RESOLUTION NO. _____

RESOLUTION AUTHORIZING SIGNATURE
OF SETTLEMENT DOCUMENTS FOR THE
SOUTH END FIRE STATION NO. 2 PROJECT

WHEREAS, the City of Muscatine brought an action in the Iowa District Court for Muscatine County against Advanced Precast Company Inc. (APC), First Construction Group Inc. (FCG) and Developers Surety and Indemnity Company for work stemming from the construction of Fire Station No. 2 Project located at 2124 Stewart Road in the City of Muscatine;

WHEREAS, APC filed a counterclaim against the City of Muscatine and a Cross Claim against FCG and Developers; and

WHEREAS, the parties have reached a compromise settlement of all claims which have been made or could have been made in this case or in any way relate to the project; and

WHEREAS, the City of Muscatine issued a final acceptance of the Fire Station No. 2 Project on May 21, 2015 and retained funds totaling $64,628.80; and

WHEREAS, the Surety has paid, using funds from the bond, certain claims and accepted assignment of those claims; and

WHEREAS, the parties mutually agree that the assignment of these claims to the Surety are valid under Iowa law and that, by law, the assignments of these claims to the Surety extinguished each individual claimant's Iowa Code Chapter 573 claim; and

WHEREAS, the parties have mutually agreed to the following:

- The City of Muscatine is entitled to be paid $14,053.50.
- The balance of the retained funds totaling $50,575.30 will be paid to the Surety.
- Upon 100% disposition of the retained funds, the case brought to action in the Iowa District Court for Muscatine County will be closed.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Clerk be authorized and directed to sign the Mutual Release and Settlement Agreement, Release of Claim, and Stipulated Order of Disposition of Retained Funds and that the City of Muscatine be authorized to pay the Surety $50,575.30.

PASSED, APPROVED, AND ADOPTED THIS 18th DAY OF August, 2016.

_____
Diana L. Broderson, Mayor

ATTEST:

_____
Gregg Mandsager, City Administrator