



FAST. EASY. CLEAN.

**Environmental Wood Supply, LLC**

1350 Landmark Towers

345 St. Peter Street

Saint Paul, MN 55102

January 15, 2010

Cheryl Newton  
Director, Air and Radiation Division  
US EPA Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

Re: Environmental Wood Supply, LLC Air Permit Applicability Determination

Dear Ms. Newton:

Thank you for meeting with us late last month to discuss the Environmental Wood Supply, LLC (EWS) air permit applicability determination.

As we discussed at the meeting, EWS fulfills a crucial need in the development of the fledgling biomass renewable energy industry in the St. Paul, MN – a steady and reliable supply of fuel to biomass energy facilities – without which, progress in the development of renewable energy would not be possible. EWS provides the necessary infrastructure that will enable the expansion of the use of renewable energy in the Twin Cities area. In fact, EWS was started for just that purpose; to fulfill the unmet need for a reliable source or biomass fuel for use in production of renewable energy in the Twin Cities. EWS is structured in a manner similar to that of the suppliers of biomass fuel in Sweden where the biomass energy industry is much more mature and supplies a significant percentage of the electric and thermal energy consumed in that country. EWS creates a similar infrastructure in the Twin Cities that can then be relied upon by subsequent renewable energy facilities for a reliable supply of quality fuel.

In our meeting, you discussed the need for a commonsense application of the three criteria which must all be satisfied for a determination that two facilities should be considered a single source for Title V and NSR purposes. In particular, you questioned us about whether or not EWS and St. Paul Cogeneration are under common ownership and control with EWS in a support facility role. To counter that concern, we have attached copies of agreements, etc. which demonstrate that EWS can sell and has delivered its output to other entities other than St. Paul Cogeneration and has, indeed, actively worked to expand these other markets for its product. Furthermore, as discussed in more detail below, EWS' business encompasses more than the production and sale of biomass fuel product. This actual, legal documentation should clarify that EWS operates

independent of St. Paul Cogeneration and does not meet the common ownership and control guidance regarding support facilities.

As we also discussed, and importantly, there is no contractual obligation or other requirement for EWS to deliver all, or even a specific percentage, of its biomass fuel product to the wood-fired CHP facility in downtown St. Paul. While EWS' biomass fuel output has been utilized by St. Paul Cogeneration, LLC, the biomass-fired CHP facility in downtown St. Paul, this is to be expected as this facility is the first significant user of biomass fuel in the Twin Cities. In fact, EWS has been actively involved in pursuit of a number of opportunities to supply biomass to other energy facilities including:

- EWS has supplied wood to the University of Minnesota for use in the University's fluidized bed boiler as documented in the attached Hagen Trucking delivery list (Refer to Attachment 1).
- EWS has met with developers of a biomass facility that was proposed to be built in Minneapolis in an effort to determine if the biomass fuel infrastructure established by EWS could be utilized to supply the proposed facility. Potential sales to a facility of the scale proposed would be comparable to the annual sales to the existing wood-fired facility in St. Paul.
- EWS management recently has been in contact with a local MSW-burning facility that is considering supplementing its MSW supply with wood fuel from EWS. Again, this prospective customer could result in substantial sales for EWS.

Accordingly, and as we discussed, EWS fully expects to supply future biomass facilities and has actively pursued opportunities to supply biomass fuel to those proposed energy facilities.

Focusing solely on the destination for the finished biomass fuel supplied by EWS ignores the much broader scope of the EWS business and the other services that EWS provides to municipalities, state forest management agencies, and others in the community. For example, EWS has contracted to provide wood recycling site operation and management for the City of St. Paul under a 20-year agreement. This broader scope is detailed in a January 15, 2009 letter from EWS to the MPCA. I have attached this correspondence and related attachments to provide you with a more thorough understanding of these business areas and related contractual obligations that EWS has as a company (Refer to Attachment 2). Since this correspondence to MPCA in early 2009, EWS has continued to broaden its involvement in the management of wood residuals. In June 2009 the emerald ash borer was discovered in the Twin Cities area. EWS has been called upon by federal, state, and local agencies tasked with managing the spread of this destructive insect. EWS has been regarded as the resource for slowing the spread of this pest by utilizing for fuel the wood residuals resulting from the tree removals.

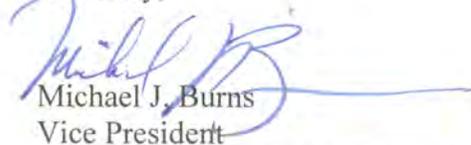
EWS continues to provide a variety of services to a growing number of third parties in the wood residual management market that are interrelated yet distinct from its wood fuel

production and delivery purpose. These services include wood recycling site operation and maintenance, processing of wood residuals for third parties for a fee, delivery of wood mulch for erosion control and for landscaping and other horticultural uses, and storm response and tree residue management and removal. EWS also provides grinding services to third parties including Ramsey County, University of Wisconsin – River Falls, Hathaway Tree, and a number of municipalities in the Twin Cities metropolitan area and beyond. EWS is recognized as a reliable resource in this area, leading to the extension of the agreement with Ramsey County through the end of 2010 (Purchase order and sample invoice are included as Attachment 3). The work with Ramsey County is expected to approach \$154,000 in receivables in 2010. Lastly, EWS participates in the supply of landscaping and horticultural products as it collects and processes wood residuals. Most recently, wood residuals were provided to Garick, Inc., a large landscape products firm, and to several horticultural nurseries in the Twin Cities area.

EWS performs a broad range of services for municipalities, counties and commercial third parties. As the biomass renewable energy industry expands beyond the one major energy facility that currently exists in the Twin Cities area, EWS expects to provide the expertise and the infrastructure to support the new facilities. I ask you to consider at the broader scope of the role EWS plays in management and beneficial reuse of urban wood residuals as evidenced by the numerous contracts and supplier relationships, rather than the more limited view of the destination of the finished fuel product. Also consider the opportunity that EWS creates for the advancement of biomass energy in the Twin Cities area if EWS is provided the opportunity to provide such a role to other facilities, rather than being closely coupled to the existing biomass facility via the permit process which could limit EWS as a resource in the future. As the biomass energy industry expands in this area offsetting production mainly at coal-fired facilities, EWS expects to play a key role by providing a reliable source of biomass fuel to the energy facilities without which progress in biomass renewable energy development is not possible.

Please contact me if I can provide clarification or any other information that would assist you in your determination.

Sincerely,



Michael J. Burns  
Vice President

Environmental Wood Supply, LLC

cc: Bharat Mathur, Acting Regional Administrator, US EPA Region 5

Attachment I

Sample Delivery List  
EWS Wood Fuel Deliveries to University of Minnesota



Attachment 2

January 15, 2009 Correspondence from EWS to Minnesota  
Pollution Control Agency



**Environmental Wood Supply, LLC**

1350 Landmark Towers

345 St. Peter Street

Saint Paul, MN 55102

January 15, 2009

**FAST. EASY. CLEAN.**

Minnesota Pollution Control Agency  
Attn: Marilyn Wegwart  
Pollution Control Specialist Senior  
Air Quality Permit Section  
520 Lafayette Road North  
Saint Paul, MN 55155-4194

Re: Air Emission Registration Permit Application for Environmental Wood Supply, LLC

Dear Ms. Wegwart:

Enclosed is the information you requested in your December 10, 2008 letter. We appreciate the opportunity to further clarify the role that Environmental Wood Supply, LLC (EWS) plays in furthering the use of renewable energy in Minnesota.

Prior to addressing the specific information requested by your letter, it may be helpful to provide some background regarding the wood recycling processes and market in place in the Twin Cities area. EWS manages crucial wood accumulation sites for municipalities to ensure that wood residuals generated by forestry and parks operations are managed and beneficially utilized. EWS provides contract wood processing services for a number of municipalities, counties and private businesses, including routine disposal and management during emergency conditions (such as trees downed by storms).

In addition to its management and disposal services, EWS also manages large quantities of clean urban wood residuals at the City of Saint Paul Wood Recycle Center. Once processed, residuals are shipped in trucks on public roadways from EWS to its customers. Almost all of this product is used as a renewable fuel source by the bioenergy market. Material that is not well suited for use as biomass fuel is otherwise used by other aspects of the wood markets, such as for landscaping or composting. EWS has delivered its product to a number of landscapers, developers, compost facilities, and horticultural nurseries. One unique use identified for EWS's products is as ballast for erosion control socks used for storm water and soil erosion management.

With that brief background, the following response to your request for information is provided.

*1) Provide copies of contracts between Environmental Wood Supply, LLC and any entities that receive product from Environmental Wood Supply, LLC.*

At this time, EWS has no contracts in place for the wood products that it generates. EWS delivers nearly all of its output to St. Paul Cogeneration, LLC although, from time to time, EWS has provided product to other customers as shown below. Delivery to St. Paul Cogeneration is made by trucks over public

roadways. The distance between the facilities is over 3 miles. Given Minnesota's emphasis on increasing the use of biomass fuels, EWS expects to find additional bioenergy customers in the future.

