



Mutual Release and Settlement Agreement

This Mutual Release and Settlement Agreement ("Agreement"), effective as of the date of the last Party to sign, is between the County of Sandoval (*hereinafter referred to as "County"*), and Universal Waste Systems, Inc. (*hereinafter referred to as "UWS"*), (*County and UWS collectively referred to as "the Parties"*) and is intended to effect the settlement and mutual release of claims as set forth in this Agreement.

I. RECITALS.

A. The Parties entered into an Agreement for the Provision of Solid Waste Services in the Unincorporated Areas of Sandoval County, excluding Placitas, on August 17, 2017, for the collection of solid waste within the County, as well as the operation and maintenance of certain convenience centers, whereupon County residents could dispose of their solid waste (*referred to hereinafter as "the Service Agreement"*). This Service Agreement relates to Services involving waste generated and deposited in the landfill from Sandoval County (*hereinafter "in County Services Agreement"*).

B. UWS alleges that it entered into a Landfill Services Agreement in March of 2017 with Sandoval County for a volume-based rate of \$14.50 per ton through March 31, 2025 for all other municipal waste deposited into the Sandoval County Landfill (*hereinafter referred to as "Out of County Waste Agreement"*). Sandoval County denies this allegation and the existence of a second Service Agreement.

C. Throughout the five (5) years in which UWS has provided services pursuant to the Service Agreements, the Board of County Commissioners elected to raise solid waste disposal rates three times, ultimately raising the disposal rate from \$14.50 per ton to \$30.00 per ton.

D. The Service Agreement required renegotiation of disposal rates upon the change of rates by the Board of County Commissioners but failed to identify a negotiation process or penalties for failure to negotiate rates. The direct result of the County disposal rate increase was a conflict between rates charged to UWS and other entities utilizing the County landfill for solid waste disposal.

E. The rate discrepancy led to a dispute between the Parties, which threatened to result in litigation.

F. Pursuant to the mediation clause of the Service Agreement the Parties agreed to mediate their dispute over the tipping fees owed the County for both the In County waste and the Out of County waste. Pursuant to a mediated agreement by the parties, they agreed that UWS would pay tipping fees to the County in the amount of \$17.50 per ton until the mediation is completed. This agreement is the product of those negotiations.

G. The Parties wish to settle and resolve each and every claim that was brought or could have been brought related to the Service Agreements and/or solid waste disposal rates due to the County by UWS for solid waste disposal.

THEREFORE, in consideration of each Party's release of any and all claims each may have against the other arising from or related to the In County Services Agreement and the Out of County Waste Agreement to the extent that such claims were brought by either Party or could be brought by one Party of this Agreement against the other Party, and in consideration for the execution of this Agreement, the Parties AGREE as follows:

I. MUTUAL RELEASE OF CLAIMS.

In consideration of the mutual relinquishment of their respective claims against the other Party arising through or related to the Service Agreements, and all other claims that could have been brought by the parties related to landfill disposal rates, or that could be enforced by one Party of this Agreement against the other Party, the Parties, on their behalf and on behalf of their predecessors, successors, assigns, directors, officers and employees do hereby absolutely and unconditionally release, waive, acquit, discharge and otherwise relinquish any and all possible claims, demands, debts, actions, damages, judgments, obligations, liabilities, costs, expenses, attorneys' fees, and executions whatsoever against each other, whether such claims are known or unknown to the Parties at the time this Agreement is executed.

This Agreement and mutual release of claims does not apply to any and all possible claims, demands, debts, dues, actions, damages, judgments, obligations, liabilities, costs, expenses, attorneys' fees, and executions whatsoever, arising out of any breach of the terms and conditions of this Agreement, including any claims related or pertaining to performance of the terms and conditions of this Agreement.

II. CONSIDERATION FOR THE SETTLEMENT AND RELEASE.

A. The Parties hereby state that each of the disputes over the tipping fees, legality of the Service Agreements, or the requirements for negotiation of rates pursuant to the Service Agreements are hereby resolved and satisfied to the mutual satisfaction of the Parties.

B. UWS, concurrently with this settlement of claims and release, agrees to pay the following rate for the duration of the respective Service Agreements. \$17.50+CPI per ton, up to 4,500 tons per month. Any amount in excess of 4,500 tons per month shall be paid at the rate of \$30.00 per ton, or a future Rate established by the Board of County Commissioners, whichever is greater, provided however that the rate paid by UWS shall not exceed the lowest tipping fee offered to or paid by any other person or entity for the same type of waste under the same County Commission approved rate. The \$17.50 amount will increase at the rate of the CPI at the beginning of each new Agreement year. The CPI increase shall be 4.6% per year between the date of the entry of the Agreement and the date of the expiration of the In and Out of County Agreements. The Rates shall be:

1. January 1, 2022 through December 31, 2022 @ \$17.50 per ton
2. January 1, 2023 through December 31, 2023 @ \$18.28 per ton
3. January 1, 2024 through December 31, 2024 @ \$19.12 per ton
4. January 1, 2025 through August 21, 2025 @ \$20.00 per ton

C. The County, concurrently with this settlement of claims and release, agrees to waive all claims related to those Commission approved rates in excess of \$14.50 per ton prior to the date of this Agreement and through the term of the underlying Service and Waste Agreements. In turn, UWS agrees to waive its claims against the County for the difference between the \$17.50 rate and the \$14.50 rate. This release includes any and all of the Parties' claims of underpayment or overpayment of tipping fees existing as of the date of this Agreement.

