

Village of Mamaroneck



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November 26, 2018
4A AGENDA REGULAR MEETING

RESOLUTION AUTHORIZING SETTLEMENT IN GOMEREZ v. VILLAGE OF MAMARONECK

WHEREAS, by summons and complaint dated August 4, 2017, Jose Gomez, a police officer employed by the Village of Mamaroneck, commenced an action against the Village of Mamaroneck and various Village officers and employees, in the Supreme Court of the State of New York, County of Westchester, under Index No. 64350/2017, seeking to recover (i) money damages on the ground that he was discriminated against in violation of Executive Law § 296, 42 U.S.C. § 1983 and the First Amendment to the United States Constitution and (ii) attorneys' fees under 42 U.S.C. § 1985; and

WHEREAS, the Village tendered the defense of the action to Travelers Insurance Company, under a policy of liability insurance issued to the Village, and Travelers acknowledged coverage under the policy; and

WHEREAS, Travelers designated Jackson Lewis, P.C. as defense counsel; and

WHEREAS, the action was removed to the United States District Court for the Southern District of New York, where it is pending under Docket No. 18-civ-00196 (VB); and

WHEREAS, the defendants have denied, and continue to deny, each and every allegation of wrongdoing, including, but not limited to, the allegations and statements contained in the pleadings, and in any other document or statement whatsoever; and

WHEREAS, Jackson Lewis, P.C. has negotiated a settlement agreement on behalf of all of the defendants under which the plaintiff will discontinue the action upon payment of \$85,000; and

WHEREAS, Travelers' has paid the cost of defending this action beyond the applicable deductible under the policy and has agreed to pay the cost of the settlement; and

WHEREAS, Travelers has asserted that it has the right to settle the action without the consent of the Village and has advised the Village that if the Board of Trustees refuses to authorize the execution of the settlement agreement Travelers will decline to pay for the further defense of the action and will not indemnify the Village or the other defendants; and

WHEREAS, in light of the position Travelers has taken it is in the best interest of the Village to settle and resolve this matter,

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Village of Mamaroneck that the Acting Village Manager is authorized to execute the negotiated settlement agreement of behalf of the Village of Mamaroneck.