

# EXHIBIT

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DURHAM



## CITY OF DURHAM | NORTH CAROLINA

Date: May 22, 2008

To: Patrick W. Baker, City Manager

Through: Wanda S. Page, Deputy City Manager  
Keith R. Herrmann, Interim Finance Director

From: Arche L. McAdoo, Interim Deputy Finance Director  
Darwin T. Laws, Risk Manager

Subject: Liability Claims Adjusting Services Contract Extension

### **Executive Summary**

The North Carolina League of Municipalities (NCLM) presently serves as the City's Third Party Administrator (TPA) for liability and sewage back-up claims. On June 20, 2005 the City Council approved a contract with the Inter-Local Risk Financing Fund of North Carolina for liability claims services to be performed by the North Carolina League of Municipalities (NCLM). This contract was for a three year term for an amount not to exceed \$608,322. To date we have expended approximately \$313,000 for these services, leaving an encumbered balance of \$295,300. We are requesting an extension of this contract requiring no increase of the total contract dollars.

### **Recommendation**

It is recommended that the City Council authorize the City Manager to: 1) negotiate and execute an extension of the current contract with the Inter-local Risk Financing Fund of North Carolina for liability claims services to be performed by the North Carolina League of Municipalities; and 2) modify the terms of the proposed contract amendment prior to execution provided that the modifications are consistent with the intent and purposes of the original contract.

### **Background**

The City has used Third Party Administrators (TPA) for liability claims adjusting services since 2001. The last RFP issued in 2005 for these services yielded two responses – NCLM and Johns Eastern Company, Inc. The City selection team composed of personnel from Finance, EOEA, Police and General Services Departments, recommended NCLM.

On June 20, 2005 the City Council approved a contract with the Inter-Local Risk Financing Fund of North Carolina for liability claims services to be performed by the North Carolina League of Municipalities (NCLM). This contract was for a three year term for an amount not to exceed \$608,322.

Based on the Council's action, this contract is scheduled to expire on July 31, 2008. However, the terms of the executed contract contained a provision that "the Contract

shall renew automatically for terms that are concurrent with the fiscal year of the City.” This term in the contract resulted in confusion as to the actual end date of the contract, and steps have not been taken to issue an RFP to secure another TPA by July 31, 2008. It is impossible for us to proceed through the City’s formal Request for Proposal (RFP) process to select and award a contract for a Third Party Administrator for these claims services prior to this expiration date. Because the City has limited resources and staff devoted to claims administration and no capacity to specialize as is required for thorough evaluation, bringing this function in-house is not an option; nor, can we afford to halt the processing of these claims.

The City has benefited significantly from the prompt and professional services provided by the NCLM. Their staff is highly competent and skilled in claims operations. Their ability to provide sound claims adjusting services for the City’s property and liability claims, has resulted in cost savings to the City as noted by the current contract balance.

Having determined it is in the City’s best interest and to avoid any disruption of liability claims services, staff requests that Council grant a waiver of the advertising and RFP/RFQ requirements of FP 503.03, “Purchasing and Contracting on Behalf of the City of Durham”, and authorized the requested extension of the current contract.

### **Issues/Analysis**

It is not possible for staff to proceed through the City’s formal Request for Proposal (RFP) process to select and award a contract for a Third Party Administrator for these claims services prior to the expiration date of July 31, 2008. Because the City has limited resources and staff devoted to claims administration and no capacity to specialize as is required for thorough evaluation, bringing this function in-house is not an option; nor, can we afford to halt the processing of these claims.

### **Alternatives**

There are no alternatives other than the recommended action to ensure uninterrupted liability claims processing services.

### **Financial Impact**

The extension of this contract will not require any additional funds beyond those currently committed for these services. To date, we have expended approximately \$313,000 of the \$608,322 total contract amount approved by the City Council.

### **SDBE Requirement**

The Equal Opportunity/Equity Assurance Department reviewed the original contract submitted by the North Carolina League of Municipalities and determined that they were in compliance with the Ordinance to Promote Equal Business Opportunities in City Contracting.