

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING A SETTLEMENT AGREEMENT BETWEEN  
THE CITY OF MUSCATINE AND DIANA BRODERSON FILED IN THE IOWA  
DISTRICT COURT FOR MUSCATINE COUNTY CASE #EQCV023989**

**WHEREAS**, Diana Broderson has a November 17, 2017 application for attorneys' fees and expenses pending before the Court following the Court's October 24, 2017 ruling sustaining her Writ of Certiorari, and the City of Muscatine resisted said application on November 27, 2017; and

**WHEREAS**, Diana Broderson has a November 17, 2017 motion to dissolve the Court's August 31, 2017 Protective Order with respect to the City Council's closed session meeting minutes, audio and transcripts from the following dates: February 18, 2016, June 23, 2016, October 13, 2016, December 15, 2016, and January 5, 2017, and the City of Muscatine resisted said motion on November 27, 2017; and

**WHEREAS**, the District Court has not ruled on either the application for attorneys' fees and expenses or the motion to dissolve protective order; and

**WHEREAS**, both parties desire to resolve the issues contained in the application and the motion described above without the need for further litigation or delay and without admission of fault or wrongdoing.

**NOW, THEREFORE, BE IT RESOLVED**, both parties, in consideration for the payments and promises set forth in this Agreement (see attached Settlement Agreement), stipulate and agree as follows:

**PASSED, APPROVED AND ADOPTED** this 7th day of December 2017.

**BY THE CITY COUNCIL OF THE  
CITY OF MUSCATINE, IOWA**

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**Robert Bynum, Mayor Pro Tem**

**Attest:**

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**Gregg Mandsager, City Clerk**

## **SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is between the City of Muscatine, Iowa, and the City Council of the City of Muscatine, Iowa (“Defendants”); and Diana L. Broderson (“Plaintiff”), collectively referred to as “the Parties,” regarding certain matters pending adjudication in the case filed in the Iowa District Court for Muscatine County, case number EQCV023989.

WHEREAS, Plaintiff has a November 17, 2017 application for attorneys’ fees and expenses pending before the Court following the Court’s October 24, 2017 ruling sustaining her Writ of Certiorari;

WHEREAS, Defendants resisted said application on November 27, 2017;

WHEREAS, Plaintiff has a November 17, 2017 motion to dissolve the Court’s August 31, 2017 Protective Order with respect to the City Council’s closed session meeting minutes, audio and transcripts from the following dates: February 18, 2016; June 23, 2016; October 13, 2016; December 15, 2016; and January 5, 2017;

WHEREAS, Defendants resisted said motion to dissolve on November 27, 2017;

WHEREAS, the District Court has not ruled on either the application for attorneys’ fees and expenses or the motion to dissolve protective order; and

WHEREAS, the Parties desire to resolve the issues contained in the application and the motion described above without the need for further litigation or delay and without admission of fault or wrongdoing.

NOW, THEREFORE, the Parties, in consideration for the payments and promises set forth in this Agreement, stipulate and agree as follows:

1. Defendants shall pay Plaintiff \$119,000.00 in full and complete satisfaction and settlement of her pending claim for attorneys’ fees and expenses within seven (7) days of the date of this Agreement. Plaintiff agrees and affirms that this payment is all she will receive with respect to her application for attorneys’ fees and expenses.

2. Plaintiff shall withdraw her pending application for attorneys’ fees and expenses and her motion to dissolve the protective order within two (2) business days following payment as set forth in paragraph 1.

3. The Parties agree that, upon completion of the actions identified in paragraphs 1 and 2 above, this matter has concluded, and the Parties shall not publicly discuss the matter further, except to the extent necessary in the event of litigation or other legal actions, including, but not limited to, a court hearing, a trial, a lawfully served subpoena for testimony or a lawfully served deposition notice.

4. The Parties acknowledge and agree that the promises and payments contained herein constitute an essential and material term of this Agreement and without the promises and payments, no agreement would have been reached by the Parties.

5. If any term, condition or provision of this Agreement shall be declared, to any extent, invalid or unenforceable, the remainder of the Agreement, other than the term, condition or provision held invalid or unenforceable, shall not be affected and shall be considered in full force and effect and shall be valid and enforced to the fullest extent permitted by law.

6. The Parties acknowledge that this Agreement sets forth the entire agreement between them and with respect to Plaintiff's claims for attorneys' fees and expenses and Plaintiff's request to dissolve the Court's protective order. This Agreement completely supersedes any prior agreements or understandings between the Parties regarding this subject material. This is a complete settlement of Plaintiff's claims for attorneys' fees and expenses in this matter and Plaintiff acknowledges and agrees that she will not receive any other consideration from Defendants in ECVQ023989 except as set forth herein.

7. The Parties agree that any modifications, material or otherwise, made to this Agreement shall be in writing and signed by both Parties in order to be valid and/or take effect.

8. Plaintiff acknowledges that she has not relied upon any representation or statement not set forth in this Agreement made by any representative of Defendants with respect to the subject matter or effect of this Agreement.

9. A violation (or "breach") of this Agreement or its Addendum shall entitle the non-breaching party to bring legal action for appropriate equitable relief and at law for damages, including immediate injunctive relief. In any such legal and/or equitable action, the prevailing party shall be awarded reasonable attorneys' fees and court costs incurred in the litigation.

10. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against either party. This Agreement is made and entered into, and shall be subject to, governed by and interpreted in accordance with, the laws of the State of Iowa.

11. The Parties acknowledge and affirm their understanding that Defendants shall comply with the Iowa Open Records Act.

12. Defendants' authorized agent has read the foregoing, understands the Agreement's terms and freely and voluntarily signs the Agreement with the appropriate authority approved by Defendants. Defendants have, at all relevant times, been represented by legal counsel, Amy L. Reasner.

13. Plaintiff acknowledges and affirms that she had the opportunity to review this Agreement with legal counsel, William J. Sueppel and Catherine S. Gerlach, who represented her

at all relevant times. Plaintiff acknowledges and affirms she has read the foregoing, understands the Agreement's terms and freely and voluntarily signs the Agreement.

**I HAVE READ AND FULLY UNDERSTAND EACH AND EVERY PROVISION  
OF THIS AGREEMENT AND ACCEPT AND AGREE TO ALL OF THEM.**

Defendants, City of Muscatine, et al

Date: \_\_\_\_\_

By: \_\_\_\_\_

Print name: Robert Bynum

Print title: Mayor Pro Tem

**I HAVE READ AND FULLY UNDERSTAND EACH AND EVERY PROVISION  
OF THIS AGREEMENT AND ACCEPT AND AGREE TO ALL OF THEM.**

Plaintiff, Diana L. Broderson

Date: \_\_\_\_\_

Signature: \_\_\_\_\_