

**Kellen J. Holgate**

---

**From:** Richard Needham <RNeedham@wapato-city.org>  
**Sent:** Tuesday, August 23, 2016 7:46 AM  
**To:** Tony Guzman  
**Cc:** Kellen J. Holgate; paul@lacykane.com  
**Subject:** Fwd: Resignation of position

Sent from my iPhone

**Subject: Resignation of position**

Per the agreement between the City of Wapato through its attorney Kellen Holgate and the attorney who represents me, Paul Kube, I tender my resignation from the employment of the City of Wapato effective the end of business on 31 August 2016.

Rick Needham

This electronic transmission and any documents accompanying this electronic transmission may contain information that is confidential and/or legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on or regarding the contents of this electronically transmitted information is strictly prohibited. If you have received this e-mail in error, please notify the sender and delete this message immediately.

**NOTE: THIS AGREEMENT IS SUBJECT TO CITY COUNCIL APPROVAL**

**GENERAL RELEASE AND SETTLEMENT AGREEMENT**

This General Release and Settlement Agreement (hereinafter referred to as the "Agreement") is between Richard Needham ("Needham") and The City of Wapato, Washington and Mayor Tony Guzmán (collectively referred to as "the City."). Needham and the City are each a "Party" to this Agreement and collectively sometimes referred to herein as the "Parties."

WHEREAS, Needham was employed by and served as Chief of Police for the City of Wapato, Washington from February 10, 2015 until August 31, 2016.

WHEREAS, Needham and the City desire to settle fully and finally any and all differences regarding employment issues that have occurred, or might arise out of, Needham's employment with the City and/or his separation from the City.

WHEREAS, Needham and the City wish to enter into this Agreement to: (1) provide payment to Needham as part of the Parties' agreement; (2) fully and finally settle and resolve any potential Litigation by Mr. Needham and the City; (3) obtain a release of all claims between the Parties set forth in Paragraph 1; (4) reiterate any post-employment obligations; and (5) generally conclude all obligations that Needham and the City may have with each other, all on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing and the promises of Needham and the City, the Parties agree as follows:

**1. Release of Claims.** In exchange for the mutual promises made herein, and to the extent permitted by law, the Parties hereby waive, release and forever discharge and agree that they will not, in any manner, institute, prosecute or pursue any and all complaints, claims, charges, demands, suits, actions or causes of action, whether in law or in equity, that they assert or could assert, at common law or under any statute, rule, regulations, order or law, whether federal, state or local, or on any other grounds whatsoever against the other and/or any of their heirs, successor, or assigns or the City's current or former, directors, officers, affiliates, agents, representatives, employees, insurers (Association of Washington Cities-Risk Management Service Agency [AWC-RMSA]), or attorneys (each a "Released Party" and collectively the "Released Parties"), with respect to any event, matter, claim, damage or injury arising out of: (1) Needham's employment relationship with the City; and (2) the separation of such employment relationship, including without limitation any and all claims based on: (i) any contract or policy (express or implied); (ii) federal or state laws based on torts, violations of public policy, whistle blowing or reporting improper conduct (including without limitation, the Sarbanes Oxley Act of 2002); (iii) leaves of absence, including, without limitation, the Family and Medical Leave Act (29 U.S.C. § 2601 et seq.) and the Washington Family Leave Act, Ch. 49.78 RCW; (iv) pension and employee benefit plans (including, without limitation the Employee Retirement Income Security Act of 1974); (v) discrimination or retaliation based upon color, creed, veteran status, transgender status, disability, gender (sex), national origin, religion, marital status, sexual orientation, military status, or age, including the Age Discrimination in Employment Act (29 U.S.C. § 621, et seq.); or (vi) or any state or federal statute, including, but not limited to claims under the Americans With Disabilities Act (42 U.S.C. § 12101 et seq.); the Washington Law Against Discrimination (Ch. 49.60 RCW); Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.); the federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq.; the Washington Minimum Wage Act, Ch. 49.46 RCW; Chs. 49.48 and 49.52 RCW; and all other statutory or common law claims for additional severance pay, sick leave, holiday pay, vacation pay, overtime pay or other fringe benefits of the City, with respect to any other claim, matter or event arising prior to the Effective Date of this Agreement (collectively "Claims").

It is the intent that this release encompasses all claims of any kind, known and unknown, and the Parties waive all rights they have or may have under any statute or common law principle purporting to prevent a release of unknown claims. Here, Needham and the City do not waive any rights or claims that may arise out of acts or events that occur after the Effective Date of this Agreement, claims filed pursuant to Washington's Worker's Compensation Act.

