



REQUEST FOR PROPOSALS

Cost Allocation Plan:

City of Concord

SECTION 1: OVERVIEW

Request for Proposals (“RFP” or “Event”): The City of Concord (“City”) hereby solicits and invites proposals from qualified Companies and Businesses (“Contractor”), with proven experience and expertise, to submit a response to the requirements outlined in this RFP is requesting proposals for a Cost Allocation Plan, based on actual financial data for the fiscal period ended June 30, 2021. The Plan would be for internal allocation purposes based on the guidance of 2 CFR Part 225 and not for state or federal grant purposes. There is no expressed or implied obligation for the City of Concord to reimburse firms for any expenses incurred in preparing proposals in response to this request.

The City routinely allocates internal service and administrative costs to enterprise funds using an indirect cost plan. This process is currently completed in-house, and the City wishes to acquire an updated methodology.

The Contractor will develop and prepare a full cost allocation plan for a one-year period beginning with fiscal year ending June 30, 2021. The City anticipates using the updated methodology to build out three to five years of allocations before again requesting an updated methodology from the Contractor.

Background: Located in the Piedmont region of North Carolina, the City continues to be one of the fastest growing municipalities in the state. Concord has approximately 96,000 residents, more than 1,100 employees, and 24 departments. The City provides a variety of services including water, sewer, electricity, aviation services, garbage collection & recycling, police, fire, maintenance of City streets, planning & development services, parks and recreation, and traditional support services. The City partners with our community to deliver excellent service, and plans for the future while preserving, protecting, and enhancing the quality of life.

The City currently maintains eight enterprise funds:

- Stormwater
- Electric Systems
- Water Resources
- Public Transit
- Wastewater Resources
- Golf Course
- Aviation
- Public Housing

The City’s Adopted Annual Operating Budget for the current fiscal year (FY 2020-21) is \$268,897,885. The operating budget for next fiscal year (FY 2021-22) is currently in development and will be adopted in June 2021. The City is on a June 30th fiscal year end. Indirect cost measures identified using FY 2020-21 actuals will be utilized in the development of the City’s operating budgets for the FY 2022-23 budget.

Annual budget documents and prior year Comprehensive Annual Financial Reports are available on online via the City’s website: <https://concordnc.gov/Departments/Finance/Financial-Archive>.

The City operates under a council/city manager structure and currently fully or partially allocates seven internal service budget units and seven administrative budget units. The City would be like the Contractor to identify any other areas or projects that could be allocated through the plan. The cost allocation plan would be used primarily for budgetary purposes with indirect costs being allocated to applicable Enterprise fund and General Fund departments.

Anticipated Timeline: Provided below is a list of the anticipated schedule of events related to this RFP. The City reserves the right to modify and/or adjust the following schedule to meet the needs of the service. All times shown are Eastern Time (EST):

| RFP Process | Date | Time |
|--|----------------|--------|
| RFP Advertisement Date | April 1, 2021 | |
| Deadline for written questions | April 16, 2021 | 2:00pm |
| City Response to questions (anticipated) | April 26, 2021 | 5:00pm |
| Proposal Due Date and Time | May 3, 2021 | 5:00pm |
| Evaluation Meeting (anticipated) | May 10, 2021 | |
| Interview/ Demonstrations (if required) | May 12, 2021 | |
| Final Selection (tentative) | May 21, 2021 | |

Selection Process: After the close of this RFP, Contractor proposals will be reviewed and evaluated for responsible and responsive submissions, and that all proposals have included the required documents as outlined in the RFP. Failure to submit all of the required documents may result in the response being deemed nonresponsive.

Minimum Requirements: Contractors must meet the minimum specifications and requirements contained in the RFP. Contractors are required to acknowledge all exceptions to the minimum specifications, terms and conditions in their proposals. Failure to do so may result in the response being deemed nonresponsive.

Qualifications and Requirements:

- Prior professional experience preparing cost allocation plans for governmental entities of similar size as the City of Concord with more than 1,000 employees and \$286 million budget for fiscal year 2020-21.
- Work to be performed by one prime contractor. Sub-contractors and joint ventures are not allowed.
- Must submit the required information and documents listed under the Submittal Requirements of this RFP.

