

RESOLUTION NO. 2017- 42

**A RESOLUTION APPROVING
A SETTLEMENT AGREEMENT BETWEEN THE VILLAGE OF
MAYWOOD AND THE MAYWOOD FIREFIGHTERS' PENSION FUND**

WHEREAS, the Village of Maywood ("Village") is a home rule municipality established and existing in accordance with the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village of Maywood and the Maywood Firefighters' Pension Fund have previously been engaged in, and have entered into a previous settlement regarding, litigation relative to the Village's pension fund contributions and tax levy (Case Numbers 00 CH 13048 and 04 CH 10157) (the "Litigation"); and

WHEREAS, in order to further resolve certain ongoing disputes between the Parties, the Parties have agreed to settle and resolve all of their differences as set forth in the Settlement Agreement which is attached hereto as **Exhibit "1"**; and

WHEREAS, the President and Board of Trustees of the Village of Maywood and the members of the Maywood Firefighters' Pension Fund desire to resolve their differences without delay in a manner that is fair to the Village, the members of the Pension Fund and the residents of the Village and to that end, the President and Board of Trustees find approval of the attached Settlement Agreement to be in the best interests of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: The recitals set forth above are incorporated by reference into this Section 1 as material terms.

SECTION 2: The President and Board of Trustees of the Village of Maywood approve and authorize the execution of the Settlement Agreement, a copy of which is attached hereto as **Exhibit "1"**. Further, the Board of Trustees authorize and direct the Village President and Village Clerk, or their designees, to execute the Settlement Agreement, and to execute and deliver all other instruments and documents that are necessary to fulfill the Village's obligations under the Agreement.

ADOPTED this 15th day of August, 2017, pursuant to a roll call vote as follows:

AYES: Mayor Edwenna Perkins, Trustee(s) H. Yarbrough, Sr., I. Brandon, A. Sanchez, K. Wellington, M. Lightford and R. Rivers

NAYS: None

ABSENT: None

APPROVED by me as Village President, and attested to by the Village Clerk, on the 15th day of August, 2017.

Village President

ATTEST:

Village Clerk

Exhibit "1"

SETTLEMENT AGREEMENT

(attached)

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

BOARD OF TRUSTEES OF THE)	
MAYWOOD FIREFIGHTERS')	
PENSION BOARD,)	
)	
Plaintiff,)	No. 00 CH 13048
)	04 CH 10157
v.)	
)	
THE VILLAGE OF MAYWOOD,)	
)	
Defendant.)	

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is entered into between the Board Of Trustees of the VILLAGE of Maywood Firefighters' Pension Fund (the "PENSION FUND" or "Pension Board") and the VILLAGE of Maywood, an Illinois Municipal Corporation, (the "VILLAGE"). The VILLAGE and the PENSION FUND shall collectively be referred to as the "Parties."

WHEREAS, this PENSION FUND has filed a Motion to Compel Enforcement of Settlement Agreement and For Rule to Show Cause Why the Defendant and Certain Individuals Should Not Be Held In Contempt in the Circuit Court of Cook County, Case No. 00 CH 13048 and Case No. 04 CH 10157 (referred to as the "Motion"). These proceedings involve pleadings and allegations which have given rise to numerous and varied differences of opinion, arguments, allegations and positions taken by the PENSION FUND and the VILLAGE; and

WHEREAS, this Agreement is meant and intended by the Parties to resolve any and all differences involving the funding of the Maywood Firefighters' Pension Fund and disputes between the Parties, which existed or which could have been claimed to exist, at the time of this Agreement; and

WHEREAS, the Parties desire to reach an amicable compromise and settlement of said claims.

NOW, THEREFORE, in consideration of the foregoing and for the mutual promises herein after set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the Parties agree to compromise, settle and resolve any and all existing and potential claims, counterclaims, causes of action, and potential law suits between them relating to the funding of the Maywood Firefighters' Pension Fund as of the date of this Agreement upon the following terms and conditions:

A. COVENANTS AND WARRANTIES OF THE PARTIES

In consideration of the mutual promises contained in this Settlement Agreement, the Parties agree as follows:

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

2. Upon written request of the Pension Board, the VILLAGE agrees that it shall forward to the Pension Board copies of all the "Records of Distribution Forms" submitted to the VILLAGE by the Cook County Collector's Office within ten (10) calendar days receipt of said forms by the VILLAGE. That correspondence will be sent to: President of the Pension Board, 700 West St. Charles Road, Maywood, Illinois 60153. Failure to comply with the ten (10) calendar time period will not be an actionable violation of this Order under Section 5 below, but failure to timely provide copies of the requested document(s) will be actionable pursuant to the Illinois Freedom of Information Act.

