



June 16, 2022

Mr. Jerry L. Schuber Sr.
Director of Solid Waste and Recycling
Broken Arrow Municipal Authority
Broken Arrow, Oklahoma 74013

Rate Adjustment

Dear Jerry:

Due to unprecedented inflation and operational cost increases, WM will increase the Broken Arrow Municipal Authority acceptable waste/construction and demolition rate at Quarry Landfill from \$25.77 per ton to \$27.57. The rate for wastewater treatment plant sludge will increase from \$29.30 per ton to \$31.35. The \$1.25 per ton State flow fee will be in addition to the tonnage rate and all rates will be effective 7/1/2022. I've attached a month-to-month agreement for your review. Please let me know if you determine that you want a long-term agreement for all the Broken Arrow Municipal Authority's disposal volume.

We appreciate your business, feel free to call me if you have any questions, and thanks Jerry.

Sincerely,

A handwritten signature in black ink that reads "Rick Padgett".

Rick Padgett
Public Sector Manager
rpadgett@wm.com
405-520-3883



DISPOSAL AGREEMENT

THIS DISPOSAL AGREEMENT made this ____ day of _____, 20____, (the "Agreement") by and between Waste Management of Oklahoma, Inc. ("WM"), and The Broken Arrow Municipal Authority (the "Customer").

WITNESSETH:

WHEREAS, WM is the owner and operator of a Class 1 nonhazardous solid waste landfill known as the Quarry Landfill ("Disposal Facility") located at 13720 E. 46th Street North, Tulsa, Oklahoma, and permitted by the Oklahoma Department of Environmental Quality ("ODEQ") for the receipt of nonhazardous solid waste;

WHEREAS, the Customer seeks solid waste disposal services for municipal solid waste and construction and demolition waste at the Disposal Facility;

WHEREAS, WM has agreed to provide disposal services to the Customer under the terms set forth in this Agreement; and

NOW THEREFORE, FOR AND IN CONSIDERATION of the respective covenants herein contained, the parties have agreed as follows:

1. DEFINITIONS

- (a) The Disposal Facility – as used herein means the landfill known as the Quarry Landfill located at 13720 E. 46th Street North, Tulsa, Oklahoma, which is utilized, owned, and/or operated by WM and permitted to receive Acceptable Waste by the applicable federal, state, and/or local agency.
- (b) Acceptable Waste – non-hazardous municipal solid waste, organic waste, and Construction and Demolition Debris that is collected and/or transported by the Customer or its authorized subcontractors that can legally be disposed of at the Disposal Facility. Acceptable Waste shall not include any Unacceptable Waste.
- (c) Construction and Demolition Debris - waste building materials resulting from construction, remodeling, repair, or demolition operations that are directly or indirectly the by-products of construction work or that result from demolition of buildings or other structures.
- (d) Customer – The Broken Arrow Municipal Authority, its agents, employees, and representatives and any and all subcontractors, persons, or entities that collect and/or transport Acceptable Waste on its behalf to the Disposal Facility.
- (e) Hazardous Waste – any chemical, compound, mixture, material, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the federal or state government to be hazardous as that term is defined by or pursuant to Federal, State or local law or regulations, and any toxic, infectious, radioactive, highly flammable, explosive waste or substance as such terms are defined by Federal, State or local law or regulations.
- (f) Unacceptable Waste – material that is or contains special waste, including without limitation, industrial process wastes, asbestos-containing material, petroleum contaminated soils, treated/de-characterized wastes, any waste tires, regulated medical waste, and/or Hazardous Waste, other material that the Disposal Facility is not permitted

to accept, or material that has a reasonable probability of otherwise adversely affecting the operation or useful life of the Disposal Facility. Title to and liability for Unacceptable Waste shall remain with the Customer or the generator at all times.