By its nature the urban wood residuals market is very volatile regarding volumes available and volumes demanded by end users. This largely precludes long-term supply agreements. Consequently, much of this activity occurs on a spot market basis without supply agreements in place.

Since the start of EWS's operations a few years ago, EWS has supplied product at times to the following entities other than St. Paul Cogeneration:

Landscape material:

- Scott County Nursery
- State of Minnesota
- Ramsey County
- Metropolitan Council
- Minnesota Department of Transportation
- Centex Homes

Compost and other wood residuals:

- Gerten's
- Bailey's Nurseries
- Woyda Nursery
- Erosion Works, LLC
- Resource Recovery Technologies, LLC

Fuel for bioenergy production:

- University of Minnesota

*2) Provide copies of contracts between Environmental Wood Supply, LLC and any entities that supply it with raw materials.*

EWS provides a service to the community by providing an outlet for urban wood residuals that would otherwise be difficult to dispose. EWS mainly obtains its raw materials, primarily tree trimmings and downed trees, through the spot market. At times, it is more efficient if EWS grinds wood off-site and hauls chipped wood to the City of Saint Paul Wood Recycle Center that EWS manages, rather than having the raw trees or wood hauled to the facility to be ground there. One of EWS' grinders is typically off-site, and occasionally two of the grinders are off-site. If used off-site, EWS' grinders are transported by means of trailer-truck.

EWS enjoys many long-standing relationships with suppliers, but due to the unpredictable nature of the wood residuals market, few of these arrangements have been reduced to writing.

The list in Attachment A includes many of the suppliers from which EWS has received raw materials on the spot market. Certain parts of the wood residuals market are predictable, such as the fact that municipalities consistently have wood residuals of which to dispose. In select cases, long-term agreements have been put in place. EWS has the following contracts in place for its products and services:

- EWS has a Management Agreement with the City of Saint Paul for management of the City's wood recycle center. This is a twenty-year agreement with term through 2023.
- State of Minnesota Cooperative Agreement for utilization of Department of Natural Resource forest residuals.
- City of Saint Louis Park Agreement for Professional Services to manage the wood yard and wood residuals through 2013.
- Ramsey County Wood Waste Supply Agreement through 2009.

The Agreements are provided in Attachment B.

*3) Describe Environmental Wood Supply, LLC's corporate relationship with Ever-Green Energy, LLC, District Energy St. Paul, Inc., District Cooling St. Paul, Inc., District Heating Development Company, and St. Paul Cogeneration and provide copies of any contracts and/or agreements with these entities.*

- Ever-Green Energy, LLC ("Ever-Green") has a 50-percent ownership and membership interest in EWS. Duke Energy Generation Services holds the remaining interest.
- District Heating Development Company d.b.a. District Energy St. Paul, Inc. is majority owner of Ever-Green Energy, LLC. District Energy St. Paul, Inc. is also a customer who purchases hot water from St. Paul Cogeneration.
- District Cooling St. Paul, Inc. is minority owner of Ever-Green Energy, LLC.
- St. Paul Cogeneration and EWS are under common ownership, as Ever-Green and Duke Energy Generation Services each hold a 50-percent ownership and membership interest in St. Paul Cogeneration. St. Paul Cogeneration is a customer of EWS because EWS supplies biomass fuel to St. Paul Cogeneration. St. Paul Cogeneration sells electricity to Xcel Energy, and hot water to District Energy St. Paul, Inc.

*4) Identify who directs the activities of the staff for Environmental Wood Supply, LLC. Identify who pays the staff that operates Environmental Wood Supply, LLC.*

The activities of the staff of EWS are directed by Michael Burns, the Vice President and Operations Manager of EWS. Mr. Burns is the Vice President and

Operations Manager of St. Paul Cogeneration. Mr. Burns is Vice President, Production Operations at Ever-Green Energy, LLC.

There is a staff of fourteen (14) employees that operate EWS. Two (2) members of the staff are retained through a temporary agency paid directly by EWS. The remaining twelve (12) personnel are employees of Ever-Green Energy hired exclusively for the purpose of operating EWS including the City of St. Paul wood yard. EWS pays Ever-Green for all employment-related expenses of this staff.

*5) Identify the members of the Board of Directors for Environmental Wood Supply, LLC.*

There are two members of the EWS Board. They are:

- Dave Ledonne, representing Duke Energy Generation Services
- John Taylor, representing Ever-Green Energy

*6) If St. Paul Cogeneration, LLC discontinues operation for any reason or any period of time, what is the effect on Environmental Wood Supply, LLC?*

As previously described, EWS participates in the wood residual markets in a number of ways, so, for example, EWS would continue to have contractual obligations for receipt and management of wood residuals and operation of the City of St. Paul wood yard through 2023 and other municipalities' wood yards and/or wood residuals as previously described.

Nonetheless, a discontinuation of operations at St. Paul Cogeneration, LLC would result in a significant shift in the daily activities of the staff at EWS. At the least, EWS would be required to identify additional users in the landscape and bioenergy markets for its wood residuals. In the long-term, however, it is anticipated that EWS operations would remain similar to the current operations, as there is a growing demand for wood residuals. EWS would work to identify different end users who could become customers.

*7) If Environmental Wood Supply discontinues operation for any reason or any period of time, what is the effect on St. Paul Cogeneration, LLC?*

A discontinuation of the operation of EWS would have a disruptive effect on the continuity of delivery of wood fuel to the St. Paul Cogeneration facility. Early in its operating history, St. Paul Cogeneration relied on other third parties for delivery of wood fuel. This system proved untenable since no wood processors were able to meet St. Paul Cogeneration's stringent requirements for cleanliness and for volume. This led to an increasing share of the deliveries being provided by EWS, which was created to address this gap in the emerging wood fuel market.

It is unknown how quickly a substitute wood supply could be found if EWS were to discontinue operation. EWS provides nearly all of the biomass fuel consumed by St. Paul Cogeneration. St. Paul Cogeneration's permit allows it to burn up to

100% natural gas, so it could continue to provide power and hot water to its customers on a short-term basis. If circumstances led to St. Paul Cogeneration needing to burn natural gas for the long term, that would create contractual issues with the customers of St. Paul Cogeneration.

8) *Identify by job title who is responsible for environmental compliance at Environmental Wood Supply, LLC. Please identify to whom that person reports by job title and employer.*

The individual responsible for environmental compliance at EWS is Michael Burns, the Vice President and Operations Manager of Environmental Wood Supply, LLC. This individual reports to the Board of Directors at EWS and to the Chief Operating Officer of Ever-Green Energy.

9) *Describe who or what determines Environmental Wood Supply, LLC's level of production.*

There are a number of drivers that determine the dispatch and the production at EWS. As previously described, there is variability and unpredictability in the wood markets. Approximately one-third of the staff at EWS has the responsibility for locating and procuring wood residuals that EWS processes. This portion of the business is the most unpredictable and can be dictated by such factors as storms, forest management projects, or municipal wood accumulation.

The remainder of the EWS staff is focused on taking the raw wood residuals at the City of St. Paul's wood yard and processing them into a product that can be beneficially reused. This part of the operation is typically driven more directly by the demands of the end users of EWS's products. See Response to Question 1, above.

EWS would like the opportunity to meet with the Agency to provide any needed clarification and to discuss the next steps in the process of completing the permitting process for the EWS operation at the City of Saint Paul Wood Recycle Center. We would like to arrange a meeting for the week of February 10, 2009 after the Agency has had the opportunity to review this response.

Sincerely,



Michael Burns  
Vice President  
Environmental Wood Supply, LLC

Enclosures

## Attachment A

4 Seasons Tree Service  
A & H Professional Tree Service  
A1 Sarff Tree Service  
A1 Walsh Inc  
Absolute Tree  
All Seasons Tree  
Besta  
BJ Haines Tree Service  
Blue Chip Tree Service  
Bratt Tree  
Buberl  
Burczyk Trucking & Logging  
Busy Bee  
Carlson Timber  
Castle Rock Contracting  
Chippewa River Forest Mgmt  
Ciardelli  
City of Anoka  
City of New Hope  
City of Plymouth  
City of Red Wing  
City of Richfield  
City of St Paul  
Clean Cut Tree  
Cooks Tree Service  
Creekside Soils  
Dakota Wood Grinding  
Dehn Tree Company  
G & J Lange Trucking  
Gilb Trucking  
Grain Millers  
Green Tree  
Gruber Pallets  
Harbo Wood Waste  
Hathaway  
Hillier  
Hugo Tree Care  
Kamco  
Kern Landscaping  
Kevin Elton Trucking  
Langer  
Lets Go Trucking  
Logs & Limbs  
Luedtke Lumber & Logging  
Lynde Nurseries  
Metro Wood  
Mike's Tree Service  
Minnesota Mulch and Soil  
Minnesota Nice Wood Recovery  
Misty Meadows Wood Product

North Star Tree  
Outdoor Specialities  
Pleasant View  
Pohls Tree Service  
Precision Landscape  
Primeau's Tree  
Redline Tree  
Regnier Tree  
Rivard Contracting  
Riverdale  
Rumpca Companies  
S&S Tree  
Shamrock Recycling  
Shoes Stump Service  
SJ Stehler  
St. Louis Park  
Stockman Transfer  
Sylva  
T&T Logging  
Tall Timber  
Thommes & Thomas  
Top Notch  
Tree Technology  
Tree Top Service  
TriMark  
Twin Cities Pallet  
Upper Cut Tree Service  
Urban Tree Care  
Veit  
Vollrath  
Vineland Group  
Visions  
Williams Tree Service  
Woodline Sawmills  
Zarbok Construction

**Attachment B**  
**Agreements**

# MANAGEMENT AGREEMENT

This AGREEMENT, effective as of June 16, 2003 by and between:

CITY OF SAINT PAUL, a municipal corporation of the State of Minnesota, hereinafter called "CITY" [ADDRESS] and

ENVIRONMENTAL WOOD SUPPLY, LLC, a Limited Liability Company registered in the State of Minnesota, hereinafter called "ENVIRONMENTAL", The Saint Paul Building, Suite 700, Room 300M, Six West Fifth Street, Saint Paul, Minnesota 55102, hereinafter jointly called "Parties", as also individual called "Party".