**2. Time to Consider Agreement.** NEEDHAM ACKNOWLEDGES BEING ADVISED THAT HE HAS UP TO TWENTY-ONE (21) DAYS TO CONSIDER THIS AGREEMENT BEFORE SIGNING IT AND, IN CONNECTION THEREWITH, MAY CONSULT WITH AN ATTORNEY OF HIS CHOICE REGARDING HIS RIGHTS AND RESPONSIBILITIES UNDER THIS AGREEMENT. NEEDHAM FURTHER ACKNOWLEDGES THAT HE FULLY UNDERSTANDS THE FINAL AND BINDING EFFECT OF THIS AGREEMENT, THAT HE AGREES TO EACH AND EVERY ONE OF THE TERMS SPECIFIED IN THIS AGREEMENT AND THAT HE ACKNOWLEDGES THIS TO BE THE COMPLETE AGREEMENT BETWEEN HIMSELF AND THE CITY. NEEDHAM AGREES AND UNDERSTANDS THAT HIS SIGNATURE BELOW, IF PRIOR TO THE DATE THIS TWENTY-ONE (21) DAY CONSIDERATION PERIOD EXPIRES, CONSTITUTES A WAIVER OF THE REMAINDER OF THE TWENTY-ONE (21) DAY PERIOD.

**3. Revocation.** WITHIN SEVEN (7) DAYS AFTER EXECUTING THIS AGREEMENT, NEEDHAM MAY REVOKE THIS AGREEMENT BY DELIVERING TO THE CITY WRITTEN NOTICE OF REVOCATION. IN ORDER TO REVOKE THIS AGREEMENT, NEEDHAM MUST DELIVER TO THE CITY'S MAYOR VIA ELECTRONIC MAIL TO TGUZMAN@WAPATO-CITY.ORG, ON OR BEFORE 5:00 P.M. OF THE LAST DAY OF THE REVOCATION PERIOD, A COPY OF THIS AGREEMENT SIGNED BELOW SIGNIFYING HIS REVOCATION. THIS AGREEMENT SHALL OTHERWISE BECOME EFFECTIVE FOLLOWING EXPIRATION OF THE REVOCATION PERIOD WHICH SHALL BE THE EFFECTIVE DATE OF THIS AGREEMENT. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE PROMISES OF THE DEFENDANTS SHALL ONLY BE EFFECTIVE ON THE EFFECTIVE DATE IF NEEDHAM HAS NOT REVOKED THIS AGREEMENT PRIOR THERETO.

**4. Consideration.** Within ten (10) business days following the Effective Date of this Agreement, so long as Needham shall not be in breach or threatened breach of this Agreement and shall not have revoked this Agreement, the City agrees to pay Needham the sum of **twenty six thousand two hundred sixty three and 82/100 dollars** (\$26,263.82) (the "Settlement Payment"). This is calculated by a gross payment of \$44,840.65 (including accrued vacation and holiday pay) less a) \$18,474.22 for taxes and b) \$102.61 for other deductions. In that regard, this settlement concerns claims by Needham for severance, benefits, and emotional distress.

**5. Dismissal of Litigation.** Needham acknowledges that although he has not filed a claim or a Summons and Complaint in a court of law, part of the consideration of this agreement is that he will not file a claim or Summons and Complaint.

**6. Tax Consequences.** Needham acknowledges and agrees that the City has made no representations to him regarding the tax consequences of any amounts received by Needham pursuant to this Agreement. Needham agrees that any such additional federal, state or local taxes, if any, that are required by law to be paid with respect to payments made pursuant to this Agreement, shall be the sole responsibility of Needham who agrees to pay all such taxes timely.

**7. Sick/Vacation/Flex/Payments.** Needham acknowledges and represents that he has been compensated for any and all accrued sick leave and vacation allegedly owed by the City with payment of this Settlement Payment. Needham represents and warrants that he has been paid for all alleged flex/ compensatory/overtime amounts with payment of this Settlement Payment. Except for the Settlement Payment set forth in Paragraph 2, he is owed nothing further.

**8. Return of the City's Property.** Needham represents that he has delivered to the City all records, documents, hardware, software, and all other property of the City, in whatever form, and all copies thereof in Needham's possession, or under his custody or control, and that he is not aware of any City property to which he had possession that has not been returned to the City.

