

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (the "Agreement") is entered into as of the date last entered on the execution pages by Jennifer Panattoni ("Panattoni") and the Village of Frankfort (the "Village"). Panattoni and the Village are each referred to as a "Party" and are collectively referred to as the "Parties" in this Agreement.

Background

1. Panattoni previously filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC"), Charge No. 440-2016-04870, which was cross-filed with the Illinois Department of Human Rights ("IDHR") as Charge No. 2017CR3183; and filed a second Charge with the EEOC, Charge No. 440-2018-05849, cross-filed with the IDHR as Charge No. 2018CR2755 (collectively, the "Charges"). The EEOC issued Dismissal and Notice of Rights letters regarding the Charges on June 20, 2017 and June 14, 2018, respectively. The IDHR issued Notice of Dismissal and Order of Closure letters regarding the Charges on October 2, 2017 and October 15, 2018, respectively.

2. Panattoni filed a lawsuit based upon the claims asserted in the Charges, pending in the United States District Court for the Northern District of Illinois, Eastern Division, known as *Panattoni v. Village of Frankfort*, Case No. 17-CV-6710, in which the Village is named as a defendant (hereinafter referred to as the "Lawsuit");

3. The Parties have agreed to compromise the Charges, the Lawsuit and all other disputes between them in order to avoid the expense, inconvenience and delay of further litigation.

IT IS HEREBY AGREED AS FOLLOWS:

1. **Waiver and General Release:** Except for breaches of this Agreement, Panattoni, on behalf of herself and all of her heirs, executors, administrators, representatives, and assigns, irrevocably waives, releases and discharges the Village (including but not limited to its employees, officers, Trustees, and agents in matters connected with Panattoni's employment) from:

- a. Any and all claims or causes of action, known or unknown, arising on or before the date that Panattoni signs this Agreement, based upon unlawful discrimination; retaliation for engaging in legally protected activity; denial of or failure to provide paid or unpaid leave or reasonable accommodations; or denial or failure to provide any promotion, light duty or other job assignment, uniforms, equipment, sick days, or any other benefits or terms or conditions of employment. This release specifically includes all claims that were included or could have been included in the Charges or the Lawsuit. This release further specifically includes all known or unknown claims under Title VII of the Civil Rights Act of 1964, as amended (including as amended by the Civil Rights Act of 1991 and including the Pregnancy Discrimination Act) ("Title VII"), 42 U.S.C. § 2000e *et seq.* and 42 U.S.C. § 1981a; the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*; the Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.*; and the Illinois Human Rights Act ("IHRA").

- b. Any and all other claims or causes of action that Panattoni knows of or reasonably should know of through the date on which she signs this Agreement. This includes any and all claims arising under any federal, state or local statute, ordinance, or regulation, any contract, express or implied, or the common law. Panattoni represents that she has previously asserted all claims known to her to exist as of the date that she signs this Agreement.
- c. The foregoing releases specifically include any and all claims for compensatory or punitive damages, liquidated damages, statutory penalties, attorneys' fees, and costs incurred by Panattoni in connection with any claims released above. The foregoing releases do not apply to any claims arising on or after the date on which Panattoni signs this Agreement. If any provisions of the foregoing releases are deemed unenforceable by a court of competent jurisdiction, the Parties agree that the releases shall be enforced to the maximum extent deemed permissible under applicable law.

2. **Dismissal of Lawsuit:** Within 10 business days after the Agreement is fully executed, the parties, through their attorneys, will jointly file a motion asking the Court to dismiss the Lawsuit without prejudice and to retain jurisdiction over the case and the parties for the limited purpose of enforcing the terms of the Agreement. The parties will further ask the Court to convert the dismissal without prejudice to a dismissal with prejudice after the earlier of 180 days or upon a jointly-filed request of the parties, whichever is earlier, unless prior to that date a party files a motion to reinstate or to enforce the Agreement, or a motion for additional time to file a motion to reinstate or a motion to enforce the Agreement. The parties agree that either party may file this Agreement with the Court as part of a motion to reinstate or to enforce the Agreement.

