

## SETTLEMENT AND RELEASE

This Settlement and Release Agreement (“Agreement”) is made by NEW MEXICO STATE ETHICS COMMISSION (“Releasor”), and YVONNE OTERO (“Releasee”). Each is referred to individually as a “Party” or collectively as the “Parties.”

### RECITALS

The Parties hereby stipulate as follows:

- A. Ms. Otero admits that while she was Torrance County Clerk, she discharged a TASER personal defense weapon beside the head of her subordinate employee.
- B. Ms. Otero admits that while she was Torrance County Clerk, she demanded an employee provide her with prescription medications on at least one occasion.
- C. Ms. Otero admits the conduct in Paragraphs A and B above violated Section 10-16-3(A) of the Governmental Conduct Act because she used the powers and resources of her public office for personal benefit or private interests.
- D. Ms. Otero admits that while she was Torrance County Clerk, she pre-signed blank certification forms of vote tabulating machines on September 28, 2022, before the date of inspection, and outside the presence of the inspection.
- E. Ms. Otero admits the conduct in Paragraph D above violated Section 10-16-3(C) of the Governmental Conduct Act because by engaging in such conduct while using the powers and resources of her government office she breached her legal duties as County Clerk and therefore abused her office.
- F. Ms. Otero admits that while she was Torrance County Clerk, she permitted a Torrance County laptop to be used by her brother, a person who was not a Torrance County employee, for personal reasons.

- G. Ms. Otero admits the conduct in Paragraph F above violated Section 10-16-3.1(C) of the Governmental Conduct Act because she allowed Torrance County property to be used for other than authorized purposes.
- H. On February 7, 2023, the Commission filed *State Ethics Commission v. Yvonne Otero*, D-722-CV-2023-00028 (“Lawsuit”).
- I. The Parties desire to enter into this Agreement to memorialize the agreement reached, by and between the Parties, to resolve the Lawsuit.

### **AGREEMENT**

NOW THEREFORE, in consideration of the foregoing recitals and the mutual promises hereinafter set forth, the Parties agree as follows:

1. **Consideration.** Releasee shall pay to Releasor the sum of one-thousand dollars (\$1,000.00). This amount shall be payable to the State of New Mexico. The amounts shall be paid within ten (10) days after the execution of this Settlement and Release.
2. **Release and Discharge.** In consideration of the payment and subject to the conditions more fully contained herein, Releasor hereby releases, acquits, and forever discharges Releasee, and all of their past, present and future officers, directors, shareholders, attorneys, agents, consultants, principals, members, servants, representatives, employees, heirs, personal representatives, beneficiaries, administrators, predecessors in interest, successors in interest, subsidiaries, affiliates, partners, limited partners, privies, insurers, and assigns, from any and all rights, claims, demands, and damages, of whatever nature, actions and causes of action of any kind whatsoever, known or unknown, suspected or unsuspected, which Releasor asserted or could have asserted as part of the Lawsuit.
3. **Dismissal of Lawsuit.** The Parties agree that upon the execution of this Agreement and Releasor’s receipt of payment of the above-described consideration by Releasee, Releasor will dismiss the Lawsuit with prejudice.
4. **Payment in Full and Final Settlement.** The Parties agree that the money to be paid pursuant to this Agreement shall represent final and full satisfaction and settlement of all rights and claims Releasor may have relating in any way to all released claims. It is the intent of the Parties to fully and effectively

dismiss and release any and all claims that Releasor had or could have had against Releasee as it relates to the claims contained in the Lawsuit. The Releasor agrees that Releasor will neither file nor institute claims, complaints, causes of action, whether civil actions, administrative or otherwise, against Releasee from the facts or circumstances described in the Lawsuit.

5. **Adequate Consideration.** The Parties agree that the consideration noted in Paragraph 1 represents adequate consideration for this Settlement Agreement.

6. **Warranty of Capacity to Execute Settlement Agreement.** The Parties represent and warrant that no other person or entity has any interest in the claims, demands, damages, actions or causes of action referred to in this Agreement and each have the right and authority to execute this Agreement. Further, the Parties represent and warrant that the execution of this Agreement violates no law, rule, agreement or instrument by which it may be bound or to which they are a party.

7. **Compromise of a Disputed Claim.** The Parties agree that this Agreement represents a compromise of disputed rights, demands, claims, actions and causes of action, taking into account, among other things, the costs and risks associated with litigation.

8. **Entire Agreement.** The Agreement represents the entire agreement between the Parties regarding the matters set forth herein and shall be binding upon and shall inure to the benefit of the executors, administrators, representatives, heirs, successors and assigns of each.

9. **Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of New Mexico.


10. **Severability.** If, after the effective date hereof, any provision of this Agreement is held to be illegal, invalid or unenforceable, such provision shall be fully severable and shall be unenforceable between the Parties only to the extent of such prohibition or ineffectiveness without invalidating the remainder of the provision or of this Settlement Agreement.

11. **Amendment.** This Agreement shall not be modified or amended except in writing signed by the Parties.

12. **Effective Date.** This Agreement shall become effective immediately upon execution by the Parties.

13. **Effective in Counterparts.** To expedite the conclusion of this matter, the Parties agree that this Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. By so proceeding, the Parties further agree that the Agreement shall be and is binding upon each of them, just if the Agreement had been executed otherwise. Faxed or scanned and emailed copies of manually executed signature pages to this Agreement shall be enforceable without the need for delivery of an original signature.

14. **Fees and Costs.** Each Party agrees to pay its own attorneys' fees and court costs.

DocuSigned by:  
  
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By: \_\_\_\_\_

YVONNE OTERO

12/7/2023

\_\_\_\_\_  
(Date)

By: \_\_\_\_\_

JEREMY FARRIS, Executive Director, State Ethics Commission,  
on behalf of the New Mexico State Ethics Commission

\_\_\_\_\_  
(Date)