

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (“Agreement”) is made this 8th day of November, 2019, by and between Colaska, Inc. d/b/a SECON and Ricky Kirby (collectively “SECON”) and the State of Alaska, Department of Labor and Workforce Development (“State” or “State of Alaska”). SECON and the State of Alaska are hereinafter collectively referred to as “the Parties.”

RECITALS

WHEREAS, certain disputes have arisen between SECON and the State of Alaska relating to AS 36.10.150, known as Alaska Hire, following the filing of multiple administrative complaints against SECON alleging violations of Alaska Hire;

WHEREAS, as a result of these disputes, on July 12, 2019, SECON filed a complaint with the Anchorage Superior Court challenging the constitutional validity of Alaska Hire and seeking damages and interest due on contract funds that had been earned by SECON but withheld because of the administrative complaints asserted by the State, as well as injunctive and declaratory relief (the “Litigation”);

WHEREAS, the Parties engaged in settlement discussion in or around August 2019, including, without committing to any particular result or conclusion, an agreement by the State to conduct a good faith analysis of the constitutionality of Alaska Hire;

WHEREAS, this review resulted in a formal opinion dated October 3, 2019, issued by and through the Attorney General, which concluded that “Alaska Hire violates both the U.S. and Alaska Constitutions, and that the State should stop enforcing its provisions,” and;

WHEREAS, as a result these developments, the Parties have agreed to settle their dispute and to permanently and fully resolve and compromise all claims, rights, and actions relating to the Litigation, whether arising in contract, tort, statute, or regulation, between and among the parties.

AGREEMENTS

NOW THEREFORE, for good and valuable consideration, including the mutual covenants herein contained, it is agreed as follows:

1. SECON and its affiliates, subsidiaries, owners, parent, directors, officers, associates, employees, agents, representatives, lawyers, predecessors in interest, successors in interest, and assigns, whether past or present, and all persons acting by, through, under or in concert with any or all of them, hereby release and fully and forever discharges the State of Alaska and any of its agents or employees from any and all

claims, demands, suits, liabilities, causes of action, judgments, settlements, losses, damages, expenses, costs and penalties of every kind and nature whatsoever, which they now have or may hereafter have, whether now known or hereafter discovered, whether fixed or contingent, whether suspected or unsuspected, and whether foreseen or unforeseen, and which arise out of or relate in any way to the Litigation. The claims released by SECON by operation of the foregoing include, but are not limited to, the following: (i) any and all claims that may be based upon or connected in any manner with any of the matters referred to or encompassed in the Litigation; (ii) any and all claims for costs and/or attorney's fees related to the Litigation; and (iii) any other loss or damage allegedly sustained by SECON which in any way relates to or arises from any of the foregoing matters in subsections (i), or (ii).

2. The State of Alaska hereby releases and fully and forever discharges SECON and its affiliates, subsidiaries, owners, parent, directors, officers, associates, employees, agents, representatives, lawyers, predecessors in interest, successors in interest, and assigns, whether past or present, and all persons acting by, through, under or in concert with any or all of them, from any and all claims, demands, suits, liabilities, causes of action, judgments, settlements, losses, damages, expenses, costs and penalties of every kind and nature whatsoever, which they now have or may hereafter have, whether now known or hereafter discovered, whether fixed or contingent, whether suspected or unsuspected, and whether foreseen or unforeseen, and which arise out of or relate in any way to the Litigation. The claims released by the State of Alaska by operation of the foregoing release include, but are not limited to, the following: (i) any and all claims that may be based upon or connected in any manner with Alaska Hire and any of the matters referred to in the Litigation; (ii) any and all claims for costs and/or attorney's fees related to the Litigation; and (iii) any other loss or damage allegedly sustained by the State of Alaska which in any way relates to or arises from any of the foregoing matters in subsections (i) or (ii).

3. With respect to the foregoing mutual release, the Parties acknowledge that they or their attorneys may hereafter discover claims, facts, damages or injuries based upon, relating to or arising out of the Litigation in addition to or different from those which they now know or believe to exist, but that it is nevertheless their intention to hereby fully, finally and forever settle and release all of the claims known or unknown, suspected or unsuspected, which each has against the other based upon, relating to, or arising out of the subject matter of the Litigation.

4. The State of Alaska shall pay SECON the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) within 30 days of the execution of this Agreement. SECON agrees to file a notice of dismissal that will dismiss the Litigation with prejudice against the State of Alaska within ten (10) days after receipt of the payment specified in this paragraph.

5. Except to the extent necessary to enforce the terms and conditions of this Agreement, the Parties hereby covenant and agree not to sue, commence, aid, prosecute, or cause to be commenced or prosecuted, any legal action, lawsuit or other proceeding against the other with respect to the matters alleged in the Litigation.

6. SECON hereby represents, warrants and covenants to the State of Alaska that it has not assigned, transferred, conveyed, or purported to assign, transfer or convey, and will not in the future assign or transfer to any person, firm, entity, corporation or organization whatsoever, any claim, demand, obligation, cause of action, right or damages in any way related to any of the released claims, and that no person, firm, entity or corporation has any lien, claim or interest in any of the released claims.

7. The State of Alaska hereby represents, warrants and covenants to SECON that it has not assigned, transferred, conveyed, or purported to assign, transfer or convey, and will not in the future assign or transfer to any person, firm, entity, corporation or organization whatsoever, any claim, demand, obligation, cause of action, right or damages related to any of the released claims, and that no person, firm, entity or corporation has any lien, claim or interest in any of the released claims.

8. SECON and the State of Alaska each individually represents, warrants and agrees that it has the full right and authority to enter into this Agreement, and to provide the covenants set forth in this Agreement, and that the party or representative executing this Agreement has the full right and authority to commit and bind such party according to the provisions hereof.

9. This Agreement shall be binding upon and inure to the benefit of the Parties and their predecessors, successors, heirs, assigns and representatives. This Agreement represents the compromise of disputed claims.

10. The Parties each shall bear their own attorney's fees and costs in connection with the Litigation and the drafting and negotiation of this Agreement.

11. It is expressly understood that this agreement is a resolution of disputed claims, to avoid litigation, and to buy peace. Nothing in this agreement shall be construed as an admission of liability or wrongdoing on the part of any party.

14. This Agreement constitutes the entire agreement between the Parties relating to the settlement of the Litigation. No statements, communications, letters or other agreements, whether written or verbal, relating to this settlement shall have any force or effect unless embodied in this Agreement.

15. This Agreement shall be governed by and construed in accordance with the laws of the State of Alaska. Any action arising out of this Agreement shall be brought

and maintained in the Superior Court for the State of Alaska, Third Judicial District at Anchorage.

16. This Agreement may be executed in multiple counterparts by each of the parties, including by facsimile, each of which shall be deemed an original agreement, and all of which shall constitute one agreement, notwithstanding that all of the parties are not signatories to the original or the same counterpart, to be effective as of the day and year first above written. A facsimile signature received from any party hereto shall be treated as an original for purposes of finalizing the Agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as set forth below, intending to be legally bound by the terms and conditions of this Agreement.

Dated: November 8, 2019

KEVIN G. CLARKSON
ATTORNEY GENERAL



By: Charles Brasington
Alaska Bar No. 1911091

Dated: 11.11.19

Colaska, Inc. d/b/a SECON



By: