

**AMENDMENT NO. 1 TO THE
AGREEMENT FOR OPERATIONS AND MAINTENANCE
OF THE CITY OF GALENA WATER/WASTEWATER TREATMENT FACILITIES
AND DISTRIBUTION/COLLECTION SYSTEMS**

This Amendment 1 ("Amendment 1") is made as of March 23, 2009, by and between the City of Galena, a municipal corporation in the County of Jo Daviess, State of Illinois ("OWNER") with its principal place of business at 312-1/2 North Main Street, Galena, Illinois 61036 and Environmental Management Corporation, a Missouri corporation ("EMC") with its principal place of business at 1001 Boardwalk Springs Place, O'Fallon, Missouri 63368. OWNER and EMC are sometimes herein referred to individually as a "Party" and collectively as the "Parties".

WHEREAS, OWNER and EMC are Parties to that certain Agreement for Operations and Maintenance of the City of Galena Water/Wastewater Treatment Facilities and Distribution/Collection Systems dated July 20, 2004 ("Agreement"); and

WHEREAS, OWNER and EMC now desire to amend the Agreement upon the terms and subject to the conditions set forth in this Amendment 1.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, OWNER and EMC hereby agree as follows:

- 1.) The date of July 31, 2009 in Article 1 – PURPOSE AND TERM of the Agreement shall be changed to July 31, 2014.
- 2.) The following sentences will be added to the end of Section b. of Article 5 – COMPENSATION of the Agreement:

"The index adjustment as calculated for the Contract year August 1, 2009 through July 31, 2010 shall be decreased by one percentage point. The index adjustment as calculated for the Contract year August 1, 2010 through July 31, 2011 shall be decreased by one half of one percentage point."
- 3.) The amount of \$96,000 in Section e. of Article 5 – COMPENSATION of the Agreement shall be changed to \$126,000.
- 4.) A sentence will be added to the end of Section e. of Article 5 – COMPENSATION of the Agreement as follows:

"EMC agrees to collaborate with OWNER on any and all energy savings projects as initiated by OWNER during the Term of this Agreement."
- 5.) Exhibit A to the Agreement shall be stricken in its entirety and replaced with the revised Exhibit A as attached to this Amendment 1.
- 6.) A sentence will be added to the end of Section a. in Exhibit B – EMC Services of the Agreement as follows:

"Facilities operation will also include EMC's working knowledge of the process control capabilities of the OWNER SCADA Systems."

- 7.) Exhibit C to the Agreement shall be stricken in its entirety and replaced with the revised Exhibit C as attached to this Amendment 1.
- 8.) Except as otherwise modified herein, all of the terms and conditions of the Agreement shall remain in full force and effect.
- 9.) This Amendment 1 may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment 1, with an Effective Date of August 1, 2009, to be executed by their respective authorized representatives as of the date first above written.

CITY OF GALENA, ILLINOIS

ENVIRONMENTAL MANAGEMENT CORPORATION

By: Tom Brusch

By: Craig Mundle

Name: Tom Brusch

Name: CRAIG MUNDLE

Title: Mayor

Title: HEAD OF ADMINISTRATION

Date: 7/23/09

Date: 03-30-09

EXHIBIT A Facilities

- Wastewater Treatment Plant located at:
1989 East Cross Road
- 1952 (Reconstructed in 2002) Lift Station located at:
114 Meeker Street
- Industrial Park Lift Station located at:
11326 Technical Drive
- Pluym Lift Station located at:
Oldenburg Lane
- Cobblestone Lift Station located at:
Oldenburg Lane
- Bouthillier Lift Station located at:
Bouthillier St. & Park Avenue
- Hospital Lift Station (when accepted) located at:
Norris Lane
- Water Street Storm Water Pumping Station located at:
Water Street between Green Street and Perry Street
- Riverside Drive Storm Water Pumping Station located at:
Riverside Drive between Spring Street and flood gates
- #5 Well House located at:
1238 Franklin Street
- #6 Well House located at:
Gear Street
- #7 Well House located at:
Industrial Park
- Water Storage Facilities located at:
1238 Franklin Street
Dodge & Hill Streets
Horseshoe Mound
Industrial Park
- Industrial Park water booster station located at:
Highway 20 and Franklin Street

- Bouthillier water booster station located at:
307 Bouthillier Street
- Supervisory Control and Data Acquisition system for above facilities

EXHIBIT C
OWNER's Equipment

- Lift station built in 1952 and reconstructed in 2002, including:
 - Three (3) 20 hp Flygt submersible pumps
 - Metropolitan control panel
 - Olympian 125kw stand-by generator

- Industrial Park Lift Station, including:
 - Two (2) 20 hp Fairbanks Morse pumps
 - USEMCO Control Panel

- Pluym Lift Station, including:
 - Two (2) 10 hp Hydromatic submersible pumps
 - Hydromatic Control Panel
 - Olympian 50kw Generator

- Cobblestone Lift Station, including:
 - Two (2) 5 hp Hydromatic submersible pumps
 - Hydromatic Control Panel
 - Olympian 30kw Generator

- Bouthillier Lift Station, including:
 - Equipment to be determined

- Hospital Lift Station, including:
 - Two (2) 15 hp Fairbanks Morse submersible pumps
 - Control Panel
 - Olympian 50kw Generator

- Storm Water Pumping Stations at Water Street and Riverside Drive
 - Assist with operations, maintenance and repairs

- 1.171 MGD wastewater treatment plant, oxidation ditch type built in 2002, comprising:
 1. Administration Building with:
 - Garage / Shop Area
 - Restroom / Locker Facilities
 - General Purpose Room
 - Office
 - SCADA Room
 - Laboratory Facilities
 2. Screening Building with:
 - Parkson Mechanical Step Screen and Wash Press
 - Altronex SCCB Motor Control Center
 3. BNR / Oxidation Ditches with:
 - Two (2) EIMCO/EMU 8.5 hp BNR Mixers
 - Four (4) EIMCO 40 hp Carousel Aerators
 4. Two (2) 250,000 gallon US Filter clarifiers with aluminum Covers

5. Biosolids Control Building with:
 - Komline Sanderson 1.5 meter gravity belt thickener / belt filter press
 - Parkson biosolids conveyors
 - Dynablend polymer feed system
 - Altronex SCCA Motor Control Center
 - One (1) Sum Pump
 - Two (2) Hayward Gordon model XCS5A WAS Pumps
 - Three (3) Hayward Gordon model XCS5A RAS Pumps
 - Three (3) Netzsch progressive cavity BST Pumps
 - Two (2) Crane Deming Plant Water System
 - Metropolitan Industries Non-Potable Water System
 - Potable Water System
 - Site Well
 - Three (3) Garner Denver Positive Displacement Blowers for Digesters
 6. Two (2) Aerobic Digesters with Sanitiare Fine Bubble Diffusers
 7. Biosolids Storage Building
 8. Trojan Ultraviolet Disinfection
 9. Influent Pumping Station with:
 - One (1) 25 hp Fairbanks Morse Submersible Pump
 - One (1) 30 hp Flyght Submersible Pump
 - Two (2) 75 hp Flyght Submersible Pumps
 10. Grounds Maintenance
- Sanitary sewer system, consists of approximately 28.21 miles of gravity sewer that is predominantly eight-inch with some six-, ten-, twelve-, fifteen- eighteen- and thirty inch pipes of clay, concrete and PVC. The system also contains 1.6 miles of sanitary force mains.
 - Well houses and treatment points comprised of :
 1. #5 Well House (ID#11739), with 150hp submersible pump producing 1100 gpm and discharges to 450,000 gallon elevated tank;
 2. #6 Well House (ID#11740), with vertical turbine pump producing 700 gpm and discharges directly to distribution system;
 3. #7 Well House (ID#01535) with 200hp submersible pump producing 1100 gpm and discharges to 500,000 gallon elevated tank.
2004 Onan 350kw generator
 4. Treatment consists of phosphate injection, chlorination and fluoridation.
 - Water storage facilities comprised of:
 1. 450,000 gallon elevated storage tank
 2. 750,000 gallon standpipe
 3. 300,000 gallon ground tank
 4. 500,000 gallon elevated storage tank
 - Industrial Park Booster Station comprised of:
 1. One (1) Deming 1½ hp pump rated at 36 gpm
 2. One (1) Deming 3 hp pump rated at 65 gpm
 3. One (1) Deming 40 hp pump rated at 940 gpm
 4. USEMCO control panel

- Bouthillier Booster Station comprised of:
 1. Two (2) Peerless 30 hp pumps rated at 450 gpm each
 2. USEMCO control panel

- Water distribution system consisting of four pressure zones. Water mains consist of approximately 28.53 miles of two-, four-, six-, eight-, ten, and twelve-inch pipe of cast iron, ductile iron, and PVC.

