



INCORPORATED COUNTY OF LOS ALAMOS SERVICES AGREEMENT

This **SERVICES AGREEMENT** (this "Agreement") is entered into by and between the **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County"), and **Alliance Benefit Group Southwest, LLC**, a New Mexico corporation ("Contractor"), to be effective for all purposes July 1, 2018.

WHEREAS, the County Purchasing Agent determined in writing that the use of competitive sealed bidding was either not practical or not advantageous to County for procurement of the Services and County issued Request for Proposals No. 18-30 (the "RFP") on January 2, 2018, requesting proposals for Provider of Pension Services, as described in the RFP incorporated herein by reference for all purposes; and

WHEREAS, Contractor timely responded to the RFP by submitting a response dated February 16, 2018 ("Contractor's Response") incorporated herein by reference for all purposes; and

WHEREAS, based on the evaluation factors set out in the RFP, Contractor was the successful Contractor for the Trustee and Recordkeeper Services listed in the RFP; and

WHEREAS, the County Council approved this Agreement at a public meeting held on May 22, 2018; and

WHEREAS, Contractor will provide the Services, as described below, to County.

NOW, THEREFORE, for and in consideration of the premises and the covenants contained herein, County and Contractor agree as follows:

SECTION A. SERVICES:

Contractor Services, Contractor shall provide administrative, trustee and recordkeeping services for County's New Mexico Pension Plan and Trust ("the Plan"), as follows:

1. Contractor shall provide administrative and trustee/recordkeeping services to participants of the Plan (Plan Participants) and County who is the Sponsor of Plan;
2. Contractor shall offer fund investment options pursuant to the Plan's Investment Policy (See Exhibit C – Investment Policy of RFP 18-30). The fund options shall be in classes selected by the Plan Administrator. As stated in the Investment Policy, one of the fund options shall be a money market fund/stable value fund, which shall serve as one of the funds from which Plan Participants can choose to invest funds. Any forfeitures shall also be held in the money market/stable valued fund and Contractor shall transfer any Participant forfeitures under the Plan to that account no later than thirty (30) days following the end of the Plan year. Additionally, one of the funds shall be a Qualified Default Investment Fund (QDIA) which shall serve as the receiving or holding fund pending the actual investment into mutual funds of assets as allocated by Plan Participants;
3. Contractor shall provide custody of Plan assets;

4. Contractor shall process Plan Participant transactions in accordance with Plan Participant instructions in a timely manner, usually within seventy-two (72) hours;
5. Contractor shall collect dividend and interest income and apply it to Plan Participant accounts;
6. Contractor shall invest and record contributions made to the Plan in a timely manner, usually within seventy-two (72) hours of receipt of good file and verified funds;
7. Contractor shall forward notices of corporate actions to the Plan Sponsor within ten (10) business days of said action;
8. Contractor shall prepare and timely submit Form 1099R to Plan Participants and the IRS;
9. Contractor shall prepare registration documents for transfer agents for in-kind distributions;
10. Contractor shall maintain Employee Retirement Income Security Act (ERISA) level fidelity bonds;
11. Contractor shall monitor the Plan's activity to insure compliance with the Plan Document and all applicable federal and state laws and regulations;
12. Contractor shall produce an annual cumulative Trust Statement within sixty (60) days of the end of the plan year, as well as reports as requested by the Plan Administrator, and make those reports available on Contractor's secure website;
13. Contractor shall timely complete any required Internal Revenue Service (IRS) and Department of Labor (DOL) filings, as well as any testing applicable to government plans under the Internal Revenue Code (IRC);
14. Contractor shall provide a copy of Contractor's annual independent audit to County within thirty (30) days of receipt of audit report;
15. Contractor shall continue County's current enrollment process or develop a Plan Participant enrollment process acceptable to County, and provide appropriate enrollment forms for the Plan Participants and Plan Sponsor;
16. Contractor shall work with County to determine a data transmission method that is acceptable to both parties;
17. Contractor shall provide monthly reconciliation reports showing deposits to the trust, investment earnings, withdrawals, expenses, and any other transactions to the Plan Administrator or designee;
18. Contractor shall provide daily valuations of Plan Participant accounts;
19. Contractor shall maintain and keep separately a record for all the Mutual Benefit Life (MBL) accounts as described in the RFP;
20. Contractor shall provide for toll-free telephone and internet access to investment changes between funds by Plan Participants;
21. Contractor shall provide for toll-free telephone and internet customer service access to Plan Participants;
22. Contractor shall provide for initiation and continuation of Plan Participant Loans as described in the Plan Document and Loan Policy (See Exhibit D - Loan Policy of RFP 18-30);
23. Contractor shall provide a quarterly statement, usually within 15 business days after the end of the quarter, accounting for all assets within each Plan Participant account, which is provided directly to Plan Participants, by mail or email, as directed by Plan Participants;
24. Contractor shall provide a list of Plan Participants to Plan Sponsor, each quarter, identifying statements returned from the U.S. Mail identified as undelivered;
25. Contractor shall provide a quarterly report to County (available by the end of the first month after the end of each quarter) to include the following information for each Plan Participant and summary totals for the Plan:
 - a. Market value, at the beginning of the accounting period
 - b. Plus - Contributions from employee