RFP Questions: Questions regarding this RFP must be submitted by email to Lesley Reder, Budget & Performance Manager at rederi@concordnc.gov by **2:00pm on April 16, 2021**. Answers to questions will be emailed to all firms receiving notification of this RFP by **5:00pm on April 26, 2021**.

Due Date: Submittals in response to this RFP are due no later than **May 3, 2021 at 5:00pm EST**, responses must be mailed to the mailing address noted below, but must be received by May 3, 2021 @ 5:00pm EST.

Proposal Submission

Mail Proposals to:
 City of Concord
 Finance Department, Attn: Lesley Reder
 35 Cabarrus Ave, West
 PO Box 308
 Concord, NC 28026-308

Proposals must be enclosed in an envelope or package and clearly marked with the name of the submitting company and the *RFP Title*. Electronic submittals may be in PDF or Word format.

Proposers must submit:

- A. One (1) signed original and
- B. One (1) electronic version of the signed proposal on a flash drive

Submittal Requirements: Contractors submitting a proposal must meet the minimum requirements and submit the following information with their response.

1. A document cover sheet listing submission date, firm name, principal contacts, and fee estimate
2. Describe minimum staff experience and qualifications required to produce reports and schedules related to governmental projects
3. Describe how staff members are qualified to render the reports and schedules requested.
4. List Staff who will be performing the work and their credentials
5. Number of professionals in your firm who perform similar work
6. Indicate your understanding of the project
7. Timeline of project work and completion once project begins
8. If awarded the contract, when would your firm be available to start the project?
9. Three Governmental (3) client references list with contact information
10. Describe any technical review process
11. Any regulatory action taken against the proposing firm
12. Include sample data reports
13. Terms and conditions of the fee estimate. A flat fee is preferred but a rate per hour with a maximum will be considered.

SECTION 2: SCOPE OF SERVICES

A Cost Allocation Plan based on actual financial data for the fiscal period ended June 30, 2021, shall include the reports and schedules to meet the objectives listed below:

Full Cost Allocation Plan

1. Develop full cost allocation plan in accordance with a full cost concept for applicable service areas. The full cost plan will include an allocation of general governmental costs and will be used for management purposes such as to apply administrative (i.e. internal service) cost transfers to enterprise funds, information for budgeting purposes, and operational analysis.
2. Obtain understanding of services being provided to/for enterprise funds and governmental funds through meetings with key staff.
3. Advise on potential services not currently subject to cost allocations that may be eligible for allocation.
4. Utilize best practice methodologies to recommend cost driver allocation alternatives for each element/general government cost of the plan. Develop a fair and equitable allocation method for costs for the services performed. Include a detailed explanation of the methodology and data sources for each schedule.
5. Analyze the current use of direct and indirect costs and recommend best practice approaches for

consideration. Special focus will be placed upon direct versus indirect cost categories and the use of best practice methodologies.

6. Review current allocation method prepared by City staff to identify alternative and best practice methodologies. Work with designated City staff to design templates to better capture data inputs and provide understanding of allocation process. Prepare documentation of the data collection processes and assumptions, and an assessment of the data strengths and weaknesses.
7. Instruct/educate designated City staff in the specifics of indirect costing, including cost analysis and cost flow structuring, statistical collection and development techniques, interviewing, plan summarization and organization, theory of computation and plan implementation. Identify available data which can be effectively incorporated into the indirect cost allocation plans and determine opportunities for simplifying data collection activities for annual indirect cost plans.
8. Work with selected City staff to define the purpose, uses and goals for an indirect cost allocation plan to ensure that the developed plan will be both accurate and appropriate for the City's current needs. This includes conducting interviews as needed to gain an understanding of the City's business processes and operations.

Cost Allocation Plan Review Process

1. Present, negotiate and secure the approval of the cost plan as outlined in the scope with City Management and other interested City staff.
2. Present "Draft" Cost Allocation Plan to City Management and staff for review. Collect and document comments and concerns from City staff. Following discussion with staff the consultant will make the agreed upon changes to the plan. Provide year-to-year comparable information for review purposes.
3. Review, evaluate and recommend enhancement strategies. All recommendations should be based on, and supported by, detailed analysis of City data.
4. Awarded vendor must provide an electronic copy and at least two hard copies of the Full Cost Allocation Plan and 2 CFR PART 200 along with working papers and associated documentation.

Timeline

The timeline for service delivery is critical to meet budgetary time requirements. The project work should begin no later than September 1, 2021 and the final Cost Allocation Plan should be completed no later than October 31, 2021. Please feel free to email Lesley Reder at rederl@concordnc.gov with any questions.

SECTION 3: AWARD PROCESS

Selection of Award: Contractor must meet all requirements and the minimums listed in the RFP. Contractor may be required to verify that they have sufficient staff and resources to provide the labor as stated in the RFP. The City may engage in discussions with any potential Contractor prior to final determination and award.

Scoring Matrix for Contract Award

| Criteria | (a) Weight | (b) Score (0-3) | (a) x (b) Weighted Score |
|---|---------------|--------------------|--------------------------------|
| Staff Experience and Qualifications for Government Projects | 20 | | |
| Project Approach | 10 | | |
| Project Understanding | 30 | | |
| Timeline to Complete Work | 15 | | |
| Client References | 10 | | |
| Proposed Cost | 10 | | |
| Total Score (without Interview/Demonstrations) | | | |
| Interview/Demonstration (if applicable) | 5 | | |
| Final Score (with Interview/Demonstrations) | | | |

Score Points

0- Missing or Does Not Meet Expectation

2- Meets Expectation

1- Partially Meets Expectation

3- Exceeds Expectation

SECTION 4: RIGHTS AND NOTES

Right of Rejection

The City reserves the right to reject any or all proposals, waive technicalities, and to be the sole judge of suitability of the services for its intended use, and further specifically reserves the right to make the award in the best interest of the City.

RFP Modifications

The City may modify the RFP prior to the date fixed for submission of proposals by issuance of an addendum. Should an offeror find discrepancies in this RFP or any other documents provided by the City, the Offeror should immediately notify the City of such potential discrepancy in writing via email as noted above. Any addenda to these documents shall be issued in writing. No oral statements, explanations, or commitments by anyone shall be of effect unless incorporated in the written addenda.

Rights to Submitted Material

All proposals and supporting materials, as well as correspondence relating to this RFP, shall become the property of the City. The content of all submittals will be held confidential until the selection of the firm is made. Proposals will be reviewed by the Evaluation Team, as well as other City staff and members of the general public who submit public record requests. *Any proprietary data must be clearly marked.* In submitting a Proposal, each Prospective Proposer agrees that the

City may reveal any trade secret materials contained in such response to all City staff and City officials involved in the selection process and to any outside consultant or other third party who serves on the Evaluation Team or who is hired by the City to assist in the selection process.

The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the Proposer of the conditions contained in this Request for Proposal.

MWBE Participation and Non-Discrimination

To the extent permitted by North Carolina law, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with reference to the subject matter of this Contract. Concord encourages participation by certified minority and women-owned businesses.

Attachment A

**STANDARD FORM OF AGREEMENT
FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is made and entered into this ___ day of _____, 20___, by and between the CITY OF CONCORD, (herein referred to as the "City") located at 35 Cabarrus Avenue West, Concord, North Carolina, and _____, a _____ (herein referred to as "Contractor") located at _____, _____, North Carolina _____;

W I T N E S S E T H:

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

Sec. 1. Professional Services to be Provided. The Contractor will provide professional services for the Project as set forth in Exhibit "A" attached hereto and incorporated herein by reference. The fee shall not exceed the amount set forth in Exhibit "A". Additional Exhibits may be used to further define this Agreement when the Contractor and City so agree. Any additional exhibits shall be designated as exhibits to the Agreement with capitalized, sequential letters of the alphabet, shall be attached hereto and incorporated herein by reference as if the same were fully recited, and shall become terms of this Agreement upon execution by both parties.

Sec. 2. Standards of Performance.