2. SCOPE OF SERVICE, RIGHTS AND OBLIGATIONS

- (a) Subject to the terms and conditions hereof, the Customer agrees that it may deliver to and dispose of at the Disposal Facility, Acceptable Waste collected and/or transported by or for the Customer. WM agrees that it will accept all Acceptable Waste for disposal at the Disposal Facility under the terms of this Agreement. The Customer agrees that the waste delivered to WM hereunder will not contain any Unacceptable Waste.
- (b) Each party shall be responsible for securing the necessary permits and approvals from relevant federal, state and local governmental agencies having jurisdiction over their respective operations. WM represents and agrees that its Disposal Facility and its Transfer Station are properly permitted to receive the Acceptable Waste set forth in this Agreement. The parties shall perform their obligations herein in compliance with all applicable permits and laws and regulations.
WM may close, at its sole discretion, the Disposal Facility in observance of the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

WM has the right to refuse or reject before or after acceptance any load from Customer that contains Unacceptable Waste delivered to the Disposal Facility. If the Customer delivers Unacceptable Waste to the Disposal Facility, Customer is in violation of this Agreement, and WM may in its sole discretion either remove, manage, handle, and/or dispose of that Unacceptable Waste and charge the Customer for the costs, expenses, fines, and/or penalties arising out of such activities or require the Customer to promptly remove, manage, handle, or dispose of the Unacceptable Waste from the Disposal Facility at its sole cost. **Customer agrees to pay for or reimburse WM for any and all costs, damages and/or fines incurred as a result of or relating to Customer's tender or delivery of Unacceptable Waste to the Disposal Facility, including without limitation, costs of inspection, testing, analysis, legal fees, professional consulting fees, or removal costs.**

- (b) During the term of this Agreement, the Customer shall have a license to enter the Disposal Facility for the sole purpose of off-loading Acceptable Waste at the location and in the manner directed by WM. Except in an emergency, or at the express direction of WM, the Customer's personnel shall not leave the immediate vicinity of their vehicle. After off-loading the Acceptable Waste, the Customer's personnel shall promptly leave the Disposal Facility. Under no circumstances shall the Customer or its personnel engage in any scavenging of waste. Customer shall comply with all rules and regulations of the Disposal Facility. WM may refuse to accept Acceptable Waste from, and shall deny an entrance license to, any of the Customer's personnel whom WM believes is under the influence of alcohol or other chemical substances, who engages in reckless behavior, or who fails to comply with disposal Facility rules or safe practices. In addition, WM shall permit the Customer to tour the facility upon advance reasonable request.
- (c) Title to the Acceptable Waste delivered by or on behalf of the Customer shall be transferred to and vest in WM at the time the Acceptable Waste is fully unloaded at the working face of the Disposal Facility and the Customer's vehicle has departed such working face. Prior thereto, title to the Acceptable Waste shall be in, and all risks and responsibilities shall be borne by, the Customer. Notwithstanding the foregoing, title to

and liability for Unacceptable Waste shall always remain with the Customer or the generator of the Unacceptable Waste.

- (d) Two times (2) per year, on a Saturday in the Spring and Fall, as determined by a mutually agreeable date between Broken Arrow Municipal Authority (BAMA) and WMO, the Disposal Facility will receive Acceptable Waste generated at residences within the City of Broken Arrow corporate limits and delivered to the Disposal Facility by the residents. The City residents shall be allowed to deliver Acceptable Waste on one Saturday each year at no charge to the resident. WMO shall keep records and shall invoice BAMA for the number and types of loads of Acceptable Waste delivered to the Disposal Facility by residents during an Event. BAMA agrees to pay WMO for the invoiced volume of Acceptable Waste delivered by the residents during each Event no later than 45 days after the invoice date.

For each Event, BAMA shall provide its own staff or employees at the Disposal Facility who shall verify that each individual delivering Acceptable Waste to the Disposal Facility as part of the Event resides within the City limits. BAMA shall provide a minimum of two (2) individuals, at all times during the Event, to supervise the check-in station at the Disposal Facility where BAMA staff or employees shall conduct the resident verification process. BAMA shall be responsible for determining whether the resident's vehicle, truck, or trailer meets BAMA's requirements on truck or trailer size. BAMA shall provide sufficient staff or employees during each Event so that traffic at the Disposal Facility check-in station flows smoothly.

Each Event shall last no longer than 7:00 a.m. to 1:00 p.m. on the selected Saturday.

WMO has the right to refuse or reject after acceptance any load that is or contains Unacceptable Waste. If a Broken Arrow resident delivers Unacceptable Waste, WMO may, in its sole discretion, either remove, manage, handle, and/or dispose of that Unacceptable Waste and/or charge BAMA for the costs, expenses, fines, and penalties arising out of such activities or require BAMA to promptly remove, manage, handle, or dispose of the Unacceptable Waste from the Disposal Facility at its sole cost.

