

CONTRACT

This contract entered into as of the 5th day of MARCH, 2003, between the CITY OF MCMINNVILLE, TENNESSEE, (hereinafter known as "City") and WASTAWAY SERVICES, a limited liability company, existing under the laws of the State of Tennessee and located in McMinnville, Warren County, Tennessee (hereinafter known as "Contractor").

WHEREAS, the governing body of the City has authorized the entering into of this contract to dispose of the City's urban wood waste and has requested and received proposals for the chipping, grinding, shredding, and disposal of wood, brush, and other urban waste, and WASTAWAY SERVICES, a limited liability company, submitted the most responsive and qualified proposal for grinding wood waste located at the City's Transfer Station area and an alternate to grind and dispose of wood waste to be hauled to the contractor site, and it has the qualifications to perform that work;

Now, therefore, pursuant to the authority of the Board of Mayor and Aldermen of the City and in consideration of the mutual covenants and undertakings contained herein, it is agreed between the City and the Contractor that:

Article I. General Conditions

1. Definition — The definition of urban wood waste within the meaning of this contract shall be brush, leaves, yard trimmings, logs, pallets, and all types of wood the City collects, processes, and disposes of for the citizens of the City. Chipping, grinding, shredding, or otherwise reducing the urban wood waste shall be known as processing.
2. Scope of Contract — The Contractor agrees to furnish all labor, tools, equipment, and materials, supplies, and services to process all urban wood waste stockpiled at the City Transfer Station area and to take future urban

wood waste to a site designated by the Contractor which is easily accessible by truck from a paved public road, street, and highway with approval by the City.

3. Duration of Contract — The contract shall begin on the date of March 24, 2003, and end on the date of March 24, 2004, and upon the mutual consent of the parties, may be extended for periods of one and up to the three years under the identical terms and conditions set out herein.
- a. The stockpile at the Transfer Station area shall be processed within 3 months of signing of the agreement.
 - b. Any new urban wood waste collected shall be taken by the City to the site selected by the Contractor as set out in 2. above or added to the Transfer Station area stockpile as set out in Article V. below.

Article II. Responsibilities of Contractor

1. Weighing of urban wood waste — All urban wood waste at the Transfer Station area was weighed and recorded upon entry by the City. It is agreed that this recorded weight shall be used for all calculation of work performed under Phase 1 of this contract at the City Transfer Station area and for payment therefor.

All wood waste taken to the contractor site by the City under Phase 2 of this contract shall be weighed by Contractor's certified scale and recorded at time of delivery. All weight and work records of Phase 1 & 2 shall be available for inspection by the City during any regular business hours.

2. Schedule of work — The Contractor shall process all urban wood waste collected by the City at the City Transfer Station site (Phase 1) Monday through Friday, 7:00 a.m. until 3:30 p.m., on any normal workday. By written agreement of both parties, a different schedule may be agreed upon.
3. Contractor solely responsible for operation — The Contractor and its employees shall be solely responsible for loading stockpiled waste into the Contractor's processing equipment. The Contractor shall supply all necessary tools, supplies, machinery, personnel, and materials for loading and operation of processing equipment.
4. Contractor is responsible for repair and maintenance — The Contractor is and shall be solely responsible for all regular, routine, and/or unscheduled maintenance and repair of and to Contractor's equipment. The City shall not be responsible for any labor time lost or costs associated with any repair, breakdown, or maintenance of Contractor's equipment, whether scheduled, routine, or emergency. The Contractor is solely responsible for all material being processed by the equipment. Contractor shall have full authority to accept or reject the material being fed into processing equipment. All material which does not meet the definition of urban wood waste will be stockpiled by the Contractor and disposed of by the City.
5. Disposal of processed urban wood waste – All material taken to Contractor site for processing and disposal in a lawful manner is entirely the Contractor's responsibility.

6. Invoices – The Contractor for both Phases 1 and 2 shall submit monthly invoices with copies of records on a monthly basis, and the amount that has been processed and the amount owed by the City.
7. Liability for operation – The Contractor shall assume all liability for operations relative to this agreement and shall hold the City harmless for its actions under this contract or agreement and shall defend, indemnify, and hold harmless the City, its agents and employees from all claims and damages that may arise out of or as a result of the Contractor’s performance of this agreement, both Phases 1 and 2, whether such operations be by the Contractor or by any subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

Article III. Responsibilities of the City

1. Designation of stockpile – The City designates the Transfer Station area located on Sunset Point Road as the location for processing existing stockpiled urban wood waste (Phase 1). The site shall have reasonable access for Contractor’s equipment and personnel and support vehicles related to the grinding operations.
2. Hauling urban wood waste to contractor site – The City will haul urban wood waste to a contractor site, which is easily accessible to trucks from a paved public road, street, or highway. Both parties must mutually agree upon any change in contractor site. The City shall have reasonable access to contractor site during normal business hours as set out in Article II., Section 2.