WITNESSETH:

WHEREAS, the CITY is the owner of public park land adjoining the Mississippi River commonly known as Pig's Eye, which contains a wood waste disposal site hereinafter called "WOOD RECYCLING CENTER (WRC)"; and

WHEREAS, ENVIRONMENTAL has proposed to the CITY that it manage and operate WRC on behalf of the CITY, and has proposed various improvements that it will initiate; and

WHEREAS, CITY desires to continue to deliver wood waste disposal services at WRC; and

WHEREAS, the CITY believes that such services should be provided at a minimal financial risk to the CITY; and

WHEREAS, both parties believe it is in their mutual best interest to enter into the within AGREEMENT for the provision of wood waste disposal at WRC.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, it is agreed as follows:

## ARTICLE I TERM

1.1 Term. The term of this AGREEMENT shall be twenty (20) years, beginning upon execution of this AGREEMENT, and ending in 2023.

1.2 Extension Options. The Parties may extend the term of this AGREEMENT by mutual assent for up to two additional five (5) year periods following the expiration of the initial term (1.1). All terms and conditions of this AGREEMENT applicable to the Initial Term (1.1) shall remain in effect for the Extended Term (1.2), except to the extent otherwise agreed to by the parties in writing.

## ARTICLE II WOOD RECYCLING CENTER PROPERTY DEFINED

2.1 The WRC property is located within the boundaries of City of Saint Paul parkland at a location commonly known as Pigs Eye Regional Park. The property is indicated by a red solid line on attached **Exhibit A1** which includes both sites labeled A and B. Site A is used to process and store wood, wood waste and processed chips and will continue to be routinely used for that purpose. Site B is primarily a product storage area. Processed material will be stored on this site beginning approximately September 1<sup>st</sup> and material will remain on the site until approximately March or April.

2.2 All other park lands other than those defined as WRC property are not governed in any way, implied or otherwise, by AGREEMENT and remain under the sole control and jurisdiction of the CITY.

2.3 “Wood Waste” or “wood waste,” as used herein, shall be defined as: Untreated wood remains resulting from: residuals from manufacturing processes such as furniture, cabinet, and pallet making, and other wood product manufacture; construction waste; urban and park tree trimming and forest residuals; wood from trees downed by storms; trees removed for urban development; and trees removed as part of a timber management plan. The following wood materials are suitable for higher value usage through reuse and refinishing than could be garnered from burning for energy recovery: GMA standard size hardwood or softwood pallets; unbroken non-GMA hardwood pallets; and dimensional hardwood, redwood and cedar lumber. These wood products are currently being collected and reused economically through pallet recycling operations, demolition and deconstruction service providers and companies and programs like the Saint Paul Neighborhood Energy Consortium’s Wood Wins program.

## ARTICLE III OPERATION & MANAGEMENT

3.1 ENVIRONMENTAL shall operate and manage a wood waste disposal facility at WRC for, in accordance with an annual operating plan which is generally outlined in **Exhibit B**, presented to and agreed to by the CITY. ENVIRONMENTAL may engage in normal activities which are incidental to the operation of the wood waste facility including but not limited to receipt, processing and storage of wood waste, wood chips and wood fuel, and except as herein provided, ENVIRONMENTAL shall receive all of the income derived from such operation.

3.2 ENVIRONMENTAL may staff WRC for regular business hours that shall be posted at the facility. The current CITY staff will be reassigned by the CITY to other CITY related functions. It is expected that WRC will be staffed as needed during the year to support Forestry daily operations and after-hours storm damage wood waste deposit and at all times ENVIRONMENTAL will have on-site access control or remote monitoring to assure access control.

3.2.1 ENVIRONMENTAL shall make provisions for after hours access and dumping of wood waste by St. Paul City Forestry operations for storm cleanup and special projects and will have a plan for accepting storm wood waste and ensuring that the site can accommodate storm wood waste without disrupting City wood waste cleanup efforts.

3.2.2 If the increased influx of wood waste generated by a large storm event, disease, infestation or other event is greater than the amount of wood waste normally delivered to the WRC by the CITY, additional area will be temporally designated for use by ENVIRONMENTAL.

3.2.3 The wood waste occupying this temporary area will be processed before the wood waste located on the area normally occupied by Environmental.

3.3 ENVIRONMENTAL is permitted to have access to WRC facilities twenty-four (24) hours a day. For this purpose, ENVIRONMENTAL is granted full access to the premises at all times, except as herein provided.

3.4 ENVIRONMENTAL will manage, operate and staff the WRC facility for the City in accordance with the conditions set forth in this AGREEMENT

3.4.1 Any ENVIRONMENTAL staff performing wood processing shall be paid prevailing wages as defined by City ordinance.

3.4.2 Any subcontractor used by ENVIRONMENTAL to manage and operate the operation of the WRC shall be subject to written approval by CITY prior to the beginning of work.

3.5 ENVIRONMENTAL will provide security coverage for WRC at a level to be determined by ENVIRONMENTAL. ENVIRONMENTAL is the responsible party for security on the wood waste disposal premises.

3.6 ENVIRONMENTAL agrees to accept all CITY wood waste. CITY acknowledges hereby that ENVIRONMENTAL will accept other Minnesota Municipal Subdivision wood waste and all wood waste produced by other governmental units *and commercial producers and transporters to meet ENVIRONMENTAL's needs subject to approval by the CITY.*

3.7 ENVIRONMENTAL may not engage in any business or enterprise at the WRC site that is not referenced in this AGREEMENT without express written consent of CITY.

3.8 To encourage efficient communication the parties agree to meet annually to review operations of the WRC.

#### **ARTICLE IV PAYMENT**

4.1 ENVIRONMENTAL will manage and operate the WRC at no cost to the CITY for disposal of CITY Wood Waste. Wood Waste shall mean brush and logs generated by CITY operations within the CITY and delivered by CITY vehicles or designated agents of the CITY.

4.1.2 CITY will pay ENVIRONMENTAL \$25.00 as adjusted by CPI-U Midwest Urban (Base=174.8 for May 2002) for each Stump delivered to WRC City may deliver up to 30 stumps per year. "Stump" or "Stumps" as used herein shall mean the portion of a tree that is at surface and/or the below ground root system. Costs for disposal of any stumps in excess of 30 will be at a price agreed to by CITY and ENVIRONMENTAL.

4.2 In years five (5) through twenty (20) of this AGREEMENT, ENVIRONMENTAL will make payment to the CITY of \$500.00 (Five hundred dollars) per month to the CITY. Additionally, ENVIRONMENTAL will designate 200 (two hundred) cubic yards per month of wood material that is suitable for landscaping for use by the CITY for its landscaping operations. CITY may use all or a portion of the designated wood material for landscaping each month. ENVIRONMENTAL will replenish at the start of each month this designated wood material to replace any usage by the CITY in the prior month.

4.3 ENVIRONMENTAL shall make payments outlined in this section monthly or as otherwise negotiated from time to time by the parties.

4.4 The CITY has a right to inspect all books and records pertaining to the operation of the WRC site by ENVIRONMENTAL. The CITY shall be granted inspection of said books and records by providing ENVIRONMENTAL with written notice, whereby ENVIRONMENTAL shall have fifteen (15) days to provide such information to the CITY.

4.5 In the event of a storm or natural disaster which is eligible for state, federal or other funding, costs of receipt, handling and processing of material will be negotiated by CITY and ENVIRONMENTAL at that time, as is standard procedure when private companies are hired to do work for the CITY during times of need.

## **ARTICLE V CONSENT TO IMPROVEMENTS**

5.1 No permanent improvements or immovable fixtures can be made, installed, added or constructed by ENVIRONMENTAL to the WRC property without the written consent of the CITY. The CITY may require such information to be supplied by ENVIRONMENTAL as will enable the CITY to determine whether to consent to any proposed improvements or immovable fixtures. ENVIRONMENTAL has provided a list of contemplated improvements as detailed in Exhibit C attached hereto, which improvements, upon execution hereof, are consented to by the CITY

5.2 ENVIRONMENTAL shall undertake no reconstruction, alterations, repairs or replacements of existing improvements, fixtures, facilities or equipment on or in the WRC property (or adjacent to it), which causes or constitutes a permanent change to WRC property, thereto, without the written consent of the CITY.

