

**AGREEMENT FOR CONSULTANT SERVICES
FOR
Actuarial Review Services for Wake County**

This Agreement, made and entered into this ___ day of _____, by and between Wake County, North Carolina (hereinafter, the "County") and Financial Risk Analysts, LLC (hereinafter, the "Consultant");

WITNESSETH:

That the County and Consultant, for the consideration herein named, do hereby agree as follows:

**ARTICLE 1
SCOPE OF WORK**

- 1.1 This Agreement is for consultant services to be rendered by Consultant to County with respect to a project known as **Actuarial Report on Unpaid Loss and Loss Adjustment Expenses** (hereinafter, the "Project"). The Project includes review and analysis of Wake County's self- insurance program and presentation of findings, including estimated reserve and funding indications. The scope of work is more specifically defined in Attachment 1 incorporated herein by reference.
- 1.2 By its execution of this Agreement, the Consultant represents and agrees that it is qualified to and fully capable of performing and providing the services required or necessary under this Agreement in all material respects in a fully competent, professional and timely manner, subject to the terms of this Agreement and to County's timely compliance with its obligations hereunder.

**ARTICLE 2
RESPONSIBILITIES OF CONSULTANT AND COUNTY**

2.1 Services to be Provided

- 2.1.1 The Consultant shall provide the County with all services described herein materially within the time limitations set forth herein, subject to the terms of this Agreement and to County's timely compliance with its obligations hereunder.

2.2 Standard of Care

- 2.2.1 The Consultant shall exercise reasonable care and diligence in performing services under this Agreement in accordance with the Standards for Consulting Services established by the American Institute of Certified Public Accountants and the Actuarial Standards of Practice promulgated by the Actuarial Standards Board, and in accordance with applicable federal, state and local laws and regulations applicable to the performance of these services. The Consultant shall serve as an independent contractor in the performance of this Agreement.
- 2.2.2 Consultant's report will be prepared solely for the use of, and should only be relied upon by, the County.
- 2.2.3 The evaluation of loss and loss adjustment expense reserves requires the estimation of loss development over an extended period of time. During this period, numerous factors will affect the ultimate settlement value of claims. Although Consultant's analysis will be performed according to generally accepted actuarial practices and standards, there can be no guarantee that the actual losses will not vary significantly from the estimates, due to the uncertainty inherent in loss projections.
- 2.2.4 Any analysis made or reports prepared by Consultant are based on information provided by the County. Consultant assumes no responsibility and makes no representations with respect to the accuracy or completeness of the information provided. While Consultant's work may involve analysis of accounting records and other financial information, Consultant's actuarial engagement does not include an audit in accordance with generally accepted auditing standards.
- 2.2.5 Consultant will base its evaluation upon data and related information prepared by the County. Consultant will rely on the County as to the accuracy and completeness of the data and related information. Consultant will evaluate the data used directly in Consultant's analysis for reasonableness and consistency, investigating and working with the County to resolve any data issues. As actuarial estimates are dependent upon the quality of the underlying information, uncertainty as to the reliability of the information provided to Consultant during Consultant's review could materially impact Consultant's findings. When and if, for any reason, the County has provided or notified Consultant of incorrect data, Consultant may require additional time to correct the data or rework the analyses.
- 2.2.6 Providing Consultant's services may involve consultation with various management and other personnel of the County with respect to significant business issues impacting the loss and loss adjustment expense reserves.

2.3 Cooperation and Coordination

- 2.3.1 The County has designated the **Chief Financial Officer** to act as the County's representative with respect to the Project, with the authority to render decisions

within guidelines established by the County Manager and the County Board of Commissioners, and to be available during working hours as often as may be reasonably required to render decisions and to furnish information.

ARTICLE 3
SERVICES SCHEDULE

- 3.1 The Consultant shall perform that work and services described in Attachment 1 herein.
- 3.2 The annual services schedule is as follows: County shall supply requested data valued as of June 30 of the fiscal year under review. Consultant shall complete and deliver a draft report within four weeks of receipt of requested data. County shall review draft report and meet with Consultant, if necessary, within 10 working days of receipt of draft report. Consultant will address the County's comments (if any) to the draft report and will provide the final report to County no later than September 15 of the fiscal year under review.
- 3.3 The Consultant shall schedule and perform his activities in a timely manner so as to meet the milestone dates listed in Article 3.2, subject to the terms of this Agreement and to County's timely compliance with its obligations hereunder.
- 3.4 Should the County determine that the Consultant is behind schedule, it may request that the Consultant expedite and accelerate his efforts, including providing additional resources and working overtime, as necessary, to perform his services in accordance with the approved project schedule at no additional cost to the County.