- c. Plus - Contributions from employer
 - d. Plus (Minus) – Investment gains (losses)
 - e. Minus – Withdrawals
 - f. Plus (Minus) – Transfers
 - g. Plus (Minus) – Loan Activity
 - h. Plus (Minus) – Other (fees, etc.)
 - i. Market Value at end of Accounting Period (Must be reported by Contribution Source and Investment type)
26. Contractor shall provide to Plan Sponsor a summary total report, of the above-referenced quarterly reports within thirty (30) days following the end of the Plan year;
 27. Contractor shall, as needed, develop a distribution process including all required forms, notices, and consents which will provide for the timely and accurate distribution of assets, to include true trustee-to-trustee transfers;
 28. Contractor shall develop other administrative forms and processes as requested by the Plan Administrator, or designee, which may include beneficiary designation and Plan Participant vesting notifications, deemed loans, Qualified Domestic Relations Orders (QDROs), among others;
 29. Contractor shall meet at least quarterly with County's Benefits and Pension Manager, Plan Administrator and Participant Delegates in Los Alamos; and
 30. Contractor shall provide all available Plan records for annual audit of the Plan by an independent auditor selected by County.

SECTION B. TERM: The term of this Agreement shall commence July 1, 2018 and shall continue through June 30, 2021, unless sooner terminated, as provided herein. At County's sole option the Agreement may be renewed for up to four (4) consecutive one-year periods, or one (1) final four-year period, unless sooner terminated, as provided therein.

SECTION C. COMPENSATION:

1. **Amount of Compensation.** County shall pay compensation for performance of the Services in an amount not to exceed THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00), over the entire term of the Agreement, including renewals, which amount does not include applicable New Mexico gross receipts taxes ("NMGRT"). Compensation shall be paid in accordance with the rate schedule set out in Exhibit "A," attached hereto and made a part hereof for all purposes.
2. **Monthly Invoices.** Contractor shall submit itemized *monthly* invoices to County's Project Manager showing amount of compensation due, amount of any NMGRT, and total amount payable. Payment of undisputed amounts shall be due and payable thirty (30) days after County's receipt of the invoice.

SECTION D. TAXES: Contractor shall be solely responsible for timely and correctly billing, collecting and remitting all NMGRT levied on the amounts payable under this Agreement.

SECTION E. STATUS OF CONTRACTOR, STAFF, AND PERSONNEL: This Agreement calls for the performance of services by Contractor as an independent contractor. Contractor is not an agent or employee of County and will not be considered an employee of County for any purpose. Contractor, its agents or employees shall make no representation that they are County employees, nor shall they create the appearance of being employees by using a job or position title on a name plate, business cards, or in any other manner, bearing County's name or logo. Neither Contractor nor any employee of Contractor shall be entitled to any benefits or compensation other than the compensation specified herein. Contractor shall have no authority

to bind County to any agreement, contract, duty or obligation. Contractor shall make no representations that are intended to, or create the appearance of, binding County to any agreement, contract, duty, or obligation. Contractor shall have full power to continue any outside employment or business, to employ and discharge its employees or associates as it deems appropriate without interference from County; provided, however, that Contractor shall at all times during the term of this Agreement maintain the ability to perform the obligations in a professional, timely and reliable manner.

