RESOLUTION NO. 2017-_____

RESOLUTION APPROVING SETTLEMENT AGREEMENT AND RELEASE WITH INVISION ARCHITECTURE

WHEREAS, the City Council of the City Muscatine, Iowa, has been advised of a proposed settlement with INVISION Architecture; and

WHEREAS, after review of the settlement the City Council believes the settlement should be approved by it; and

WHEREAS, the City Council has reviewed and agrees to the Settlement Agreement and Release in the form attached hereto as "Exhibit A", which has been previously executed by INVISION Architecture.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Muscatine, Iowa, that:

1.   The settlement reached with INVISION Architecture is approved.

2.   The Settlement Agreement and Release, which has been previously executed by INVISION Architecture, in the form attached to this Resolution is approved and the Mayor is authorized to execute the same.

PASSED this _____ day of November 2017.

_____
Diana L. Broderson, Mayor

ATTEST:

_____
Gregg Mandsager, City Adminstrator

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Settlement Agreement") is entered as of the ____ day of November, 2017, by and between the City of Muscatine, Iowa and the Muscatine Fire Department, 215 Sycamore St., Muscatine, IA 52761 ("City") and INVISION Architecture, 303 Watson Powell Way, Suite 200, Des Moines, IA 50309. ("INVISION") (referred to individually as "Party" and collectively as "Parties").

BACKGROUND

A.   The City and INVISION entered into an AIA Contract for a project known as "Muscatine Fire Station No. 2" dated January 08, 2010 (the "Contract"); and

B.   A dispute has arisen between the City and INVISION with relation to the payment for architectural services under the Contract (the "Dispute"); and

C.   The City and INVISION have reached an agreement to resolve all outstanding matters between the City and INVISION with relation to the Dispute.

AGREEMENT

NOW, THEREFORE, for the mutual covenants set forth in this Agreement and other good and valuable consideration, the Parties agree as follows:

1.   **Payment by City**. City agrees to make a final payment to INVISION in the total amount of $22,537.25 in return for the releases set forth in this Settlement Agreement.

2.   **Releases**.

2.1.   Except as specifically set forth in this Agreement, INVISION fully waives and releases City, its agents, employees, principals and insurers from any and all claims, demands, damages, costs, losses, and/or liabilities with relation to the Dispute, but specifically retains all rights with relation to matters not directly related to the Dispute.

2.2.   Except as specifically set forth in this Agreement, the City agrees to remit the payment of $22,537.25 consistent with this Agreement and releases INVISION from any and all claims, demands, costs, losses, and/or liabilities arising with relation to the Dispute, but specifically retains all rights with relation to matters not directly related to the Dispute.

3.   **No Admission of Liability**. This Agreement is a compromise of the claims between the Parties with relation to the Dispute only and does not and shall not constitute an admission by either of the Parties of any liability or any violation of any right, statute, or other provision, regulation, ordinance, order, or common law relating to the Dispute.

4.   **Legal Counsel**. Each Party represents that before the execution of this Agreement they have had the opportunity to consult with legal counsel of such Parties' selection. The Parties agree to and shall assume their own respective costs, expenses, and attorney fees incurred in connection with this Agreement.

5.   **Consideration**. Each Party to the Agreement expressly acknowledges that it is entering into this Agreement for adequate consideration.

6.   **Construction**. The Parties agree that this Agreement shall not be construed against any Party on the grounds that such Party was responsible for the preparation of this Agreement or on any related ground. The language of this Agreement shall be construed as a whole and according to its fair meaning. The headings in this Agreement are for convenience only and are not intended to affect construction or interpretation.

7.   **Counterparts and Signatures**. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one Agreement. The Parties agree that this Agreement shall be legally binding upon the electric transmission, including via facsimile or e-mail of .pdf files, but each Party of a signed signature page to this Agreement to the other Party.

8.   **Full Integration**. This Agreement is an integrated agreement containing the entire understanding among the Parties regarding the matters addressed herein, and may not be amended, extended, or otherwise modified except by written agreement signed by all Parties. Except as set forth herein, no representation, warranty, or promise has been made or relied upon by any of the Parties in executing this Agreement. This Agreement shall prevail over all prior communications between and among the Parties or their representatives regarding the matters addressed herein.

9.   **Successors and Assigns**. This Agreement shall be binding upon and shall inure to the benefit of the Parties, as well as their respective successors and assigns.

10.   **Severability**. Should any term or provision of this Agreement be deemed to be invalid or unenforceable for any reason, such determination shall have no effect on the remaining terms and provisions of this Agreement.

11.   **Governing Law**. This Agreement is governed by and construed under the laws of the State of Iowa without regard to conflicts-of-law principals that would require the application of any other law.

IN WITNESS WHEREOF, the undersigned Parties, each intending to be legally bound, hereby execute this Agreement as of the day and date first written above.

City of Muscatine, Iowa

INVISION Architecture

By:_____
    Diana L. Broderson, Mayor

By:_____
Print:_____
Its:_____

ATTEST:

By:_____
    Gregg Mandsager, City Adminstrator