

BOARD OF COUNTY COMMISSIONERS  
SARPY COUNTY, NEBRASKA

**RESOLUTION APPROVING SETTLEMENT AGREEMENT AND GENERAL MUTUAL  
RELEASE OF ALL CLAIMS WITH WASTE MANAGEMENT OF NEBRASKA, INC.**

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2007), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, on April 25, 2008, a Caterpillar compactor owned by the County was damaged through the negligence of the employees or agents of Waste Management of Nebraska, Inc. or an affiliate thereof, and,

WHEREAS, as a consequence of said negligence, Sarpy County suffered damages in excess of \$35,000; and,

WHEREAS, on November 4, 2008, this Board authorized the County Attorney's Office to file a complaint against Waste Management of Nebraska, Inc. to recover said damages; and,

WHEREAS, such complaint was filed on March 2, 2009; and,

WHEREAS, Sarpy County desires to enter into a settlement agreement with Waste Management of Nebraska, Inc. in which Waste Management has agreed to settle the case for \$35,539.74, the full amount of the demand for damages, and a copy of said settlement agreement is attached hereto as Exhibit A; and,

WHEREAS, the settlement agreement is in the best interests of the citizens of Sarpy County.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that this Board hereby approves the settlement agreement and general mutual release of all claims with Waste Management, a copy of which is attached.

BE IT FURTHER RESOLVED that the Chairman of this Board, together with the County Clerk, is hereby authorized to sign on behalf of this Board the settlement agreement and general mutual release of all claims, a copy of which is attached, and any other related documents, the same being approved by the Board.

DATED this 25<sup>th</sup> day of August, 2009.

Moved by Rich Jensen, seconded by Rusty Hike, that the above Resolution be adopted. Carried.

YEAS:

NAYS:

ABSENT:

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]

None  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

None  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ABSTAIN:  
None  
\_\_\_\_\_



County Clerk

Approved as to form

[Signature]  
Deputy County Attorney

**SETTLEMENT AGREEMENT AND GENERAL MUTUAL RELEASE  
OF ALL CLAIMS**

COUNTY OF SARPY, NEBRASKA, (hereinafter referred to as "Plaintiff"), for the sole consideration of Thirty Five Thousand Five Hundred Thirty Nine Dollars and Seventy-Four Cents (\$35,539.74) and the mutual release and other promises set out herein, does hereby release, acquit and forever discharge WASTE MANAGEMENT OF NEBRASKA, INC. and their agents, representatives, assigns, employees, successors, predecessors, subsidiaries and contractors, (hereinafter collectively referred to as "Defendant") from any and all property damage claims, actions, causes of action, demands, rights, damages, medical expenses, costs, loss of services, loss of income, loss of use, expenses and compensation, and any other damages whatsoever, which Plaintiff now has or which may hereafter accrue on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen, mental and bodily and/or personal and/or economic injuries and damages, allegedly suffered by Plaintiff, and the consequences thereof, resulting or which may result from the incident of April 25, 2008, involving a collision between a compactor owned by Plaintiff and a vehicle owned by Defendant at the Sarpy County Landfill in Springfield, Nebraska, (hereinafter "the Incident"), which is the subject of Case No. CI09-373, styled *County of Sarpy, Nebraska v. Waste Management of Nebraska, Inc.*, pending in the District Court of Sarpy County, Nebraska (hereinafter "the Lawsuit").

The Plaintiff, for the sole consideration of the money paid as set forth above in accordance with this settlement and the mutual release and other promises set out herein, does hereby release, acquit and forever discharge Defendant from any and all claims, actions, causes of action, demands, rights, damages, medical expenses, costs, loss of services, loss of income, loss of use, expenses and compensation, and any other damages whatsoever, which it now has or

which may hereafter accrue on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen, mental and bodily and/or personal and/or economic injuries and damages, allegedly suffered by Plaintiff, and the consequences thereof, resulting or to result from the Incident, which is the subject of the Lawsuit.

It is intended and understood by Plaintiff and Defendant that this Release is a general release of every person and entity noted above, with respect to the Incident and the damages complained of and claimed in the Lawsuit, the consequences of such damages and any future damages that may develop as a result of the Incident. It is neither intended nor understood to be a special release or a limited release. It is a general release which finally and forever settles any and all possible claims as to the injuries and damages complained of as well as to those that could have been claimed or complained of and those that may develop in the future.

