

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

____ Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
____ Recommendations of Boards, Commissions & Committees (Green)
 X Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott Niehaus, Village Manager

DATE: July 12, 2023 (B of T) Date: July 20, 2023

TITLE: General Release and Settlement of All Claims
Joyce Goodale v. Village of Lombard

BACKGROUND/POLICY IMPLICATIONS:

Attached please find information regarding a proposed general release and settlement agreement in the matter of Goodale v. Village of Lombard. Plaintiff Joyce Goodale has agreed to the proposed settlement. Village counsel and staff are recommending approval of the proposed agreement.

Please place this item on the June 20, 2023 Board of Trustees consent agenda.

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X _____	Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



#230251

MEMORANDUM

TO: Scott Niehaus
Village Manager

FROM: Nicole Aranas
Deputy Village Manager

DATE: July 12, 2023

SUBJECT: Settlement Agreement – Case No. 22 LA 000733
Joyce Goodale v. Village of Lombard

Attached please find a copy of a Settlement Agreement and General Release in the matter of Joyce Goodale v. Village of Lombard. Plaintiff, Joyce Goodale, filed a complaint seeking damages against the Village of Lombard in August of 2022. Parties have agreed to a proposed settlement amount of \$20,000.

The proposed settlement agreement and release are recommended for approval by Village counsel and staff. Should you have any questions or concerns regarding this matter, please do not hesitate to contact me.

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS**

JOYCE GOODALE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2022 LA 000733
)	
VILLAGE OF LOMBARD,)	
an Illinois Municipal Corporation,)	
)	
Defendant.)	

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (“Agreement”) is made and entered into this __ day of June, 2023, by and between the following parties: Joyce Goodale (“Plaintiff”), and Village of Lombard (“Village”). The Plaintiff and Village shall sometimes be referred to collectively as the “Parties.”

PREAMBLE

WHEREAS, Plaintiff filed a Complaint against the Village and said case presently is pending in the Circuit Court of DuPage County, Case No. 2022 LA 733 (the “Lawsuit”); and

WHEREAS, Plaintiff alleges that the Village failed to properly maintain a sidewalk under its control at 1 N. Main Street causing her to trip over said sidewalk (the “Incident”), as set forth more particularly in the pleadings in the Lawsuit, claims which the Village denies have any merit; and

WHEREAS, it is now the desire of the Plaintiff and the Village to fully and finally resolve and settle the Lawsuit, their respective claims, which exist between them and any and all other claims or matters which may exist or arguably existed between them, as of the date of this Agreement, and enter into a full and final compromise, settlement and mutual release.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged:

1. Incorporation of the Preamble. Each of the introductory statements contained in the preamble hereto are incorporated into Section 1 of this Agreement as material terms and provisions agreed to by Plaintiff and the Village.

2. Compromise and Settlement. This Agreement constitutes the compromise and settlement of disputed claims that is made to avoid the further costs and uncertainty of litigation. Nothing contained herein, nor any actions taken by Plaintiff or the Village in connection herewith, shall constitute, be construed as, or be deemed to be, an admission of fault, liability or wrongdoing whatsoever on the part of any party.

3. Settlement of All Claims. Plaintiff and the Village intend this Agreement to be a complete and total resolution and settlement of any and all claims of any kind, whether asserted or not asserted, known or unknown, that Plaintiff may have against the Village up to, and including the date of this Agreement.

4. Dismissal of the Lawsuit. Plaintiff will dismiss with prejudice her Lawsuit against the Village in its entirety.

5. Settlement Terms. In return for Plaintiff's dismissal of all her claims and her lawsuit against the Village in its entirety, the Parties agree as follows:

a. The Village will pay the Plaintiff a sum of \$20,000.00.

7. General Release and Covenant Not To Sue. Plaintiff, on behalf of herself and her heirs, executors, administrators, successors and assigns, for and in consideration of the payment set forth herein, irrevocably and unconditionally releases and forever discharges and acquits the Village from any and all claims, charges, liabilities, debts, demands, grievances and causes of

action of whatsoever kind, whether at law or in equity, whether accrued, contingent or inchoate, and whether known or unknown, suspected or unsuspected, or otherwise which Plaintiff has, had or may have at any time in the future against the Village arising from or relating to acts or omissions up to and including the date of the incident, or involving the future or continuing effects of any acts or omissions which occurred up to and including the date of the incident.

The claims released and waived by this Agreement include, but are not limited to, claims relating to or arising out of the allegations and claims set forth in the pleadings in the Lawsuit, claims for pain and suffering, mental and emotional distress, and monetary damages, or other claims under any federal, state or local constitution, statute, regulation, order, common law or other authority having the force of law.

