

FOR BOARD ACTION

Agenda Item # 4.

Meeting Date:

11/28/06

SUBJECT: Ash Agreement Amendment

PREPARED BY: Joseph S. Hensel, Director of Field Services

ITEM DESCRIPTION:

Currently over one-half of fly ash and bottom ash generated at the Silver Lake plant is beneficially used in the manufacture of Portland cement. Beneficial use is the most environmentally sound, as well as low-cost disposal option. The only other disposal alternative currently available to RPU is landfilling at the Kalmar ash landfill operated by Olmsted County.

The company that provides beneficial use / ash disposal services to RPU (Enviro-Logic, Inc) has requested that the existing agreement be changed to provide for an increase in the price for wet ash hauling and disposal. RPU currently pays \$21/ton for both wet and dry ash. There have been no price increases since 2001. The cost of handling and transportation for the wet ash has increased, and Enviro-Logic has requested that the contract price be increased to \$23/ton. Based on information previously provided by Enviro-Logic we agree that an increase in the wet ash unit price is justified. Also proposed are changes to the contract to deal with weekend services and less-than-full-load operation.

An amendment to the ash agreement has been drafted by the City Attorney and is provided for Board review and consideration.

UTILITY BOARD ACTION REQUESTED:

Management requests Board approval of the ash agreement amendment and execution by Mayor and City Clerk.


General Manager


Date

AMENDMENT TO ASH REMOVAL AND DISPOSAL AGREEMENT

THIS AGREEMENT is made as of the _____ day of _____, 2006, by and between the City of Rochester, Minnesota, a Minnesota municipal corporation (hereinafter "City"), and Enviro-Logic, Inc., a Minnesota corporation located at 19900 214th Avenue, Big Lake, Minnesota (hereinafter "Enviro-Logic").

WHEREAS, on August 28, 2003, the City and Enviro-Logic entered into an agreement concerning the removal and disposal of ash produced by the City at its electricity generating facilities; and

WHEREAS, the parties wish to amend that Agreement as indicated below to the mutual benefit of both parties.

NOW, THEREFORE, the parties agree as follows:

A. Section 1 of the 2003 Agreement is amended to read as follows:

1. **PRICE:** City agrees to pay Enviro-Logic a price of \$21.00 per ton for the removal of dry ash and \$23.00 per ton for the removal of wet ash from its Rochester, Minnesota, facility. In addition to the above units prices there will be a \$2.00 per ton adder for ash hauled on the weekends. The adder will be applied to all ash loaded from Friday 6:00 p.m. through Monday 6:00 a.m. This price shall include transportation, handling, storage and all related costs and fees. Should the price of diesel fuel exceed \$1.60 per gallon, a one-percent price increase will go into effect for every \$0.10 per gallon increase in diesel. The price of diesel will be drawn from the website www.eia.doe.gov/pub/oil and the Midwest PADD 2 price section. The previous month's average will be used for the current month. Enviro-Logic reserves the right of first refusal should the City receive an economically more attractive offer.

B. Section 2 of the 2003 Agreement is amended to read as follows:

2. **MINIMUM LOAD CHARGE:** Applied to all truck loads with a net cargo weight of less than 23 tons will be a 23 ton minimum load charge.

C. Section 3 of the 2003 Agreement is amended to read as follows:

3. **TERM:** The term of the Agreement shall be for 3 years from the date of the execution of this amendment. Following that three-year period the agreement shall automatically renew on an annual basis

unless written notice is provided not less than 60 days prior to the expiration of the preceding term. Additionally, either party may terminate this Agreement upon 90 days prior written notice to the other party.

BE IT FURTHER AGREED that, except for the above amendments, the remainder of the August 28, 2003, Agreement between the parties remains in effect and is binding upon the parties.

Dated at Rochester, Minnesota, this _____ day of _____, 2006.

CITY OF ROCHESTER, MINNESOTA

ENVIRO-LOGIC, INC.

BY _____
ITS MAYOR

BY _____
ITS PRESIDENT

ATTEST: _____
ITS CITY CLERK

ROCHESTER PUBLIC UTILITIES

BY _____
ITS GENERAL MANAGER

APPROVED AS TO FORM AND EXECUTION:

BY _____
ROCHESTER CITY ATTORNEY

STATE OF MINNESOTA)
) ss
CITY OF ROCHESTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by Ardell F. Brede and Judy K. Scherr, the Mayor and City Clerk respectively, of the City of Rochester, a Minnesota municipal corporation, for and on behalf of the municipal corporation.

NOTARY PUBLIC

STATE OF MINNESOTA)
) ss
CITY OF ROCHESTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by _____ the President of Enviro-Logic, Inc., a Minnesota corporation, for and on behalf of the corporation.

NOTARY PUBLIC

This Document Drafted By:
Rochester City Attorney's Office
201 4th Street S.E.
Room 247
Rochester, MN 55904

k\Amend.AshAgree



RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to approve an amendment to the ash agreement with Enviro-Logic., for an increase in the cost of wet ash hauling and disposal to \$23/ton and language changes to weekend services terms, and request the Mayor and the City Clerk to execute the agreement for:

Amendment to Ash Removal and Disposal Agreement

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 28th day of November, 2006.

President

Secretary