**9. Mutual Non Disparagement.** The City and the Mayor Guzmán agree they will not disparage Needham, provided this obligation shall not preclude either party from discussing matters with the EEOC or other similar federal or state agencies. Needham agrees he will not disparage Mayor Guzmán and all employees affiliated with the Wapato Police Department, Jail, or Municipal Court and/or the City, provided this obligation shall not preclude him from discussing matters with the EEOC or other similar federal or state agencies.

- 10. Employment Verification.** The City upon request for employment verification of Mr. Needham shall provide the dates of his employment, position held, and salary confirmation.
- 11. No Admission of Liability.** By entering into this Agreement, the Parties and all Released Parties do not admit any liability whatsoever to the other or to any other person arising out of any claims heretofore or hereafter asserted, and Needham, and the City, expressly deny any and all such liability.
- 12. Unemployment.** The City agrees that if Needham files for unemployment, the City will not contest Mr. Needham's benefits. However, the City cannot guarantee that Mr. Needham will be awarded benefits.
- 13. Opportunity to Discuss with Attorney.** Needham hereby affirms and acknowledges that, if he so desires, he has the right to review or discuss this Agreement with an attorney, and that he fully understands and appreciates the meaning of each paragraph in this Agreement.
- 14. Entire Agreement.** This Agreement constitutes the complete understanding between the Parties and supersedes any and all prior agreements, promises, representations or inducements, no matter what form, concerning its subject matter. No promises or agreements made subsequent to the execution of this Agreement shall be binding unless reduced to writing and signed by authorized representatives of Needham and the City.
- 15. Further Assurances.** The City and Needham agree to cooperate fully with one another, and to take any and all reasonable action, including without limitation, the execution of any supplementary documents necessary to give full force and effect to this Agreement.
- 16. No Assignment.** Needham represents that he has not transferred or assigned to any person or entity any right, cause of action, or claim released in this Agreement.
- 17. Severability.** If any of the provisions of this Agreement are rendered invalid by a court or government agency of competent jurisdiction, it is agreed that this shall not in any way or manner affect the enforceability of the other provisions of this Agreement that shall remain in full force and effect.
- 16. Governing Law; Jurisdiction.** This Agreement shall be governed by and construed under Washington law, without regard to the state of Washington's conflict of laws principles. The City and Needham agree that the state courts located in Yakima County, Washington shall have exclusive jurisdiction to hear and decide any litigation in any way relating to this Agreement and Parties hereby consent to the personal jurisdiction of these courts and waive any objection that such venue is inconvenient or improper.
- 18. Costs and Attorneys' Fees.** In the event there is a claim by a Party that there has been a default or breach of this Agreement and litigation ensues, the prevailing party shall be entitled to an award of reasonable attorney fees and costs. Before any such claim is made the Party claiming breach or default shall provide written notice to the other party and a reasonable opportunity to cure if possible.
- 19. Section Headings/Interpretation.** Section headings in this Agreement are included for convenience of reference only and shall not be considered a part of this Agreement for any other purpose. This Agreement shall be interpreted in accordance with the plain meaning of its terms and not for or against either the City or Needham.
- 20. Counterpart Execution.** This Agreement may be executed in several counterparts, and all counterparts so executed shall constitute one agreement, binding on the Parties.
- 21. Signatures.** Photocopies, telecopies or electronically reproduced or transmitted signatures on this Agreement or the revocation of this Agreement shall be as fully effective as original signatures in the absence of fraud.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF WAPATO

\_\_\_\_\_  
By: Tony Guzmán, Mayor

Dated: \_\_\_\_\_

RICHARD NEEDHAM

\_\_\_\_\_  
Richard Needham

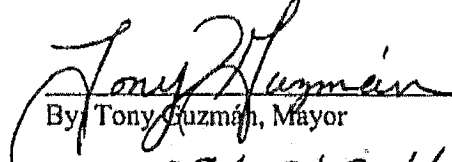
Dated: \_\_\_\_\_

**REVOCATION SIGNATURE**

\_\_\_\_\_  
Richard Needham

Dated: \_\_\_\_\_

CITY OF WAPATO

  
By Tony Guzmán, Mayor

Dated: 09/13/2016

RICHARD NEEDHAM

  
Richard Needham

Dated: 9/8/2016

REVOCATION SIGNATURE

\_\_\_\_\_  
Richard Needham

Dated: \_\_\_\_\_