

**CONFIDENTIAL SETTLEMENT AGREEMENT
AND
RELEASE OF ALL CLAIMS**

This SETTLEMENT Agreement AND RELEASE ("Agreement") is entered into by Kim [ROP] ([ROP]), whose address is [ROP] and the KENAI PENINSULA BOROUGH ("KPB"), a municipal corporation, whose address is 144 N. Binkley Street, Soldotna, Alaska, 99669, (sometimes referred to collectively herein as the "Parties").

WHEREAS, [ROP] was employed as the Human Resources Director at KPB.

WHEREAS, on December 21, 2021, [ROP], via his attorney, submitted a settlement proposal letter requesting terms relating to the separation of his employment with KPB.

WHEREAS, the Parties seek to resolve the matters raised in the above-referenced letter as well as all other claims, actions, or disputes [ROP] may have or later learn to have, against the KPB as of the date of his execution of this Agreement

WHEREAS, this Agreement is intended to be a full and final settlement of all potential claims arising from [ROP]'s employment at, including employment separation, KPB.

NOW, THEREFORE, for good and valuable consideration, which is hereby expressly acknowledged by the parties, and in consideration of their mutual covenants and agreements hereafter expressed, [ROP] and KPB agree as follows:

1. Definitions. As used herein, the following terms shall have these meanings:

- a. "[ROP]" shall mean Kim [ROP] together with his spouse, heirs, attorneys, and assigns;
- b. "KPB" shall mean the Kenai Peninsula Borough, with its principal place of business in Soldotna, AK;
- c. "The Released Parties" shall mean KPB together with its present, past or future assembly members, officials, directors, officers, employees, agents, attorneys, assigns, successors, affiliates, and insurers;
- d. The "Effective Date" of this Agreement shall be upon the execution of this Agreement by the Parties and the expiration of the seven day revocation period pursuant to Section 12.

2. Consideration. As consideration for [ROP] entering into this Agreement, KPB has agreed that, within thirty days of execution of this Agreement by the Parties and

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provided all requirements are met as noted in this document, KPB will pay to [ROP] a lump sum settlement in the gross amount of \$117,000.00 (One Hundred Seventeen Thousand U.S. Dollars and No Cents).

3. Release. In exchange for providing the consideration described in Section 2, Consideration, [ROP] agrees to waive all claims against the Released Parties, jointly referred to as KPB. [ROP] fully and finally releases, acquits, and forever discharges the KPB from any and all claims, liabilities, responsibilities, disputes, obligations, charges, injuries, damages, losses, demands and causes of action of any nature whatsoever, whether known or unknown, which [ROP] now owns or holds, has at any time heretofore owned or held, or could at any time have owned or held, in connection with his employment and separation from employment at KPB, including but not limited to, any and all claims for pay, benefits, damages, tortious conduct, mental anguish, pain, embarrassment, humiliation, emotional distress, fees, attorney fees, and costs or any other relief or liability that may be or could have been asserted in any legal or administrative proceeding under common, local, state or federal law. These include but are not limited to claims under the Civil Rights Act of 1991, the Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C.A. §§2000 et seq., 42 U.S.C.A. § 1981, the Americans With Disabilities Act, as amended, 42 U.S.C.A. App. §§12101 et seq., the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C.A. §§621 et seq., the Equal Employment Opportunity Act of 1972, the Family and Medical Leave Act, 29 U.S.C.A. §§2611 et seq., the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C.A. App. §§1.001 et seq., the Alaska State Law Against Discrimination, AS 18.80.010 - .300, the Fair Labor Standards Act, the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act of 1988, the Sarbanes-Oxley Act of 2002, or any other state, federal or municipal employment discrimination statute, or any other federal or state law, claims for wrongful discharge, wrongful termination of employment, breach of contract, promissory estoppel, malfeasance or misfeasance in discharging employment responsibilities, employment discrimination (whether because of age or sex, because of age or sexual harassment or because of any other protected classification), breach of fiduciary duties, retaliation, breach of the implied covenant of good faith and fair dealing, violation of public policy, and all employment-related torts including, but not limited to, retaliatory discharge, whistleblower retaliation, tortious interference with contract or business expectancy, invasion of privacy, defamation, infliction of emotional distress, and punitive or exemplary damages, but excluding claims that Employee cannot by law waive and any claims for breach of this Agreement.

4. No Admission of Liability. Each party acknowledges that this Agreement is solely for the purposes of voluntarily recognizing [ROP]'s service and settling all actual and potential disputed claims and that both parties do not, in executing this Agreement or otherwise, admit liability for or otherwise admit to the truth of any factual or legal claims made by, or that might have been made by, the other party, regarding [ROP]'s employment or resignation from employment by KPB.

5. Warranty. [ROP] warrants that his causes of action, rights on appeal, or claims have not previously been assigned or transferred or purported to have been assigned or transferred to any other person or entity. Additionally, [ROP] warrants that he is not owed any other compensation by KPB for COBRA continuation coverage, or other compensation or benefit that KPB has not voluntarily agreed to pay or provide to [ROP] in this Agreement. [ROP] acknowledges that he has received from KPB all wages and compensation which he is owed by KPB, to which he is entitled by law as of his last pay period. [ROP] further warrants that he has reported any and all workplace injuries that he incurred during his employment with KPB.

6. Covenant Not to Sue. [ROP] covenants and agrees not to bring any further litigation of any kind, or to initiate any administrative proceedings, against KPB, its directors, officers, and employees, regarding KPB, his employment or separation from employment by KPB, either alone or with any others. [ROP] expressly agrees that this agreement is effective as a bar to each and every claim, demand and cause of action [ROP] has against KPB arising out of, or in connection with, his employment with KPB and/or the separation thereof.

7. Covenant to Withdraw and Rescind December 15, 2021 Complaint(s). [ROP] agrees that he shall withdraw and rescind, in its entirety and without reservation, a complaint dated December 15, 2021 and addressed to the "Borough Attorney/ Chief of Staff" alleging protection under KPB Code 3.04.307. [ROP] agrees that he no longer desires to make a report to a public body nor make any further allegations of alleged "illegal acts" by Mayor Pierce relating to [ROP]'s employment with the KPB. [ROP] further agrees to withdraw and rescind any allegations of bullying relating to [ROP]'s employment with the KPB.

8. Confidentiality Clause. To the extent allowed by law, the KPB will keep this agreement confidential unless requested in executive session by the KPB Assembly or by a court of law and/or the material terms may be released pursuant to public record request if the KPB determines that it is required to produce the terms of this Agreement under applicable public records law. [ROP] agrees that he will not at any time talk about, write about, or otherwise publicize the terms or existence of this Agreement or any fact concerning its negotiation, execution, or implementation. [ROP] agrees not to disclose the terms, contents, or execution of this Agreement the claims that have been or could have been raised against the KPB, or the facts and circumstances underlying this Agreement except in the following circumstances:

- a. [ROP] may disclose the terms of this Agreement to his immediate family, so long as such family member agrees to be bound by the confidential nature of this Agreement
- b. [ROP] may disclose the terms of this Agreement to: (i) his tax advisers so long as such tax advisers agree in writing to be bound by the confidential nature of this Agreement; taxing authorities if requested by such authorities and so long as they are advised in writing of the confidential nature of this Agreement, or (ii) his legal counsel; or (iii) Pursuant to the order of a court or governmental agency of competent jurisdiction or for purposes of securing enforcement of the terms and conditions of this Agreement should that ever be necessary.

Upon service on [ROP], or anyone acting on his behalf, of any subpoena, order, directive, or other legal process requiring him to disclose any information about the KPB, [ROP] or his attorney shall immediately notify the KPB [or a specified individual or attorney] of such service and of the content of any testimony or information to be provided pursuant to such subpoena, order, directive, or other legal process and within two business days send to the designated representative of the KPB via overnight delivery a copy of said documents served upon [ROP].

9. Non-disparagement Clause. [ROP] agrees that he will not at any time disparage or denigrate the Released Parties, orally or in writing. KPB agrees that it will not, officially or as an entity, disparage or denigrate [ROP], orally or in writing. The KPB shall not be liable for unauthorized or unofficial actions by its employees.

10. Acknowledgment of NonReliance. [ROP] acknowledges and agrees that he has executed this Agreement freely and voluntarily, and that no representation or promise not expressly contained in the Agreement has been made by KPB or its directors, officers, employees, agents, representatives or attorneys. [ROP] further acknowledges that he is not entering into this Agreement on the basis of any representation, express or implied, that is not stated in this Agreement. [ROP] also acknowledges that he is signing this Agreement without any coercion or undue influence whatsoever and further, that he knowingly and voluntarily waives any and all rights to void this Agreement or any of its provisions due to economic or business compulsion, or any other reason, except as provided in paragraph 12 below. [ROP] represents and acknowledges that he has carefully read and understands all of the provisions of this Agreement. [ROP] further represents and acknowledges that he had reasonable time to consider the terms of this Agreement, and to review and discuss its terms with his attorney unrelated to KPB prior to signing the Agreement, and was afforded the reasonable opportunity to do so.

11. Employee's Age Discrimination in Employment Act ("ADEA") Claims Waiver

Rights. Section 201 of the Older Worker Benefit Protection Act (OWBPA), P.L. 101-433, regarding knowing and voluntary waivers of claims under ADEA, is incorporated herein by this reference. Pursuant thereto, [ROP] has been advised that he does not hereby waive rights or claims that may arise in the future under the ADEA, that he should confer with his attorney regarding his waiver and release of ADEA claims, that he has twenty-one (21) days to consider this Agreement before signing it, and that he also has seven (7) days after signing it to revoke this Agreement. [ROP] may sign this Agreement and Release at any time before the conclusion of the twenty-one (21) day period. By signing below, you indicate you have read this Agreement and understand its terms, and voluntarily agree to be bound by it after a reasonable period of time to consider the Agreement.