5.3 An improvement for the purpose of paragraphs 5.1 and 5.2 shall be a permanent addition to or permanent betterment of real property that enhances its capital value, and does not include ordinary repairs or maintenance or cleanup of pre-existing conditions.

5.4 The CITY's response to a request for consent under paragraphs 5.1 and 5.2 shall not be unreasonably withheld. CITY shall respond in writing within thirty (30) days from receipt of complete information about improvement and any proposed debt by ENVIRONMENTAL.

5.5 In the event that the AGREEMENT is terminated by ENVIRONMENTAL due to an uncured breach by CITY in the manner described in Article X, the CITY shall be required to assume debt service payments for improvements, only if it has been specifically agreed to in writing at the time the improvement is authorized by the CITY (5.1).

## ARTICLE VI COVENANTS AND UNDERTAKING

6.1 The Parties covenant, agree and acknowledge that each shall provide the following equipment and services:

6.1.1 The CITY shall periodically inspect the WRC property and inform ENVIRONMENTAL in writing of any conditions requiring attention as may be required to comply with the obligations under this AGREEMENT.

6.1.2 The CITY shall provide ENVIRONMENTAL with the CITY's participant accident report forms. These forms shall be completed by ENVIRONMENTAL representatives in instances where accidents on the WRC property are reported to or witnessed by ENVIRONMENTAL representatives. ENVIRONMENTAL shall deliver completed reports to the CITY within five working (5) days following an accident on the WRC property.

6.1.3 This AGREEMENT does not exempt ENVIRONMENTAL or WRC customers from park rules and regulations, except as may be necessary to implement this Agreement or as expressly provided elsewhere in this AGREEMENT.

6.1.4 The WRC site is located in a flood plain and can reasonably be expected to flood periodically. ENVIRONMENTAL is responsible for taking preventative measures as needed to protect and secure the capital improvements on site in the event of a flood.

6.1.5 That in cases of emergency or disaster such as flood or other natural acts, ENVIRONMENTAL will vacate WRC if required and otherwise cooperate with directives from the CITY's Director of Parks and Recreation, Fire Chief, Police Chief or other CITY official delegated such power due to the emergency. ENVIRONMENTAL will make no claim against the CITY for lost revenues or added expenses due to such event. CITY will work with ENVIRONMENTAL to meet necessary provisions with FEMA for restoration of the site to operating condition if federal or state funding is available.

6.1.6 That ENVIRONMENTAL shall have full use of the CITY equipment and materials currently on the WRC site as outlined and listed in Exhibit D. That both parties understand that such use of equipment and materials is in its current condition or on an "as is" basis. ENVIRONMENTAL may make repairs to such equipment and materials as to allow for its use. The CITY will remove any of its equipment or materials on site if requested by ENVIRONMENTAL. At the expiration of this AGREEMENT, any remaining CITY equipment and materials listed in Exhibit D will be the property of the CITY, returned by ENVIRONMENTAL allowing for normal wear and tear related to its use. An inventory of CITY equipment and materials remaining on site will be completed jointly by ENVIRONMENTAL and the CITY annually. CITY acknowledges that the equipment and materials listed in Exhibit D have a life expectancy or a utilization, respectively, that will cause said listed equipment and materials to be obsolete or totally utilized prior to the expiration of the Term of this AGREEMENT. Upon the obsolescence of any equipment, listed on Exhibit D, ENVIRONMENTAL may dispose of such equipment as it, in its sole discretion, deems appropriate.

6.2 ENVIRONMENTAL specifically covenants and agrees;

6.2.1 To maintain WRC in a safe, clean and orderly condition and generally free of litter and accumulated trash. ENVIRONMENTAL will cut grass, maintain parking areas and plow snow in areas defined as WRC Premises.

6.2.2 To store all ENVIRONMENTAL's equipment and other materials present at the WRC in an orderly manner so that the appearance of the facility is clean and organized.

6.2.3 That ENVIRONMENTAL shall provide the CITY, upon request, with a confidential copy of all agreements or contracts between ENVIRONMENTAL and any party who will assist ENVIRONMENTAL in carrying out the stipulations of this AGREEMENT with the understanding that ENVIRONMENTAL may omit trade secret information. No assignment of all or substantially all of ENVIRONMENTAL's responsibilities under this AGREEMENT is permitted without the prior approval of the CITY.

6.2.4 To not rent space to any individual or entity whose primary purpose is to conduct unrelated business at that location, or knowingly allow any of its customers to temporarily or permanently conduct unrelated commercial transactions within WRC.

6.2.5 To conform to City, State and Federal safety, health, accessibility and environmental laws and to cooperate with the appropriate agencies to achieve such objectives.

6.2.6 To comply with State and Federal and Local laws and regulations prohibiting discrimination.

6.2.7 That it shall not, in violation of any applicable federal, state or local laws or regulations, pollute any air, soil or ground waters, or discharge or release any Hazardous Wastes, in, into, on, over or adjacent to WRC or Pig's Eye Regional Park; and that it shall take reasonable steps to prevent all customers, and other authorized users of the WRC from doing so. Any such unreasonable discharge or pollution by ENVIRONMENTAL, or failure to take reasonable steps to prevent such customer discharge or pollution, which is in violation of any such applicable laws or regulations, shall be a breach of this AGREEMENT. ENVIRONMENTAL shall also comply with all applicable federal, state and local laws and regulations, including City ordinances, relating to the control, handling, discharge or release of said Hazardous Wastes, and failure so to do shall be a breach of this AGREEMENT.

6.2.8 Hazardous Wastes, for the purpose of paragraph 6.2.8 above, shall be and include all dangerous, toxic or hazardous contaminants, pollutants, chemical wastes or substances as defined in applicable federal, state or local laws or regulations, as those may be amended from time to time.

6.2.9 To maintain the following existing and/or future systems and equipment serving WRC's facilities as necessary for use as determined by ENVIRONMENTAL: electrical, phone, computer, security, plumbing, and HVAC.

### 6.3 The CITY specifically covenants and agrees:

6.3.1 To provide that electrical, telephone, water, and septic service are available on the WRC property. ENVIRONMENTAL is responsible for payment of all related bills based on its usage and consumption of said utilities for the duration of this AGREEMENT.

6.3.1.1 As it relates to electrical service, the CITY will maintain electric service up to the meter on site.

6.3.1.2 As it relates to water service, the CITY will maintain water to the site, including an operating fire hydrant.

6.3.1.3 As it relates to septic, the CITY will maintain the availability of a functioning system or adequate alternative. ENVIRONMENTAL is responsible to pay for any "pump-outs" of the septic system or future holding tank.

6.3.2 To maintain the appropriate permits for the location and operation of a wood recycling facility at the WRC property that may be required by law and to transfer all appropriate rights to said permits to ENVIRONMENTAL for the term of this AGREEMENT. The CITY shall provide copies of all such permits to ENVIRONMENTAL.

6.3.3 CITY agrees hereby to deliver CITY generated or collected wood waste to WRC, except as needed within the parks and recreation system or for parks and recreation sponsored projects.

**ARTICLE VII  
CAPITAL INVESTMENT**

7.1 During the first five years of this AGREEMENT, ENVIRONMENTAL will invest such sums as determined by ENVIRONMENTAL necessary to carry out the purpose of this AGREEMENT.

7.1.1 ENVIRONMENTAL may collateralize the improvements.

7.1.2 In the event that the AGREEMENT is terminated by the CITY due to an uncured breach by ENVIRONMENTAL in the manner described in Article XI, the CITY will have the right to assume debt service payments for the improvements. This obligates the CITY in no manner, either implied or explicitly, to assume debt service in such an event.

7.1.3 ENVIRONMENTAL may not finance improvements referenced in 7.1 for any period extending beyond the initial term of this AGREEMENT (1.1) or any extended term as described in 1.2 that has been agreed to. ENVIRONMENTAL will seek to structure payments in equal annual amounts, with no back loading or balloon payments.

7.1.4 In the event that the AGREEMENT is terminated by ENVIRONMENTAL due to an uncured breach by CITY in the manner described in Article XI, the CITY will be required to assume debt service payments for the improvements.

**ARTICLE VIII  
INSURANCE**

8.1 ENVIRONMENTAL hereby agrees to defend, indemnify and hold the CITY, its officers, agents, and employees harmless from any and all claims, damages or causes of action arising from or out of the operation of the Wood Recycling Center by ENVIRONMENTAL, its agents, employees or officers.

8.2 ENVIRONMENTAL shall be required to carry insurance of the kinds and in the amounts shown below for the life of the contract. Such insurance shall be placed with insurance companies licensed and authorized to do business in the State of Minnesota.

8.2.1 General Liability Insurance Coverage shall include personal injury, premise operations, completed operations, property damage and medical payments coverage. Agent shall state if policy includes errors and omissions coverage. This insurance shall (a) name the CITY as an additional insured; (b) be primary with respect to the CITY's self insurance program; (c) not exclude explosion, collapse or underground property damage; and (d) be written on an occurrence basis.

