be more lenient than the law requires as this would jeopardize the favorable tax treatment for the participant and the Plan.
5. The Plan Sponsor or its designee shall provide written notification to the participant, with a copy to the Contractor, as to whether its decision is to affirm the Contractor's original decision to deny the request, or reverse that decision and approve the participant's request.
6. The Plan Sponsor's decision shall be binding on the participant, and they shall have no further ability to have the Plan Sponsor's decision overturned.

**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan  
Appendix VI to Schedule A**

**Domestic Relation Order  
Review and Approval Requirements**

The Contractor is responsible for the ongoing review and processing of Domestic Relations Orders (DRO) on behalf of the Plan Sponsor. The Contractor's process is based on the following procedures for the review, qualification and processing of DROs which has been reviewed and approved by the Plan Sponsor. The Plan Sponsor acknowledges that the Contractor will perform this service in a ministerial capacity only and will not exercise any discretion in performing this service. The Contractor's process if followed as specified below shall constitute a valid Plan Sponsor direction to process the DRO.

**Definition of a Domestic Relations Order**

A Domestic Relations Order ("DRO" or "Order") is a court order, judgment, or decree issued under a state's domestic relations law that recognizes the right of a spouse, former spouse, child, or other dependent of a participant in an employee benefit plan to receive all or part of the participant's benefit in the plan.

A Qualified Domestic Relations Order ("QDRO") is a DRO that has met the specific requirements mandated by federal law and the provisions of the Plan as determined by the Plan Administrator or its designee. A QDRO requires a qualified plan to pay all or any part of a participant's benefits to an alternate payee. An alternate payee is a spouse, former spouse, or dependent of the participant who is entitled to a portion of the participant's benefits.

**Requirements for QDRO**

In order for a participant's benefit to be assigned to an alternate payee (i.e., the spouse, former spouse, child or other dependent of the participant), a DRO that constitutes a QDRO within the meaning of the internal Revenue Code Section 414(p) must contain the required elements as outlined below as well as the Contractor's Good Order requirements. In addition, certain state rules may be imposed on domestic relations orders by statute.

1. The Order must be an original or a court-certified copy of the original, signed by the judge or clerk of the court. A fax or a photocopy cannot be accepted as they are not in compliance with the Contractor's Good Order standards.
2. The Order must create or recognize the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable under the plan with respect to a participant.
3. The Order must constitute a judgment, decree or order (including approval of a property settlement agreement) that relates to provisions of child support, alimony payments or property rights to a spouse, former spouse, child or other dependent of a participant, made pursuant to a state domestic relations law (including a community property law).
4. The Order must clearly and unambiguously name each Plan to which the order applies. The Order must reflect the full Plan name as stated within the Plan document.
5. The Order must provide the following participant information:
  - Name (full legal name)
  - Social Security Number<sup>1</sup>
  - Last known mailing address
  - Date of Birth

<sup>1</sup>If state or local law prevents the inclusion of such information in the Order; this data must be provided to the Contractor in a letter and/or addendum, signed by the attorney that drafts the Order.



6. The Order must provide the following alternate payee<sup>1</sup> information:

- Name (full legal name)
- Social Security Number<sup>2</sup>
- Last known mailing address
- Date of Birth

<sup>1</sup>If the alternate payee is a minor child, the name of the custodial parent is needed in the Order.

<sup>2</sup>If state or local law prevents the inclusion of such information in the Order; this data must be provided to the Contractor in a letter and/or addendum, signed by the attorney that drafts the Order.

7. The Order must include the exact dollar amount or percentage of the participant's benefits to be paid by the Plan to each alternate.
8. If the participant has an outstanding and/or defaulted loan, the Order must indicate if the outstanding and/or loan balance should be used in determining the amount due.
9. The Order must specify the exact date or the payment period to which the Order applies (i.e., the determination or valuation date). Participant accounts are valued each business day the New York Stock Exchange is open.
10. The Order must clearly indicate if the dollar amount or percentage should be adjusted for any earnings (gains/losses) from the determination/valuation date to the date the assets are segregated, and if these should be segregated on behalf of the alternate payee.
11. The Order should clearly specify whether the participant's vested or total account balance is to be used in determining the alternate payee's portion they are entitled to. Generally, the vested account balance is used for calculation purposes. Account values fluctuate with market conditions. The Contractor will verify whether there are sufficient funds available for segregation from the participant's account in the amount of the court ordered award to the alternate payee(s). The Contractor will not be liable for any damage (actual or alleged) resulting from such actions. If the dollar amount specified is above the current balance, the Order may be rejected. Only vested benefits may be paid. If the participant is partially vested, and the award is for more than the presently vested amount, payment of the non-vested portion may not be made to the alternate payee until the participant has become vested in that amount.
12. If the Plan has non-core investment options (e.g., life insurance, self-directed brokerage account, certificate of deposit, etc.) the Order must not require that amounts be redeemed from non-core investment options. To the extent that amounts invested in the core investment options are not sufficient to satisfy the Order, the Contractor will not approve the Order until the participant has transferred from the non-core investment option into the core investment options the amount necessary to satisfy the Order.
13. The Order must provide that the calculation of the amount of the participant's benefit to which the alternate payee is entitled to be readily calculable and according to records currently available to the Contractor. Pursuant to this requirement, the Contractor will not accept any Order that requires calculations prior to the time the Contractor began providing services to the Plan.
14. A plan may specify a date as of which QDROs are allowed under the Plan (such as Orders dated after a specified date, e.g., January 1, 2002). Court orders which pre-date the allowance of QDROs under the Plan may not be accepted. If no date is specified, the presumption is the Plan has always allowed QDROs.
15. The Order must not require the Plan to provide any type or form of benefit or any option, not otherwise provided under the Plan. Also, the Order cannot require payment to an alternate payee in the form of a qualified joint and survivor annuity in favor of the alternate payee and their spouse.

