

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FLORENCE, ALABAMA as follows:

SECTION 1. That the Master Services Agreement with Davies Actuarial, Audit & Consulting, Inc., dated October 29, 2024, a copy of which is attached hereto, to perform actuarial and/or consulting services for the evaluation of the City of Florence Liability Insurance Fund as described in Exhibit A in the estimated amount of \$5,500.00. Additional services are billed based on the attached Schedule of Billing Rates dated July 2024. The same is hereby approved, ratified and confirmed.

SECTION 2. That the Council has investigated and ascertained and hereby finds Davies Actuarial, Audit & Consulting, Inc., to be qualified, responsible, and competent to perform said services.

SECTION 3. That the contract for such services be awarded to Davies Actuarial, Audit & Consulting, Inc., and that the proper officials of the City execute the contract in the name of and on behalf of said City.

ADOPTED this the _____ day of _____, 2024.

CITY COUNCIL

APPROVED this the _____ day of _____, 2024.

MAYOR

ADOPTED & APPROVED this the _____ day of _____, 2024.

CITY CLERK-TREASURER

October 29, 2024

Mr. Andy Jones
Risk Manager
City of Florence
110 West College Street
Florence, AL 35630

Re: Actuarial Services Proposal
Claims Liability Evaluation as of September 30, 2024

Dear Mr. Jones:

This letter will serve to describe the scope and understanding of our engagement with the City of Florence, pertaining to an actuarial review of the Self-Funded Liability Program as of 9/30/2024, including a review of losses for the purpose of estimating the IBNR liability amount.

The evaluation will consist of the following:

1. An estimate of City of Florence's outstanding losses (claim liabilities) as of 9/30/2024. The results will be presented on both a full value (undiscounted) and present value (discounted) basis. This estimate will reflect any insurance or reinsurance coverage. We will issue a report at the conclusion of the 9/30/2024 review which will be like the report as of 9/30/2022.
2. We will discuss any relevant details of your loss experience. Our valuation will be similar, in concept, to the prior actuarial report. We will continue to utilize "industry" data for our development factors.

Davies proposes a Budget of \$5,500 to perform these actuarial evaluations. This amount does not include out-of-pocket expenses (if any) such as overnight mail or travel, which is billed at our cost. We will invoice you at the conclusion of our assignment.

I have attached a copy of the Master Services Agreement, Exhibit A (scope and budget) and Exhibit B (Non-disclosure agreement) for your review and signature. Appendix A lists the data elements that we need from you to complete this evaluation. Please let us know if you have questions on the request.

We should be able to deliver the key exhibits to you within three to four weeks of receiving the data.

If this is satisfactory to you, please return the MSA and NDA signed to my attention.

We look forward to working with you on this important project for the City of Florence. Please call me if you have any questions. Thank you.

Sincerely,



J. Allen Fricks, *CPCU, ARM, ALCM*
Senior Consultant – Actuarial Solutions
Davies
5550 Peachtree Parkway, Suite 600
Peachtree Corners, GA 30092
678-684-4703
allen.fricks@us.davies-group.com

MASTER SERVICES AGREEMENT

This Services Agreement ("Agreement") is hereby made and entered into this 29th day of October 2024 (the "Effective Date") by and between Davies Actuarial, Audit & Consulting, Inc., a Georgia corporation, with a principal address at 5550 Peachtree Parkway, Suite 600, Peachtree Corners, Georgia 30092 ("Consultant"), and The City of Florence, an Alabama Municipality, with a principal address of 110 West College St. Florence, AL 35630 "Client"/"City of Florence, Alabama") (collectively, the "Parties", each a "Party").

Client wishes to engage Consultant to provide, and the Consultant wishes to perform, designated services on behalf of and for the benefit of Client. Client and Consultant therefore agree as follows:

