

**SUMTER COUNTY BOARD OF COMMISSIONERS
EXECUTIVE SUMMARY**

SUBJECT: Mutual Settlement Agreement and Release - Strollo Architects, Inc.

REQUESTED ACTION: Approve the Mutual Settlement Agreement and Release

Work Session (Report Only) **DATE OF MEETING:** 6/12/2012
 Regular Meeting Special Meeting

CONTRACT: N/A Vendor/Entity: _____
Effective Date: _____ Termination Date: _____
Managing Division / Dept: _____

BUDGET IMPACT: \$20,000

Annual **FUNDING SOURCE:** Fund 307
 Capital **EXPENDITURE ACCOUNT:** _____
 N/A

HISTORY/FACTS/ISSUES:
The attached mutual settlement agreement and release resolves the outstanding issues between Sumter County and Strollo Architects, Inc. associated with the Jail Expansion Project.

MUTUAL SETTLEMENT AGREEMENT AND RELEASE

COME NOW, SUMTER COUNTY, FLORIDA, a political subdivision of the State of Florida, (hereinafter referred to as "SUMTER"), and STROLLO ARCHITECTS INCORPORATED, a Florida Corporation (hereinafter referred to as "STROLLO") for the purpose of entering into this Mutual Settlement Agreement and Release. In furtherance of same, SUMTER and STROLLO (collectively referred to from time to time in this Mutual Settlement Agreement and Release as the "Parties") in an effort to resolve all outstanding disputes between them, as set forth herein, enter into this, their Mutual Settlement Agreement and Release (hereinafter referred to as the "Agreement") and state as follows:

WHEREAS, the Parties have been engaged in a dispute regarding issues involving the provision of architectural services in reference to the construction project for the expansion and improvement of the Sumter County Jail (hereinafter referred to as the "Project"); and

WHEREAS, the Parties acknowledge that this Agreement is intended to amicably resolve the aforementioned disputed issues and avoid the cost and expense associated with uncertain litigation; and

WHEREAS, the Parties desire to resolve their dispute as set forth herein;

NOW, THEREFORE, in consideration of the mutual premises contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. SUMTER and STROLLO hereby acknowledge and agree that the above recitals or Whereas clauses are incorporated into this Agreement, *in haec verba*.
2. SUMTER and STROLLO, hereby mutually Release (as defined below), acquit and discharge each other, as well as their successors, assigns, parents, subsidiaries, affiliates, and related and interrelated firms, companies and corporations (if applicable), as well as all officers, directors, attorneys acting on their behalf and all employees of said entities, and all underwriters

at risk for the same from any and all claims or causes of action which they may have against each other at the time of the execution of this Agreement. "Release" shall mean the relinquishment, concession or giving up of any and all claims, demands, causes of action, actions, rights, liabilities, liens, contract obligations, damages, attorney fees, interest, costs, torts, suits, debts, sums of money, accountings, reckonings, bills, covenants, controversies, agreements, promises, variances, trespasses, warranty claims and indemnity rights, whatsoever, at law or in equity, or otherwise, whether direct or indirect, known or unknown, which the releasing party now owns or holds, against the persons and entities they are releasing or any of them, in any capacity, which are based upon any facts, acts, omissions, conduct, expressed or implied, warranties (express or implied), guarantees, representations, contracts, agreements, claims, events, causes, indemnity agreements, or matters of any kind occurring or existing at any time on or before the date of this release, including but not limited to all claims that pertain to and/or arise from the transactions and/or events, allegations, claims, and circumstances related to the Project, and this Release shall be a complete bar to all claims or suits for expenses or damages of any nature resulting from the same.

3. Each Party jointly represents and warrants that they have full right, power, and authority to enter into this Agreement, and that they now own or have the right to Release each and all of the released entities and claims that they purport to release, and that they have not transferred any interest in any of their released claims to any third party and further, the Parties affirm:

- (a) that this Release is fairly and knowingly made;
- (b) that the PARTIES SPECIFICALLY ALLOCATE THE RISK OF ANY MISTAKES BY ANY PARTY IN ENTERING INTO THIS AGREEMENT TO THE PARTY OR PARTIES WHO LATER CLAIM THEY WERE MISTAKEN.

4. It is fully understood and agreed that the payment or acceptance by each Party

hereto of the consideration described in this Agreement is not an admission or acknowledgment of liability or fault in reference to any matter by any of the Parties, but rather, this Mutual Settlement Agreement and Release is intended to be an amicable resolution to disputed and uncertain claims. Furthermore, each Party stipulates and agrees that each Party will bear its own attorney's fees and costs associated with the above-referenced dispute.

5. Each Party hereby declares that the terms of this Agreement have been completely read and are fully understood and voluntarily accepted for the purpose of making a full and final compromise, adjustment and settlement of any and all claims, disputed or otherwise, on account of the claims, injuries, and damages abovementioned, and for the express purpose of precluding forever any further or additional claims arising out of the issues related to the dispute(s) referenced herein.

6. Each Party further agrees and stipulates that all issues related to the dispute referenced herein have been resolved by the Parties by virtue of this Agreement.

7. As consideration for this Agreement, SUMTER will pay to STROLLO the total, lump-sum amount of twenty-thousand dollars (\$20,000.00), within ten (10) days of the effective date of this Agreement, in full and final satisfaction of any and all claims which STROLLO may have for any and all damages associated with work performed or outstanding invoices related to the Project, including, but not necessarily limited to any claims which could have been brought by STROLLO pursuant to Florida's Prompt Pay Act. Each Party specifically abandons any claims for attorneys' fees concerning the above referenced dispute. Nothing contained in this Agreement shall be construed as a limitation upon either of the Parties to enforce the terms of this Agreement, or in any way limit remedies available for the breach of this Agreement.