ARTICLE 4
TERM OF AGREEMENT

- 4.1 Services of the Consultant shall begin upon execution of this agreement and include the three (3) fiscal years ending June 30, 2019, June 30, 2020, and June 30, 2021, with the County's option to extend services for up to two (2) additional one-year renewals upon the same terms and conditions.

ARTICLE 5
COMPENSATION

- 5.1 Compensation shall include all compensation due the Consultant from the County for all services and expenses under this Agreement as defined in Attachment 1. Invoices shall include the Consultant's name and federal tax identification number.

ARTICLE 6 INSURANCE

6.1 General Requirements

The Consultant shall obtain and maintain, at its sole expense, all insurance required in the following paragraphs and shall not commence work until such insurance is in effect and certification thereof has been received by Wake County's Finance Department. If any required insurance policy expires during the term of this Agreement, Consultant must provide a certificate of insurance to the Wake County Finance Department as evidence of policy renewal prior to such policy expiration. Consultant signature on this Agreement indicates that Consultant agrees to the terms of this insurance section and understands that failure to comply may result in cancellation of this Agreement at Wake County's option.

6.2 Insurance Coverage

- Workers' Compensation Insurance, with limits for Coverage A: Statutory for State of North Carolina and Coverage B - Employers Liability: \$500,000 each accident/disease each employee/disease policy limit.
- Commercial General Liability - with limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate, including contractual liability.
- Commercial Automobile Liability, with limits no less than \$1,000,000 per accident for bodily injury and property damage for any vehicle used during performance of contract services, including coverage for owned, hired, and non-owned vehicles. Evidence of commercial automobile coverage is only necessary if vehicles are used in the provision of services under this Agreement.
- Professional Liability Insurance, applicable to any professional services provided under this Contract with limits of no less than \$1,000,000 per claim and \$2,000,000 aggregate.

If any coverage is on a claims-made basis, Consultant agrees to maintain a retroactive date prior to or equal to the effective date of this Agreement and to purchase and maintain Supplemental Extended Reporting Period or 'tail coverage' with a minimum reporting period of not less than three (3) years if the policy expires or is cancelled or non-renewed. If coverage is replaced, the new policy must include full prior acts coverage or a retroactive date to cover the effective dates of this Agreement. Consultant shall provide a Certificate of Insurance annually to Wake County indicating any claims made coverage and respective retroactive date. The duty to provide extended coverage as set forth herein survives the effective dates of this Agreement.

All insurance companies must be authorized to do business in North Carolina and have an AM Best rating of "A-/VII" or better; or have reasonable equivalent financial

strength to the satisfaction of the County's Finance Department. Proof of rating shall be provided to the county upon request.

The Consultant shall be responsible for providing immediate notice of policy cancellation or non-renewal during the term of this Agreement to the Wake County Finance Department and for three years subsequent for any claims made coverage.

If Consultant does not meet the insurance requirements specified above, alternate insurance coverage satisfactory to Wake County may be considered. Any requests for consideration of alternate coverage must be presented by Consultant PRIOR TO provision of any services associated with this Agreement.

Evidence of such insurance and all correspondence shall be sent to:

Wake County Finance Department
Wake County Justice Center, Suite 2900
PO Box 550
Raleigh, NC 27602

6.3 No Waiver of Sovereign Immunity

Nothing herein shall be construed to mandate purchase of insurance by Wake County pursuant to N.C.G.S. 153A-435; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive Wake County's defense of sovereign or governmental immunity from any cause of action alleged or brought against Wake County for any reason if otherwise available as a matter of law.

ARTICLE 7 **RELEASE AND INDEMNITY**

- 7.1 To the extent permitted by North Carolina Law and without waiver of any affirmative defense which the County might otherwise assert, and consistent with paragraph 6.3 above, Consultant and the County each agree to indemnify, defend and hold harmless the other from and against any and all amounts payable under any judgment, verdict, court order or settlement for death or bodily injury or the damage to or loss or destruction of any real or tangible personal property to the extent arising out of the indemnitor's negligence or intentional misconduct in the performance of this Agreement.
- 7.2 Because of the importance of oral and written management representations to an actuarial evaluation, the County shall release Consultant and its personnel from any and all claims, liabilities, costs and expenses attributable to any knowing misrepresentations by County management.

- 7.3 Except to the extent finally determined to have resulted from Consultant's gross negligence or intentional misconduct, Consultant's liability to pay damages for any losses incurred by the County as a result of breach of contract, negligence or other tort committed by Consultant, regardless of the theory of liability asserted, is limited to no more than three times the total amount of fees paid to Consultant under this Agreement provided that nothing herein shall limit the application or payment of any insurance required by the Agreement which applies to a covered loss, regardless of the theory of liability asserted. In addition, neither party will be liable to the other party in any event for lost profits or any consequential, indirect, punitive, exemplary or special damages. Also, Consultant shall have no liability to the County arising from or relating to any third-party hardware, software, information or materials selected or supplied by the County.

ARTICLE 8 **AMENDMENTS TO THE AGREEMENT**

8.1 Changes in Basic Services

- 8.1.1** Changes in the Basic Services and entitlement to additional compensation or a change in duration of this Agreement shall be made by a written Amendment to this Agreement executed by the County and Consultant. Consultant shall proceed to perform the Services required by the Amendment only after receiving a fully executed Amendment from the County.

ARTICLE 9 **TERMINATION AND SUSPENSION**

9.1 Termination for Convenience

- 9.1.1 This Agreement may be terminated without cause by either party for its convenience upon seven (7) days prior written notice to the other party.

9.2 Other Termination

- 9.2.1 The Consultant may terminate this Agreement based upon the County's material breach of this Agreement; provided the County has not taken all reasonable actions to remedy the breach within 7 days after notice from Consultant. The Consultant shall give the County seven (7) days' prior written notice of his intent to terminate this Agreement for cause.

9.3 Compensation After Termination

- 9.3.1 In the event of termination, the Consultant shall be paid that portion of his fees and expenses that he has earned to the date of termination.

9.3.2 Should this Agreement be terminated, the Consultant shall deliver to the County within seven (7) days, at no additional cost, but upon payment by the County of the fees and expenses in accordance with Section 9.3.1, all completed deliverables directly relating to the Project. Subject to the conditions of 10.7.1, all such deliverables shall become the property of the County upon payment.

9.4 Waiver

9.4.1 The payment of any sums by the County under this Agreement or the failure of either party to require compliance by the other party with any provisions of this Agreement or the waiver by either party of any breach of this Agreement shall not constitute a waiver of any claim for damages by that party for any breach of this Agreement or a waiver of any other required compliance with this Agreement.

9.5 Non-Appropriation

9.5.1 Consultant recognizes that Wake County is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are not available and not appropriated to purchase the services specified in this Agreement, then this Agreement shall automatically expire without penalty to Wake County and without the seven (7) day notice requirement set forth in this Article 9. In the event of a legal change in Wake County's statutory authority, mandate, and mandated functions which adversely affects Wake County's authority to continue its obligations under this Agreement, then this Agreement shall automatically expire without penalty to Wake County and without the seven (7) day notice requirement set forth in this Article 9.

ARTICLE 10 **ADDITIONAL PROVISIONS**

10.1 Relationship of Parties

10.1.1 Consultant is an independent contractor of the County. Neither Consultant nor any employee of the Consultant shall be deemed an officer, employee or agent of the County. Consultant's personnel shall not be employees of or have any contractual relationship with the County.

10.2 Limitation and Assignment

10.2.1 The County and the Consultant each bind themselves, their successors, assigns and legal representatives to the terms of this Agreement. Neither the County

nor the Consultant shall assign or transfer its interest in this Agreement without the written consent of the other.

10.3 Governing Law

10.3.1 This Agreement and the duties, responsibilities, obligations and rights of respective parties hereunder shall be governed by the laws of the State of North Carolina.

10.4 Dispute Resolution

10.4.1 This Agreement and any dispute between the parties whether in contract, tort, or otherwise will be governed by and construed, interpreted, and enforced in accordance with the laws of the State of North Carolina, without giving effect to any choice of law principles or provisions relating to conflict of laws that require the laws of another jurisdiction to apply.

10.5 Extent of Agreement

10.5.1 This Agreement, including Attachment 1, represents the entire and integrated agreement between the County and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. To the extent that the terms of this Agreement and Attachment 1 are inconsistent, the terms of the Agreement control. This Agreement may be amended only by written instrument signed by both parties. Modifications may be evidenced by facsimile signatures.

10.6 Severability

10.6.1 If any provision of this Agreement is held as a matter of law to be unenforceable, the remainder of this Agreement shall be enforceable without such provision.