SECTION F. STANDARD OF PERFORMANCE: Contractor agrees and represents that it has and will maintain the personnel, experience and knowledge necessary to qualify it for the particular duties to be performed under this Agreement. Contractor shall perform the Services described herein in accordance with a standard that meets the industry standard of care for performance of the Services.

SECTION G. DELIVERABLES AND USE OF DOCUMENTS: All deliverables required under this Agreement, including material, products, reports, policies, procedures, software improvements, databases, and any other products and processes, whether in written or electronic form, shall remain the exclusive property of and shall inure to the benefit of County as works for hire; Contractor shall not use, sell, disclose, or obtain any other compensation for such works for hire. In addition, Contractor may not, with regard to all work, work product, deliverables or works for hire required by this Agreement, apply for, in its name or otherwise, any copyright, patent or other property right and acknowledges that any such property right created or developed remains the exclusive right of County. Contractor shall not use deliverables in any manner for any other purpose without the express written consent of County.

SECTION H. EMPLOYEES AND SUB-CONTRACTORS: Contractor shall be solely responsible for payment of wages, salary or benefits to any and all employees or contractors retained by Contractor in the performance of the Services. Contractor agrees to indemnify, defend and hold harmless County for any and all claims that may arise from Contractor's relationship to its employees and subcontractors.

SECTION I. INSURANCE: Contractor shall obtain and maintain insurance of the types and in the amounts set out below throughout the term of this Agreement with an insurer acceptable to County. Contractor shall assure that all subcontractors maintain like insurance. Compliance with the terms and conditions of this Section is a condition precedent to County's obligation to pay compensation for the Services and Contractor shall not provide any Services under this Agreement unless and until Contractor has met the requirements of this Section. County requires Certificates of Insurance or other evidence acceptable to County that Contractor has met its obligation to obtain and maintain insurance and to assure that subcontractors maintain like insurance. Should any of the policies described below be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. General Liability Insurance and Automobile Liability Insurance shall name County as an additional insured.

1. **General Liability Insurance:** ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence; TWO MILLION DOLLARS (\$2,000,000.00) aggregate.
2. **Workers' Compensation:** In an amount as may be required by law. County may immediately terminate this Agreement if Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so.
3. **Automobile Liability Insurance for Contractor and its Employees:** ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence; TWO MILLION DOLLARS

(\$2,000,000.00) aggregate on any owned, and/or non-owned motor vehicles used in performing Services under this Agreement.

- 4. Professional Liability Insurance:** PROFESSIONAL LIABILITY INSURANCE, as may be applicable to the particular profession or service to be provided, with a limit of not less than \$1,000,000 each Claim, with a \$2,000,000 annual aggregate, without any restrictive “negligent act, negligent error, or negligent omission” clause, and with coverage extending for a three (3) year period from completion of this contract, against any and all claims which may arise from the Contractor’s negligent performance of work described herein.

SECTION J. RECORDS: Contractor shall maintain, throughout the term of this Agreement and for a period of six (6) years thereafter, records that indicate the date, time, and nature of the services rendered. Contractor shall make available, for inspection by County, all records, books of account, memoranda, and other documents pertaining to County at any reasonable time upon request.

SECTION K. APPLICABLE LAW: Contractor shall abide by all applicable federal, state and local laws, regulations, and policies and shall perform the Services in accordance with all applicable laws, regulations, and policies during the term of this Agreement. In any lawsuit or legal dispute arising from the operation of this Agreement, Contractor agrees that the laws of the State of New Mexico shall govern. Venue shall be in the First Judicial District Court of New Mexico in Los Alamos County, New Mexico.

SECTION L. NON-DISCRIMINATION: During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the obligations of Contractor under this Agreement, with regard to race, color, religion, sex, age, ethnicity, national origin, sexual orientation or gender identity, disability or veteran status.

SECTION M. INDEMNITY: Contractor shall indemnify, hold harmless and defend County, its Council members, employees, agents and representatives, from and against all liabilities, damages, claims, demands, actions (legal or equitable), and costs and expenses, including without limitation attorneys’ fees, of any kind or nature, arising from Contractor’s performance hereunder or breach hereof and the performance of Contractor’s employees, agents, representatives and subcontractors.