@	Bodily Injury	\$ 1,000,000 each occurrence \$ 2,000,000 aggregate
@	Property Damage	\$ 1,000,000 each occurrence \$ 2,000,000 aggregate
@	Medical Payments	\$ 5,000 per person

### 8.2.2 Fire and All Risk Property Insurance

ENVIRONMENTAL shall carry Property Insurance on its owned personal property located at the site and that property owned by the CITY but in the care, custody and control of ENVIRONMENTAL. The limits of this policy shall be provided along with a scheduled list of CITY property on the site. The CITY shall be named as an additional loss payee on the property owned by the CITY.

### 8.2.3 Automobile Liability Insurance

Insurance shall cover owned and hired autos. This insurance shall name the CITY as additional insured.

@ Bodily Injury	\$ 750,000 per person
	\$ 1,000,000 per accident
@ Property Damage	\$ 50,000 per accident

### 8.2.4 Umbrella / Excess Insurance

Shall cover both the General Liability and Automobile Liability policies at a minimum with a limit of \$ 5,000,000 per occurrence. This insurance shall name the CITY as additional insured.

### 8.2.5 Workers Compensation Insurance and Employers Liability Insurance

@ Workers Compensation	per Minnesota statute
@ Employers Liability	\$500,000 per accident; \$500,000 per employee and \$500,000 per disease

8.3 ENVIRONMENTAL shall supply to the CITY current insurance certificates showing evidence of insurance for all insurance required above. Insurance must remain in place for the length of the contract and for any extension periods. Renewal certificates shall be mailed to the CITY's project manager of record. All certificates shall provide that the CITY be given not less than thirty (30) days prior written notice of cancellation, non-renewal or any material change in the policies.

8.4 The limits established herein, are minimum limits, and this contract shall in no way prevent ENVIRONMENTAL from purchasing insurance with limits exceeding those shown if they so desire. ENVIRONMENTAL may also choose to purchase additional insurance policies to protect their interests and this contract shall in no way prevent ENVIRONMENTAL from making such purchases.

8.5 Nothing in this section shall be construed as a waiver by the CITY of its statutory limits of liability, immunities or exceptions.

8.6 ENVIRONMENTAL shall be obligated to maintain all insurance coverages, as indicated, and failure to do so shall be considered a breach of this contract. If, for any reason, any of the insurance required is VOID at the time of a loss, ENVIRONMENTAL shall be fully responsible to the CITY for losses incurred by the City up to the entire amount of the uninsured loss.

8.7 CITY reserves the right to request, obtain and review copies of the actual insurance policies for the coverages requested herein. CITY also reserves the right to request that ENVIRONMENTAL obtain and have additional insurance, but such request shall be committed to writing and shall not be valid until both parties make those changes part of this contract by amendment.

8.8 It is agreed by the parties that, at all times and for all purposes within the scope of this Agreement, the relationship of ENVIRONMENTAL to the CITY is that of independent contractor and not that of employee. No statement contained in this Agreement shall be construed so as to find ENVIRONMENTAL, its agents, officers or employees, employees of the CITY, and ENVIRONMENTAL shall be entitled to none of the rights, privileges, or benefits of City of Saint Paul employees.

## **ARTICLE IX NON-DISCRIMINATION**

ENVIRONMENTAL agrees that during the term of this agreement, that (1) no person, on the ground of race, sex, color, creed, religion, sexual or affectional orientation, age, disability, familial status, marital status, status with respect to public assistance, or national origin or ancestry shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in connection with the construction of any improvements on said lands and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors, (3) that no employee or applicant for employment for work shall be discriminated against. This provision shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising, layoff or termination; rates of pay or forms of compensation; selection for training, including apprenticeship; and (4) that at all times ENVIRONMENTAL shall comply with state local and federal laws and regulations relating to non-discrimination.

## **ARTICLE X ADMINISTRATION**

10.1 For the purpose of the City's consent or consents required in this Agreement and administration the CITY's representative shall be the Director of Parks and Recreation and ENVIRONMENTAL's representative shall be its Project Manager.

## **ARTICLE XI DEFAULT/REMEDY**

11.1 This AGREEMENT may be terminated at any time by mutual assent of the Parties.

11.2 In the event that either party fails to perform any of the terms or conditions of this AGREEMENT, or violates any term or condition thereof, such failure or violation shall be a breach of the said AGREEMENT. In the event of such a breach, the other party may give written notice of the breach to the party in breach. If the breach has not been cured or remedied within thirty (30) days following the giving of such written notice, the other party may terminate this AGREEMENT in its entirety.

11.3 In the event any provision contained in this AGREEMENT should be breached by either party and said breach thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.



13.3 Fair Dealing. Each of the parties agrees to exercise good faith and fair dealing with the other in its respective exercise and performance of its rights and obligations under this AGREEMENT. Whenever the CITY's discretion, consent or approval is herein provided or required, it shall not be unreasonably exercised, withheld or delayed.

13.4 Classification of Property. Parties hereto acknowledge that, pursuant to Minn. Stat. §471.191, subd. 4, this AGREEMENT is not a lease of the property and that the property will remain exempt from taxation. If at any time during the initial term of the AGREEMENT, or any renewal terms thereof, the property becomes subject to taxation as a result of any activity engaged in on the property by ENVIRONMENTAL, regardless of whether the activity was permitted by the CITY, and City did not cause or contribute to imposition of said taxation payment of the resulting taxes on the property shall be the responsibility of ENVIRONMENTAL.

IN WITNESS HEREOF, the Parties have caused this AGREEMENT to be executed and delivered in duplicate as of the date appearing on page one hereof.

APPROVED AS TO FORM:

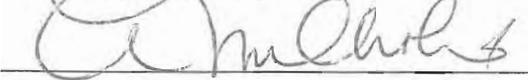
CITY OF SAINT PAUL

ENVIRONMENTAL WOOD SUPPLY, INC.



City Attorney

Signature



Vice President

Mayor, City of Saint Paul

Title



Director of Parks and Recreation

Signature



Financial Services Director

Title

## **EXHIBIT A - WOOD RECYCLING PROPERTY DEFINED**

## EXHIBIT B

### ENVIRONMENTAL WOOD SUPPLY OPERATING PLAN FOR THE WOOD RECYCLING CENTER

Effective in 2003 and to be modified from time to time as mutually agreed to by the parties and provided the City will agree to reasonable modifications Environmental deems necessary for the economical and efficient operation of the site.

Environmental Wood Supply (EWS) expects to operate the Wood Recycling Center as follows:

#### Operations:

The wood recycling center will be attended as needed by EWS personnel. The site will be visited or monitored daily by a representative of EWS to assess site conditions and to ensure the site is being maintained in the expected condition.

City of St. Paul vehicles will have access to the site at all times for tipping wood waste. Drivers of authorized vehicles will be issued the electronic card/key fob or other means established by EWS to gain access to the site. Authorized vehicles would be those from government entities, producers referred to EWS by governmental units, and other producers to which the City does not object with whom EWS has contracted for waste wood supply.

A delivery plan which will direct the operators of authorized vehicles where to off load their wood waste will be established and modified from time to time and communicated as necessary. This plan will be developed with the intent to minimize handling of the material on the site and to maintain the site in an organized and orderly state.

On an as needed basis, EWS will have the accumulated material processed and delivered to the CHP facility or stockpile processed or unprocessed wood waste at the Wood Recycling Center for future delivery to the CHP plant.

EWS will develop a detailed site plan. At this time it is expected that the processing, handling and finished product storage will occur in the central area of the site currently used for processing. Truck tipping will occur in the outer edges of the site where unprocessed material is stored.

#### Site Improvements:

EWS may determine to be necessary, installation of an automatic gate with secured electronic access control. Authorized vehicles may gain access to the site with an electronic card or key fob. The system will record the identification of the vehicle upon granting access. A security system will be installed including recorded surveillance cameras placed so as to deter unauthorized dumping. Improvements to truck access routes on the site may be required (asphalt or Class 5).

**EXHIBIT C**  
**ENVIRONMENTAL WOOD SUPPLY CONTEMPLATED**  
**IMPROVEMENTS**

(Effective in 2003 and to be modified from time to time as mutually agreed to by the parties)

Gate

Electronic access control equipment

Security cameras

Class 5 roads

Fence and/or berm along roadway as needed

Pole structure for equipment storage and office area

EXHIBIT D  
CITY ON-SITE EQUIPMENT

Pursuant to the provisions of 6.1.6, set forth hereafter is a list of equipment and materials currently on the WRC site as of February 2003:

The stationary 1975 Nicholson chipper, currently installed at the site and 2 blade sharpening machines installed on it.

Equipment trailer and contents at time of operational transfer

**STATE OF MINNESOTA  
COOPERATIVE AGREEMENT**

This Cooperative Agreement is between the State of Minnesota, acting through its Commissioner of Natural Resources ("State") and Environmental Wood Supply, LLC ("Cooperator").