3. Upon written request of the Pension Board, the VILLAGE agrees that it will provide the PENSION FUND with a certified copy of the VILLAGE's annual tax levy ordinance each year no more than thirty (30) calendar days after the ordinance is filed with the Cook County Clerk's Office. Failure to comply with the thirty (30) calendar time period will not be an actionable violation of this Order under Section 5 below, but failure to timely provide copies of the requested document(s) will be actionable pursuant to the Illinois Freedom of Information Act.

4. Commencing with the real estate tax levy approved by the VILLAGE in December 2015, and continuing thereafter, the VILLAGE shall annually levy a tax upon all taxable property of the VILLAGE, as required in §5/4-118 of the Illinois Pension Code. The amount of tax levy shall be determined as follows:

a. The VILLAGE, at its option and cost, may obtain an actuarial analysis and report ("Village Actuarial Report"), prepared by a VILLAGE selected enrolled actuary, of the Village of Maywood Firefighters' Pension Fund each year for purposes of determining the VILLAGE'S annual tax levy contribution to the Maywood Firefighters' Pension Fund. The Village Actuarial Report shall be completed and delivered to the Maywood Firefighters' Pension Fund on or before September 30 of each year in order to allow the VILLAGE to review and consider the calculations and pension levy recommendation set forth in the Village Actuarial Report as part of its annual tax levy process, subject to the terms of this Settlement Agreement.

b. The PENSION FUND, at its option and cost, may obtain an actuarial analysis and report ("Pension Fund Actuarial Report"), prepared by a PENSION FUND

selected enrolled actuary, of the Village of Maywood Firefighters' Pension Fund. The Pension Fund Actuarial Report shall be completed and delivered to the Village Manager on or before September 30 of each year in order to allow the VILLAGE to review and consider the calculations and pension levy recommendation set forth in the Pension Fund Actuarial Report as part of its annual tax levy process, subject to the terms of this Settlement Agreement.

c. If the VILLAGE does not obtain an actuarial analysis by an enrolled actuary, then the VILLAGE shall levy the lowest annual pension contribution amount as recommended in the Pension Fund Actuarial Report. If neither the VILLAGE or the PENSION FUND obtain an actuarial analysis by an enrolled actuary, then the VILLAGE shall levy the lowest annual pension contribution amount provided by the Illinois Department of Insurance.

d. If the Village Actuarial Report requires a higher annual pension contribution amount than the Pension Fund Actuarial Report, then the dollar amount to be levied shall be the lowest annual pension contribution amount recommended by the Village Actuarial Report.

e. If the Village Actuarial Report's recommended annual pension contribution amount is lower than the Pension Fund Actuarial Report's recommended annual pension contribution amount by a difference of Ten Percent (10%) or less, then the dollar amount to be levied shall be the Village Actuarial Report's lowest recommended annual pension contribution amount.

f. In the event that both the VILLAGE and the PENSION FUND choose to perform actuarial analyses by enrolled actuaries for the same pension contribution year, and the lowest recommended annual pension contribution amount, as contained in the Village Actuarial Report, is lower than the lowest recommended annual pension contribution amount, as contained in the Pension Fund Actuarial Report, by a difference of greater than Ten Percent (10%), then the VILLAGE shall levy an annual pension contribution amount based on the average of the lowest recommended annual pension contributions as set forth in the Village Actuarial Report and the Pension Fund Actuarial Report. In the event the difference between the Parties' respective lowest recommended annual pension contribution amounts is greater than Fifteen Percent (15%) and the Parties cannot reach an agreement on the annual pension contribution amount, the Parties agree to jointly hire a third enrolled actuary to perform the actuarial analysis. The third enrolled actuary shall consider the criteria and actuarial assumptions provided by both Parties to determine his/her recommended annual pension contribution amount and the VILLAGE shall levy the lowest recommended annual pension contribution amount as calculated by the third enrolled actuary.