SECTION N. FORCE MAJEURE: Neither County nor Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

SECTION O. NON-ASSIGNMENT: Contractor may not assign this Agreement or any privileges or obligations herein without the prior written consent of County.

SECTION P. LICENSES: Contractor shall maintain all required licenses including, without limitation, all necessary professional and business licenses, throughout the term of this Agreement. Contractor shall require and shall assure that all of Contractor’s employees and subcontractors maintain all required licenses including, without limitation, all necessary professional and business licenses.

SECTION Q. PROHIBITED INTERESTS: Contractor agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with

the performance of its services hereunder. Contractor further agrees that it will not employ any person having such an interest to perform services under this Agreement. No County Council member or other elected official of County, or manager or employee of County shall solicit, demand, accept or agree to accept a gratuity or offer of employment contrary to Section 31-282 of the Los Alamos County Code.

SECTION R. TERMINATION:

- 1. Generally.** County may terminate this Agreement with or without cause upon ten (10) days prior written notice to Contractor. Upon such termination, Contractor shall be paid for Services actually completed to the satisfaction of County at the rate set out in Section C. Contractor shall render a final report of the Services performed to the date of termination and shall turn over to County originals of all materials prepared pursuant to this Agreement.
- 2. Funding.** This Agreement shall terminate without further action by County on the first day of any County fiscal year for which funds to pay compensation hereunder are not appropriated by County Council. County shall make reasonable efforts to give Contractor at least ninety (90) days advance notice that funds have not been and are not expected to be appropriated for that purpose.

SECTION S. NOTICE: Any notices required under this Agreement shall be made in writing, postage prepaid to the following addresses, and shall be deemed given upon hand delivery, verified delivery by telecopy (followed by copy sent by United States Mail), or three (3) days after deposit in the United States Mail:

County:

Benefits & Pension Manager
Incorporated County of Los Alamos
1000 Central Avenue, Suite 230
Los Alamos, New Mexico 87544

Contractor:

Dennis Davis
Alliance Benefit Group Southwest, LLC
7425 Jefferson Street NE
Albuquerque, New Mexico 87109

SECTION T. INVALIDITY OF PRIOR AGREEMENTS: This Agreement supersedes all prior contracts or agreements, either oral or written, that may exist between the parties with reference to the services described herein and expresses the entire agreement and understanding between the parties with reference to said services. It cannot be modified or changed by any oral promise made by any person, officer, or employee, nor shall any written modification of it be binding on County until approved in writing by both County and Contractor.

SECTION U. CAMPAIGN CONTRIBUTION DISCLOSURE FORM: A Campaign Contribution Disclosure Form was submitted as part of the Contractor's Response and is incorporated herein by reference for all purposes. This Section acknowledges compliance with Chapter 81 of the Laws of 2006 of the State of New Mexico.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

ATTEST

INCORPORATED COUNTY OF LOS ALAMOS

NAOMI D. MAESTAS
COUNTY CLERK

BY:_____
HARRY BURGESS
COUNTY MANAGER **DATE**

Approved as to form:

J. ALVIN LEAPHART
COUNTY ATTORNEY

ALLIANCE BENEFIT GROUP SOUTHWEST LLC., A NEW MEXICO CORPORATION

BY:_____
DENNIS DAVIS
PRINCIPAL **DATE**

AGR18-30a
Exhibit “A”

Los Alamos County Employee Pension Plan
FEE SCHEDULE*

				Fee/Rate (Year 1)	Estimated Annual Costs (FY19)	Fee/Rate (Year 2)	Fee/Rate (Year 3)	Fee/Rate (Year 4)	Fee/Rate (Year 5)	Fee/Rate (Year 6)	Fee/Rate (Year 7)
			Recordkeeping, Administration & Compliance								
One-Time Implementation Fees				N/A		--	--	--	--	--	--
On-Going Fees (annual fees invoiced monthly)											
	▪ Administration base fee			\$1,000	\$12,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
	▪ Per participant recordkeeping fee (currently 783 participants)*			\$30	\$23,490	\$30	\$31	\$31	\$32	\$32	\$33
			Web-Based Education, Guidance & Communication								
	▪ iJoin			Included		--	--	--	--	--	--
	▪ MyRetirement			Included		--	--	--	--	--	--
	▪ Financial Resource Center			Included		--	--	--	--	--	--
	▪ Employee Benefit Network			Included		--	--	--	--	--	--
	▪ Quicken Connect			Included		--	--	--	--	--	--
	▪ Income Solutions			Included		--	--	--	--	--	--
			Other Education, Guidance & Communication								
	▪ <u>Optional</u> Financial Finesse Financial Wellness with CFP® Helpline (per employee; min. 500 employees)			\$18		\$18	\$18	\$18	\$18	\$18	\$18
	▪ Targeted communications (base fee includes up to 500 annually; \$2 per piece thereafter; postage billed separately)			Included		--	--	--	--	--	--
	▪ Hardcopy enrollment books (base fee includes up to 100 books annually; \$5 per piece thereafter; postage billed separately)			Included		--	--	--	--	--	--
	▪ Hardcopy participant statements			Included		--	--	--	--	--	--
			Account Activity Fees Paid By Participant								
	▪ One-time distribution or withdrawal			\$50		\$50	\$51	\$51	\$52	\$52	\$53
	▪ Recurring distribution			\$15		\$15	\$16	\$16	\$17	\$17	\$18
	▪ New or refinanced loan			\$50		\$50	\$51	\$51	\$52	\$52	\$53
	▪ Annual loan maintenance			\$24		\$24	\$25	\$25	\$26	\$26	\$27
	▪ QDRO processing			\$260		\$260	\$265	\$265	\$270	\$270	\$275
	▪ Participant payments (includes Form 1099-R)					\$5 ACH/ \$10 check/\$20 wire					

Los Alamos County Employee Pension Plan
FEE SCHEDULE*

<i>(continued from previous page)</i>	Fee/Rate (Year 1)	Estimated Annual Costs (FY19)	Fee/Rate (Year 2)	Fee/Rate (Year 3)	Fee/Rate (Year 4)	Fee/Rate (Year 5)	Fee/Rate (Year 6)	Fee/Rate (Year 7)
Special Project, Consulting & Elective Services								
▪ Payroll data manipulation (per payroll)	\$100		\$100	\$105	\$105	\$110	\$110	\$115
▪ Conversion of hardcopy data to useable electronic format (data entry; per hour)	\$75		\$75	\$80	\$80	\$85	\$85	\$90
▪ Fee-for-service benefit consulting/special project (per hour, plus mileage)	\$225		\$260	\$265	\$265	\$270	\$270	\$275
Charles Schwab Bank Custody and Trustee								
▪ Custody base fee	Included		--	--	--	--	--	--
▪ Custody market value fee (.025% of Plan Assets - currently approx. \$54,000,000)*	0.025%	\$13,500	0.025%	0.025%	0.025%	0.025%	0.025%	0.025%
▪ Nondiscretionary directed trustee (Billed Quarterly at \$250 per quarter)	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Termination of Services								
▪ A deconversion fee of \$500 (to cover an estimated 5 hours of deconversion assistance; deconversion services thereafter are billed at our standard hourly rates).	\$500		\$500	\$500	\$500	\$500	\$500	\$500
Total Estimated Annual Recordkeeping, Administration, Compliance & Custody for FY19	\$49,990							

*Participant Recordkeeping Fee and Charles Schwab Bank Custody Market Value Fee above are based on 783 participants and \$54,000,000 in Plan assets. The number of Plan Participants may change in a given fiscal year. Plan assets may increase or decrease in a given fiscal year. Consequently, the annual amounts listed are estimates.

Indirect Compensation

ABG Southwest does not accept rebates, commissions, management fees, broker fees, or finder’s fees of any kind from any investment product providers, advisors or alliance relationships.

Indirect compensation, if any, is credited against plan expenses, dollar-for-dollar, and reflected as a credit on the billing statement. Any excess indirect compensation (or revenue sharing) benefits the plan in the form of lower plan expenses, or a special allocation for the benefit of plan participants.