**Recitals**

1. Under Minn. Stat. §84.026 the State is empowered to enter into Cooperative Agreements.
2. The State is directed by Laws of 2007, Chapter 57, Article 2, subd. 6 to "prepare, authorize and implement habitat restoration plans on public or private properties to fulfill ecological principles of restoration ecology, while providing roadside access to the byproduct of management actions at no cost to the operator of a biomass-fueled cogeneration facility located in St. Paul."
3. Cooperator is a service provider to District Energy and St. Paul Cogeneration, LLC, a biomass-fueled cogeneration facility located in St. Paul.
4. The purpose of this Agreement is to clarify the roles and responsibilities of the State and the Cooperator in carrying out the directives in the above-referenced legislation, specifically regarding the cutting, moving, and staging of non-native and invasive woody plant material from ecological restoration project sites and the subsequent collection and transportation of that same material.

**Agreement**

**1 Term of Agreement**

- 1.1 **Effective date:** May 20, 2008 or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.
- 1.2 **Expiration date:** June 30, 2010, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

**2 State's Duties**

The State will:

1. Coordinate with the Cooperator in the selection of habitat restoration project sites.
2. Facilitate the cutting, moving, and staging of woody plant material, with owners and managers of designated restoration sites or their agents, from designated habitat restoration project sites.
3. Facilitate coordination among the Cooperator and owners and managers of designated restoration sites or their agents to meet requirements for the proper staging and timely collection of woody plant material, as designated by the Cooperator.
4. Subsidize the costs of the cutting, moving, and staging of woody plant material as provided in the appropriation language stated in Recital #2 above.

**3 Cooperator's Duties**

The Cooperator will:

1. Coordinate with the State and owners and managers of designated restoration sites or their agents for the proper staging and timely collection of the woody plant material.
2. Arrange for the collection and transport of the woody plant material that is staged as agreed under 3.1 at no cost to the State.
3. Notify the State and owners and managers of designated restoration sites or their agents of the date(s) of the collection of the woody plant material as soon as practicable.
4. Ensure reasonable care is taken to protect roads and staging areas from damage and that safety standards are followed.

**4 Payment.** Not applicable.

**5 Authorized Representatives**

The State's Authorized Representative is Barb Spears, Woody Biomass Project Coordinator, Division of Ecological Resources, MN DNR, 1200 Warner Road, St. Paul, MN; 651-259-5849, or his/her successor.

The Cooperator's Authorized Representative is Jeff Guillemette, Biomass Fuel Procurement Specialist, Environmental Wood Supply, LLC, 1350 Landmark Towers; 345 St. Peter Street., St. Paul, MN 55102; 651-297-8955.

**6 Assignment, Amendments, Waiver, and Agreement Complete**

6.1 **Assignment.** The Cooperator may neither assign nor transfer any rights or obligations under this grant agreement without the prior consent of the State and a fully executed Amendment, executed and approved by the same parties who executed and approved this Cooperative Agreement, or their successors in office. This provision does not restrict the ability of Cooperator to utilize subcontractors or vendors in the performance of Cooperator's activities under this Agreement.

6.2 **Amendments.** Any amendment to this Cooperative Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.

6.3 **Waiver.** If the State fails to enforce any provision of this agreement, that failure does not waive the provision or its right to enforce it.

6.4 **Agreement Complete.** This Cooperative Agreement contains all negotiations and agreements between the State and the Cooperator. No other understanding regarding this agreement, whether written or oral, may be used to bind either party.

**7 Liability**

Each party will be responsible for its own and its agents' acts and behavior and the results thereof. The Cooperator shall hold the State harmless should some or all of the woody plant material be removed from collection sites, through theft or other actions, or otherwise damaged or destroyed prior to the scheduled collection by the Cooperator or its agents.

**8 Government Data Practices**

The Cooperator must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Cooperator or the State.

If the Cooperator receives a request to release the data referred to in this Clause, the Cooperator must immediately notify the State. The State will give the Cooperator instructions concerning the release of the data to the requesting party before the data is released.

**9 Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this agreement. Venue for all legal proceedings out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**10 Termination**

Either party may terminate this agreement at any time, with or without cause, upon 30 days' written notice to the other party.

**1. COOPERATOR**

By: [Signature]  
Title: Vice President  
Date: 6/5/08

**2. STATE AGENCY**

By: [Signature]  
(with delegated authority)  
Title: Acting Assistant Director  
Date: June 10, 2008

**3. COMMISSIONER OF ADMINISTRATION**  
As delegated to Materials Management Division

By: [Signature]  
Date: 6/26/08

#16032

CONTRACT NO.

24-07

## AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made on the 2<sup>nd</sup> day of April, 2007, between the CITY OF ST. LOUIS PARK City of St. Louis Park, Minnesota ("City"), whose business address is 5005 Minnetonka Boulevard, St. Louis Park, Minnesota 55416-2290, and ENVIRONMENTAL WOOD SUPPLY, LLC ("Contractor") whose business address is 6 West Fifth Street, #700, St. Paul, Minnesota 55102-1440.

### PRELIMINARY STATEMENT

The City has adopted a policy regarding the selection and hiring of consultants to provide a variety of professional services for City projects. That policy requires that person, firms, or corporations providing such services enter into written contracts with the City. The purpose of this contract is to set forth terms and conditions for Contractor's use and management of the City's wood accumulation site located at 2501 Edgewood Avenue South ("Site").

The City and Contractor agree as follows:

1. Contractor's Services. The Contractor agrees to provide professional services as described in Exhibit A, attached and made a part of this Agreement.
2. Term of Agreement. This Agreement will be for a term of six years commencing on the date of execution of the Agreement, subject to the right of either party to terminate the Agreement without cause upon thirty (30) days written notice to the other party.
3. Compensation for Services. Compensation shall be in accordance with Exhibit A, attached and made a part of this Agreement.
4. Audit Disclosure. The Contractor shall allow the City or its duly authorized agents reasonable access to such of the Contractor's books and records as are pertinent to all services provided under this Agreement. Any reports, information, data, etc. given to, or prepared or assembled by, the Contractor under this Agreement which the client requests to be kept confidential shall not be made available to any individual or organization without the prior written approval of both City and Contractor. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor shall become the property of the City upon termination of this Agreement, but Contractor may retain copies of such documents as records of the services provided.
5. Subcontractor. The Contractor shall not enter into subcontracts for services provided under this Agreement except as noted in the scope of services, without the express written consent of the City. The Contractor shall pay any subcontractor involved in the performance of this Agreement within ten (10) days of the Contractor's receipt of payment by the City for undisputed services provided by the subcontractor. If the Contractor fails within that time to pay the subcontractor any undisputed amount for which the Contractor has received payment by the City, the Contractor shall pay interest to the subcontractor on the unpaid amount at the rate of 1-1/2 percent per month or any part of a month. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the Contractor shall pay the actual interest penalty due to the subcontractor. A

subcontractor who prevails in a civil action to collect interest penalties from the Contractor shall be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

6. Independent Contractor. At all times and for all purposes herein, the Contractor is an independent contractor and not an employee of the City. No statement herein shall be construed so as to find the Contractor an employee of the City.
7. Non-Discrimination. During the performance of this contract, the Contractor shall not discriminate against any employee or applicants for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age. The Contractor shall post in places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause and stating that all qualified applicants will receive consideration for employment. The Contractor shall incorporate the foregoing requirements of this paragraph in all of its subcontracts for program work, and will require all of its subcontractors for such work to incorporate such requirements in all subcontracts for program work.
8. Assignment. Neither party shall assign this Agreement, nor any interest arising herein, without the written consent of the other party.
9. Entire Agreement. The entire agreement of the parties is contained herein. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.
10. Compliance with Laws and Regulations. In providing services hereunder, the Contractor shall abide by all statutes, ordinances, rules, and regulations pertaining to the provisions of services to be provided. Any violation shall constitute a material breach of this Agreement and entitle the City to immediately terminate this Agreement.
11. Waiver. Any waiver by either party of a breach of any provisions of this Agreement shall not affect, in any respect, the validity of the remainder of this Agreement.
12. Indemnification. Contractor agrees to defend, indemnify and hold the City, its officers, and employees harmless from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorney's fees, resulting directly or indirectly from an error, omission or negligent act of the Contractor, its agents, employees, or subcontractors in the performance of the services provided by this Agreement and against all losses by reason of the failure of said Contractor fully to perform, in any respect, all obligations under this Agreement.

13. Insurance.

- A. General Liability. During the term of this Agreement, Contractor shall maintain a general liability insurance policy with limits of at least \$1,000,000 for each person, and each occurrence, for both personal injury and property damage. This policy shall name the City as an additional insured for the services provided under this Agreement and shall provide that the Contractor's coverage shall be the primary coverage in the event of a loss but only as to work performed by Contractor. The policy shall also insure the indemnification obligation contained in Paragraph No. 12. A certificate of insurance on the City's approved form which verifies the existence of this insurance coverage must be provided to the City before work under this Agreement is begun.
- B. Worker's Compensation. The Contractor shall secure and maintain such insurance as will protect Contractor from claims under the Worker's Compensation Acts and from claims for bodily injury, death, or property damage which may arise from the performance of Contractor's services under this Agreement.