Title to the Acceptable Waste delivered by the resident shall be transferred to and vest in WMO at the time the Acceptable Waste is fully unloaded at the working face of the Disposal Facility and the resident's vehicle has departed such working face. Prior thereto, title to the Acceptable Waste shall be in, and all risks and responsibilities theretofore shall be borne by, the resident delivering the Acceptable Waste. Notwithstanding the foregoing, title to and liability for Unacceptable Waste shall always remain with BAMA or the resident that delivered of the Unacceptable Waste.

BAMA shall pay WMO the following disposal rates for each delivery of Acceptable Waste made by a resident to the Disposal Facility during any Event:

Car:	\$20.00 per load
Pickup Truck:	\$30.000 per load
Vehicle w/ trailer:	\$45.00 per load

The per load disposal rates above include (as of the date this Agreement is signed) all fees required by federal, state or local governmental authorities in connection with the receipt and landfilling of Acceptable Waste as provided herein. These Event Disposal rates shall be adjusted in accordance with the Consumer Price Index language in section 4 (b) below.

3. TERM OF CONTRACT

This Agreement shall take effect on July 1st, 2022 (the "Effective Date") and shall continue month to month. (the "Term").

4. RATES, ADJUSTMENTS, AND PAYMENTS

- (a) The initial disposal rate ("Base Rate") that WM shall charge the Customer for receiving and/or landfilling Acceptable Waste delivered to the Disposal Facility under this Agreement is \$27.57 per ton ("Base Rate") plus the applicable state of Oklahoma fee, which is currently \$1.25 per ton.
- (b) The Customer warrants that it is exempt from all sales tax, and that WM shall not assess sales tax on its services under this Agreement.
- (c) WM will invoice the Customer by the tenth (10th) day of each month for all Acceptable Waste deliveries during the previous month. The Customer shall pay WM within thirty (30) days after invoice date by check or ACH electronic deposit. **Payment of any invoice by credit card is not allowed.** The Customer shall pay WM interest on all past due invoices at the rate of one and one-half percent (1½ %) per month. If the Customer fails to pay invoices within 60 days of the invoice date, then WM has the discretion to terminate this Agreement for cause on seven days' written notice to the Customer.

5. INDEMNIFICATION

- (a) WM agrees to protect, indemnify, defend and save harmless the Customer, its officials, officers, employees, agents, authorized subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand, cause of action, suit and costs and expenses incidental thereto (including cost of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) WM's or its employee's, agent's, authorized subcontractor's, representative's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) WM's or its employee's, agent's, authorized subcontractor's, representative's negligent or willful misconduct related to the ownership maintenance and operation of the Disposal Facility.
- (b) The Customer agrees to protect, indemnify, defend and save harmless WM, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand, cause of action, suit and costs and expenses incidental thereto (including cost of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) the Customer's or its employee's, agent's, authorized subcontractor's, representative's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) the Customer's or its employee's, agent's,

authorized subcontractor's, representative's negligent or willful misconduct related to the disposal of waste at the Disposal Facility.

6. INSURANCE

The Customer shall provide and maintain the following insurance during the Term of this Agreement:

Required Insurance	Coverage Limits
Workers' Compensation	Statutory
Employers Liability	\$1 million per accident, \$1million disease policy limit
Commercial General Liability (including bodily injury, property damage, operation, products, and completed operations)	\$2 million per occurrence/\$2 million aggregate
Commercial Automobile Liability (including bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle)	\$1 million per occurrence/\$2 million aggregate

- (b) Customer shall provide to WM certificates of insurance evidencing such insurance. Such coverage and policies shall not be canceled, modified or revoked without providing WM thirty days advance written notice. Customer's insurance shall be primary as respects WM and any insurance maintained by WM shall be in excess of, and shall not contribute with, Customer's insurance.
- (c) WM may, at its option, terminate this Agreement if the Customer fails to maintain the required insurance coverage.
- (d) Customer's workers' compensation, commercial general liability and automobile liability insurance shall include a waiver of subrogation in favor of WM.
- (e) WM shall be included as an additional insured on the Customer's employer's liability, commercial general liability and automobile liability policies.
- (f) The insurance policy coverage requirements set out above may be satisfied by a combination of primary insurance and umbrella insurance.
- (g) If the Customer uses any subcontractors to deliver Solid Waste to the Disposal Facility on Customer's behalf, Customer shall require its subcontractors to adhere to all of the requirements set forth in this insurance section.

7. DEFAULT AND TERMINATION

- (a) Except as otherwise provided herein, if either party breaches this Agreement or defaults in the performance of any of the requirements contained herein and does not cure such default within thirty (30) days after the other party has given the party breaching or defaulting party written notice, the notifying party may: (i) terminate this Agreement for the breaching party's failure to cure within 30 days of receiving the written notice, or (ii) cure the breach or default at the expense of the party in breach. The non-breaching party shall have recourse to any other right or remedy to which it may be entitled by law,

including, but not limited to, the right for all damage or loss suffered by the non-breaching party as a result of such termination.

- (b) Either party may terminate this Agreement upon written notice to the other if the offending party: makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, receivership or insolvency, or files an answer in any involuntary proceeding of that nature admitting the material allegations of the petition, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted against the offending and such proceeding is not dismissed within sixty (60) days.
- (c) In the event either party waives default by the other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default.
- (d) In the event that this Agreement is terminated for any reason, any amounts payable to WM by the Customer for services rendered for any reason whatsoever shall become immediately due and payable as of the date of such termination.

8. GENERAL PROVISIONS

- (a) Neither party shall assign or transfer, or permit the assignment or transfer of, this Agreement or its rights hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, provided, however, that WM may transfer or assign its interest hereunder to an affiliate, subsidiary or parent company.
- (b) This Agreement constitutes the entire agreement and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.
- (c) This is an Agreement for the performance of the specific services described herein. Under no circumstances or conditions shall the operation of the Disposal Facility by WM in accordance with this Agreement be deemed a public function, nor has the Customer acquired an interest, ownership or otherwise in the real or personal property or improvements or fixtures at the Disposal Facility by virtue of this Agreement.
- (d) From and after the effective date, WM's performance hereunder may be suspended, and its obligations hereunder excused in the event and during the period that such performance is prevented by a cause or causes beyond the reasonable control of WM. Such causes shall include, but not be limited to, acts of God, acts of war, riot, fire, explosion, accident, flood or sabotage; lack of adequate fuel, power or raw materials; judicial, administrative or government laws, regulations, requirements, rules, orders or actions; injunctions or revocation or modification of, any license, permit or other authorization necessary for the services envisioned by this Agreement; national defense requirements; or labor strike, lockout or injunction.
- (e) If any term, clause or provision of this Agreement or the application thereof shall, to any extent, be illegal, invalid or unenforceable under present or future laws effective during the term hereof, then it is the intention of the parties that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties that there be added as a part of this Agreement a term, clause or provision as may be legal, valid and enforceable.
- (f) This Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma.

- (g) The covenants, terms, conditions and provisions of this Agreement shall extend to and be binding upon the successors and approved assigns of the respective parties.
- (h) All notices or other communications to be given hereunder shall be in writing and shall be deemed given the first business day following overnight delivery with a confirmed delivery receipt, or when mailed by registered or certified United States mail, return receipt requested, addressed as follows:

To WM: Waste Management
Attn: Public Sector
3201 Mosley Road
Oklahoma City, OK 73141

With a Copy to: Senior Counsel
Waste Management
9708 Giles Lane
Austin, TX 78754

To the Customer: _____

Change of address by either party shall be by notice given to the other in the same manner as above specified.

- (i) Whenever the consent, approval or cooperation of one party is expressly or implicitly required or necessary by the terms hereof to effect successful performance of the other party, such consent, approval or cooperation shall not be unreasonably withheld, denied or delayed.
- (k) The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, including the Indemnification Section, shall survive the termination (for any reason), cancellation or expiration of this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the date set forth above.

The Broken Arrow Municipal Authority

By: _____

Its: _____

Broken Arrow City Clerk

As to form City Attorney_____

WASTE MANAGEMENT OF OKLAHOMA, INC.

By: _____
Donald J. Smith
Its: President