1. **Consultant Services.** Consultant will provide actuarial and/or consulting services ("Services") directly to Client as specified in those certain Engagement Terms dated October 29, 2024 between Consultant and The City of Florence, Alabama, a copy of which is attached hereto as Exhibit A and the terms of which are incorporated herein. Services shall be performed in a timely professional manner in accordance with industry standards.
2. **Compensation.** Client agrees to pay Consultant on a time-and-expense basis in accordance with the fee schedule in Exhibit A within thirty (30) days of invoice delivery. Failure to pay such invoices within thirty (30) days of delivery will result in interest being applied at the rate of 1.5% per month or the maximum amount allowable under applicable law if such amount is less than 1.5% per month. Client shall reimburse Consultant for reasonable actual out-of-pocket expenses incurred in the carrying out of this Agreement or as otherwise provided in this Agreement.
3. **Additional Services.** Consultant and Client may mutually agree upon additional services in the future as evidenced by execution of new Engagement Terms or amendment to this Agreement.
4. **Term.** This Agreement shall terminate upon the earliest to occur of (i) completion by Consultant of all Services and payment by Client for such services; (ii) in accordance with the provisions of Section 12 of this Agreement.
5. **Independent Consultant.** Consultant is an independent contractor and not an employee of Client. Client does not reserve any right to exercise the right of control over the means and method by which Consultant performs the Services, other than as reflected in this Agreement. Consultant has no right or authority to bind the Client and shall not enter into any agreements or incur any obligations on behalf of Client. Client will not withhold any sums from Consultant for compensation for any federal, state or local taxes; Consultant has the sole responsibility to pay any taxes.
6. **Confidentiality.** The terms of the Mutual Confidentiality and Non-Solicitation Agreement, a copy of which is attached hereto as Exhibit B, are incorporated herein.
7. **Use of Name.** Consultant may use Client's name as deemed necessary to allow proper performance of the Services and for no other purpose.
8. **Limitation of Liability.** WITH THE EXCEPTION OF THE PARTIES' INDEMNIFICATION AND ANY LIABILITY ARISING UNDER ANY CONFIDENTIALITY OBLIGATIONS IMPOSED UNDER THIS AGREEMENT: (a) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY OTHER ENTITY FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR INDIRECT DAMAGES, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, AND REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (b) NEITHER PARTY'S LIABILITY TO THE OTHER PARTY SHALL EXCEED THE AMOUNT OF FEES PAID BY CLIENT TO CONSULTANT IN THE TWELVE (12) MONTHS PRECEDING THE ACCRUAL OF THE CLAIM. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

9. **Indemnification.** (a) Consultant shall indemnify, defend and hold the Client, including Client's directors, officers, employees, contractors and agents, harmless against any and all losses, damages or liabilities, including reasonable attorney's fees and expenses (collectively, the "Losses") resulting from any gross negligence or willful misconduct or fraud by the Consultant or its employees, agents, or representatives for any act, error, or omission in the performance of this Agreement.

(b) Client shall indemnify, defend and hold the Consultant, including Consultant's directors, officers, employees, contractors and agents, harmless against any and all Losses with the exception of those Losses for which Consultant agrees to indemnify Client pursuant to Section 9(a) of this Agreement.

(c) The provisions of this Section will survive termination of this Agreement and shall apply to any controlling person, director, officer, employee or affiliate of the Parties.

10. **Proprietary Information.** As used in this Agreement, the term "Proprietary Information" shall mean all information (whether electronic, written or oral) disclosed (whether before or after the date hereof) by either Party hereto to the other Party, including, without limitation, (i) information about the respective businesses of the Parties and their clients, or either Party's business plans, customers, agents, employees, strategies, trade secrets, operations, records, finances, assets, technology, data and information that reveals the processes, methodologies, technology, business strategy or know-how by which such Party's existing or future products, services, applications and methods of operation are developed, conducted or operated, (ii) all analyses, compilations, forecasts, studies, documents or other information derived from Contractor's or the Client's information, and (iii) other confidential or proprietary information designated as such in writing, whether by letter or by the use of an appropriate proprietary stamp or legend, prior to or at the time any such information is disclosed. The term "Proprietary Information" does not include any information or documentation that was: (a) already in the possession of the receiving entity without an obligation of confidentiality; (b) developed independently by the receiving entity, as demonstrated by the receiving entity, without violating the disclosing entity's proprietary rights; (c) obtained from a source other than the disclosing entity without an obligation of confidentiality; or, (d) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through or on behalf of, the receiving entity). In the event of a disputed disclosure, the receiving Party shall bear the burden of proof of demonstrating that the information falls under one of the above exceptions. The Parties agree that each is and shall remain the exclusive owner of its respective Proprietary Information and all patent, copyright, trade secret, trademark and other intellectual property rights therein. No license or conveyance of any such rights is granted or implied under this Agreement. This Agreement shall not constitute a license to use any of the Proprietary Information of the other Party, except as incorporated into the Services. Any right or license to use any of the Proprietary Information of the other Party, other than within the scope of this Agreement, shall be done only by an express written license that may be negotiated and executed between the Parties. Notwithstanding the foregoing, any written report or analysis provided by Consultant to Client as part of the Services rendered under the Agreement shall be the property of the Client; however, all underlying methodology, formulas, computations, and know how used in preparing such report or analysis shall continue to be the Proprietary Information of Consultant.