16. The Order must not require the Plan to provide increased benefits (determined on the basis of actuarial value).
17. The Order must not require any payment of benefits to an alternate payee that are required to be paid to another alternate payee under a previously issued QDRO.
18. The Order must not provide for tax treatment of the account other than as required under federal law and regulations. If the Order is for a minor, taxes will be withheld from the amount that is ultimately paid from the minor's account unless the Order specifies otherwise.
19. The Order may state the segregated amount shall be distributed to the alternate payee, or the custodial parent for the benefit of a minor, if applicable, as soon as administratively feasible after the Contractor's acceptance of the Order as a QDRO. The custodial parent for the minor will need to contact the Contractor at (800) 584-6001 to obtain a distribution form. The distribution can only be made payable to the custodial parent for the benefit of the minor. Taxes of 10% will be withheld from the minor's distribution and the Form 1099-R will be reported to the participant.

NOTE: If this pertains to a Qualified Domestic Relations Order received from a state agency related to child support payments, the Contractor will 1) set up the alternate payee account AND 2) obtain sponsor authorization if required to process the check made payment to the alternate payee or if minor, to the custodial parent for the benefit of the minor child and mail directly to the state agency per instructions in the Order. Additional distribution paperwork and/or action from the alternate payee is not required.

If the Order meets all of the approval requirements listed above, it will be given effect and the Contractor will send notification of approval to the involved parties and their counsel.

If the order fails to meet one or more of the approval requirements listed above, it will be rejected. A letter notifying the involved parties of the rejection will be mailed, together with an explanation.

#### **Payments to the Alternate Payee**

The alternate payee may receive an immediate or deferred payment in accordance with the distribution options provided under the Plan.

The alternate payee must complete and submit applicable disbursement paperwork for such distributions. Such paperwork is available by contacting a customer service associate.

## **Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan Schedule B: Administrative Requirements**

For purposes of this Schedule, all references to "participant" are intended to apply equally to all account holders under the Plan. This includes participants, beneficiaries and alternate payees.

1. Participant account statements and Plan Sponsor reports shall reflect accurate information with regard to contributions, allocations, earnings and withdrawals. Plan Sponsor agrees to review statements, IRS filings and other report or documents produced by the Contractor and to promptly identify in writing any errors or discrepancies. The Contractor agrees to correct any errors it is promptly notified of without charge. The Contractor will not have any additional liability for errors, unless due solely to its negligence.
2. Participant account statements include detail regarding all transactions since the prior statement date.
3. Under normal circumstances and unless otherwise authorized by the Plan Sponsor, participant statements shall be mailed within 15 days of the end of a statement period. Where a participant has more than one Plan account subject to this Agreement, the account statement will reflect all Plan account balances, unless you direct the Contractor otherwise.
4. Online Statement Delivery Service:  
The Contractor will deliver participant statements through an internet site from which participants can securely access their account, as opposed to receiving paper statements by mail, unless you elect out of this service. Participants will receive an annual notice by mail explaining how to access statements online. A participant can elect out of online statement delivery by making an election to receive statements by mail. Such elections may be made through the Contractor's participant internet site or by speaking with a customer service representative.  
  
 The Plan elects not to utilize the Contractor's Online Statement Delivery Service (*check is required to elect out of service*)
5. Information on payout options, including a notice which satisfies the requirements of Internal Revenue Code Section 402(f), will be made available to participants through the internet or a toll free telephone number. Additionally, upon a terminated participant's request, a licensed representative will provide to the participant education and assistance on the available payout options.
6. Contributions including loan repayments (if applicable) determined to be in Good Order on any day that the New York Stock Exchange is open (a "Business Day"), and prior to the close of the exchange, shall be applied to the appropriate account on that day's close of business of the New York Stock Exchange. Contributions received at any other time will be applied to the appropriate account on the next succeeding Business Day. Written confirmation of receipt and deposit will be provided to the Plan Sponsor or its designee by mail. The Contractor shall notify the Plan Sponsor or its designee by telephone within two business days of discovery of transactions received not in Good Order. If after 5 business days, transactions remain not in Good Order, the Contractor will require the Plan Sponsor to provide written consent for the Contractor to continue holding the amount of the contributions related to the not in Good Order transactions in a non-interest bearing suspense account. If after 14 business days (Exceptions up to 30 days may be granted on a case-by-case basis), the transactions remain not in Good Order, the amount of the contributions received not in Good Order will be refunded to the Plan Sponsor.
7. All correspondence and marketing materials written specifically for the Plan Sponsor, the Plan participants and the Plan Sponsor's employees shall be provided to the Plan Sponsor or its designee for approval prior to the scheduled date of publication or distribution.
8. A calendar year-end report shall be delivered to the Plan Sponsor, by March 31<sup>st</sup> of the following year. The custom Plan Review book includes Plan-specific data on plan assets, participant counts and average balances, contribution and distribution activities, service utilization along with fund performance and Scorecard information. Industry benchmarking is available to help you compare your Plan to other comparable plans in the industry.

9. The Contractor will maintain appropriate records and documents for not less than six years from document creation. Upon reasonable prior notice, each party will make available to the other such records and documents relating to this Agreement as may be required for a Plan audit.

