

Minutes
SPECIAL VILLAGE BOARD MEETING
Village Hall – 418 Main Street, Lemont, IL 60439
December 17, 2018
6:00 p.m.

A special meeting of the Lemont Village Board was held on Monday, December 17, 2018, at 6:00 p.m., with Mayor John Egofske presiding.

ROLL CALL: Blatzer, Kwasneski, Maher, McClafferty, Sniegowski and Stapleton; present.

III. EXECUTIVE SESSION for Discussion Under Chapter 5 ILCS 120 of the Open Meetings Act

- A. Pending Litigation 2(c)11
- B. Collective Bargaining 2(c)2

Motion by Sniegowski, seconded by McClafferty, to move into Executive Session. Roll call: Blatzer, Kwasneski, Maher, McClafferty, Sniegowski and Stapleton; VV 6 ayes. Motion passed.

Motion by Blatzer, seconded by Stapleton to move into regular session. VV 6 ayes. Motion Passed.

IV. ACTION ON CLOSED SESSION ITEMS

- A. Consideration of a Proposal Settlement Agreement – StudioGC Inc., et al. v Village of Lemont. Motion for approval authorizing entering into a settlement agreement for StudioGC, Inc. d/b/a StudioGC architecture v. Village of Lemont, Case No. 15-L-065065 (Cook County), made by Sniegowski, seconded by Maher. Roll Call: Blatzer, Kwasneski, Maher, McClafferty, Sniegowski, Stapleton; 6 ayes. Motion passed.

VI. MOTION TO ADJOURN

There being no further business, a motion was made by Blatzer, seconded by Stapleton, to adjourn the meeting at 7:10 p.m. VV 6 ayes. Motion passed.

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE is hereby entered into as of the 14th day of January 2019, by and between StudioGC, Inc. d/b/a StudioGC architecture+BIM ("PLAINTIFF") and Village of Lemont ("VILLAGE" or "DEFENDANT"); collectively referred to as the "PARTIES."

RECITALS

WHEREAS, PLAINTIFF has alleged that it sustained damages as a result of the alleged conduct of DEFENDANT, or certain official(s) thereof, which is described in the Complaint (and subsequent amendments thereto) in the litigation filed in the Circuit Court of Cook County, Illinois, titled StudioGC, Inc. d/b/a StudioGC architecture v. Village of Lemont, Case No. 15-L-065065, (hereinafter called "Plaintiff's Suit" or "the lawsuit");

WHEREAS, the PARTIES desire to enter into this Settlement Agreement and Release to provide, among other things, for a full and final settlement and discharge of all claims, actions, and controversies of PLAINTIFF for damages, which are, could be, or could have been the object of litigation, on the terms and conditions set forth herein;

WHEREAS, it is the express intention of the PARTIES that the purpose of this Agreement is to extinguish all of the claims made by PLAINTIFF so that the PLAINTIFF is forever precluded from presenting a claim or seeking damages against DEFENDANT, its agents, employers, employees, assigns, officers, directors or representatives, its insurance carriers, successors, predecessors, parent or affiliated companies, for breach of contract, quasi-contract, quantum meruit or any other claims or damages allegedly incurred by the Plaintiff that in any way arise out of or from the acts and omissions alleged in the lawsuit;

WHEREAS, it is understood and agreed that this settlement and release is in full compromise of a disputed claim, and that neither this Settlement Agreement and Release, nor the payment pursuant to this Settlement shall be construed as an admission of liability.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained in this Settlement Agreement and Release, the parties hereby agree as follows:

1. Recitals Incorporated

The foregoing Recitals are incorporated into this Agreement and made a part hereof as though fully set forth herein.

2. PLAINTIFF'S Release

In consideration of the payment of the sum stated herein, PLAINTIFF does hereby irrevocably and unconditionally release, acquit and forever discharge the Village of Lemont, as well as its past, present, and future officials, employees, agents, affiliates, subsidiaries, divisions, servants, representatives, affiliates, predecessors, successors in interest, assigns, insurers, officers, attorneys or any one of them, separately or jointly, and each member of the Village of Lemont Board of Trustees, (hereinafter collectively called the "Released Parties"), from any and all past, present, or future charges, claims, complaints, demands, obligations, actions, promises, agreements, controversies, suits, losses, debts, damages, costs, expenses (including attorneys' fees and costs actually incurred), benefits, lost income and compensations of any nature, or causes of action whatsoever, known or unknown, expected or unexpected, including without limitation, rights arising out of alleged violations of any state or federal law, which arise from events that have occurred in connection with or related to the allegations contained in the Complaint, including all economic and non-economic damages, whether based in constitutional law, tort law, statute, contract, quasi-contract or other theory of recovery, which PLAINTIFF now has, or which may