Plaintiff acknowledges and agrees that the nature, materiality, extent and results of the claims compromised and released by this Agreement may not now all be known or anticipated by her. However, it is the intention of the parties hereto that this Agreement shall be effective as a bar to each and every claim, charge, liability, and/or cause of action that the Plaintiff may have against the Village and its respective personal representatives, employees, agents, insurers, attorneys, executors, administrators, heirs, successors and assigns. Plaintiff further acknowledges and agrees that she may hereafter discover facts different from or in addition to those now known, suspected or believed to be true with respect to such claims, demands or causes of action and agrees that this release will be and remain effective in all respects notwithstanding any such different or additional facts now and at any time in the future.

Plaintiff further covenants and agrees not to sue, to file a charge, to make a claim or demand, to commence or maintain, or assist or otherwise participate (except, as required by law, to give testimony), in any action or proceeding of any kind in any court, before any government

agency or in any other forum or to accept any money, benefit, or other relief from any proceeding, which would be precluded by this release, whether brought directly by Plaintiff or brought by any other person, agency or entity which would provide relief or benefit to Plaintiff, and agrees to indemnify the Village against all liability, costs and expenses and attorney's fees in the event Plaintiff breaches this release and covenant not to sue. Plaintiff also assigns to the Village all her rights, titles, and interests in any relief from any proceeding that would be precluded by this release.

8. No Attorneys' Fees. Plaintiff waives her right, if any, to attorneys' fees. The Village will pay all expenses incurred by itself, and Plaintiff will bear all her incurred expenses for the Lawsuit and in the negotiation and preparation of this Agreement.

9. Choice of Law; Savings Provision. This Agreement will be governed by Illinois law. If any provisions of this Agreement shall be invalidated or refused enforcement by any court of competent jurisdiction, the provisions not invalidated or refused enforcement shall remain in full force and effect.

10. Entire Agreement. This Agreement represents the entire agreement between Plaintiff and the Village with respect to the matters set forth herein and supersedes all prior agreements or understandings, if any, between the parties. Plaintiff acknowledges that except for the explicit provisions of this Agreement, no promises or representations of any kind have been made to her by the Village or its attorneys, to induce her to enter into this Agreement. No modification of this Agreement can be made except in writing and signed by Plaintiff and an authorized representative of the Village.

11. For Settlement Only. This Agreement is entered into for settlement purposes only and represents the compromise of disputed claims, actual or potential, which Plaintiff has or may

believe she has against the Village. Neither this Agreement, the decision to enter into this Agreement, nor anything done pursuant to this Agreement, **shall be construed to be an admission or evidence of any wrongdoing or liability by Plaintiff or the Defendant, its respective personal representatives, employees, agents, insurers, attorneys, executors, administrators, heirs, successors and assigns with such wrongdoing and liability being expressly denied.** Nor will this Agreement, its existence or its terms, be admissible in any proceeding other than a proceeding to enforce the terms of this Agreement.

12. Representations & Warranties By All Parties. All of the parties represent and warrant that (a) they have the capacity, full power and authority to enter into this Agreement; (b) the individuals signing on behalf of the Village are authorized to do so; (c) they have not assigned, encumbered or in any manner transferred all or any portion of the claims covered by this Agreement; (d) there are not other charges, complaints, suits, arbitrations or other claims or proceedings pending between the parties in any court, before any agency, or in any forum; and (e) no other person or party has any right, title or interest in any of the claims covered by this Agreement.

13. Successors & Assigns. This Agreement shall be binding upon and inure to the benefit of Plaintiff and the Village, and their respective personal representatives, employees, agents, insurers, attorneys, executors, administrators, heirs, successors and assigns.

14. Knowing and Voluntary Signing of Binding Contract. Plaintiff represents and warrants that she has read this Agreement and understands all of its terms and executes this Agreement voluntarily and without duress or undue influence, and with full knowledge of its significance, intending to be legally bound. Plaintiff acknowledges that by signing this Agreement, she is GIVING UP ALL CLAIMS AGAINST THE VILLAGE WITH REGARD TO THE

ALLEGATIONS CONTAINED IN THE LAWSUIT.

15. Opportunity To Consult Advisors. Plaintiff and the Village have had reasonable opportunity to consult with attorneys or other advisors of their own choosing before executing this Agreement.

16. Counterparts. This Agreement may be executed in counterparts, each of which may be signed separately and may be enforceable as an original, but all of which together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by affixing their signatures and the date of execution as indicated below.

JOYCE GOODALE

VILLAGE OF LOMBARD

Dated: _____

Dated: _____