5. The VILLAGE agrees that in the event that it violates any of the terms and conditions contained in this Agreement, the VILLAGE will be responsible for payment of the PENSION FUND'S legal expenses and any cost incurred by the PENSION FUND in enforcing the terms of this Agreement.

6. The VILLAGE agrees that in the event that it violates any of the terms and conditions contained in this Agreement, the VILLAGE will consent to the entry of a preliminary and permanent injunction against the VILLAGE in order for the PENSION FUND to enforce the terms and conditions of this Settlement Agreement.

B. COVENANTS AND WARRANTIES OF THE PENSION FUND

In consideration of the mutual promises contained in this Agreement, the PENSION FUND agrees as follows:

1. Nothing contained in the Agreement shall constitute a waiver by the MAYWOOD FIREFIGHTERS PENSION FUND of any rights to take future legal action against the VILLAGE OF MAYWOOD or its elected and appointed officials for violation of the provisions of the Illinois Pension Code, or other State or Federal statutes, which may occur subsequent to the execution of this Agreement, for which the PENSION FUND does not know or expect exist at the time of this execution of this Agreement, and which are not provided for under the terms and provisions of this Agreement.

2. Simultaneously with the execution of this Agreement, the PENSION FUND will file with the Circuit Court of Cook County a dismissal order for the MOTION TO COMPEL ENFORCEMENT OF SETTLEMENT AGREEMENT AND FOR RULE TO SHOW CAUSE WHY THE DEFENDANT AND CERTAIN INDIVIDUALS SHOULD NOT BE HELD IN CONTEMPT. Such dismissal orders shall allow for the Circuit Court of Cook County to retain jurisdiction for the enforcement of this Agreement.

C. GENERAL PROVISIONS

1. The Parties hereto agree that the law of the State of Illinois and the Federal law of the United States of America are applicable to the interpretation and/or enforcement of this Agreement.

2. This Agreement shall be binding upon and inure to the benefit of the parties hereto their official representatives, as well as their successors and assigns, officers and agents.

3. The Parties acknowledge that this Agreement sets forth all promises, agreements, conditions and understandings between the parties relative to the subject matter hereof, and that there are no promises, agreements or understandings, either oral or written, express or implied, between them other than contained herein. The parties agree that if any term, covenant, condition or provisions of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms and conditions of this Agreement shall remain in full force and effect.

4. The Circuit Court shall retain jurisdiction over this matter for the limited purpose of enforcing the terms and conditions of the Agreement.

5. This Agreement may be executed in multiple duplicate counterparts and each such execution shall be deemed to be an original.

6. The VILLAGE and the PENSION FUND warrant and represent that the execution, delivery of, and performance under this Agreement is pursuant to authority, validly and duly conferred upon the Parties and the signatories hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this day of _____, 2017.

VILLAGE OF MAYWOOD

By: _____
Its attorney

**BOARD OF TRUSTEES OF
MAYWOOD FIREFIGHTERS
PENSION FUND**

By: _____
Its attorney

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CLERK'S CERTIFICATE

I, Viola Mims, Clerk of the Village of Maywood, in the County of Cook and State of Illinois, certify that the annexed and foregoing is a true and correct copy of that certain Resolution now on file in my Office, entitled:

RESOLUTION NO. 2017- 42

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A SETTLEMENT AGREEMENT BETWEEN THE VILLAGE OF
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which Resolution was passed by the Board of Trustees of the Village of Maywood at a Regular Village Board Meeting on the 15th day of August, 2017, at which meeting a quorum was present, and approved by the President of the Village of Maywood on the 15th day of August, 2017.

I further certify that the vote on the question of the passage of said Resolution by the Board of Trustees of the Village of Maywood was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Maywood, and that the result of said vote was as follows, to-wit:

AYES: Mayor Edwenna Perkins, Trustee(s) H. Yarbrough, Sr., I. Brandon, A. Sanchez, K. Wellington, M. Lightford and R. Rivers

NAYS: None

ABSTAIN: None

ABSENT: None

I do further certify that the original Resolution, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Maywood, this 15th day of August, 2017.

Village Clerk

[SEAL]