8. The paragraphs, title, or captions contained herein are designated for convenience only and shall in no way define, limit or extend the scope of this Agreement.

9. Each Party acknowledges that it as had an opportunity to review, modify, and approve the language of this Agreement with advice of counsel of their choice. This Agreement shall not be construed more strongly against any party to the Agreement, regardless of who may

be deemed to have prepared it.

10. This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterpart is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

11. Each Party agrees to cooperate fully and to execute any supplementary documents and to take any additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement and which are not inconsistent with its terms.

12. This Agreement, and the rights, duties, and obligations of the Parties to this Agreement shall be governed, performed, interpreted, construed, and enforced in accordance with laws of the State of Florida. In any action brought to enforce the terms of this Agreement, the prevailing party shall be entitled to an award of the costs and reasonable attorney fees incurred at the trial or appellate levels. The Parties further agree that venue for any action brought to enforce the terms of this Agreement shall lie exclusively in the courts of Sumter County, Florida.

13. This Agreement shall become binding when it has been executed by each of the Parties.

14. Each Party acknowledges to each another that no promise, inducement, or agreement not contained herein has been expressed or made to them in connection with this Agreement.

15. This Agreement contains the entire agreement between the Parties with regard to the matters set forth herein, and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each. This Agreement

cannot be altered, amended, modified or otherwise changed in any respect except by an instrument in writing duly executed by authorized representatives of each of the Parties hereto.

16. Each Party hereto agrees that the rules of construction, to the effect that any ambiguities are to be resolved against the drafting party, shall not be employed in the interpretation of this Agreement. This Agreement is a result of negotiation between the Parties, and, if it is determined that an ambiguity is contained herein, then such ambiguity shall not be construed against any Party as the preparer hereof.

17. Each Party hereby acknowledges and agrees that the failure of any of the Parties, in their individual or corporate capacities, to insist upon strict compliance with each and every term, covenant, or condition hereof shall not constitute a waiver of any such term, covenant, or condition, nor shall it constitute a waiver of any of the Parties rights and privileges under this Agreement, including the right or rights of the Parties to subsequently insist on full and complete performance of the Agreement, and may not act or serve to create an estoppel against any of the Parties in any manner whatsoever. The rights and remedies provided herein may be pursued at the sole discretion of any of the Parties, in their individual or corporate capacities.

18. (a). The Parties agree that they will not, directly or indirectly, in any capacity or manner, make, express, transmit speak, write, verbalize or otherwise communicate in any way (or cause, further, assist, solicit, encourage, support or participate in any of the foregoing), any remark, comment, message, information, declaration, communication or other statement of any kind, whether verbal, in writing, electronically transferred or otherwise, that might reasonably be construed to be derogatory or critical of, or negative toward, the other Party or any of its directors, officers, Affiliates, subsidiaries, employees, agents or representatives.

(b). Notwithstanding the foregoing, nothing in this Agreement shall prohibit either

Party from making any statement or disclosure required under the state public records laws or other applicable laws.

19. Each Party acknowledges and agrees that the effective date of this Agreement shall be the 12th day of June, 2012.

THE SIGNATORIES TO THIS AGREEMENT ACKNOWLEDGE THAT THEY HAVE READ THE FOREGOING AGREEMENT, FULLY UNDERSTAND ITS TERMS AND CONDITIONS, AND AGREE TO BE BOUND BY ALL OF ITS TERMS AND CONDITIONS.

SIGNATURES CONTAINED ON FOLLOWING PAGE

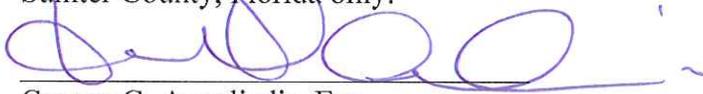
ATTEST:

GLORIA HAYWARD,
CLERK OF COURT

SUMTER COUNTY BOARD OF
COUNTY COMMISSIONERS

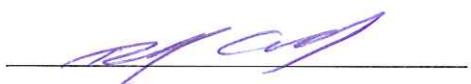
GARRY BREEDEN, Chairman

Approved as to form for the reliance of
Sumter County, Florida only:



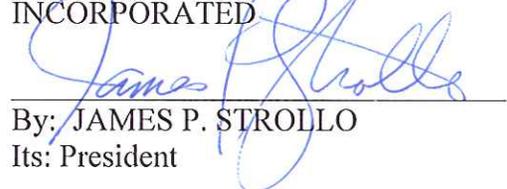
George G. Angeliadis, Esq.
The Hogan Law Firm
FBN: 0080081
County Attorney

Witness:



Witness: Bradly Arnold

STROLLO ARCHITECTS,
INCORPORATED



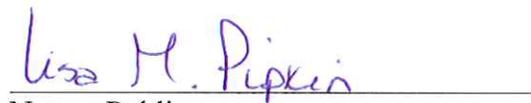
By: JAMES P. STROLLO
Its: President

STATE OF FLORIDA
COUNTY OF SUMTER

The foregoing Mutual Settlement Agreement and Release was acknowledged before me this 5th day of June, 2012, by JAMES P. STROLLO, who is personally known to me or has produced FL D.L. as identification and did/did not take an oath. JAMES P. STROLLO executed the foregoing instrument, and acknowledged the same to be his free and voluntary act and deed, for the uses and purposes therein mentioned.

(Seal)





Notary Public
My Commission Expires: