

VILLAGE OF DOWNERS GROVE
Report for the Village Council Meeting
12/6/2022

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| SUBJECT: | SUBMITTED BY: |
| Settlement Agreement <i>McAdams v. Village of Downers Grove</i> , Case No. 22 LA 473 | Enza Petrarca Village Attorney |

SYNOPSIS

A resolution has been prepared to authorize execution of a settlement regarding *McAdams v. Village of Downers Grove*, Case No. 22 LA 473.

STRATEGIC PLAN ALIGNMENT

The strategic goals for 2021-2023 include *Steward of Financial and Environmental Sustainability*.

FISCAL IMPACT

The settlement amount is \$300,000, which will be paid from the Risk Fund.

RECOMMENDATION

Approval on the December 6, 2022 consent agenda.

BACKGROUND

On May 30, 2021, Dorothy McAdams sustained injuries when she fell on broken curbing at the southeast corner of the intersection of Main and Curtiss Streets when she began to cross Curtiss Street. Ms. McAdams received significant medical treatment for her injuries. Ms. McAdams filed a lawsuit against the Village in the Circuit Court of DuPage County, Case No. 22 LA 473, seeking recovery for said damages. Upon approval of this settlement agreement, Ms. McAdams' 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 DOROTHY MCADAMS**

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 Dorothy McAdams (“McAdams”), for the settlement and release of her claim concerning Case No. 22 LA 473, 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 7th day of December, 2022, by the undersigned parties, the Village of Downers Grove (hereinafter referred to as the "Village") and Dorothy McAdams (hereinafter referred to as "McAdams").

WHEREAS, on May 30, 2021, McAdams was walking northbound near the curb and crosswalk at the southeast corner of the intersection of Main Street and Curtiss Street when she tripped on the broken curbing in Downers Grove, Illinois; and,

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

WHEREAS, McAdams filed a lawsuit in the Circuit Court of DuPage County against the Village, case number 22 LA 473, seeking recovery for said damages; and

WHEREAS, McAdams 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 McAdams \$300,000.00 to settle the aforementioned lawsuit. Upon execution of this Settlement Agreement and Release, McAdams shall dismiss her lawsuit against the Village with prejudice.
3. For the sole consideration of \$300,000.00, the receipt of which is hereby acknowledged, McAdams, 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, employees, insurers, or its successors, and all other persons, firms and corporations, of and from any and all claims, liabilities, demands, rights, loss of use, loss of services, consequential damages, 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 incident which occurred on or about May 30, 2021 in the Village of Downers Grove, Illinois.

4. **This payment includes any and all medical liens, INCLUDING MEDICARE, present or future, regarding the above described occurrence or accident, which McAdams has assumed as part of the settlement agreement, and for which McAdams agrees to indemnify the released parties should a claim be made against them.**

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

6. 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 McAdams resulting from said aforesaid occurrence. McAdams 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.

7. 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.

8. McAdams 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.

Dorothy McAdams

Dorothy McAdams

Village of Downers Grove
By: David Fieldman, Village Manager

Attest:

Village Clerk