hereafter accrue or otherwise be acquired, on account of, or in any way growing out of, or which are the subject of, events that have occurred in connection with or related to the allegations contained in the Complaint, including, without limitation, any and all known or unknown claims for monetary and economic damages, or any other damages to PLAINTIFF, or any future claim of Plaintiff's legal representatives, which have resulted or may result from the events that have occurred in connection with or related to the allegations contained in the Complaint of the Released Parties related to the said events. This Release is entered into in settlement of PLAINTIFF's lawsuit based upon PLAINTIFF'S claims for damages allegedly caused by the Released Parties and is negotiated as a full and final release. This Release on the part of PLAINTIFF shall be a fully binding and complete settlement between PLAINTIFF and DEFENDANT, and their respective assigns and successors. PLAINTIFF understands that this Release includes all claims that PLAINTIFF, PLAINTIFF'S heirs, legal representatives and assigns, may have either individually or in a representative capacity against the Released Parties arising out of the events that have occurred in connection with or related to the allegations contained in the Complaint.

3. Dismissal of Pending Lawsuit With Prejudice

In consideration of the Settlement Agreement and Release and the payment and obligations herein, it is understood and agreed that the pending lawsuit, StudioGC, Inc. d/b/a StudioGC architecture+BIM v. Village of Lemont, filed in the Circuit Court of Cook County as Case Number 15-L-065065, shall be dismissed with prejudice upon receipt of the agreed upon settlement amount, as stated below, by Plaintiff. It is understood and agreed that this is a full and complete settlement of all controversies, actual or potential, related to the above referenced litigation by and between PLAINTIFF and the DEFENDANT. It is acknowledged that the amount sought by PLAINTIFF for services rendered was \$374,861 and that DEFENDANT has denied and continues to deny and dispute that it owes any amount to PLAINTIFF.

4. Monetary Payment

The payment of ONE HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$150,000.00) from the Village of Lemont to PLAINTIFF under this Settlement Agreement and Release shall constitute the sole consideration to PLAINTIFF from the DEFENDANT. The amount of \$150,000.00 is inclusive of all attorneys' fees, expenses and costs and shall be payable to Plaintiff within thirty (30) days after Plaintiff's execution of this document.

5. General Release

PLAINTIFF hereby acknowledges and agrees the Release set forth in Paragraph two (2) hereof is a general release as to the Released Parties as to the events that have occurred in connection with or related to the allegations contained in the Complaint, and PLAINTIFF further expressly waives and assumes the risk of any and all claims for damages arising out of the events that have occurred in connection with or related to the allegations contained in the Complaint, which exist as of this date but of which PLAINTIFF does not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect PLAINTIFF's decision to enter into this Release. PLAINTIFF hereby acknowledges that the consideration received under this Release is intended to and does release and discharge the Released Parties from any and all claims for, or complications or consequences arising from the events that have occurred in connection with or related to the allegations contained in the Complaint, known and unknown.

6. Fees and Costs of Pending Lawsuit

The payment by the Village of Lemont to PLAINTIFF of \$150,000.00 shall be inclusive of all costs, expenses and fees as a result of PLAINTIFF's lawsuit, including attorneys' fees and court costs.

7. **Court Approval**

This Agreement is not subject to approval by the court and shall be effective on the date contained herein.

8. **Law Applicable**

This Agreement shall in all respects be subject to and construed in accordance with and governed by the laws of the State of Illinois. Venue for any action arising out of the terms or conditions of this Agreement shall be proper only in the Circuit Court of Cook County.

9. **Non-Admission of Liability**

This Agreement shall not in any way be construed as an admission by the DEFENDANT, the Released Parties, or any of their officials, officers, agents, or employees, that they have acted wrongfully with respect to PLAINTIFF or any other person. The DEFENDANT and the Released Parties specifically disclaim any liability to or wrongful acts against PLAINTIFF or any other person, on the part of themselves, and the DEFENDANT's officers, agents, or employees.

10. **Non-Disparagement**

Neither Party shall, orally or in writing, publicly or privately, post, publish, make or express any comment, view or opinion which is adverse to, brings into disrepute in the eyes of the public, defames, or disparages the other, or authorize any agent or representative to make or express any such comment, view or opinion about the other Party, with respect to the lawsuit. The Parties further agree not to, orally, electronically, or in writing, publicly or privately, post, publish, make or express any comment, view or opinion which criticizes, is adverse to, brings into disrepute in the eyes of the public, defames, derogates or disparages another Party, nor shall any Party authorize any agent, director, employee, officer, or representative to make or express any such comment, view or opinion. The PARTIES agree to keep this document confidential, except as otherwise provided by law, including the Illinois Freedom of Information Act.