**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan  
Schedule C: Performance Standards**

	Performance Standard	Amount At Risk
<b>Participant Services</b>		
Hours of availability of call center	Monday – Friday 5AM – 6PM PT	N/A
Average wait-time per call	Less than 45 seconds	\$250
Number of group education sessions *Virtual/On-site Financial Wellness Education	Minimum 12 per year	\$250
Number of days for individual consultations	8 per month	\$250
Contractor to increase average deferral rate over the initial 5 year contract period	2 percentage points increase from average deferral rate at January 1, 2022	\$2,500
Contractor to increase average participation rate annually	1 percentage point increase to average participation rate per year (year over year)	\$2,500
Percentage of participants with beneficiary information	10% increase in the first calendar year, then 5% increase each of the following calendar years thereafter, or until 75% beneficiary is achieved.	\$2,500
<b>Plan Sponsor Services</b>		
Number of days after quarter end: Plan report	15 days after quarter end	\$500
Deferred Compensation Committee education and training relative to legislative and regulatory changes; Plan Sponsor education and training for use and best practice of Contractor's employer portal website and tools	As needed	N/A
Frequency of processing de minimis accounts	Upon direction of the County	N/A
Maximum number of hours before receiving call back from Relationship Manager	24 hours or next business day	N/A
<b>Operations</b>		
Contribution reconciliations	Same day if received in good order	\$500

Contribution postings	Same day if received in good order before 4pm EST	\$500
Hardship withdrawals paid (upon receipt of paperwork)	99% processed within two business days if received in good order	\$500
Qualified Domestic Relations Orders (DRO)	99% processed within five business days if received in good order	\$500
Receipt of loan proceeds	99% processed same day if online and 2 business days if paper and received in good order before 4pm EST	\$500
Payment of final distribution	99% processed within 5 business days from good order date	\$500
Processing of fund transfers	99% processed same day if requested prior to 4pm EST and received in good order	\$500
Processing of rollover contributions	99% processed within 2 business days if received in good order before 4pm EST	\$500
<b>Statements and Disclosures</b>		
Number of days after quarter end: Participant statements	Mailed within 15 calendar days	\$500
Number of days after quarter end: Sponsor statements	Mailed within 15 calendar days	\$500
Annual Performance/Compliance Report: Plan Sponsor	Annually; no later than March 31 <sup>st</sup> of the following year	\$2500
Date of receipt for 408(b)(2) disclosure	Posted to Sponsor websites monthly if requested.	N/A
Date of receipt of 404(a)(5) disclosure	Posted to Sponsor and Participant websites monthly if requested.	N/A
<b>Communications</b>		
Ongoing Client Marketing Strategist support for Appendix II to Schedule A: Education services and to meet Schedule C: Performance Standards related metric goals	Assigned Client Marketing Strategist for duration of contract	N/A

\* The Contractor's obligation under these performance guarantees is conditioned as follows:

The above service guarantees are subject to further negotiation with the County. Contractor measures performance against standards for all our defined contribution clients. Should the County determine County's service does not meet the standards described above, they may provide Contractor with written notice within 30 days of the service deficiency. The County may request the service guarantee be paid not to exceed \$25,000 annually. The Contractor to provide a report, no less than annually each calendar year detailing their compliance/delinquencies with these performance criteria. The initial benchmark/baseline performance data will be calculated using data beginning January 1, 2022. Neither the Plan Sponsor nor the Contractor shall be liable to the other for any delays or damages or any failure to act due, occasioned, or caused by reason of restrictions imposed by any government or government agency, acts of God, strikes, labor disputes, action of the elements, or causes beyond the control of the parties affected thereby.

## Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan Schedule D: Investment Provider Minimum Standards Disclosure Statement

The following items summarize the minimum administrative requirements required in order for the Contractor to transact with an investment provider on the Plan's behalf:

1. Pricing Deadlines: The investment provider must furnish the Contractor with confirmed net asset value information as of the close of trading (generally 4:00 p.m., Eastern Time) on the New York Stock Exchange ("Close of Trading") on each business day that the New York Stock Exchange is open for business ("Business Day") or at such other time as the net asset value of the fund is calculated as disclosed in the relevant then current prospectus(es) in a format that includes (i) the fund's name and the change from the last calculated net asset value, (ii) dividend and capital gains information as it arises, and (iii) in the case of a fixed income fund, the daily accrual or the distribution rate factor. Such information shall be provided to the Contractor by 6:30 p.m. Eastern Time. "Net" means after all management, service and administrative expenses are deducted. In the case of a Stable Value Option, that is providing a current credited interest rate, which is used to compute the daily applicable unit value, it will be provided on a quarterly basis (or earlier if applicable).
2. Pricing Error Reimbursements: The investment provider shall agree to hold the Plan harmless for any amounts erroneously credited to participant accounts due to (i) an incorrect calculation of the fund's daily net asset value ("NAV"), dividend rate, or capital gains distribution rate or (ii) incorrect or late reporting of the daily net asset value, dividend rate, or capital gains distribution rate of a fund, by reimbursing the Contractor, on the Plan's behalf. In addition, the fund shall be liable to the Contractor for systems and out of pocket costs incurred by the Contractor in making the Plan's or the participant's account whole, if such costs or expenses are a result of the fund's failure to provide timely or correct net asset values, dividend and capital gains or financial information and if such information is not corrected by 4:00 p.m. Eastern Time of the next Business Day after releasing such incorrect information provided the incorrect NAV as well as the correct NAV for each day that the error occurred is provided. If a mistake is caused in supplying such information, which results in a reconciliation with incorrect information, the amount required to make a Plan's or a participant's account whole shall be borne by the investment provider providing the incorrect information, regardless of when the error is corrected.
3. Sales Literature: The investment provider will provide to the Contractor at least one complete copy of all prospectuses, statements of additional information, annual and semiannual reports and proxy statements, other related documents, and all amendments or supplements to any of the above documents that relate to the fund promptly after the filing of such document with the SEC or other regulatory authorities. The investment provider agrees to provide to the Contractor, in electronic format, performance updates and portfolio updates for the fund within 10 business days after the end of each calendar quarter.
4. Advertising: Advertising and literature with respect to the fund prepared by the Contractor for use in marketing shares of the fund to the Plan shall be submitted to the investment provider for review and approval before such material is used with the Plan. The investment provider shall advise the Contractor in writing within three (3) Business Days of receipt of such materials of its approval or disapproval of such materials.
5. Expense Reimbursement: The investment provider shall make available for reimbursement certain out-of-pocket expenses the Contractor incurs in connection with providing shareholder services to the Plan. These expenses include actual postage paid by the Contractor in connection with mailing updated prospectuses, supplements and financial reports to participants, and all costs incurred by the Contractor associated with proxies for the fund, including proxy preparation, group authorization letters, programming for tabulation and necessary materials (including postage).
6. Excessive Trading: The investment provider shall use its best efforts and shall reasonably cooperate with the Contractor to generally prevent any market timing and frequent trading activity under the Plan. See the Contractor's "Excessive Trading" Policy, Schedule E.