3. The City shall pay all legitimate invoices, presented with the proper documentation, in a reasonable time within 20 business days, Monday through Friday.
4. Quality of material – The City will make all reasonable attempts to maintain cleanliness of urban wood waste located at transfer station area stockpile and that trucked or delivered to contractor site; however, it is understood and agreed that it is the sole responsibility of the Contractor to prevent foreign matter entering the processing (grinding) equipment.
 - a. Any foreign matter inadvertently delivered to the contractor site may be stockpiled and will be taken away by the City at a mutually agreed upon time during normal business hours.

Article IV. Insurance, Bond, and Permits

1. Insurance – The Contractor shall assume all liability for operations relative to this contract and shall hold City harmless for all actions of the Contractor in the fulfillment of the contract. Minimum insurance coverage of \$1,000,000 General Liability shall be acquired and maintained by the Contractor. Policies covering this work shall include a provision requiring a minimum thirty (30) days notice to City if canceled or if the certificate is approaching its maximum pay out. The Contractor shall be responsible for annual submission of Certificates of Insurance to City. The Contractor will also be required to annually submit certification of workers' compensation insurance to City. Policies covering workers' compensation shall include a provision requiring a minimum thirty (30) days notice to City if canceled.

2. Bond – The Contractor shall provide a performance bond for the amount of the total bid that names the City as an insured and insures the performance of the contract for the City for 180 days from the date of a performance default by the Contractor.
3. Licenses and Permits – The Contractor shall obtain, at its own expense, all permits and licenses required by federal, state, and local laws, ordinances and regulations, and shall maintain them for the duration of the contract.

Article V. Phases of Work

The work to be performed shall be at two separate locations and in two phases as follows:

Phase 1

The City has stockpiled 1067 tons of wood waste at the City Transfer Station area which is to be processed first, beginning the _____ day of MARCH 25, 2003, to be completed by the 25 day of JUNE, 2003. The City may continue to add to this stockpile for processing until the Contractor designates a site which meets the conditions of Article I, Section 2 above.

The City will pay Contractor under this Phase 1 of the contract:

For chipping, shredding, and/or grinding of wood, brush, and other urban wood waste at designated site using 4-inch x 4-inch grate/screen size.

Disposal not included

Ton \$10.00

Phase 2

Once the Contractor has established an urban wood waste dump or processing site, the Contractor will process and dispose of the material and dispose of the processed materials.

The City will pay Contractor under this Phase 2 of the contract as follows:

The City is to deliver wood, brush, and other urban wood waste to local mulch yard operated by WastAway Services. Truck will be weighed coming in and out to calculate the weight of material delivered. The City will be billed at a rate of \$10.00 per ton as set out herein.

Disposal is included	Ton \$10.00
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Article VI. Termination of Contract

1. Failure to perform – The City may, at its discretion, treat the contract as terminated if Contractor fails to perform.
 - a. Failure of performance is defined as
 - i. Refusal to accept wood waste from City
 - ii. Fail to complete processing of stockpile at Transfer Station within designated time.
2. By written notice – The Contractor or the City may, during the initial year of this contract or during any extension, terminate this contract by submitting notice in writing of the termination to the other party hereto one hundred eighty (180) days or more in advance of the termination date.
 - a. All work at transfer station or drop off at contractor site, at agreed upon rate, must continue during the 180 days advance notice period at the ratio price agreed upon.

Article VII. Amendments to Contract

- 1. All amendments must be in writing and mutually agreed upon by City and Contractor.

Article VIII. Subcontracting or Transferring of Contract

- 1. The Contractor shall not subcontract with another person, corporation, or entity to perform work under this contract, or assign or transfer any other person, corporation, or entity of any kind or any duties, obligations, or rights created under this contract without the express written consent of the City
- 2. The City may contract with others to perform tree work on publicly owned trees, buildings, etc. and those persons will be allowed to drop off urban wood waste at contractor site. The Contractor will be notified in writing when this occurs.

THIS AGREEMENT AND/OR CONTRACT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TENNESSEE.

IN WITNESS WHEREOF, the City of McMinnville and WastAway Services, a limited liability company, have caused this contract to be executed on this 5th day of March, 2003.

CITY OF MCMINNVILLE

WASTAWAY SERVICES
(a limited liability company)

By: *Boya A. Desport*
Mayor

By: *Wade Sparkman*

ATTEST:

Title: *V.P. Sales*

Shirley J. Fuchon
City Recorder

WASTAWAY SERVICES

A Bouldin Corporation Company

March 18, 2003

RE: City of McMinnville's Contract with WASTAWAY SERVICES on Urban Wood Waste

The City of McMinnville agrees:

1. For WASTAWAY SERVICES to contract Steve Gauger to grind the city's urban wood waste at the Transfer Station and WASTAWAY's site on Belmont Drive using WASTAWAY's equipment.
2. That the WASTAWAY site on Belmont Drive is sufficient for City vehicles to bring wood waste collected by the city. And that the City trucks are to be weighed at the 904 Red Road location.
3. To allow Steve Gauger, of WASTAWAY SERVICES, to operate longer hours at the Transfer Station as deemed necessary by the contractor. Steve Gauger will be responsible for securing the gate at the Transfer Station at the end of the workday.



Royce Davenport
Mayor of McMinnville, TN



Wade Sparkman, V.P.-Sales
WASTAWAY SERVICES