14. Records Access. The Contractor shall provide the City access to any books, documents, papers, and record which are directly pertinent to the specific contract, for the purpose of making audit, examination, excerpts, and transcriptions, for three years after final payments and all other pending matters related to this contract are closed.

15. Governing Law. This Agreement shall be controlled by the laws of the State of Minnesota.

Executed as of the day and year first written above.

**FOR THE CITY OF ST. LOUIS PARK:**

Attest:

  
Nancy Stroth, City Clerk

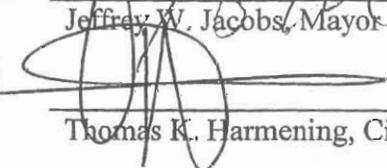
(seal)

  
Cynthia Walsh, Director of Parks & Recreation

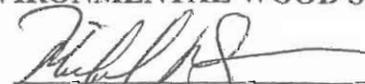
  
Jim Vaughan, Environmental Coordinator



  
Jeffrey W. Jacobs, Mayor

  
Thomas K. Harmening, City Manager

**ENVIRONMENTAL WOOD SUPPLY, LLC**

By   
MICHAEL J. BURNS  
Its Vice President

**EXHIBIT A TO  
AGREEMENT FOR PROFESSIONAL SERVICES  
BY AND BETWEEN THE CITY OF ST. LOUIS PARK  
AND ENVIRONMENTAL WOOD SUPPLY, LLC**

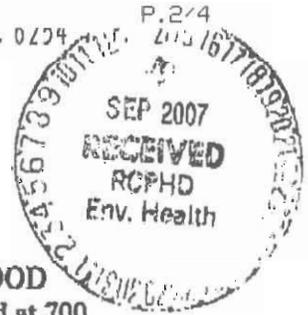
**Purpose**

This contract is a public/private partnership in which Contractor will provide management of the City's Wood Accumulation Site located at 2501 Edgewood Ave. South ("Site"). By providing management of the Site, Contractor gains diversification in its operating locations, consistent receipt of tree waste, additional space to process and stage wood and wood byproducts. The City will reduce its cost for wood waste utilization, its cost and time expenditure for management of the Site and potentially reduce costs related to leaf disposal, processing and composting.

**Agreement Specifications**

- City will continue to own the Site and retain ultimate control of all aspects of the Site, except for the use by Contractor specifically allowed herein.
- Contractor will process and dispose of all City tree product/waste at no cost to the City except during storm events as discussed below.
- Contractor will process, store and ship wood product from the Site to Contractor's downtown St. Paul combined heat and power plant.
- Contractor will keep the Site orderly, be responsible for derelict waste deposited and hauling it off the Site, and will process and load out all wood product in a timely fashion or within 120 hours when requested by the City. Absolutely no waste material will be pushed over the east edge of the work site.
- At the City's discretion, Contractor will manage, at no additional cost, up to twelve (12) truckloads (1200 cu. yards total) of material from the City Fall street sweeping operation. Additional truckloads would be managed and dispositioned by Contractor with Contractor's expenses reimbursed by City.
- Contractor will have complete access to the Site and all tree products at the Site, and will dispose of all wood products deposited at the Site. Upon request and at no cost, Contractor will supply City with specified amount of processed wood product for City landscaping use.
- Contractor will keep one month supply of wood product (mulch/chips) inventory at the Site at any one time. The goal is to have a rapid rotation of all inventories on site and to move the oldest material off of site first. All wood products shall be processed and used in a timely fashion to prevent wood chip piles from heating and combusting.
- During major storm events, Contractor will scale up its operation at the Site to meet City's wood processing demands, and provide processing and utilization at minimal (only contractor fees or "at-cost" fees) cost.
- All employees of Contractor will be paid prevailing "livable" wages.
- In addition to the City tree products/waste, Contractor may have additional processed and unprocessed wood brought to the Site for mixing, processing and staging for use by Contractor. This wood will be brought to the Site via commercial vehicles only (with the companies designated by agreement between the City and Contractor) and will not include any residential deposition.

- The City will use the Site for deposition and storage of utility, parks and street division operations materials, as needed. The City may require Contractor to remove or scale back operations to allow the City more area of operations when needed.
- Signs and markers will be posted at the Site designating areas for specific material deposition. Specific area designation for material deposition will be agreed to by City and Contractor. Contractor will be responsible for signage and markers and maintenance of those items.
- Entrance gate will be locked when the Site is not in use. The last person at the Site each day will be responsible for locking the gate.
- City will provide to Contractor a list of vendors who will deliver wood to the Site on behalf of the City.



## WOOD WASTE SUPPLY AGREEMENT

THIS AGREEMENT is entered into between ENVIRONMENTAL WOOD SUPPLY, LLC. (hereinafter "EWS") with its principal place of business located at 700 The Saint Paul Building, 6 West Fifth Street, Suite 300, St. Paul, Minnesota 55102 and RAMSEY COUNTY, located at 2785 White Bear Ave. N., Suite 350, Maplewood, MN 55109-1320 (herein after referred to as "Ramsey County").

WHEREAS, pursuant to an agreement by and between EWS and St. Paul Cogeneration, LLC, EWS is the provider of waste wood supply to fuel the St. Paul Cogeneration, LLC combined heat and power plant located at 125 Shepard Road West, Saint Paul, Minnesota 55102 (hereinafter "Facility"); and

WHEREAS, the Facility requires a secure supply of waste wood; and

WHEREAS, Ramsey County has initiated collection of wood waste as part of its residential yard waste collection at four sites and requires this wood waste to be disposed of from time to time, and

WHEREAS, Ramsey County desires that the wood waste so collected be beneficially utilized as fuel for the Facility

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions herein set forth, EWS and Ramsey County agree as follows:

**TERM:** The term of this Agreement is from April 1, 2007 through December 31, 2009.

EWS agrees to accept all wood waste generated at the four Ramsey County yard waste sites from third party contractors hired by Ramsey County to process and/or remove the wood waste from Ramsey County yard waste sites provided the wood waste is deemed acceptable by EWS and said wood will be delivered to the EWS Wood Recycle Center at 2165 Pigs Eye Lake Road, St. Paul, MN unless otherwise directed by EWS.

Ramsey County agrees to direct, through its processing and removal contracts with third party contractors, all wood waste generated at the yard waste sites to EWS for use as fuel with the exception of that wood waste to be used by Ramsey County for residential landscape or county park landscaping or wood waste redirected by EWS due to emergency situations which require third party contractors to implement their backup contingency plan. Ramsey County agrees to assist EWS in resolving problems with third party contractors related to wood quality or delivery of wood waste generated under this Agreement.

Either party may cancel this Agreement upon 30 days written notice to the other, delivered to the address identified above.

Each party shall be liable for its own acts to the extent provided by law and hereby agrees to indemnify, hold harmless and defend the other, its officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the other, its officers and employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the party, its agents, servants or employees, in the execution, performance, or failure to adequately perform its obligations pursuant to this Agreement.

Nothing in this Agreement shall constitute a waiver by Ramsey County of any statutory or common law immunities, limits, or exceptions on liability.

EWS will purchase and maintain such insurance as will protect it from claims which may arise out of or result from its operations under the terms of this Agreement and shall, upon request, provide evidence of such coverages to the County.

This Agreement is duly executed on the last date written below.

**RAMSEY COUNTY**

**ENVIRONMENTAL WOOD SUPPLY,  
LLC**



11/13/07

David Twa  
County Manager



By: Michael J. [unclear]  
Its: Vice President  
700 The Saint Paul Building  
6 West Fifth Street, Suite 300  
St. Paul, MN 55102

Date: \_\_\_\_\_

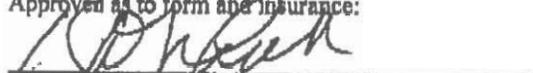
Taxpayer ID#: fed 41-1985749; MN-6979482  
Date: September 13, 2007

Approval recommended:



Rob Fulton, Director  
Saint Paul - Ramsey County Department of Public Health

Approved as to form and insurance:



Assistant County Attorney  
Linda Nelson 11/7/07  
Budgeting and Accounting

Attachment 3

Ramsey County Purchase Order Extending Grinding and Wood  
Management Services by EWS through December 31, 2010

# RAMSEY COUNTY

INTRACT AND ANALYSIS SERVICES  
 ROOM 280 - CITY HALL - COURTHOUSE  
 . PAUL, MINNESOTA 55102



THIS NUMBER MUST APPEAR ON ALL  
 INVOICES AND CORRESPONDENCE  
 REGARDING THIS ORDER.

P.O. NO.

CC002097

PAGE

1

**INSURE PROMPT PAYMENT:**  
 NOT SHIP C.O.D. OR SHIPPING CHARGES COLLECT.  
 FILE INVOICE IN TRIPLICATE SHOWING PURCHASE ORDER NUMBER TO ADDRESS SHOWN BELOW.

## PURCHASE ORDER

P.O. DATE

11/05/09

REQ. NO.

PUBW-9-712

FEDERAL TAX ID NO.