## **Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan Schedule E: Voya Financial® “Excessive Trading” Policy**

The Voya Financial® family of insurance companies (“Voya®”), as providers of multi-fund variable insurance and retirement products, has adopted this Excessive Trading Policy to respond to the demands of the various fund families which make their funds available through our variable insurance and retirement products to restrict excessive fund trading activity and to ensure compliance with Section 22c-2 of the Investment Company Act of 1940, as amended. Voya’s current definition of Excessive Trading and our policy with respect to such trading activity is as follows.

1. Voya actively monitors fund transfer and reallocation activity within its variable insurance and retirement products to identify Excessive Trading.

**Voya currently defines Excessive Trading as:**

- a. More than one purchase and sale of the same fund (including money market funds) within a 60 calendar day period (hereinafter, a purchase and sale of the same fund is referred to as a “round-trip”). This means two or more round-trips involving the same fund within a 60 calendar day period would meet Voya’s definition of Excessive Trading; or
- b. Six round-trips within a 12 month period.

**The following transactions are excluded when determining whether trading activity is excessive:**

- a. Purchases or sales of shares related to non-fund transfers (for example, new purchase payments, withdrawals and loans);
  - b. Transfers associated with scheduled dollar cost averaging, scheduled rebalancing or scheduled asset allocation programs;
  - c. Purchases and sales of fund shares in the amount of \$5,000 or less;
  - d. Purchases and sales of funds that affirmatively permit short-term trading in their fund shares, and movement between such funds and a money market fund; and
  - e. Transactions initiated by a member of the Voya family of insurance companies.
2. If Voya determines that an individual has made a purchase of a fund within 60 days of a prior round-trip involving the same fund, Voya will send them a letter warning that another sale of that same fund within 60 days of the beginning of the prior round-trip will be deemed to be Excessive Trading and result in a six month suspension of their ability to initiate fund transfers or reallocations through the Internet, facsimile, Voice Response Unit (VRU), telephone calls to Customer Service, or other electronic trading medium that Voya may make available from time to time (“Electronic Trading Privileges”). Likewise, if Voya determines that an individual has made five round-trips within a 12 month period, Voya will send them a letter warning that another purchase and sale of that same fund within 12 months of the initial purchase in the first round-trip in the prior twelve month period will be deemed to be Excessive Trading and result in a six month suspension of their Electronic Trading Privileges. According to the needs of the various business units, a copy of the warning letters may also be sent, as applicable, to the person(s) or entity authorized to initiate fund transfers or reallocations, the agent/registered representative or investment adviser for that individual. A copy of the warning letters and details of the individual’s trading activity may also be sent to the fund whose shares were involved in the trading activity.
  3. If Voya determines that an individual has used one or more of its products to engage in Excessive Trading, Voya will send a second letter to the individual. This letter will state that the individual’s Electronic Trading Privileges have been suspended for a period of six months. Consequently, all fund transfers or reallocations, not just those which involve the fund whose shares were involved in the Excessive Trading activity, will then have to be initiated by providing written instructions to Voya via regular U.S. mail. During the six month suspension period, electronic “inquiry only” privileges will be permitted where and when possible. A copy of the letter restricting future transfer and reallocation activity to regular U.S. mail and details of the individual’s trading activity may also be sent to the fund whose shares were involved in the Excessive Trading activity.
  4. Following the six month suspension period during which no additional Excessive Trading is identified, Electronic Trading Privileges may again be restored. Voya will continue to monitor the fund transfer and reallocation activity, and any future Excessive Trading will result in an indefinite suspension of the Electronic Trading Privileges. Excessive Trading activity during the six month suspension period will also result in an indefinite suspension of the Electronic Trading Privileges.



5. Voya reserves the right to limit fund trading or reallocation privileges with respect to any individual, with or without prior notice, if Voya determines that the individual's trading activity is disruptive, regardless of whether the individual's trading activity falls within the definition of Excessive Trading set forth above. Also, Voya's failure to send or an individual's failure to receive any warning letter or other notice contemplated under this Policy will not prevent Voya from suspending that individual's Electronic Trading Privileges or taking any other action provided for in this Policy.
6. Each fund available through Voya's variable insurance and retirement products, either by prospectus or stated policy, has adopted or may adopt its own excessive/frequent trading policy. Voya reserves the right, without prior notice, to implement restrictions and/or block future purchases of a fund by an individual who the fund has identified as violating its excessive/frequent trading policy. All such restrictions and/or blocking of future fund purchases will be done in accordance with the directions Voya receives from the fund.