It is understood and agreed that this settlement is the compromise of a doubtful and disputed claim, and that the payment of the sum set forth herein is not to be construed as an admission of liability on the part of Defendant, and that Defendant denies liability thereof and intends merely to avoid litigation and buy its peace. It is further understood and agreed that Plaintiff and Defendant wish to fully settle, compromise and forever end all claims that they have or may have against each other for any damages or expenses arising out of the Incident.

Plaintiff and Defendant agree, as further consideration and inducement for this Settlement Agreement and General Mutual Release of All Claims, that it shall apply to all unknown and unanticipated damages directly and indirectly resulting from the Incident as well as to those now disclosed.

Plaintiff and Defendant covenant that they shall not institute in any name or in any capacity any additional legal proceedings or claims of any nature whatsoever against each other, or the other's insurer, in any way relating to the Incident.

In consideration of the sum paid as previously set forth, and other promises as set out herein, Plaintiff further agrees to dismiss (or direct its attorneys to dismiss) with prejudice the Lawsuit by filing the Dismissal with Prejudice attached hereto.

To procure the payment of the sum previously set forth, Plaintiff hereby declares that no representations about the nature and extent of injuries or damages made by any attorney or agent of Defendant, nor any representation regarding the nature and extent of legal liability or financial responsibility of Defendant, have induced it to make this Settlement Agreement and General Mutual Release of All Claims, and that in determining the amount of the sum previously set forth there has been taken into consideration not only the claimed and ascertained injuries and damages, but also the possibility of damages not yet ascertained.

Plaintiff and Defendant further represent and agree that they have read this Settlement Agreement and General Mutual Release of All Claims in its entirety, have discussed the effect of signing this document with their attorneys, understand that by signing this document they are giving up all rights that they may have to recover any sum of money or compensation whatsoever against each other, or the other's insurer, for any damages or expenses arising out of the Incident, and also understand that Defendant has not admitted liability but instead has denied and continues to deny all liability arising out of the Incident.

Plaintiff and Defendant further agree that this Settlement Agreement and General Mutual Release of All Claims shall be construed under the laws of the State of Nebraska and that if any provision or provisions of this Settlement Agreement and General Mutual Release of All Claims

are held by a court of competent jurisdiction to be unenforceable as a matter of law or public policy that this Settlement Agreement and General Mutual Release of All Claims is not void and all remaining provisions have full force and effect.

Plaintiff and Defendant further agree that each party will pay for their own costs in participating in the Lawsuit.

**CAUTION: THIS IS A FULL AND FINAL GENERAL RELEASE. READ BEFORE SIGNING.**

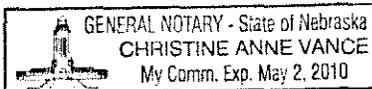
Signed and sealed this 25<sup>th</sup> day of August, 2009.

*Loni Jones*  
Signature - On Behalf of County of Sarpy, NE

Loni Jones  
Printed Name

STATE OF Nebraska )  
COUNTY OF Sarpy ) ss

Subscribed and sworn to before me this 25<sup>th</sup> day of August, 2009.



*Christine Anne Vance*  
Notary Public

My Commission Expires: 5/2/2010





MDG2009 00007185 1 SP 0440

JULIE OWENS  
WILLIAMS VENKER & SANDERS  
BANK OF AMERICA TOWER  
100 N. BROADWAY, 21ST PL  
ST. LOUIS MO 63102



GALLAGHER BASSETT SERVICES INC  
FOR WASTE MANAGEMENT

DIRECT CHECK INQUIRIES TO:  
PHONE: 800-433-0181  
GALLAGHER BASSETT-LA/LAGUNA HI  
P.O. BOX 30840  
LAGUNA HILLS CA 92656-5326

