

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village Council Meeting**  
**3/22/2016**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
Resolution authorizing execution of a settlement agreement between the Village of Downers Grove and Tracy Spakausky	Enza Petrarca Village Attorney

**SYNOPSIS**

A resolution has been prepared authorizing execution of a settlement agreement and release between the Village of Downers Grove and Tracy Spakausky.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2011 - 2018 identified *Steward of Financial Sustainability*.

**FISCAL IMPACT**

The settlement amount is \$55,000, which will be paid from the Risk Fund.

**RECOMMENDATION**

Approval on the March 22, 2016 Consent Agenda.

**BACKGROUND**

On September 18, 2013, Tracy Spakausky was walking on the sidewalk in front of 4641 Saratoga Avenue when she tripped on a raised slab in the sidewalk which caused her to fall to the ground. Ms. Spakausky sustained injuries as a result of her fall for which she received medical treatment. Ms. Spakausky filed a lawsuit in the Circuit Court of DuPage County against the Village, case number 14 L 786, seeking recovery for said damages. Upon approval of the settlement agreement, Ms. Spakausky's case against the Village will be dismissed.

**ATTACHMENTS**

Resolution  
Settlement Agreement

**RESOLUTION NO. \_\_\_\_\_****A RESOLUTION AUTHORIZING EXECUTION OF A  
SETTLEMENT AGREEMENT AND RELEASE BETWEEN  
THE VILLAGE OF DOWNERS GROVE AND TRACY SPAKAUSKY**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Settlement Agreement (the "Agreement"), between the Village of Downers Grove (the "Village") and Tracy Spakausky ("Spakausky"), for the settlement and release of her claim concerning Case No. 14 L 786, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

\_\_\_\_\_  
Mayor

Passed:

Attest: \_\_\_\_\_

Village Clerk

### SETTLEMENT AGREEMENT AND RELEASE

This Agreement is entered into this 4<sup>th</sup> day of March 2016, by the undersigned parties, the Village of Downers Grove (hereinafter referred to as the "Village") and Tracy Spakausky (hereinafter referred to as "Spakausky").

WHEREAS, on September 18, 2013, Spakausky was walking on the sidewalk located near 4641 Saratoga Avenue in Downers Grove when she tripped and fell on an uneven sidewalk slab; and,

WHEREAS, Spakausky sustained injuries as a result of that incident for which she received medical treatment; and,

WHEREAS, Spakausky filed a lawsuit in the Circuit Court of DuPage County against the Village, case number 14 L 786, seeking recovery for said damages; and

WHEREAS, Spakausky and the Village desire to settle said lawsuit.

NOW THEREFORE, in consideration of the terms and conditions set forth below, the parties do hereby agree as follows:

1. The above recitals are hereby incorporated by reference as though fully set forth herein.
2. The Village agrees to pay to Spakausky \$55,000.00 to settle the aforementioned lawsuit. Upon execution of this Settlement Agreement and Release, Spakausky shall dismiss her lawsuit against the Village with prejudice.
3. For the sole consideration of \$55,000.00, the receipt of which is hereby acknowledged, Spakausky, being of lawful age, hereby irrevocably and unconditionally releases and forever discharges the Village of Downers Grove, a Municipal Corporation, its officers, representatives, servants, agents and employees, or its successors, an any and all other persons, firms and corporations, of and from any and all claims, liabilities, demands, rights, causes of action of any kind, present or contingent, including costs and expenses of litigation, whether recoverable at common law or pursuant to statute, the undersigned now has, or hereafter may have on account of, or in any way growing out of personal injuries, loss of damage to property, constitutional deprivations, or any other action addressable under the Constitution, statutes or common law of the United States of America or State of Illinois, whether known or unknown to the undersigned at this present time, resulting from a trip and fall on the sidewalk located near 4641 Saratoga Avenue which occurred on or about September 18, 2013 in the Village of Downers Grove, Illinois.

4. Spakausky agrees that she has carefully read and fully understands the terms and effect of this Agreement, has consulted with her counsel and that she is voluntarily entering into this Agreement, for the consideration stated herein and for no other consideration.

5. This release expresses a full and complete settlement and satisfaction, regardless of the adequacy of the aforesaid consideration, of any and all damages so sustained by Spakausky or her property resulting from said aforesaid occurrence. Spakausky acknowledges and understands that there may be unknown or unanticipated injuries resulting from the above stated occurrence and in signing this Release she understands and agrees that this Release is intended to include such injuries.

6. The parties acknowledge that this settlement is the compromise of a disputed claim and that the payment is not to be construed as an admission of liability on the part of the Village, its representatives, officers, agents and employees.

7. Spakausky further declares and represents that no promise, inducement or agreement not herein expressed has been made to her and that this Release contains the entire agreement.

  
Tracy Spakausky

\_\_\_\_\_  
David Fieldman, Village Manager

Attest:

\_\_\_\_\_  
Village Clerk