**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan  
Schedule F: Additional Plan Services & Fees**

1. Miscellaneous Plan Service Charges
  - a. Express mailing of termination, withdrawal and loan checks & related paperwork to participant (on exception basis only).  
\$50.00 per occurrence, to be assessed against the participant's account.  
EFT and ACH Credit are free of charge.
  - b. Wiring of termination, withdrawal and loan proceeds to participant.  
\$50.00 per occurrence, to be assessed against the participant's account.
  - c. EFT and ACH Credit are free of charge. Stop payment.  
\$50.00 per occurrence, to be assessed against the participant's account.
  - d. A loan initiation fee will apply to each Plan subject to this Agreement that permits loans. The Contractor shall charge a one-time fee to the participant at the time of loan for services rendered.  
\$100 per loan.
  - e. A self-directed brokerage account fee applicable to each Plan subject to this Agreement that has elected to use this optional service.  
\$50.00 annual fee per participant, to be assessed against the participant's account.
  - f. A Qualified Domestic Relations Order (QDRO): \$450.00 processing fee
  - g. If Participant Investment Advisory Services are selected, two service options may be available: a discretionary managed account service which charges a fee to participants who utilize the service and an online, point-in-time advice service available at no additional charge. . Please refer to the Participant Investment Advisory Services Plan Sponsor agreement for charges specific to your plan.
  - h. If the Portfolio Blueprint® 3(21) or 3(38) program is selected, the pricing of the Voya product offered to your Plan is affected by several factors including the use of this program. As compensation, the provider of the Portfolio Blueprint® program, may receive from the Contractor a fixed annual fee plus a variable fee based on Plan assets. Please refer to the Portfolio Blueprint Program Service Agreement for fees specific to your Plan and other important information.
  - i. Other Charges. In addition to any other charges described herein, an additional charge will be incurred if we agree to provide other special services at your request. The charge will be based on our standard charge for such service or will be based on a formula for time spent to provide the service. You will be notified at the time of your request if an additional charge is applicable.

2. Testing Services and Fees

The following testing service options are included unless otherwise noted. Delivery of the testing packages is contingent on the Contractor's timely receipt of the necessary data in Good Order each Plan year. A standard data layout will be provided by the Contractor for this purpose.

Additional fees may apply for certain complex testing scenarios.

- a. ACP Testing. Includes up to one hour of consulting per test.
  - i. Frequency of ACP testing needed:  
 ACP Testing not required or not to be performed by the Contractor  
 Monthly  Quarterly  Semi-annually  Yearly
  - ii. ACP testing by sub-group or location needed:  
 Not applicable or required  Yes

3. The following compliance services are available to Plans with a minimum of \$5 million in assets on an as-needed basis. If such testing is required, the plan sponsor will be billed directly for the services provided according to the following fee schedule:

Your Plan may need one or more of tests below based on your plan design. You will be billed annually if applicable to your plan for that Plan Year.

Service	Fee
410(b) Ratio Percentage Testing	No additional charge
414(s) Compensation testing	\$500 per occurrence
Annual Employer Contribution Limit Calculations* (Cross-tested/New Comparability)	\$500 per occurrence
401(a)(4) Nondiscrimination testing	\$1250 per occurrence
401(a)(4) Benefits, Rights and Features testing	\$1250 per occurrence

\*NOTE: Plans with a new Comparability allocation will require an allocation and 401(a)(4) testing fee.

The Contractor will not perform testing or aggregate test results for “Control Groups” or “Affiliated Service Groups” (as defined by the IRS) for benefit plan assets at other providers.

## **Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan Appendix I to Schedule F**

### **Fee Levelization Service**

This optional service allows the Contractor to apply any revenue sharing generated by the plan's mutual fund investment options to the individual participant's whose account balances generated the revenue as a revenue credit. This credit may fully or partially offset the Plan's recordkeeping fees. Contractor will receive its required revenue as described in Section 3.01 of this Agreement.

This optional service allows the Contractor to apply any revenue sharing generated by the plan's mutual fund investment options and the service fee applicable to the Voya Stable Value 35 to the individual participant's whose account balances generated the revenue as a revenue credit. This credit may fully or partially offset the Plan's recordkeeping fees. Contractor will receive its required revenue as described in Section 3.01 of this Agreement.

- The Plan Sponsor elects to utilize the Contractor's Fee Levelization Service (the "Service") as described herein.

The revenue credit will be calculated monthly, on the 20<sup>th</sup> of the month (or the next business day if the 20<sup>th</sup> falls on a day the New York Stock Exchange is closed). It will be based on the average daily fund balance of the prior month, excluding the self-directed brokerage account funds, outstanding loan balances and the Voya Stable Value 35 Fund. Revenue basis points for all funds active on the first day of the month for which the revenue credit is being calculated will be used. Any revenue credit due to a participant will be allocated to their account on the same day as the revenue credit is calculated and invested prorata in accordance with their then current fund allocation instructions. Revenue credits will not be allocated to any self-directed brokerage account (SDBA) and or any outstanding loan balances, if available to the Plan.

The revenue credit will be calculated monthly, on the 20<sup>th</sup> of the month (or the next business day if the 20<sup>th</sup> falls on a day the New York Stock Exchange is closed). It will be based on the average daily fund balance of the prior month, excluding the self-directed brokerage account funds and outstanding loan balances. Revenue basis points for all funds active on the first day of the month for which the revenue credit is being calculated will be used. Any revenue credit due to a participant will be allocated to their account on the same day as the revenue credit is calculated and invested prorata in accordance with their then current fund allocation instructions. Revenue credits will not be allocated to any self-directed brokerage account (SDBA) and or any outstanding loan balances, if available to the Plan.

A separate calculation will be performed for terminated participants who have a zero balance as of the end of the prior month as a result of a full withdrawal during the month. The credit will be calculated as described below. The monthly asset-based service fee will be calculated, and if the revenue credit is less than the asset-based service fee owed, no revenue credit or fee will be credited or debited from the account. If the revenue credit is greater than the monthly asset based fee, the net amount will be allocated to the participant's account following the posting of the revenue credit to the participants account with a zero balance, a distribution will be processed on behalf of the participant, following the same distribution method as the original termination transaction. No additional processing fee, if applicable, will be charged to the participant account for the subsequent distribution processing of the revenue credit.