3. **Covenant Not to Sue:** Panattoni warrants that, other than the Lawsuit and Charges, she has not filed or initiated any claim of any type against the Village with any court, governmental or administrative agency. Panattoni further warrants that she will not file or join as a Party in any lawsuit based upon any claim released in Section 1 above. Nothing in this Agreement prohibits Panattoni from filing a charge with the EEOC or state fair employment practices agency, or participating in an investigation by the EEOC or state fair employment practices agency. Panattoni specifically waives the right to receive any benefits or relief as a consequence of any charge filed by her (including but not limited to the Charge) or filed by any other person against the Village with any court or governmental agency based upon any claim released in Section 1 of this Agreement. This section does not apply to claims for enforcement of this Agreement, as provided elsewhere in this Agreement. The Parties further agree that this Agreement is not intended to cover, and does not cover, any claims which may arise out of conduct occurring after the effective date of this Agreement, which shall be the last date that appears on the execution pages. The Parties agree that this Agreement does not release or discharge the Village of responsibility or liability for any violations, damages, deprivations of rights or injuries to Panattoni's person or property arising out of conduct that occurs after the effective date of this Agreement, including but not limited to any unlawful discriminatory or retaliatory conduct that may occur after the date of this Agreement.

4. **Limitations on Disclosure:** The parties understand that this Agreement is a public record pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/2.20. The parties agree

that any public statements they or their attorneys make concerning this Agreement shall be factually accurate and supported by the provisions of this Agreement.

5. **Non-Disparagement:** Panattoni and the Village agree not to disparage the other party in any public statements either party makes concerning this Agreement or the facts and events alleged in the Charges or the Lawsuit, whether the statement is oral or written and including but not limited to publicly accessible posts or comments on any social media platform (e.g., Facebook, YouTube, Twitter, etc.). It shall not be considered disparagement for either party to discuss the facts of this matter in an objective fashion.

6. **Settlement Payment:** In consideration of the foregoing, the Village will cause to be issued a Settlement Payment in the total gross amount of One Hundred Ninety Thousand Dollars and No Cents (\$190,000.00), allocated as follows:

- a. A check in the amount of Seventy-Two Thousand Two Hundred Seventy-Three Dollars and Twenty-Nine Cents (\$72,273.29), less applicable withholdings, payable to Jennifer Panattoni, allocated as back pay. The Village shall issue at the appropriate time an IRS Form W-2 for this amount to Panattoni. Panattoni agrees that she will execute an IRS Form W-4 immediately after the execution of this Agreement and provide this to Village counsel;
- b. A check in the amount of One Hundred Seventeen Thousand Seven Hundred Twenty-Six Dollars and Seventy-One Cents (\$117,726.71), payable to "Kirkland & Ellis LLP and Jennifer Panattoni" and delivered to Panattoni's counsel of record at 150 N. Michigan Ave., Suite 600, Chicago IL 60601, from which Panattoni's counsel of record will be paid attorneys' fees and costs, with the remainder allocated to Panattoni in settlement of her claims. Panattoni and her counsel of record are responsible for allocating this payment between and among themselves.
- c. The Settlement Payment will be issued within 15 business days after all the following conditions have been satisfied:
 - i. The Village has received a counterpart of this Agreement signed by Panattoni;
 - ii. The Village's Board has voted to approve this Agreement and authorized an appropriate representative of the Village to sign it on behalf of the Village;
 - iii. The Lawsuit has been dismissed without prejudice, pending the implementation of the provisions identified in Section 7 below.
- d. The Parties agree that the Village will report the Settlement Payment on IRS form(s) 1099, except that the portion of the Settlement Payment described in Section 2(a) of this Agreement will be reported on an IRS Form W-2.

7. Implementation of Policy Changes and Rescheduled Training for Panattoni:

In further consideration of the foregoing, the Parties agree that:

a. The Village will adopt changes to its policies as necessary to accomplish the principles set forth in Exhibit 1 which have been previously agreed by the parties, and which include but are not limited to changes to written policies, procedures, forms, and training (hereinafter referred to collectively as "the agreed policy changes"). The Village will implement the agreed policy changes within 90 days of the date this Agreement is fully executed.

b. The Village will schedule Panattoni for accident reconstruction training classes, to be paid for by the Village, as soon as reasonably practicable and available locally (e.g., through Northwestern or Tri-River Police Training) following her return to work. If the Village schedules training for Panattoni in accordance with this paragraph and Panattoni declines or fails to attend the training, the Village's obligations under this Section 7.b will be satisfied.