A. The standard of care for all professional and related services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of Contractor's profession practicing under similar conditions and circumstances and in a similar locality.

B. Contractor shall be responsible for the technical accuracy of its services and documents resulting therefrom, and City shall not be responsible for discovering deficiencies therein. Contractor shall correct such deficiencies without additional compensation, except to the extent such action is directly attributable to deficiencies in City-furnished information.

C. Contractor shall perform or furnish professional _____ and related services in all phases of the Project to which this Agreement applies. Contractor may employ such Contractor's consultants as Contractor deems necessary to assist in the performance or furnishing of the services. The meaning of the term "consultant" shall include "subcontractor." Contractor shall not be required to employ any Contractor consultant unacceptable to Contractor; however, the Contractor shall obtain the City's written approval for each consultant selected. Such approval may be granted by the City Manager or by any duly authorized agent of the City Manager.

D. Contractor and City shall comply with all applicable local, state and federal Laws and Regulations or Standards. Changes made to these requirements subsequent to the City's issuance of the Notice to Proceed may be the basis for modifications to City's responsibilities or to the scope, schedule, and compensation for Contractor's services.

E. City shall be responsible for, and Contractor may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by City to Contractor pursuant to the Agreement. Contractor may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

F. City shall make decisions and carry out its other responsibilities in a timely manner so as not to unreasonably delay the services of Contractor.

G. Contractor shall guarantee the performance of any consultant hired by, or otherwise relied upon by Contractor and shall assume responsibility for any such consultant's failure to furnish and perform the Work in accordance with this Agreement.

H. Contractor shall not be responsible for the acts or omissions of any contractor(s), subcontractor, or supplier, or of any of the contractor's agents or employees or any other persons (except Contractor's own employees or consultant's hired by or working directly for the Contractor) at the site or otherwise furnishing or performing any of the Contractor's work; or for any decision made on

interpretations or clarifications by the City of the Contract Documents when such interpretations or clarifications are given without the consultation and advice of Contractor.

Sec. 3. Project Site. Reasonable precautions will be taken to minimize damage to the Project Site from the Contractor’s activities and use of equipment. The Contractor, well in advance of any testing or site investigation, will research and identify the accurate location of all utilities located on the Project Site including the presence and accurate location of hidden or obscured man-made objects known to the City. Contractor shall take all reasonable precautions to locate any hidden or obscured utilities or other man-made objects which may be on the Project Site, but are unknown to the City.

Sec. 4. Time of Service. The Contractor shall commence work within _____ () days of the date of its receipt of written Notice to Proceed from the City. The date that is _____ () days from the date of the Contractor’s receipt of the Notice to Proceed shall be the “Commencement Date.” All work as set forth in the Scope of Services in Exhibit “A” shall be completed within _____ () calendar days of the Commencement Date. The date that is _____ () calendar days from the Commencement Date shall be the “Completion Date.” Time is of the essence with regard to this Project. If Contractor’s obligations are not completed by the Completion Date, the City reserves the right to nullify this Agreement, order the Contractor to immediately cease all work under this Agreement and vacate the premises, and to seek professional services equivalent to those outlined in Exhibit “A.” The Contractor shall be held accountable for all damages incurred by the City as a consequence of the missed Completion Date. The exercise of any of these rights by the City shall not be interpreted to prejudice any other rights the City may have in law or equity.

Sec. 5. Cancellation for Non-Conformity or Breach.

A. In the event of the Contractor’s failure to deliver or perform in accordance with the terms and conditions set forth herein, the City shall have the right to nullify this Agreement or any part hereof, without prejudice to its other rights, and the Contractor agrees that the City may return part or all of any delivery and may charge the Contractor with any loss or expense sustained as a result of such failure to deliver or to perform.

B. In the event of a violation of any material term of this Agreement, the non-violating party may terminate the Agreement upon written notice. Such notice shall state the violation with specificity and shall give ten (10) days to cure the violation. The cure period shall be measured as ten (10) days from the date of receipt of notice by the violating party, or, if the date is not known, then thirteen (13) days from the date the notice is placed in the United States Post. If the violation remains uncorrected at the end of the cure period, the Agreement shall be terminated without any further action by the non-violating party.

