

RESOLUTION APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE CITY OF
GREENSBORO AND THE GUILFORD COUNTY BOARD OF EDUCATION

WHEREAS, the North Carolina Constitution Article IX, Section 7 provides in part that the “clear proceeds (“Clear Proceeds”) of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools;” and

WHEREAS, NCGS §115C-437 provides in part that “the clear proceeds of all penalties and forfeitures and of all fines collected . . . shall include the full amount . . . diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected;” and

WHEREAS, in fairly recent litigation from a neighboring jurisdiction, the court clarified the types of monies to be classified as clear proceeds. (*Shavitz v. City of High Point*, 177 NC App. 465 (2006)); and

WHEREAS, the Guilford County Board of Education contacted the City of Greensboro to demand payment of the clear proceeds owed to it under the North Carolina Constitution and *Shavitz*; and

WHEREAS, the Legal Department negotiated a proposed settlement with the Guilford County Board of Education which resulted in a reduction of \$452,080.95 in the amount demanded. The late listings penalties amount of \$463,974.34 will be paid from the General Fund in January 2018. The amount of the other penalties, which have now been determined to be \$1,057,069.76, will be expensed with the settlement recorded in the General Risk Retention Fund; 50% of the liability, \$528,534.88, will be paid December 2018, and 50% of the liability, \$528,534.88, will be paid December 2019; and

WHEREAS, moving forward, the City will pay the amounts owed on an annual basis, less a 10% administrative fee.

NOW, THEREFORE, Be it resolved by the City Council of the City of Greensboro that the Mutual Settlement Agreement concerning the payment of Clear Proceeds between the City of Greensboro and the Guilford County Board of Education attached hereto is hereby approved.