-1985749

VENDOR NO.

51605

VENDOR PHONE NO.

SHIP TO: (Same as "INVOICE TO" unless shown below)

RC ENVIRONMENTAL HEALTH  
 2785 WHITE BEAR AVE  
 MAPLEWOOD MN 55109

THE VENDOR IS ASSUMED TO BE WILLING TO COMPLY WITH APPLICABLE REQUIREMENTS  
 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM OF RAMSEY COUNTY. IT IS  
 FURTHER UNDERSTOOD THAT THE VENDOR IS WILLING TO PARTICIPATE AND BE  
 QUALIFIED BY THE COUNTY'S AFFIRMATIVE ACTION DEPT. IN ORDER TO DETERMINE  
 COMPLIANCE WITH SAID PROGRAM.

TERMS

DELIVER

1/1/10 THRU 12/31/10

DOR: ENVIRONMENTAL WOOD SUPPLY LLC  
 C/O EVER-GREEN ENERGY LLC  
 345 ST PETER ST #1350  
 ST PAUL MN 55102

INVOICE TO:

RC ENVIRONMENTAL HEALTH  
 2785 WHITE BEAR AVE  
 MAPLEWOOD MN 55109

ACCOUNT CODE	QUANTITY	DESCRIPTION	UNIT COST	AMOUNT
00-00000-000000	1	<p>EXTEND CONTRACT TO PROVIDE ALL LABOR, MATERIALS, EQUIPMENT AND SERVICES NECESSARY FOR TREE AND SHRUB PROCESSING AND TRANSPORTATION AT COUNTY YARD WASTE SITE THAT ACCEPT BRUSH IN ACCORDANCE WITH BID A-PH712-5</p> <p>CONTRACT PERIOD: 1/1/10 THRU 12/31/10</p> <p>LOCATION OF SITES: ARDEN HILLS, WHITE BEAR TOWNSHIP, EAST SIDE &amp; MIDWAY</p> <p>PRICE PER CUBIC YARD PROCESSED TREE &amp; SHRUB WASTE: \$1.65</p> <p>EQUIPMENT MOBILIZATION RATE: \$500.00</p> <p>THE CHECK IN THE AMOUNT OF \$77,000.00 IN LIEU OF THE PAYMENT &amp; PERFORMANCE BONDS WILL BE RETURNED IN FULL TO THE VENDOR AT THE END OF THE CONTRACT PERIOD, IF THE VENDOR MEETS ALL OF THE REQUIREMENTS, TERMS &amp; CONDITIONS OF THIS BID.</p> <p>VENDOR CONTACT: JEFF GUILLEMETT 747-5798</p>	154,000.00	154,000.00

# RAMSEY COUNTY

CONTRACT AND ANALYSIS SERVICES  
 ROOM 280 - CITY HALL - COURTHOUSE  
 PAUL, MINNESOTA 55102



THIS NUMBER MUST APPEAR ON ALL INVOICES AND CORRESPONDENCE REGARDING THIS ORDER. P.O. NO. CC002097 PAGE 2

**INSURE PROMPT PAYMENT:**  
 NOT SHIP C.O.D. OR SHIPPING CHARGES COLLECT.  
 FILE INVOICE IN TRIPLICATE SHOWING PURCHASE ORDER NUMBER TO ADDRESS SHOWN BELOW.

**PURCHASE ORDER** P.O. DATE 11/05/09 REQ. NO. PUBW-9-712

FEDERAL TAX ID NO. -1985749 VENDOR NO. 51605 VENDOR PHONE NO.

SHIP TO: (Same as "INVOICE TO" unless shown below)  
 RC ENVIRONMENTAL HEALTH  
 2785 WHITE BEAR AVE  
 MAPLEWOOD MN 55109

THE VENDOR IS ASSUMED TO BE WILLING TO COMPLY WITH APPLICABLE REQUIREMENTS EQUAL EMPLOYMENT OPPORTUNITY PROGRAM OF RAMSEY COUNTY. IT IS FURTHER UNDERSTOOD THAT THE VENDOR IS WILLING TO PARTICIPATE AND BE QUALIFIED BY THE COUNTY'S AFFIRMATIVE ACTION DEPT. IN ORDER TO DETERMINE COMPLIANCE WITH SAID PROGRAM.

TERMS DELIVER 1/1/10 THRU 12/31/10

FROM: ENVIRONMENTAL WOOD SUPPLY LLC  
 C/O EVER-GREEN ENERGY LLC  
 345 ST PETER ST #1350  
 ST PAUL MN 55102

INVOICE TO:  
 RC ENVIRONMENTAL HEALTH  
 2785 WHITE BEAR AVE  
 MAPLEWOOD MN 55109

ACCOUNT CODE	QUANTITY	DESCRIPTION	UNIT COST	AMOUNT
		COUNTY CONTACT: JOHN SPRINGMAN 266-1150		
		REQN #PH712		
		TOTAL:		154,000.00

**ALLOW ROUTING SEQUENCE FOR SIGNATURE BOXES BELOW FOR CONTRACT PURCHASES ONLY:**  
 CONTRACT PURCHASE ORDER VENDOR - OUR REQUEST, YOUR OFFER, THIS PURCHASE ORDER CONTRACT AND SUCH PLANS AND SPECIFICATIONS AS MAY BE REFERRED TO IN THESE DOCUMENTS CONSTITUTE THE ENTIRE CONTRACT BETWEEN YOU AND THE COUNTY. YOU MAY NOT COMMENCE WORK OR MAKE DELIVERY UNDER THIS PURCHASE ORDER CONTRACT UNTIL APPLICABLE PERFORMANCE BOND AND CERTIFICATES OF INSURANCE AS REQUIRED IN THE REQUEST OR PLANS AND SPECIFICATIONS ARE FILED AND APPROVED BY THE OFFICE OF THE EXECUTIVE DIRECTOR. YOUR OFFER WAS THE LOWEST RESPONSIBLE BID OR MOST RESPONSIVE PROPOSAL MEETING THE SPECIFICATIONS OF THE REQUEST.

**AUTHORIZED OFFICIALS OF RAMSEY COUNTY**

<input type="checkbox"/>	CONSULTANT FOR LABOR	DATE
<input type="checkbox"/>	RISK MANAGEMENT - INSURANCE AND BOND APPROVAL	DATE
<input checked="" type="checkbox"/>	ASSISTANT COUNTY ATTORNEY - APPROVED AS TO FORM + Insurance	11/18/09
<input type="checkbox"/>	BUDGETING AND ACCOUNTING - APPROPRIATIONS AVAILABLE	DATE
<input type="checkbox"/>	CHAIR, BOARD OF COUNTY COMMISSIONERS	DATE
<input checked="" type="checkbox"/>	CHIEF CLERK, COUNTY BOARD	DATE
<input checked="" type="checkbox"/>	COUNTY MANAGER	11/18/2009
<input checked="" type="checkbox"/>	PURCHASE AUTHORIZATION	11/18/09

VENDOR M. EVANGELIST 651-266-8915



FAST. EASY. CLEAN.

**Environmental Wood Supply, LLC**

1350 Landmark Towers  
 345 St. Peter Street  
 Saint Paul, MN 55102

**REPRINT**

PAGE 1

INVOICE DATE 12/21/2009  
 INVOICE NO DEC 09

S RAMS06  
 O ENVIRONMENTAL HEALTH  
 L RAMSEY COUNTY  
 D 2785 WHITE BEAR AVENUE  
 MAPLEWOOD, MN 55109

S RAMSEY COUNTY  
 H ENVIRONMENTAL HEALTH  
 I 2785 WHITE BEAR AVENUE  
 P MAPLEWOOD, MN 55109

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TOTAL DUE 11,735.00

SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO	ORDER DATE	SHIP DATE	SHIP NO
		12/21/2009	12/21/2009	00000230	12/21/2009	12/21/2009	

TERMS DESCRIPTION	CUSTOMER PO NUMBER	SHIP VIA
NET DUE		

ITEM ID	TX CL	UNITS	ORDERED	SHIPPED	UNIT PRICE	EXTENSION
MIDWAY 12-15-09	0		11.0000	11.0000	165.0000	1,815.00
MIDWAY MOBILIZATION	0		1.0000	1.0000	500.0000	500.00
EAST SITE -FRANK SIMS	0		16.0000	16.0000	165.0000	2,640.00
EAST SITE - FRANK SIMS MOBILIZATION	0		1.0000	1.0000	500.0000	500.00
ARDEN HILLS	0		15.0000	15.0000	165.0000	2,475.00
ARDEN HILLS MOBILIZATION	0		1.0000	1.0000	500.0000	500.00
SHOREVIEW / WBL	0		17.0000	17.0000	165.0000	2,805.00
SHOREVIEW WBL MOBILIZATION	0		1.0000	1.0000	500.0000	500.00
	0		1.0000	1.0000	.0000	0.00

TAXABLE	NONTAXABLE	FREIGHT	SALES TAX	MISC	TOTAL
0.00	11,735.00	0.00	0.00	0.00	11,735.00
<b>TOTAL DUE</b>					<b>11,735.00</b>