The Plan Sponsor agrees that:

- The offering of this Service assumes that the plan's investment menu does not contain any investment options which prohibit this type of arrangement.
- Contractor reserves the right to discontinue this Service should it be called into question, subject to scrutiny, or be deemed to be in violation of applicable law or regulation.
- Neither VRIAC or the Broker-Dealer, nor any of their affiliates, is acting as a fiduciary ERISA in connection with the Service.

## Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan Schedule G: General Compensation Provisions

1. Direct and Indirect Compensation:

This Schedule describes compensation received by the Contractor for services rendered to the Plan and Plan participants, including fees and revenue derived from both direct and indirect sources.

**Direct Compensation** includes compensation paid directly by Plan Sponsor or the Plan to the Contractor for plan recordkeeping and administrative services including certain transaction fees that are charged directly to participant accounts.

**Indirect Compensation** includes compensation from sources other than direct fees that the Contractor may collect from third parties, including revenue derived from service arrangements with mutual funds, revenue sharing and other indirect compensation that may be generated in servicing the Plan.

2. Assumptions:

As provided in Section 1 of the Agreement, the Contractor has agreed to perform certain services. Based on the assumptions outlined in the Agreement, the Contractor agrees to supply the Services for the compensation specified in Section 3.01 of the Agreement, as supplemented by any additional compensation or transaction fees as specified within Schedule F and with respect to Investment Advisory Services and/or Self Directed Brokerage Account, as specified in a separately executed agreement(s).

3. Fund Specific Revenue:

Indirect compensation received by the Contractor represents revenue from investment companies based on the investment of assets held in the Plan pursuant to agreements between the applicable investment companies and the Contractor. They represent fees payable from such investment companies for shareholder services, sub-transfer agency services, or pursuant to a 12b-1 plan adopted by such investment companies.

In the case of investment options of VRIAC affiliates or former affiliates, Contractor compensation represents revenue assumptions made by the Contractor's defined contribution business for purposes of product pricing. Gross revenues from such investment options generally include payments for investment management and for certain administrative services. Pricing assumptions are derived from gross fund revenues, less the internally transferred costs of fund management and administration. The pricing assumptions for certain investment options of VRIAC affiliates or former affiliates reflect the approximate weighted average of the net fund revenues of each portfolio within a given VRIAC fund complex. In the case of the Voya Stable Value Fund, the fund revenue to the Contractor is the portion of the overall fund expenses which the trustee has agreed to pay the Contractor on an annual basis for sub-transfer agent fees.

4. Changes in Investment Options:

To the extent the Contractor's compensation is derived in whole or in part from revenue from the Plan Sponsor's selection of certain investment products offered by or through the Contractor, the Contractor reserves the right to amend the Agreement, including this Schedule, in the event such revenue is reduced by a change in the investment products or options available under the Plan.

**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan**  
**Schedule H: Reimbursement of Plan Expenses and Mutual Fund Revenue Share**

**Expense Account for Service Expenditures (“EASE Account”)**

The EASE Account is a funding source that can be directed towards the payment of allowable plan administrative expenses or allocated to participant accounts. The amount allocated to the EASE Account is directly attributable to excess fund revenue sharing amounts and administrative service fees in the amount of \_\_0.06\_\_% of the assets of the Plan, but excluding any outstanding loan balances and assets in the Self Directed Brokerage Account. Please refer to your Expense Account for Service Expenditures Agreement for complete details regarding the administration of this optional account.

Changes to the amount allocated to the EASE Account may be made by (i) the Plan Sponsor by submission of such change to the Contractor on such form as Contractor may prescribe from time to time, or (ii) the Contractor by written notice to the Plan Sponsor.

## **Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan Schedule I: VRIAC's Policy for Correction of Inadvertent Processing Errors**

As your Plan's administrative service provider, Voya Retirement Insurance and Annuity Company ("VRIAC") has agreed to process transaction orders received in good order prior to market close from the plan and plan participants accurately and on a timely basis. We seek to avoid transaction processing errors to the greatest extent possible, but inadvertent errors do occur from time to time. Inadvertent processing errors are exclusively defined as incorrect or untimely processing by VRIAC employees of transactions that are received in good order. Inadvertent processing errors do not include errors made by plan sponsors or third parties.

VRIAC will correct any identified inadvertent processing error caused by VRIAC (a "VRIAC inadvertent processing error") as soon as practicable, typically no later than five (5) business days after VRIAC has identified sufficient information to correct the error. VRIAC represents that in no event will VRIAC exercise discretionary authority or control over the correction of inadvertent processing errors in order to maximize gain or correct such error for VRIAC's own benefit or interest.

Once a VRIAC inadvertent processing error has been identified, we promptly take corrective action to put the plan and its participants in a position financially equivalent to the position they would have been in if the processing error had not occurred. This means that VRIAC will make the plan whole for any loss to a plan resulting from correcting a VRIAC processing error. If any gain to a plan results in connection with a corrected transaction, VRIAC will keep that gain. The following examples illustrate the effect of the policy:

- When a plan participant directs that a certain dollar amount be contributed to their plan account, VRIAC credits the number of investment units that dollar amount will purchase to the participant's account on Day 1, the day the contribution is processed.

The number of units is based on the unit's dollar value on Day 1, as set by the investment fund and communicated to VRIAC after market close. If an inadvertent error occurs, and VRIAC does not process the contribution until Day 2, VRIAC will determine the number of units that should have been credited on Day 1, using Day 1's unit price. If, on Day 2, the unit price has gone up, the dollar amount of the contribution will not be enough to cover the number of units the participant should have received. VRIAC will make up the difference such that the participant receives the number of units he or she would have received on Day 1 and VRIAC will absorb the loss. The participant is not charged for any additional cost.

However, if, on Day 2, the unit price has gone down, the amount of the contribution would purchase more units on Day 2 than it would have purchased on Day 1. In that circumstance, the participant will receive the number of units they would have received on Day 1 had the transaction been processed and VRIAC will keep the excess as part of its overall fee for services under the contract.

Regardless of whether there is a gain or a loss, the participant receives the benefit of what they requested.

- When a plan participant makes a withdrawal request of a certain dollar amount from their account, VRIAC liquidates or sells the number of investment units needed in order to make the distribution. Thus, on Day 1, VRIAC typically would sell or liquidate investment units in the participant's investment fund at Day 1's price to make the distribution. If, due to a VRIAC inadvertent processing Error, VRIAC processes the instructions a day late, VRIAC will make sure that the participant receives the dollar amount they requested. VRIAC will sell or liquidate the same number of units that would have been sold on Day 1 had the transaction been accomplished on Day 1. If the unit price has declined, liquidated units will have a lower value on Day 2 than they had on Day 1, which means that VRIAC must make up the difference so that the participant receives the requested amount in full. In doing so, VRIAC will incur a loss, which it absorbs. On the other hand, if the market has gone up and the units have increased in value, VRIAC will sell the same number of units as it would have sold on Day 1, but the sales amount will be higher than the requested withdrawal. VRIAC will keep the excess as part of its overall fee. In either circumstance, the participant receives the benefit of what they requested and bears no additional cost.

VRIAC tracks the net financial experience of VRIAC's Correction Account and the effect of the corrections for each affected plan on an annual basis and will make that information available in accordance with ERISA Section 408(b)(2). Any gains kept by VRIAC constitutes additional compensation for the services provided by VRIAC under its contract and VRIAC will report it in accordance with ERISA Section 408(b)(2).

By executing an administrative services agreement with Contractor, Plan Sponsor is authorizing Contractor's application of the error correction policy as described above to the Plan in connection with the plan administrative services that Contractor will provide. Plan Sponsor has the right to terminate Contractor's services in accordance with the terms of the administrative services agreement.



**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan  
Schedule J: Authorized Plan Sponsor Representative**

The Contractor is hereby authorized to act upon the directions, instructions, and any information provided by any of the Authorized Plan Sponsor Representatives listed below. These signatures will be accepted until the Contractor is notified of a change in writing. The following person(s) have the authority under the Plan to provide direction to the Contractor with respect to administration of the Plan including any benefit sensitive financial transactions permitted under the Plan and requests for contribution refunds. In the event that a Plan Sponsor Representative is removed or replaced, the Contractor must be notified immediately in writing - please contact the Contractor's designated Plan Manager to request the applicable administrative form to complete.

1.	Name <i>(please type or print)</i>	Title
	Agency, Division or Location Name and Code (if applicable)	
	Authorized Plan Sponsor Representatives Signature	
2.	Name <i>(please type or print)</i>	Title
	Agency, Division or Location Name and Code (if applicable)	
	Authorized Plan Sponsor Representatives Signature	
3.	Name <i>(please type or print)</i>	Title
	Agency, Division or Location Name and Code (if applicable)	
	Authorized Plan Sponsor Representatives Signature	
4.	Name <i>(please type or print)</i>	Title
	Agency, Division or Location Name and Code (if applicable)	
	Authorized Plan Sponsor Representatives Signature	

**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan  
Schedule K: Contractor's Primary Contact**

The Contractor designates the following individual(s) to serve as its primary point of contact to the Plan Sponsor with respect to this Agreement.

**Shelley Fredrick**

Vice President, Strategic Relationship Manager  
Voya Retirement Insurance and Annuity Company  
One Orange Way  
Windsor, CT 06095

**Clackamas County & Clackamas Housing Authority 457(b) Deferred Compensation Plan  
Schedule L: Servicing Representatives**

The Contractor and/or the Plan Sponsor designate the following individual(s) to serve as its representatives with respect to this Agreement. Representatives are designated as one of the following:

**Agent, including Career Agent** – Insurance licensed and Company appointed with Voya Retirement Insurance and Annuity Company, registered representative of Voya Financial Advisors, Inc. and receives commission based compensation.

**Broker** – (Non Voya FA Only) – Insurance licensed and Company appointed with Voya Retirement Insurance and Annuity Company, but affiliated with a broker-dealer other than Voya Financial Advisors, Inc. and receives commission based compensation.

**Salaried Enroller** – Voya Retirement Insurance and Annuity Company employees who will not receive commission based salary and are registered representatives of Voya Financial Advisors, Inc.

<input checked="" type="checkbox"/> Agent <input type="checkbox"/> Broker <input type="checkbox"/> Salaried Enroller Representative Name <u>Wendy Stefani</u> Last 4 Digits SSN <u>6289</u> Broker Dealer Affiliation <u>Voya Financial Advisors, Inc.</u> Office Code <u>045</u> Rep # <u>128</u> % Participation <u>100</u> (Loc. Code <u>  </u> )
<input type="checkbox"/> Agent <input type="checkbox"/> Broker <input type="checkbox"/> Salaried Enroller Representative Name _____                      Last 4 Digits SSN _____ Broker Dealer Affiliation _____ Office Code _____    Rep # _____    % Participation _____ (Loc. Code _____)
<input type="checkbox"/> Agent <input type="checkbox"/> Broker <input type="checkbox"/> Salaried Enroller Representative Name _____                      Last 4 Digits SSN _____ Broker Dealer Affiliation _____ Office Code _____    Rep # _____    % Participation _____ (Loc. Code _____)

**EXHIBIT A  
CLACKAMAS COUNTY  
GOVERNMENTAL CONTRACTING ADDENDUM  
Contract #4082**

This Oregon Governmental Contracting Addendum (“Addendum”) is entered into by Clackamas County, a political subdivision of the State of Oregon (“County”) and **Voya Retirement Insurance and Annuity Company and Voya Financial Partners, LLC** (“Contractor”). This Addendum shall be attached to, and incorporated into, Retirement Plan Services Agreement (“Vendor Agreement”). As used below, "Contract" means this Addendum and the Vendor Agreement. To the extent there is any conflict between the Addendum and the Vendor Agreement, the terms of this Addendum shall control.