11. Agreement Inadmissible

This Agreement may not be used as evidence in any subsequent proceeding of any kind, except one in which any of the parties allege a breach of this Agreement.

12. Entire Agreement and Successors in Interest

PLAINTIFF acknowledges this Settlement Agreement and Release is the entire agreement and encompasses all terms and agreements negotiated by it in settlement of any and all claims relating to the events that have occurred in connection with or related to the allegations contained in the Complaint and that there is no other writing whatsoever. This Settlement Agreement and Release shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of PLAINTIFF. The parties agree that the terms of the Settlement Agreement and Release are contractual and are not mere recitals.

13. Reliance By PLAINTIFF

This Settlement Agreement and Release has been negotiated by PLAINTIFF. PLAINTIFF warrants, represents, and agrees that PLAINTIFF is not relying on the advice of DEFENDANT, DEFENDANT'S counsel, or anyone associated with DEFENDANT as to the legal and income tax consequences of any kind arising out of this Settlement Agreement and Release. No representations have been made by DEFENDANT regarding the taxability of all or any portion of this settlement.

Accordingly, PLAINTIFF hereby releases and forever holds harmless DEFENDANT, the Released Parties, any and all counsel or consultants thereof, for any claim, cause of action, or other rights of any kind which PLAINTIFF may assert because legal, income tax, or other consequences of this Settlement Agreement and Release are other than those anticipated by PLAINTIFF.

14. Warranty of Capacity to Execute Agreement

PLAINTIFF represents and warrants that no other person or entity has or has had any interest in the claims, demands, obligations, or causes of action referred to in this Settlement

Agreement and Release, except as otherwise set forth herein, that it has the sole right and exclusive authority to execute this Settlement Agreement and Release and receive the sums specified herein, and that it has not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this Settlement Agreement and Release.

15. Representation of Comprehension of Document

PLAINTIFF represents PLAINTIFF has at all times been afforded the opportunity to consult with counsel of PLAINTIFF's choice concerning every aspect of this Settlement Agreement and Release. PLAINTIFF has neither sought nor obtained legal advice from DEFENDANT'S counsel concerning any aspect of PLAINTIFF's Suit or this Settlement Agreement and Release. PLAINTIFF represents that PLAINTIFF has completely read and understands all terms of this Settlement Agreement and Release and that it is being executed voluntarily with full knowledge of its significance and consequences.

16. Future Cooperation

PLAINTIFF agrees to cooperate fully, to execute any and all supplementary documents, and to take additional actions that may be necessary or appropriate to give full force and effect to the terms of this Settlement Agreement and Release which are not inconsistent with its terms. PLAINTIFF agrees to release and tender to DEFENDANT any and all work product, including all electronic versions thereof, and to further cooperate as to any future questions or work that may result from the work product tendered. Notwithstanding the provisions of this paragraph, the PLAINTIFF may use all, or portions, of the plan and design for any future clients.

17. Severability

The provisions of this Agreement are severable and if any of its provisions are found to be unenforceable, the other provisions shall remain fully valid and enforceable. This Agreement shall survive the termination of any arrangements contained herein.

18. Effect of Signature

By signing this Settlement Agreement and Release, PLAINTIFF affirms that it has read and fully understands this Agreement and its provisions, in consultation with its attorney, and fully intends to be bound by the terms of this Agreement.

19. Execution in Counterparts

This Agreement may be executed in counterpart and a photocopy shall have the same force and effect as the original.

20. Effectiveness

This Settlement Agreement and Release shall become effective upon execution by PLAINTIFF on the attached, notarized signature page.

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have agreed to the above terms and have authorized signature as set forth below.

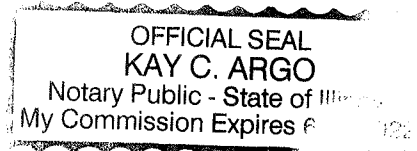
VILLAGE OF LEMONT (DEFENDANT)


By: _____

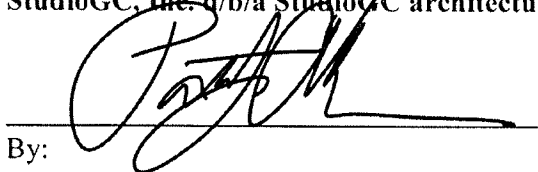
Village Manager

Subscribed and sworn to by Kay Argo, before me this
14th day of January, 2019.

Kay Argo
Notary Public



StudioGC, Inc. d/b/a StudioGC architecture+BIM (PLAINTIFF)


By: _____

PRINCIPAL / OWNER
Job Title

Subscribed and sworn to by PATRICK J CALLAHAN, before me this
14th day of January, 2019.

Vicki Luczynski
Notary Public