Promptly following the completion of items 7.a and 7.b, if Lawsuit has not yet been dismissed with prejudice, the parties agree to take such steps as may be necessary to cause the Court to dismiss the Lawsuit with prejudice, with each party to bear their own costs and attorneys' fees, except as otherwise provided in this Agreement.

8. No Admission: This Agreement does not constitute any admission of fault, responsibility or liability on the part of the Village. Panattoni acknowledges that the Village has denied, continues to deny and will deny in the future any wrongdoing with respect to the claims and allegations in the Charges and the Lawsuit.

9. Non-Discrimination and Non-Retaliation. The Village agrees that there shall be no discrimination or retaliation in violation of Title VII or the IHRA against any person, including Panattoni and Joel Panattoni, because of the Charges and the Lawsuit, or actions relating to those Charges, the Lawsuit, or this Agreement. The parties agree that this Agreement does not create any independent cause of action for discrimination or retaliation in violation of Title VII or the IHRA, nor does it waive any procedural requirements for any such claims.

10. Tax/Responsibility: Panattoni is solely responsible for any and all federal, state or local taxes that may be due by her as a result of receipt of the Settlement Payment. Neither the Village nor its attorneys make any representations or warranties about the tax consequences of the Settlement Payment.


11. Acknowledgments: Panattoni hereby acknowledges that: (1) the consideration she will receive under this Agreement is in addition to anything of value to which she is otherwise entitled to receive from the Village under applicable law; (2) the Agreement is written in a manner understood by Panattoni, and she has read and understands this Agreement; (3) she is legally competent to execute this Agreement; and (4) she has been advised to consult with an attorney of her choice and has in fact consulted with her attorney before executing this Agreement. This Agreement will become effective as of the latest date that appears on the execution pages.

12. **Entire Agreement:** This Agreement sets forth all of the promises, agreements, terms, conditions, and understandings between the Parties as of the date of this Agreement. No other promises, agreements, representations, or undertakings – whether oral or written, express or implied – exist between Panattoni and the Village. The Parties agree that the terms of this Agreement constitute the entire Agreement between the Village and Panattoni, and supersedes and renders null and void any and all prior agreements entered into between the Village and Panattoni, whether written or oral, concerning the subject matters addressed in this Agreement. The Parties further warrant and agree that no promise or inducement has been offered for this Agreement other than as set forth in this Agreement. This Agreement may be executed by facsimile signature and in duplicate counterparts.

13. **Choice of Law/Venue:** The validity, enforceability and interpretation of this Agreement shall be construed according to the laws of the State of Illinois. Following dismissal of the Lawsuit with prejudice, any action to enforce this Agreement or to recover damages on account of an alleged breach may be brought only in a court of competent jurisdiction within Will County, Illinois. Panattoni consents to the jurisdiction of these courts over her person for the purposes of such an action.

WHEREFORE, the Parties have affixed their signatures below.

JENNIFER PANATTONI


Date: 3/13/19

THE VILLAGE OF FRANKFORT

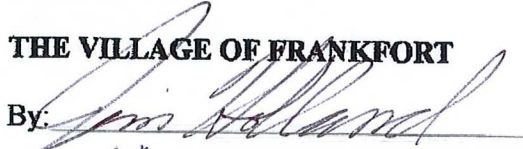
By: 
Title: Mayor
Date: 4/3/19

EXHIBIT 1

The Village will revise its policies as necessary to accomplish the following:

- i. Include procedures for requesting reasonable accommodations for pregnancy, childbirth, and related conditions, which shall be granted unless doing so would impose an undue hardship on the ordinary operation of the Village's business (775 ILCS 5/2-102(J)(1)), even if the requested accommodation does not apply to officers other than pregnant officers (e.g., maternity uniforms);
- ii. Treat pregnancy as favorably as other conditions that require accommodation, regardless of the source of the injury, except that the parties agree that an officer who takes leave due to an injury suffered in the line of duty, is entitled to benefits for not longer than one year pursuant to the terms set forth under the Public Employee Disability Act (PEDA) (5 ILCS 345/1(b), (d));
- iii. Provide for accommodations such as access to properly-fitting uniforms and body armor, measures to alleviate discomfort from other gear, and schedule modifications, unless doing so would impose an undue hardship on the ordinary operation of the Village's business; and
- iv. Provide that Frankfort Police Department ("FPD") officers shall be made aware, at regular intervals, of their right to accommodation of pregnancy, childbirth, and related medical conditions and the process by which they can make requests for such accommodations (including the use of the accommodations request form set forth in principle #8).

With respect to accommodations for pregnancy, childbirth, and related conditions when no accommodation can be identified that would permit the officer to perform her essential job functions, FPD policies will adhere to the following principles:

1. If no accommodation can be identified that would permit the officer to perform her essential job functions, as described in the Village's job description, the Village and the officer shall explore whether there are any accommodations, such as a temporary transfer, reassignment, or job restructuring, that would permit the officer to work for the Village in another capacity for the duration of the pregnancy or the recovery from the pregnancy related condition. (56 Ill. Adm. Code 2535.120(b).) If no accommodation can be provided for the duration of the pregnancy or the recovery from the pregnancy related condition that would not impose an undue hardship, the Village will explore whether there are any accommodations that would permit the officer to work for the Village in another capacity for a portion of her pregnancy, in accordance with principle #2 below. The Village shall grant such accommodations unless doing so would impose an undue hardship on the ordinary operation of the Village's business. Accommodations that would permit the officer to work for the Village in another capacity during pregnancy or the recovery from the pregnancy related condition shall hereinafter be referred to as temporary transfer, reassignment, or job restructuring accommodations, or TRR

accommodations. (56 Ill. Adm. Code 2535.120(b), 2535.130). Examples of TRR accommodations include, but are not limited to:

- (a) temporary transfer to a less strenuous or less hazardous position;
- (b) temporary reassignment to a vacant position within FPD or the Village; or
- (c) temporary restructuring of the officer's current position.

(56 Ill. Adm. Code 2535.130.)

The Village shall maintain a "task bank" of available non-patrol tasks and projects as such tasks and projects are identified which may be combined with less-strenuous or less-hazardous patrol officer duties, such as taking walk-in complaints, as part of a temporary restructuring of an officer's position. The tasks in the "task bank" may not be sufficient to occupy an officer requesting TRR accommodations on a full-time basis. Before TRR accommodations can be considered, the officer and the Village will determine whether there are modifications that can be made that would allow the officer to continue performing the essential job functions of an officer, including but not limited to modifying the officer's uniform or gear, or assigning the officer to a temporary or vacant special assignment.

2. If the Village believes the TRR accommodation requested by the officer will impose undue hardship, the Village shall respond to the request by identifying any alternative(s) available that could accommodate the officer's pregnancy condition in lieu of the requested accommodation. (56 Ill. Adm. Code 2535.120(a)). Any alternative proposed by the Village shall (1) adequately accommodate the officer's pregnancy condition; (2) have the same or a lesser impact upon the officer's earnings or benefits as the accommodation or assignment requested by the officer; (3) impose a lesser disruption to Village operations; and (4) be within the restrictions or recommendations of the officer's health care provider (56 Ill. Adm. Code 2535.120(c)).
3. Under no circumstances will the Village create a new position for any officer requesting accommodation that the Village would not otherwise have created to accommodate any other officer, including an officer injured on the job. (56 Ill. Adm. Code 2535.100(e)(1)).
4. The parties understand that an officer who takes leave after suffering any injury in the line of duty which causes the officer to be unable to perform his/her duties will be paid his/her full salary for up to one year, in accordance with the requirements of PED. 5 ILCS 345/1(b), (d). If an officer takes leave as the result of pregnancy, childbirth, or a related condition, the officer will be accommodated with unpaid leave with the option to apply her accrued benefit time. The Village shall not require an officer affected by pregnancy, childbirth, or a related condition to take leave if another reasonable accommodation can be provided. (775 ILCS 5/2-102(J)(4)).
5. If an officer receives a TRR accommodation by filling a position that is temporarily vacant, the Village is not obligated to hold that position open for the duration of the employee's need for accommodation.

6. The Village is not obligated to assign an officer who requests accommodation to a position for which the officer is not qualified and able to perform the duties of the position. (56 Ill. Adm. Code 2535.130(b).)
7. An officer who requests accommodation is not obligated to accept a TRR accommodation proposed by the Village. However, if the Village proposes in good faith a TRR accommodation for a pregnant officer that satisfies the requirements for an alternative accommodation under principle #2, and if the Village engages in a meaningful discussion regarding the proposed TRR accommodation (56 Ill. Adm. Code 2535.120(c)), then the officer will not be paid her regular rate if the officer declines the TRR accommodation. Rather, the officer will be accommodated with unpaid leave with the option to apply her accrued benefit time.
8. The Village shall create an accommodations request form, which may include a requirement that the form be accompanied by documentation from a health care provider to the extent permissible under state and federal laws and regulations. For officers seeking accommodation due to pregnancy or recovery from childbirth, such documentation need only: (1) state the medical justification for the requested accommodation; (2) state the type of accommodation the officer is seeking; (3) provide the date the accommodation became medically advisable; and (4) estimate the probable duration of the need for the accommodation. (56 Ill. Adm. Code 2535.170). Any request made by the Village for documentation from a health care provider shall be job-related and consistent with business necessity, and shall not be for information which is known or readily apparent to the Village. (56 Ill. Adm. Code 2535.170). The Village shall not deny an officer's request for reasonable accommodations on the sole basis that the officer did not submit an accommodations request form; however, if more officers seek a TRR accommodation than can be granted simultaneously by the Village without undue hardship, available TRR accommodations will be awarded based upon the date that the officer's accommodation request form requests the accommodation to begin. When the Village proposes to grant a TRR accommodation to an officer, it will inform the officer of the date the TRR accommodation is estimated to start; the anticipated work schedule for the TRR accommodation; and the anticipated duration for the TRR accommodation. If the officer needs a TRR accommodation beyond the probable duration identified by her healthcare provider, the Village may request additional information from the healthcare provider consistent with the requirements of this paragraph.
9. If the Village is able to identify a TRR accommodation with a schedule of 30 hours or more per week without causing undue hardship to the Village, the Village will grant a request for such TRR accommodation and pay the officer who accepts such accommodation at the officer's average weekly pay rate with full benefits. Where a TRR accommodation arises out of an officer's injury in the line of duty, the officer's pay will be counted toward the officer's entitlement to up to one year of his or her full salary, in accordance with the requirements of PEDDA. In assessing whether it can provide a TRR accommodation with a schedule of 30 hours or more per week without causing undue hardship to the Village, the Village shall engage in a meaningful discussion with the officer requesting accommodation to identify available work, including but not limited to

through the use of a task bank. The Village shall utilize this same TRR accommodation and pay structure for officers requesting accommodations due to pregnancy, childbirth, or related conditions as for officers requesting accommodation due to injury in the line of duty.

If the Village is not able to identify a TRR accommodation with a schedule of 30 hours or more per week without causing undue hardship to the Village, but is able to identify a TRR accommodation with a schedule of less than 30 hours per week, the Village shall offer the TRR accommodation to the officer requesting accommodation. If the officer accepts such accommodation, the Village shall pay the officer the officer's regular hourly rate of pay for the hours worked and allow the officer to accrue full benefits for the weekly pay period, and will not require the officer to use his or her accrued benefit time to make up the remainder of hours not worked compared to the officer's average weekly hours. If the officer accepts such accommodation, the Village shall periodically engage in a meaningful discussion with the officer requesting accommodation to identify whether additional work is available to increase the TRR accommodation schedule to 30 hours or more per week.

In either case described in this paragraph, if the officer declines the TRR accommodation, the officer will be accommodated with leave.