EXHIBIT
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CITY OF DURHAM
Office of the City Clerk
101 CITY HALL PLAZA | DURHAM, NC 27701
919.560.4166 | F 919.560.4835
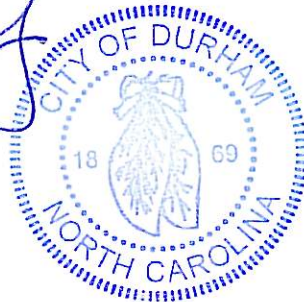
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SUBJECT: RESOLUTION TO ESTABLISH A FUND RESERVE TO PAY
              CLAIMS WHERE GOVERNMENTAL IMMUNITY HAS BEEN
              WAIVED

NORTH CAROLINA
DURHAM COUNTY

I, D. Ann Gray, duly appointed City Clerk of the City of Durham, North Carolina, do hereby certify that the attached Resolution #9201 is a true and accurate copy adopted by the Durham City Council at its regular meeting held on December 20, 2004, which is on file in the Office of the City Clerk at City Hall.

WITNESS my hand and the corporate seal of the City of Durham, North Carolina, this the 20th day of November, 2008.

D. Ann Gray, MMC
City Clerk

RESOLUTION TO ESTABLISH A FUNDED RESERVE
TO PAY CLAIMS WHERE GOVERNMENTAL
IMMUNITY HAS BEEN WAIVED

WHEREAS, the North Carolina General Assembly recently amended G.S. 160A-485 by granting municipalities explicit authority to waive governmental immunity through the adoption by a city council of a resolution that deems the creation of a funded reserve to be the same as the purchase of liability insurance to pay for such claims; and

WHEREAS, adoption of such a resolution by a city council under this statute waives a city's governmental immunity only to the extent specified in the council resolution and in no event greater than funds available in the designated funded reserve established for the payment of such claims; and

WHEREAS, the City Council has on this date adopted a resolution to waive governmental immunity in limited circumstances (the "Immunity Resolution"); and

WHEREAS, pursuant to G.S. 160A-485, a corresponding funded reserve should be established for the payment of such claims; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DURHAM:

The City of Durham hereby establishes a funded reserve (the "fund") to pay claims in which immunity has been waived in accordance with the Immunity Resolution, subject to the following provisions:

1. The initial appropriation to the fund shall be $500,000.

2. Payments made for claims in which immunity is waived in accordance with the Immunity Resolution shall be paid only from the fund, and only to the extent of the funds available in the fund.

3. All such payments shall be subject to the terms of the Immunity Resolution. By way of illustration and not limitation, payments from this fund shall be limited to the specific categories of damages authorized by City Council in the Immunity Resolution, and shall not include other damages or expenses associated with the claims, such as attorney's fees, claims administration or legal defense costs.

4. The only claims payable from this fund shall be claims covered by the Immunity Resolution, for which immunity has been waived by the City pursuant to the Immunity Resolution. No other claims shall be paid from this fund such as, by way of illustration and not limitation, claims for workers' compensation benefits or other claims in which immunity is not available as a legal defense.

5. The balance in this fund shall be carried over at the end of each fiscal year and remain in the fund. This shall be available in addition to any other funds that City Council may appropriate in any fiscal year for the fund. The City Council shall be under no obligation to appropriate additional funds for the fund.

6. The funded reserve is created upon adoption of this resolution. The City reserves the right to modify or terminate this funded reserve at any time, and to have any such modification or termination apply to any claim not paid or for which there has not yet been a final decision of a court of competent jurisdiction.

7. This resolution shall be construed in a manner consistent with the Immunity Resolution. All resolutions which conflict or are inconsistent with this resolution are modified to the extent of any such conflict or inconsistency so as to conform to the provisions and standards of this resolution.

This the 20th day of December, 2004.

APPROVED BY
CITY COUNCIL

DEC 20 2004

CITY CLERK