Sec. 6. Insurance and Liability. Contractor shall maintain and cause all consultants to maintain insurance policies at all times with minimum limits as follows:

| <u>Coverage</u> | <u>Minimum Limits</u> |
|-----------------------|---|
| Workers’ Compensation | \$100,000 each accident, \$100,000 bodily injury by disease each employee, \$500,000 bodily injury by disease policy limit |
| General Liability | \$1,000,000 per occurrence regardless of the contract size |
| Automobile Liability | \$1,000,000 per occurrence regardless of the contract size |
| Umbrella | <input type="checkbox"/> \$1,000,000 per occurrence if contract does not exceed 180 days and does not exceed \$500,000; otherwise, <input type="checkbox"/> \$2,000,000 per occurrence |

Professional Liability insurance policy limit requirements shall be based on the total amount of compensation to be paid to Contractor under this Agreement and as set forth in Exhibit “A,” and on a determination by City of whether the services provided under this Agreement are for hazardous or

non-hazardous activities. The required limits are:

For Non-Hazardous Activities:

\$1,000,000 per claim / \$1,000,000 annual aggregate

For Hazardous Activities:

- For contracts less than \$100,000 –
\$2,000,000 per claim / \$2,000,000 annual aggregate
- For contracts over \$100,000 –
\$5,000,000 per claim / \$5,000,000 annual aggregate

Sec. 7. Documentation Requirements:

A. Contractor shall provide the City with a **Certificate of Insurance** for review prior to the issuance of any contract or Purchase Order. All Certificates of Insurance will require written notice by the insurer or contractor’s agent in the event of cancellation, reduction or other modifications of coverage by the insurer. Such notice shall be not less than 30 days for nonrenewal by the insurer, not less than 10 days for cancellation due to nonpayment of the premium and as soon as possible for all other types of modifications. In addition to the notice requirement above, Contractor shall provide the City with written notice of cancellation, reduction, or other modification of coverage of insurance whether instigated by the insurer or by the Contractor immediately upon Contractor’s receipt of knowledge of such modifications. Upon failure of the Contractor to provide such notice, Contractor assumes sole responsibility for all losses incurred by the City for which insurance would have provided coverage. The insurance certificate shall be for the insured period in which the initial contract period begins and shall be renewed by the contractor for each subsequent renewal period of the insurance for so long as the contract remains in effect.

The City shall be named as an **additional insured** on all policies except workers compensation and professional liability, and it is required that coverage be placed with “A” rated insurance companies acceptable to the City. Statement should read, “City of Concord is added as an additional insured as evidenced by an endorsement attached to this certificate.” Failure to maintain the required insurance in force may be cause for termination of this Agreement. In the event that the contractor fails to maintain and keep in force the insurance herein required, the City has the right to cancel and terminate the Agreement without notice.

B. Contractor shall provide a completed W-9 form to the City prior to execution by the City of this Agreement.

Sec. 8. Indemnification. To the maximum extent allowed by law, the Contractor shall defend, indemnify, and save harmless the City of Concord, its agents, officers, and employees, from and against all charges that arise in any manner from, in connection with, or out of this Agreement as a result of the acts or omissions of the Contractor or its subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable except for damage or injury caused solely by the negligence of the City its agents, officers, or employees. In performing its duties under this section, the Contractor shall at its sole expense defend the City of Concord, its agents, officers, and employees with legal counsel reasonably acceptable to City. As used in this subsection – “Charges” means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, expenses, interest, reasonable attorney’s fees, and amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders. Nothing in this section shall affect any warranties in favor of the City that are otherwise provided in or arise out of this Agreement or by operation of law. This section is in addition to and shall be construed separately from any other indemnification provisions that may be in this Agreement. This section shall remain in force despite termination of this Agreement (whether by expiration of the term or otherwise) and termination of the services of the Contractor under this Agreement.

Sec. 9. Intellectual Property. If any claim based upon alleged infringement of rights in any patent, copyright, trademark, or trade name is asserted against the City by virtue of the purchase or use of any good, service, or process hereunder, the Contractor shall indemnify and hold the City harmless from all claims, demands, and legal obligations against the City in preparation or in defense of such claims, or in settlement thereof.

Sec. 10. Documents. All documents, including but not limited to drawings, specifications, reports, boring logs, field notes, laboratory test data, calculations and estimates, prepared by the Contractor pursuant to this Agreement, shall be the City's sole property. The Contractor shall furnish or cause to be furnished to the City any and all such reports, data, studies, plans, specifications, documents, computer files, and other information created or collected by the Contractor for the Project. The documents so provided will remain the property of the City. All documents prepared by the Contractor for the City are subject to public records requirements, and the City will not assume any responsibility for any third party's use of the documents that are produced.

Sec. 11. Attachments. Additional Exhibits may be used to further define this Agreement when the Contractor and City so agree. Any additional exhibits shall be designated as exhibits to the Agreement with capitalized, sequential letters of the alphabet, shall be attached hereto and incorporated herein by reference as if the same were fully recited, and shall become terms of this Agreement upon execution by both parties. *The following attachments* are made a part of this contract and incorporated herein by reference:

- (a) Exhibit "A" – Scope of Services / Fee for Scope of Services.
- (b) Exhibit "B" – Contractor must execute the Affidavit attached as Exhibit B, attesting to compliance with state and federal laws related to E-Verify.
- (c) Exhibit "C" – Tax Form(s).
- (d) Exhibit "D" - Certificate of Insurance.

In the event any terms in any attachment hereto conflict with any terms in this Agreement without said attachment, the terms of this Agreement as written without said attachment shall control and take precedence over the contradictory language in the attachment, except in such case where the City has expressly waived said conflicting terms by stating the specific term in this Agreement which is to be waived and the alternative term which is to be effective. The waiver must be in writing and signed by the City Manager or a duly authorized representative of the City Manager.

Sec. 12. Strict Compliance. The City may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.

Sec. 13. Corporate Status. If the Contractor experiences any change in corporate status whatsoever, including but not limited to incorporation, dissolution or suspension of incorporation, or any change in the status of partnership or sole proprietorship, and the Contractor does not notify the City of such change in status within three (3) business days from the date of the change in status, and/or the status existing at the time of execution of this Agreement is not reinstated within thirty (30) days, The City may, at its sole option, either declare the Agreement null and void or require execution by the Contractor of a new Agreement reciting the Contractor's correct legal entity and executed by a duly authorized agent of that entity.

Sec. 14. Notices.

A. All notices and other communications required or permitted by this Agreement shall be in writing and shall be given either by personal delivery, fax, or certified United States mail, return receipt requested, addressed as follows:

To the City:

City of Concord
P.O. Box 308
Concord, NC 28206
Fax Number: (704) _____

To the Contractor:

VaLerie Kolczynski, Esq.
City Attorney
PO Box 308
Concord, NC 28026

B. Change of Address, Date Notice Deemed Given: A change of address, fax number, or person to receive notice may be made by either party by notice given to the other party. Any notice or other communication under this Agreement shall be deemed given at the time of actual delivery, if it is personally delivered or sent by fax. If the notice or other communication is sent by US Mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the US Postal Service or upon actual delivery, whichever first occurs.

Sec. 15. Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the City and the Contractor shall survive the completion of the services and the termination of this Agreement.

Sec. 16. Miscellaneous.

A. **Choice of Law and Forum.** This Agreement shall be deemed made in Cabarrus County, North Carolina, and shall be governed by and construed in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this Agreement shall be the appropriate division of the North Carolina General Court of Justice, in Cabarrus County. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

B. **Waiver.** No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out this Agreement, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

C. **Performance of Government Functions.** Nothing contained in this Agreement shall be deemed or construed so as to in any way estop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

D. **Severability.** If any provision of this Agreement shall be unenforceable, the remainder of this Agreement shall be enforceable to the extent permitted by law.

