TOWN OF MINTURN, COLORADO

RESOLUTION NO. 4 – SERIES 2014

A RESOLUTION AUTHORIZING THE MAYOR OF THE TOWN OF MINTURN TO SIGN AN AGREEMENT TO PAY $45,000.00 FOR SERVICES RENDERED BY AND BETWEEN THE ESTATES OF ALLEN CHRISTENSEN AND THE TOWN OF MINTURN, COLORADO.

WHEREAS, The Town of Minturn, in the County of Eagle and the State of Colorado in a home rule municipal corporation duly organized and existing under the laws of the State of Colorado and the Town Charter; and

WHEREAS, The Town of Minturn has negotiated in good faith with the Estate of Allen Christensen for payment of services rendered to the Town and the Town has sufficient funds available, and;

WHEREAS, The Town and the Estate of Allen Christensen have negotiated a one-time payment in the amount of $45,000.00 which is satisfactory to both the Town and the Estate of Allen Christensen.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT THE MAYOR OR HIS DESIGNEE IS AUTHORIZED TO SIGN ON BEHALF OF THE TOWN OF MINTURN ANY AND ALL NEGOTIATED DOCUMENTS REQUIRED TO EFFECTUATE SAID AGREEMENT.**

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 19TH day of February, 2014.

TOWN OF MINTURN

By: Hankye Flaherty
Mayor

ATTEST:

Town Clerk

## SETTLEMENT AND RELEASE AGREEMENT

THIS SETTLEMENT AND RELEASE AGREEMENT (the "Agreement") is made and entered into this 5th day of February, 2014, by and between the Town of Minturn (the "Town"), and the Estate of Allen Carl Christensen (the "Estate") (each individually a "Party" and collectively the "Parties").

WHEREAS, the Town and the Estate have agreed to an amount that the Estate will accept in settlement of a claim for unpaid attorney fees allegedly due from the Town to Allen Christensen for his services as the Minturn Town Attorney; and

WHEREAS, the Estate has agreed to accept this payment as a full and final settlement for said claim, and to release any and all claims that may exist against the Town related to Allen Christensen's services as the Minturn Town Attorney.

NOW THEREFORE, in consideration of the mutual promises and covenants as set forth below, the sufficiency of which are hereby acknowledged, the Town and the Estate agree as follows:

1. Purpose of Agreement. This Agreement is a compromise of a disputed claim. Nothing in this Agreement, including the fact that it has been entered into by the Parties, shall constitute or be construed as an admission or a denial of liability, fault, or wrongdoing on behalf of either Party.

2. Payment. The Town shall pay to the Estate the total sum of forty-five thousand dollars ($45,000) ("Payment") payable to "Estate of Allen Carl Christensen" delivered to John W. Dunn of the Mountain Law Group, LLC, located at Vail Professional Building, 953 South Frontage Road West, Suite 222, Vail, Colorado 81657 no later than seven (7) days after full execution of this Agreement.

3. Release. In consideration of receipt of the Payment, the Estate hereby forever releases the Town and its officers, agents, insurers, representatives, attorneys and employees from any claims, further financial obligations or liability related to legal services or other related services provided by Allen Christensen to the Town at any time. The Estate acknowledges that the Payment is a full and final payment for said services, and that no additional payment is or will be due from the Town.

4. Miscellaneous.

A. Non-Assignment of Claims. Each Party represents and warrants that it has not assigned any claims, in whole or in part, that would otherwise by subject to the terms of this Agreement to any person or entity not a party to this Agreement, and to each Party's knowledge, no other person or entity has asserted or is able to assert rights to any claim or settlement referenced in this Agreement.

B. Right to Counsel. Each Party agrees that they have each conferred with the attorney of their choice concerning this litigation and the legal consequences of entering into this Agreement.

C. Investigation of Facts. Each Party represents and warrants that it has made such investigation of facts pertaining to this Agreement and all matters pertaining thereto as it deems necessary. The Parties acknowledge that they may hereafter discover facts different from, or in addition to, those facts which they now know or believe to be true with respect to these matters, and they agree that this Agreement shall remain effective in all respects notwithstanding such different or additional facts or the discovery thereof.

D. Knowledge and Review of Agreement. The Parties warrant and represent that this Agreement is executed voluntarily with full knowledge of the consequences and implications of their obligations contained herein, accept its terms without any consideration whatsoever other than that which is expressly set forth in this Agreement and without being influenced by any statement or representation of any person or party other than those set forth in this Agreement, and that they have carefully and thoroughly reviewed this Agreement in its entirety.

E. Warranty of Authority. The undersigned individually warrant and represent that they are authorized to execute this Agreement and, if applicable, that all necessary corporate or governmental actions have been taken to authorize execution of this Agreement.

F. Legal Competence. Each Party has executed this Agreement after carefully reading the contents hereof and signs the same of their own free will and as a voluntary act without coercion or distress by the other Party. Each Party is legally competent to execute this Agreement and accepts full responsibility therefor.

G. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties' successors, assigns, executors, personal representatives, heirs, and devisees.

H. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Eagle County, Colorado.

I. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

J. Third Parties. There are no intended third-party beneficiaries to this Agreement.

K. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

L. Modification. This Agreement may only be modified upon written agreement of the Parties.

M. Governmental Immunity. The Town and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

N. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, and thus any obligations of the Town hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first set forth above.

**ESTATE OF ALLEN CARL CHRISTENSEN**

Susan Christensen, Personal Representative

STATE OF COLORADO )
) ss.
COUNTY OF EAGLE )

The foregoing instrument was subscribed, sworn to and acknowledged before me this 5th day of February, 2014, by Susan Christensen, Personal Representative of the Estate of Allen Carl Christensen.

My commission expires: 09/15/2016

(S E A L)

JAROSLAW SOSNOWKA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20004032142
MY COMMISSION EXPIRES 9/15/2016

Notary Public

**TOWN OF MINTURN, COLORADO**

Mayor Gordon "Hawkeye" Flaherty

ATTEST:

Jay Brunvand, Town Clerk/Treasurer

TOWN OF MINTURN, COLORADO SEAL 1904