CLAIM NO.: 003000 208697 AD 01 (4001)  
CLAIMANT: SARPY COUNTY LANDFILL  
DESCRIPTION: SARPY V. WM

BRANCH NO.: 036  
ACC DATE: 25Apr08

NO.: 0072567440  
VN: 0002275699  
DATE: 24Jul09

DATES OF SERVICE: THRU  
BENEFIT PERIOD: THRU

AMOUNT: 35539.74

DETACH AND RETAIN THIS STUB FOR YOUR REFERENCE

C 0007185 008011 001 001

THE FACE OF THIS DOCUMENT HAS A BLUE BACKGROUND - THE BACK HAS AN ARTIFICIAL WATERMARK

GALLAGHER BASSETT SERVICES INC  
FOR WASTE MANAGEMENT

CHECK NO. 0072567440 006671  
VN. 0002275699  
DATE: 24Jul09 62-20/311

CLAIM NO.: 003000 208697 AD 01 (4001) BRANCH NO.: 036  
PAY THIRTY-FIVE THOUSAND FIVE HUNDRED THIRTY-NINE AND 74/100 DOLLARS\*\*\*\*\*

NOT VALID AFTER 90 DAYS  
PAY EXACTLY  
\$ \*\*35539.74

TO THE ORDER OF RICH JAMES, SARPY COUNTY  
TREASURER  
1210 GOLDEN GATE DR.  
STE.3147  
PAPILLION NE 68046

AUTHORIZED SIGNATURE

CITIBANK, N.A.  
ONE PENN'S WAY  
NEW CASTLE, DE 19720



# Deb Houghtaling

Sarpy County Clerk

1210 Golden Gate Drive, Suite 1118  
Papillion, Nebraska 68046-2895

Phone: (402) 593-2105  
Fax: (402) 593-4360

Fred Uhe  
Chief Deputy

August 31, 2009

Williams, Venker, & Sanders LLC  
Attn: Julie Owens  
100 North Broadway, 21<sup>st</sup> Floor  
St. Louis, MO 63102

RE: Waste Management Settlement Agreement

Action by the Sarpy County Board of Commissioners, at the meeting of August 25, 2009, is as follows:

Resolution (2009-242): Approve settlement agreement and general mutual release of all claims with Waste Management of Nebraska, Inc. (Landfill compactor).

MOTION: Resolved by Jansen, seconded by Hike, to approve Resolution 2009-242 for the settlement agreement and general mutual release of all claims regarding the Sarpy County Landfill compactor damage in the amount of \$35,539.74. Ayes: Hike, Jones, Richards, Thomas & Jansen. Nays: None.

Enclosed are two originals of the subject agreement, which have been signed by the Chairman as authorized by the above stated action. Please sign both original agreements and maintain one for your records. We request the second copy be returned for Sarpy County records.

**Mail to:** Sarpy County Clerk  
Attn: Chris Vance  
1210 Golden Gate Dr.  
Papillion NE 68046-2895

Sincerely,



Debra J. Houghtaling  
Sarpy County Clerk

Enclosures (2)  
DJH/tj

**WILLIAMS VENKER & SANDERS LLC**  
ATTORNEYS AT LAW

Bank of America Tower  
100 North Broadway  
21st Floor  
St. Louis, MO 63102

Telephone: (314) 345-5000  
Facsimile: (314) 345-5055

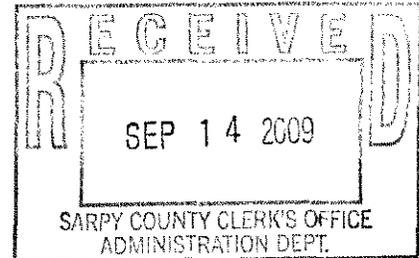
www.wvslaw.com

Julie Owens  
(314) 345-5027  
JOwens@wvslaw.com

September 11, 2009

**VIA FEDEX – Signature Required**

Sarpy County Clerk  
Attn: Chris Vance  
1210 Golden Gate Dr.  
Papillion, NE 68046-2895

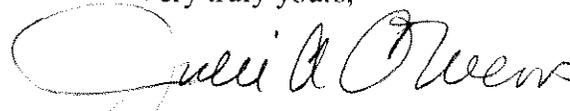


Re: County of Sarpy, NE v. Waste Management of NE, Inc.  
Settlement Agreement and Draft

Dear Ms. Vance:

Enclosed please find the fully executed settlement agreement for the above-referenced matter. I have also enclosed the settlement draft in the amount of \$35,539.74 in full and final settlement of this matter. Please do not hesitate to contact me if you have questions or concerns.

Very truly yours,

  
Julie A. Owens

Enclosures

cc: Kerry Schmid  
Steve Wasserman