10.7 Ownership and Use of Documents

10.7.1 The County will own all tangible written material delivered to the County under this engagement letter, except as follows: Consultant will own its working papers and preexisting materials and any general skills, know-how, processes, or other intellectual property (including a non-client specific version of any deliverables) which may have been discovered or created by Consultant as a result of its provision of the Services. The County will have a nonexclusive, non-transferable license to use such materials included in the deliverables for County's own internal use as part of such deliverables. Consultant is providing these services solely for County's use and benefit and pursuant to a client relationship exclusively with the County. Consultant disclaims any contractual or other responsibility to others based upon these services or upon any

deliverables or advice Consultant provides. Consultant's work is not intended to be relied upon by third parties. Consultant is not responsible for any third-party damages resulting from County providing Consultant's deliverables or advice to customers, lenders, underwriters, insurers, investors or anyone who has or may obtain a financial interest in the County; publicly disclosing anything Consultants provide or publicly referring to Consultant or the services; or giving assurance to others based upon the services. Consultant recognizes that the County is a public entity and may be subject to requests under a public record disclosure statute. In the event such a request is made under a public record statute, the County will promptly notify Consultant of such request so that Consultant can take any action permitted by law to withhold disclosure of the information, if it so desires. The use of the documents by the County or by any person or entity for any purpose other than the Project as set forth in this Agreement shall be at the full risk of the County or such person or entity.

10.8 E-Verify Requirements

- 10.8.1 To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contract(s), by submitting a bid, proposal or any other response, or by providing any material, equipment, supplies, services, etc., attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (NCGS 64-26(a)) relating to the E-Verify requirements.

By signing this Agreement, Consultant certifies that as of the date of execution of this Agreement 1) it does not appear on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-6E and published on the State Treasurer's website at www.nctreasurer.com/iran and 2) it will not utilize any subcontractor that appears on the Final Divestment List in the performance of duties under this Agreement.

IN WITNESS WHEREOF, the parties, by and through their authorized agents, have hereunder set their hands and seal, all as of the day and year first above written.

COUNTY OF WAKE

PO Box 550
Raleigh, NC 27602

CONSULTANT:

Financial Risk Analysts, LLC
706 Northeast Drive, Suite 4
Davidson, NC 28036

Federal Tax ID Number: _____

Signature

Signature

Printed Name and Title

Printed Name and Title

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Director

The person responsible for monitoring the contract performance requirements is

Ann Mattern_____

_____ Department Head Initials



April 9, 2019

Sent Via Email

Emily Lucas
 Chief Financial Officer
 Wake County Government
 PO Box 550
 Raleigh, NC 27602

Dear Ms. Lucas:

This engagement letter will confirm that Financial Risk Analysts, LLC has been retained by County of Wake (the "County") to provide independent actuarial services to the County. This engagement will include the three fiscal years ending June 30, 2019 through 2021 with the option for the County to extend services for two additional fiscal years ending June 30, 2022 and June 30, 2023. Services will include:

- Estimate unpaid loss and allocated loss adjustment expenses for the County's self-insured property/casualty coverages, including workers' compensation, automobile liability, general/public officials/police professional liability, auto physical damage, and property at historical retentions. Estimates will be shown both on a nominal (undiscounted) basis and discounted for future investment income. Estimates will be shown at an expected level and at various higher confidence levels. Confidence levels will be determined through use of Monte Carlo simulation modeling.
- Project future cash flows for past self-insurance periods by coverage.
- Provide funding indications separately and in total for each of the County's self-insured coverages for the subsequent three fiscal years, including budgeting allocations by County departments. Funding will be shown both on a nominal (undiscounted) basis and discounted for future investment income. Funding will be shown at an expected level and at various higher confidence levels.

Our annual fixed professional fee to provide these services will be:

<u>Fiscal Period Ending:</u>	<u>Annual Fee</u>
June 30, 2019	\$8,500
June 30, 2020	\$8,750
June 30, 2021	\$9,000
June 30, 2022 (County option)	\$9,000
June 30, 2023 (County option)	\$9,000

These fees do not include the cost of travel to the County's offices, were that to be requested by the County. Each year we will provide a draft written report of the actuarial study to the County no later than 30 days after the receipt of all requested data and submit a written final report within

one week of request from the County. Should the County require additional services beyond those outlined above, we would be willing to provide such services at an hourly rate to be agreed upon prior to performing the work. Our hourly fees average approximately \$300.

We also will invoice for any direct out of pocket expenses we may incur such as travel, express mail, and data purchase. Given the nature of this engagement, we expect such costs to be minimal (with the possible exception of cost of travel if the County requests such). An invoice will be sent after completion and delivery of each draft report.

The calculation of the unpaid losses and funding amounts will comply with the requirements of GAAP as established by the Governmental Accounting Standards Board. We will use accepted actuarial methodologies and practices to review the County's liabilities. Our work product each year will be a comprehensive report describing our findings and methodologies, supported by detailed exhibits of our calculations.

We thank you for this opportunity to be of service to the County and look forward to working with you.

Sincerely,



Daniel A Reppert, FCAS, MAAA
Principal & Consulting Actuary

c: Ann Mattern, Wake County Government