- A. Term.** This Contract shall become effective **October 1, 2021** upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **December 31, 2026** (initial term). This Contract may be renewed for four (4) additional 1-year periods upon written approval of both parties.
- B. County Contract Administrator.** The County Contract Administrator for this Contract is **Billie Hurley**.
- C. Invoices and Payments.** Invoices shall be submitted to: Billie Hurley via email at [Billiehur@clackamas.us](mailto:Billiehur@clackamas.us)  
Fees shall be paid according to the Retirement Plan Services Agreement. Payment and late fees shall only be in accordance with ORS 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor.
- D. Insurance.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [procurement@clackamas.us](mailto:procurement@clackamas.us).

Required - Workers Compensation: Contractor shall comply with the workers’ compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$5,000,000 per occurrence, with an annual aggregate limit of \$5,000,000 for damages caused by error, omission or negligent acts.
<input type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.
<input type="checkbox"/> Required – Abuse & Molestation endorsement with limits not less than \$1,000,000 per occurrence if not included in the Commercial General Liability policy.
<input checked="" type="checkbox"/> Cyber Liability: combined single limit, or the equivalent, of not less than \$5,000,000 per occurrence for network security (including data breach), privacy, interruption of business, media liability, and errors and omissions.

The insurance described in this section shall not be cancelled or materially changed without Contractor providing at least one hundred and eighty (180) days written notice to the County. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- E. Debt Limitation.** The Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- F. Public Contracting Requirements.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes (“ORS”) Chapter 279B.220 through 279B.235, Contractor shall:
1. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
  2. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
  3. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.  
  
Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
  4. As applicable, Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
- G. Governing Law; Venue.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- H. Termination.** This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon one-hundred eighty (180) days written notice to Contractor; (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; (iii) if Contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.
- I. Compliance.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. This includes, but is not limited to: (i) Titles VI and VII of Civil Rights Act of 1964; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990; (iv) Executive Order 11246; (v) The Age Discrimination in Employment Act of 1967; (vi) the Health Insurance Portability and Accountability Act of 1996; the Age Discrimination Acts of 1967 and 1975; (vii) The Vietnam Era Veterans’ Readjustment Assistance Act of 1974; (viii) ORS Chapter 659; (ix) all other applicable requirements of federal and state civil rights and rehabilitation

statutes, rules and regulations; (x) all federal and state laws governing the handling, processing, packaging, storage, labeling, and delivery of food products; (xi) all regulations and administrative rules established pursuant to the foregoing laws; and (xii) County Local Contract Review Board Rules, containing language required to be in all public contracts, which is specifically incorporated by reference as if set forth herein.

- J. Tax Compliance.** Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- K. Indemnification.** Contractor agrees to indemnify, hold harmless and defend the County, its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of Contractor or Contractor's employees or agents. Any obligation of the County to indemnify, hold harmless and defend Contractor, its officers, elected officials, agents and employees, or any other indemnitee, shall only be to the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300) from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based on damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the County or the County's employee or agents.
- L. Dispute Resolution.** No attorney fees shall be paid for or awarded to either party in the course of any dispute, indemnification, or other recovery. It is the intent of the parties that each shall bear the costs of its own legal counsel. Any requirements contained in this Contract waiving a right to a jury trial or requiring binding arbitration are void.
- M. Records.** Contractor shall maintain all accounting records relating to this Contract according to GAAP and any other records relating to Contractor's performance ("Records") for six (6) years from termination or as otherwise required. Contractor shall grant County, the federal government, and their duly authorized representatives access to the Records, including reviewing, auditing, copying, and making transcripts. Any documents that are requested to be maintained as confidential by either party shall only be maintained as confidential to the extent permitted by the Oregon Public Records Law ORS 192.
- N. Subcontractors.** Contractor shall ensure that its subcontractors, if any, comply with the requirements of this Addendum.
- O. Confidentiality.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software)

which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by a breach of its data security or the confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.


**P. Counterparts.** This Addendum may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

**Q. Waiver.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

By their signatures below, the parties to this Addendum agree to the terms, conditions, and content expressed herein.

**Voya Retirement Insurance and Annuity Company**

**Clackamas County**

  
\_\_\_\_\_  
Authorized Signature      Date

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Name/Title (Printed)

\_\_\_\_\_  
Recording Secretary      Date

**Voya Financial Partners, LLC**

  
\_\_\_\_\_  
Authorized Signature      Date

**Approved As To Form:**

\_\_\_\_\_  
Clackamas County Counsel      Date

\_\_\_\_\_  
Name/Title (Printed)



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Chair

\_\_\_\_\_  
Name/Title (Printed)

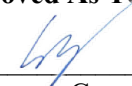
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Recording Secretary      Date

**Voya Financial Partners, LLC**

**Approved As To Form:**

\_\_\_\_\_  
Authorized Signature      Date

09/14/2021

  
\_\_\_\_\_  
Clackamas County Counsel      Date

\_\_\_\_\_  
Name/Title (Printed)