E. **Assignment, Successors and Assigns.** Without the City's written consent, the Contractor shall not assign (which includes to delegate) any of its rights (including the right to payment) or duties that arise out this contract. Unless the City otherwise agrees in writing, the Contractor and all assigns shall be subject to all of the City's defenses and shall be liable for all of the Contractor's duties that arise out of this Agreement and all of the City's claims that arise out of this Agreement. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this Agreement shall be binding upon it and its heirs, personal representatives, successors, and assigns.

F. **City Policy.** THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS CONTRACTORS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBCONTRACTORS AND VENDORS UNDER CITY CONTRACTS.

G. **EEO Provisions.** During the performance of this Agreement the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall post in conspicuous places available to employees and applicants for employment, notices setting forth these EEO provisions.

(2) The Contractor in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap.

H. **No Third Party Right Created.** This Agreement is intended for the benefit of the City and the Contractor and not any other person.

I. **Principles of Interpretation.** In this Agreement, unless the context requires otherwise the singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The word "person" includes natural persons, firms, companies associations, partnerships, trusts, corporations, governmental agencies and units, and any other legal entities.

J. **Modifications, Entire Agreement.** A modification of this Agreement is not valid unless signed by both
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parties and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless the City Manager or other duly authorized official signs it for the City. This Agreement, including all exhibits and attachments hereto, contains the entire agreement between the parties pertaining to the subject matter of this Agreement. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this Agreement.

K. Corporate seal. If a corporate seal is included by any party to this Contract, it is only for authentication purposes. This Contract is not signed under seal.

IN WITNESS WHEREOF, the City of Concord and the Contractor have caused this contract to be executed by their respective duly authorized agents or officers.

[SIGNATURE PAGE(S) FOLLOW]

CITY OF CONCORD:

(Typed or Printed Legal Name of Contractor)

By: _____
City Manager

By: _____
Signature of President/Vice President/Manager/Partner

Date: _____

Printed Name: _____

Title: _____

ATTEST BY:

Date: _____

City Clerk

ATTEST:

BY: _____
Signature of Vice President, Secretary, or other officer

APPROVED AS TO FORM:

Printed Name: _____

Title _____

Attorney for the City of Concord

SEAL

APPROVAL BY CITY FINANCE OFFICER

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

Signature

EXHIBIT "A"

This document is an Exhibit to the Agreement for Professional Services between the CITY OF CONCORD and _____
dated _____ 2 _____.

Scope of Services:

Fee for Scope of Services:

The fee for services shall not exceed _____ and shall be based on a time and material format, whereby fees would be invoiced by the amount of actual time/material expended. Fees for _____ staff time shall be based on the rate schedule provided below. Invoices shall be directed to: City of Concord Attention: _____, Post Office Box 308, Concord, NC 28026-0308. Should changes or extra services be needed, which will cause a cost overrun; _____ will consult with the City for adjustments prior to conducting the work.

The budget for the scope of services is based on the following estimates:

EXHIBIT "B"

STATE OF NORTH CAROLINA

AFFIDAVIT

COUNTY OF CABARRUS

I, _____ (the individual signing below), being duly authorized by and on behalf of _____ (the legal name of the entity entering the contract, "Employer") after first being duly sworn hereby swears or affirms as follows:

- 1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a). Employer attests that Employer is in compliance with the requirements of the federal and state laws relevant to E-verify.
3. Employer is a person, business entity, or other organization that transacts business in the State of North Carolina. Employer employs 25 or more employees in this State. (mark Yes or No)
a. YES ____, or b. NO ____.
4. Employer attests that all subcontractors employed by it as part of this contract comply with the requirements of E-Verify, and Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer as part of any contract with the City of Concord.
5. Employer shall have a continuing duty to inform the City of Concord of any changes to this sworn information.

This ___ day of _____, 20__.

Signature of Affiant
Print or Type Name: _____

State of North Carolina County of Cabarrus

Signed and sworn to (or affirmed) before me, this the ___ day of _____, 20__.

My Commission Expires:

_____, Notary Public

(Affix Official/Notarial Seal)

EXHIBIT "C"

TAX FORM(S)

EXHIBIT "D"

CERTIFICATE OF INSURANCE