D. The Parties mutually agree that upon termination of the Service Agreements on March 31, 2025 for Out of County waste and August 21, 2025 for the Service Agreement, the rates established pursuant to this Agreement shall expire. At such time, the disposal rates shall revert to the rates as established by the Board of County Commissioners in effect upon the date of expiry of the Service Agreements.

E. For the term of the Service Agreement, (e.g. until March 31, 2025) UWS agrees to waive the right to any fee increases for the convenience center operations or for residential customers in the unincorporated areas of Sandoval County.

F. This Agreement is effective upon the last signature to the Agreement.

III. FULL AND COMPLETE RELEASE; NO ADMISSION OF LIABILITY.

This Agreement constitutes full and complete settlement and release of any and all claims between the Parties arising out of the Service Agreements. This Agreement does not constitute, nor shall it be construed to constitute, an admission of fault or liability by the Parties.

IV. REPRESENTATIONS.

A. The Parties represent, warrant, and acknowledge to each other that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or portion of the claims between the Parties arising out of the Agreement, and that each party has the lawful authority to enter into this Agreement

B. The Parties agree that this Agreement may be entered into evidence in any subsequent proceeding in which either Party alleges a breach of this Agreement and may be produced as required by legal process or court order as required by state law.

C. The Parties represent and warrant that they have had the opportunity to obtain and receive independent legal advice from attorneys of their choosing with respect to the legal effect of this Agreement, they have been advised of all liabilities, obligations, and further represent and warrant that they have carefully reviewed this entire Agreement and that each and every term hereof is understood.

D. The Parties represent and agree they have had the opportunity to fully and equally participate in the preparation, negotiation, review and approval of this Agreement. Hence, the Parties agree the terms of this Agreement will not be interpreted against or in favor of either Party.

V. BINDING AGREEMENT.

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, predecessors, successors, and/or assigns. The Parties agree to execute such other and further documents reasonably necessary to carry out the intent of this Agreement. This Agreement is approved by the Sandoval County Commission, County Manager and is approved as to legal form by the County Attorney and shall be binding in all respects on the County of Sandoval.

VI. MODIFICATION.

The terms of this Agreement may only be modified in a writing agreed to and signed by each of the Parties.

VII. ENTIRE AGREEMENT

This Agreement, the terms of which expressly include the Recitals to this Agreement, contains the entire agreement reached by the Parties on the subject matter herein, and it is agreed that all terms of this Agreement are contractual and not a mere recital.

VIII. SEVERABILITY.

The Parties understand and agree that, if any provision of this Agreement is declared to be invalid or unenforceable by a court of competent jurisdiction, such provision or portion of this Agreement will be deemed to be severed and deleted from this Agreement, but this Agreement in all other respects will remain unmodified and continue in full force and effect, provided, however, that this provision does not preclude a court of competent jurisdiction from refusing to sever any provision if severance would be inequitable.

IX. GOVERNING LAW; ATTORNEYS' FEES; AND COSTS.

This Agreement shall be construed and enforced in accordance with New Mexico law. The Parties agree that in any dispute arising from this Agreement, the prevailing Party is entitled to recover reasonable attorneys' fees and costs from the non-prevailing Party. Except as provided in the preceding sentence, the Parties each shall bear their respective attorneys' fees and costs in this matter.

X. COUNTERPARTS.

This Agreement may be executed in one or more counterparts and transmitted electronically, including facsimile and/or electronic counterparts, each of which, when so executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties have signed this Agreement to be effective upon the date of the last signature written below.

Sandoval County/Universal Waste Systems, Inc. Mutual Release and Settlement
Agreement Signature Page

UNIVERSAL WASTE SYSTEMS, INC.


By 
Mark Blackburn
It President

Date: 11-16-22


SANDOVAL COUNTY


Commissioner Katherine A. Bruch

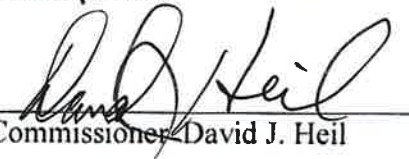
Date: 1/31/23


Commissioner Jay C. Block

Date: 1-25-23


Commissioner Michael Meek


Date: 1-25-23


Commissioner David J. Heil

Date: 1-25-23

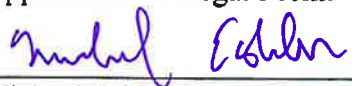
Commissioner F. Kenneth Eichwald

Date: _____


Wayne Johnson
Sandoval County Manager

Date: 1/31/23

Approved as to Legal Form:


Michael Eshleman
Sandoval County Attorney

Date: 1/31/23