12. Waiver of Case Law Protections. [ROP] acknowledges that he has been informed of and is familiar with the decisions of the Alaska Supreme Court in the cases of *Young v. State*, 455 P.2d 889 (Alaska 1969), *Alaska Airlines v. Sweat*, 568 P.2d 916 (Alaska 1977), and *Witt v. Watkins*, 579 P.2d 1065 (Alaska 1978). Despite the holdings of these cases, [ROP] expressly waives the holdings as they may apply to the present claims that he may possess and state that it is his true intent and desire to fully release the claims released hereunder. It is the intention of [ROP], and it is the purpose of this Agreement, to absolutely discharge liability for any and all claims released hereunder, whether or not specifically identified or described in this Agreement. [ROP] specifically understands and agrees that he is entering into this Agreement to release the Released Parties fully, completely, and finally from any and all claims known or unknown or which may subsequently arise, develop, be discovered or accrue in connection with the facts and actions alleged in the threatened litigation.

13. Separation Not For Cause; Prospective Employers. The KPB agrees that any documents related to [ROP]'s separation from employment with the KPB will show that it was an at-will separation; that the separation was not for cause. The KPB will provide prospective employers, upon request, the dates of [ROP]'s employment and the position held by [ROP]. The KPB will respond to any request for a letter of reference or recommendation with neutrality and will not provide any reason or basis for [ROP]'s separation from employment with the KPB.

14. Tax consequences. The KPB has not made any representations to [ROP] regarding any tax-related consequences of this settlement. [ROP] is responsible for any tax obligations related to the settlement sum paid by the KPB under this Agreement.

15. Further Documents and Acts. Each party agrees, in good faith, to do all things necessary and convenient to execute and deliver such additional documents and instruments, and to perform such additional acts as may be necessary or appropriate to effectuate or consummate, or to perform the terms and intent of this Agreement.

16. Agreement Governed by Alaska Law. This Agreement is made and entered into in the State of Alaska and shall be enforced and pursuant to the laws of the State of Alaska.

17. Integration; Modification. This Agreement constitutes the entire understanding between the parties with respect to the subject matter thereof and will supersede all negotiations, prior discussions, and preliminary agreements. This Agreement may not be changed or altered or modified, except by a writing signed by [ROP] and KPB.

18. Severability. In the event that any provision or part of this Agreement is deemed invalid by Court of competent jurisdiction, the remainder of the Agreement shall be considered germane, effective, valid and legally binding.

19. Binding Effect. This Agreement shall be binding upon each party and their representatives, successors in interest, heirs, trustees and assigns and shall inure to the benefit of each party and their representatives, successors in interest, heirs, trustees and assigns.

20. Captions. Any caption or heading for the sections of this Agreement are solely for the convenience of the parties and are not part of the Agreement or any provision thereof.

21. Counterparts. This Agreement may be executed in one or more counterparts, each of whom shall be deemed an original and said counterparts shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

22. Effective Date of This Agreement. This Agreement shall become effective and binding on both parties when both parties sign this Agreement and the seven-day revocation period provided in paragraph 12 has expired without revocation by Employee (herein referred to as the "Effective Date of This Agreement").

ROP EXPRESSLY ACKNOWLEDGES THAT HE CONSULTED AND REVIEWED THIS AGREEMENT WITH AN ATTORNEY OF HIS CHOOSING PRIOR TO SIGNING THIS AGREEMENT AND RELEASE.

IT IS SO UNDERSTOOD AND AGREED.

By

ROP
ROP ROP

DATED: 12/29/21

By

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Charlie Pierce
Kenai Peninsula Borough Mayor

DATED:

ROP ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

KIM **ROP** acknowledged the foregoing instrument before me this 29th day of December, 2021

ANGELA LINDBLADE
Notary Public
State of Alaska
My Commission Expires Jun 26, 2025

Notary Public in and for State of Alaska
My Commission Expires: June 26, 2025

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Redaction Log

Total Number of Redactions in Document: 69

Redaction Reasons by Page

Page	Reason	Description	Occurrences
1	ROP	Right of Privacy - "The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section." Alaska Const. art. 1 § 22	11
2	ROP	Right of Privacy - "The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section." Alaska Const. art. 1 § 22	15
3	ROP	Right of Privacy - "The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section." Alaska Const. art. 1 § 22	20
4	ROP	Right of Privacy - "The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section." Alaska Const. art. 1 § 22	14
5	ROP	Right of Privacy - "The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section." Alaska Const. art. 1 § 22	6
6	ROP	Right of Privacy - "The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section." Alaska Const. art. 1 § 22	3

Redaction Log

Total Number of Redactions in Document: 2

Redaction Reasons by Page

Page	Reason	Description	Occurrences
1	ROP	Right of Privacy - "The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section." Alaska Const. art. 1 § 22	1
5	ROP	Right of Privacy - "The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section." Alaska Const. art. 1 § 22	1