11. **Warranty.** Consultant warrants that the Services will be performed in a professional and workmanlike manner and that all work under this Agreement shall be the Consultant's original work and that none of the Services performed will infringe, misappropriate, or violate any intellectual property or other right of any person or entity.

12. **Termination.** Either Party may terminate this Agreement for any reason immediately upon written notice to the other Party. If terminated by Client, Client will pay Consultant for all work completed at the time of termination in accordance with other provisions of this Agreement.

13. **Notices.** For a notice under this Agreement to be valid, it must be in writing, signed by the sending Party, and the sending Party must use one of the following methods of delivery: (1) personal delivery, (2) registered or certified mail, return receipt requested, or (3) a nationally recognized overnight courier.

- a. For a notice or other communication under this Agreement to be valid, it must be addressed to the receiving Party at the addresses below.

If to Consultant:

Michael Wilhelm
Davies Actuarial, Audit & Consulting, Inc.
5550 Peachtree Parkway, Suite 600
Peachtree Corners, GA 30092

With a copy to LegalNotices@us.davies-group.com

If to Client:

Honorable Andrew Betterton
Mayor
The City of Florence, Alabama
110 West College St.
Florence, AL 35630

14. **Assignment.** Client and Consultant may assign all rights and obligations under this Agreement to a subsidiary or affiliate or successor without consent.
15. **Severability.** If any provision of this Agreement is unenforceable to any extent, the remainder of this Agreement will not be affected by that unenforceability and will be enforced to the fullest extent permitted by law.
16. **Remedies** The Parties agree that each will be entitled to injunctive relief against the breaching Party as well as to other relief available under this Agreement or at law. All unresolved differences or disputes between the Parties based upon, arising out of or in connection with the operation, interpretation or enforcement of this Agreement or any transaction hereunder shall be submitted for resolution to the state or federal courts located in the State of Connecticut. The Parties hereby agree to the exclusive jurisdiction of the state and federal courts of Connecticut to adjudicate any disputes hereunder and neither Party shall contest the jurisdiction of these courts or the appropriateness of venue in these courts based on forum non-conveniens or any other grounds.
17. **Governing Law.** The laws of the state of Connecticut, without giving effect to provisions of conflict of laws, govern all matters arising under or relating to this Agreement.
18. **Entire Agreement.** This Agreement and the accompanying exhibits constitute the entire agreement of the Parties relating to the subject matter and supersede all other oral or written agreements or policies relating thereto.
19. **Modification.** No modification of this Agreement will be effective unless it is in writing and signed by both Parties.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be signed and delivered by its authorized representative as of the Effective Date above.

Davies Actuarial, Audit & Consulting, Inc.

The City of Florence, Alabama



By:
Name: Frank Huang
Title: Vice President

By:
Name: Honorable Andrew Betterton
Title: Mayor

Exhibit A

SCOPE

The following outlines the services and fees for the reviews of losses for the purpose of estimating the actuarial reserves for The City of Florence, Alabama.

The services provided will consist of the following:

- An estimate of City of Florence’s outstanding losses (claim liabilities) as of 9/30/2024. The results will be presented on both a full value (undiscounted) and present value (discounted) basis. This estimate will reflect any insurance or reinsurance coverage. We will issue a report at the conclusion of the 9/30/2024 review which will be like the report as of 9/30/2022.
- Include a 3-year loss projection and allocation by department.
- We will discuss any relevant details of your loss experience. Our valuation will be similar, in concept, to the prior actuarial report. We will continue to utilize “industry” data for our development factors.

We will use data sources as we have for past reviews. However, please inform us of any changes to reserve setting, claims settlement practices, or other items that might affect the reporting and/or development of claims.

Cost Estimate

We typically charge professional fees based on the time spent to complete a project and hourly rates. The hourly rates to be charged for the proposed services are provided in the table below. We estimate that a \$5,500 budget to perform the actuarial review. This amount does not include out-of-pocket expenses (if any) such as overnight mail or travel, which is billed at our cost. We will invoice you at the conclusion of our assignment.

Schedule of Billing Rates

July 2024

<u>CONSULTING LEVEL</u>	<u>HOURLY</u>	<u>CONSULTING</u>	<u>HOURLY</u>
Actuary/Specialist – Level I	\$410	Analyst – Level I	\$275
Actuary/Specialist – Level II	\$385	Analyst – Level II	\$250
Actuary/Specialist – Level III	\$350	Analyst – Level III	\$220
Actuary/Specialist – Level IV	\$320	Analyst – Level IV	\$200
Actuary/Specialist – Level IV	\$300	Administrative	\$110

Exhibit B

MUTUAL CONFIDENTIALITY AND NON-SOLICITATION AGREEMENT

This Mutual Confidentiality and Non-Solicitation Agreement ("Agreement") is made and entered into as of the 29th day of October 2024 by and between Davies Actuarial, Audit & Consulting, Inc., a Georgia corporation, with a principal address of 5550 Peachtree Parkway, Suite 600, Peachtree Corners, GA 30092 ("Consultant") and The City of Florence, an Alabama Municipality, with a principal address of 110 West College St. Florence, AL 35630 "Client"/"City of Florence, Alabama. Consultant and The City of Florence, Alabama are each referred to as a "party" and collectively, as the "parties".

WITNESSETH:

WHEREAS, Consultant will provide actuarial and/or consulting services to Client ("Services") as specified in that certain Master Services Agreement between the parties dated October 29, 2024; and

WHEREAS, Client has agreed to provide Confidential Information to Consultant upon and subject to the terms and conditions of this Agreement; and

NOW, THEREFORE, in consideration of the mutual promises and covenants herein set forth, the parties do hereby agree as follows:

1. Disclosing Party. "Disclosing Party" as used in this Agreement means a party that discloses Confidential Information under this Agreement.
2. Receiving Party. "Receiving Party" as used in this Agreement means a party that receives or acquires Confidential Information directly or indirectly under this Agreement.
3. Confidential Information. "Confidential Information" as used in this Agreement shall include all information provided by the Disclosing Party, whether provided in oral, written, electronic, graphic or in any other format, including without limitation: information regarding the Disclosing Party's financial condition or performance, business operations, plans, strategies or techniques, products or services, pricing, past or current customer information, systems or systems strategies, marketing plans, methods or techniques.
4. Exclusions to Confidential Information. Confidential Information shall not include information that: (a) is or becomes generally available to the public other than as a result of disclosure by or on behalf of recipient in violation of this Agreement; (b) was available to or already known by the recipient on a non-confidential basis prior to its disclosure by the disclosing party; (c) is developed independently of any information acquired from the disclosing party; or (d) becomes available to the recipient on a non-confidential basis from a source other than the disclosing party, provided the recipient has no reason to know that such source is or may be bound by a confidentiality agreement.
5. Nondisclosure Covenant. Receiving Party agrees to hold the Confidential Information in strict confidence and will safeguard it in at least the same manner as a prudent businessperson would safeguard his or her own confidential and proprietary information. Recipient of such Confidential Information will not, and will not permit any of its affiliates, employees, officers, directors, advisors, consultants, subsidiaries, reinsurers, attorneys, accountants, agents or representatives (collectively, "Representatives") to, directly or indirectly, report, publish, distribute, disclose, or otherwise disseminate the Confidential Information to any third party (except as necessary to deliver the Services), except as expressly authorized by the other party. Those Representatives who are permitted to have access to the Confidential Information under this Agreement shall be informed of their obligations with respect thereto. Receiving Party will be responsible party for any breach by any such Representative of the provisions of this Agreement. Receiving Party will immediately notify Disclosing Party of the circumstances surrounding any breach of this Section of which it becomes aware. Nothing herein shall prevent disclosures pursuant to a court order, subpoena, or other requirement of any governmental or regulatory authority, provided that the Receiving Party promptly notifies the Disclosing Party of any such order or requirement so that

Exhibit B

the Disclosing Party may seek a protective order or other appropriate remedy or waive Receiving Party's compliance with the provisions of this Agreement.

6. Use and Destruction of Confidential Information. Receiving Party agrees that it shall only use the Confidential Information for the purpose of providing the Services. All Confidential Information provided by a Disclosing Party to a Receiving Party (including, without limitation, information incorporated in computer software or held in electronic storage media) shall remain the property of the Disclosing Party to the extent the Disclosing Party is the rightful owner of such Confidential Information. All such Confidential Information and all copies thereof shall be destroyed upon the Disclosing party's written request and shall not be retained in any form by the Receiving Party. Notwithstanding the foregoing, Receiving Party may retain a copy of the Confidential Information pursuant to its standard backup, archival and/or internal compliance requirements, provided that all such retained information shall remain strictly subject to the obligations of confidentiality set forth herein until irretrievably destroyed.
7. Non-Solicitation of Customers and Prospective Customers. The parties agree that during the term in which Consultant provides actuarial and/or consulting services to Client ("Term") and for a period of twenty-four (24) months thereafter neither party will solicit, call upon, communicate with or attempt to communicate with any Customer (hereinafter defined) of the other party or any representative of any Customer of the other party. The term "Customer" shall be limited to customers or prospective customers to whom the other party provided any services during the two-year period immediately preceding the termination of the Term and shall not include customers with whom both parties have an existing relationship with at the time discussions commence.
8. Non-Solicitation of Employees. The parties agree that during the Term and for a period of twenty-four (24) months thereafter neither party will, directly or indirectly, solicit or in any manner encourage employees of the other party to leave its employ or provide a potential employer with the name of any employee of the other party.
9. Benefit. This Agreement will be binding upon and will inure to the benefit of, and shall be binding upon, the parties hereto and their legal representatives, successors and permitted assigns. This Agreement may not be assigned by either party without prior written consent of the other.
10. Equitable Relief. Without limiting the remedies available to a party at law or in equity, the parties agree that impermissible disclosure of Confidential Information or other breach or violation of this Agreement may cause irreparable harm to the Disclosing Party and that remedies at law may be inadequate to protect against breach of this Agreement. The parties hereby agree in advance that Disclosing Party shall have the right, without further notice to Receiving Party and in addition to all other available remedies, to injunctive relief in order to prevent such actual or attempted disclosures in violation of this Agreement.
11. Severability. If any provision in this Agreement is determined to be invalid or unenforceable by any court of competent jurisdiction, such provision shall be construed, limited or, if necessary, severed, but only to the extent necessary to eliminate such invalidity or unenforceability, and the other provisions of this Agreement shall remain in full force and effect.
12. Miscellaneous. This Agreement may not be changed, modified or amended except by a writing signed by each party to this Agreement. This Agreement contains the entire agreement between the parties as to the subject matter hereof. To the extent that a material term in this Agreement differs from or conflicts with the Master Services Agreement, the Master Services Agreement controls. This Agreement may not be assigned by either party without the prior written approval of the other party provided, however, that either party may assign this Agreement to an entity that controls, is controlled by, or that is under common control with such party now or in the future, or which succeeds to such party's business through sale, merger, or other transaction. No delay or failure at any time on the part of the parties in exercising any right, power, or privilege under this Agreement shall impair any such right, power, or privilege, or be construed as a waiver of such provisions, or be construed as a waiver

Exhibit B

of any default or as any acquiescence therein, or shall affect the right of the parties thereafter to enforce each and every provision of this Agreement in accordance with its terms. This Agreement will be governed by the laws of the State of Georgia without regard to choice of law rules.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day and year first above written.

Davies Actuarial, Audit & Consulting, Inc.

The City of Florence, Alabama



By:

By:

Name: Frank Huang
Title: Vice President

Name: Honorable Andrew Betterton
Title: Mayor

APPENDIX A - DATA REQUEST

GL Coverage:

We will need a list of claims that include paid, reserve and reported values as well as the open/closed status, date of loss by department. The files provided for our review as of 09/30/2022 were very helpful and a similar format this year would be much appreciated. One of the main items is the ability to separate the losses by fund year and payment year.

Please comment on the details of any losses whose status has changed significantly over the past two years. Has there been any development on the open claims that might affect our estimates? Have any new claims re-opened?