- Rolling Stock
 1. 2005 Chevrolet ¾ ton pickup with utility box (new box 2008)
 2. 2000 Ford F-250 ¾ ton pickup with Western snowplow
 3. 1997 Chevrolet ¾ ton pickup
 4. 1984 GMC 7000 series spreader truck with Meyers spreader
 5. 1996 New Holland LX665 skid loader
 6. 2001 Sniper 747 sewer jet machine
 7. 2004 Onan 250kw trailer mounted generator

**AGREEMENT FOR
OPERATIONS AND MAINTENANCE
OF THE CITY OF GALENA
WATER/WASTEWATER TREATMENT FACILITIES
AND DISTRIBUTION/COLLECTION SYSTEMS**

This Operations and Maintenance Agreement ("Agreement"), is entered into as of this 7th day of July, 2004 ("Effective Date"), by and between Environmental Management Corporation, a Missouri corporation ("EMC") with its principal place of business at 1001 Boardwalk Springs Place, O'Fallon, Missouri 63366; and the City of Galena, a municipal corporation in the county of Jo Daviess, State of Illinois ("OWNER") with its principal place of business at 312-1/2 North Main Street, Galena, Illinois 61036. EMC and OWNER are sometimes herein referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, OWNER owns and operates a water and wastewater treatment facility, or facilities, at the locations set forth in Exhibit A attached hereto ("Facilities"); and

WHEREAS, EMC is engaged in the business of providing certain operations and management services for water and wastewater facilities; and

WHEREAS, it is the mutual desire of EMC and OWNER to enter into this Agreement for services to be provided by EMC ("EMC Services," as more specifically described herein) with respect to the Facilities; and

WHEREAS, OWNER has full power and authority under the laws of the State of Illinois to enter into this Agreement for the EMC Services.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and terms contained herein, the Parties, intending to be legally bound, hereby agree as follows:

1. PURPOSE AND TERM

As of the Effective Date, OWNER engages EMC as an independent contractor to provide the EMC Services with respect to the Facilities for a term commencing on August 1, 2004 ("Commencement Date") and expiring on July 31, 2009, unless otherwise earlier terminated pursuant to the provisions of this Agreement. As an independent contractor, rather than an employee or representative of OWNER, EMC covenants and agrees that it will not represent to any third party that it, or any of its principals, officers, directors, employees or agents, are officials, agents, employees or representatives of OWNER. EMC further warrants that no act, action or omission to act by EMC or any of its principals, officers, directors, employees or agents shall in any way obligate or be binding upon OWNER or its officials.

2. EMC SERVICES

The EMC Services shall consist of those services specified in Exhibit B attached hereto and incorporated herein by this reference.

3. EMC Insurance. EMC shall maintain the following insurance during the term of this Agreement:

c. Insurance. OWNER will maintain the following insurance during the term of this Agreement:

<u>Property Insurance (all risks):</u>	Full Replacement cost value for Entire Facilities, Contents, Equipment & Computers and a waiver of subrogation against EMC to the extent of coverage
<u>Commercial Auto Liability (any auto):</u>	\$1,000,000 combined single limit
<u>Worker's Compensation:</u>	Statutory
<u>Employer's Liability:</u>	
Bodily Injury By Accident	\$500,000 Each Accident
Bodily Injury By Disease	\$500,000 Policy Limit
Bodily Injury By Disease	\$500,000 Each Employee
<u>Commercial General Liability:</u>	
Bodily Injury, Personal Injury, and Property Damage	\$1,000,000 Occurrence \$2,000,000 Aggregate

OWNER shall furnish EMC with satisfactory proof of all aforesaid insurance. At all times during the terms of this Agreement, OWNER shall keep in effect the aforesaid insurance coverage. Neither failure to comply nor incomplete compliance with the insurance requirements of Section 4.c shall limit or relieve OWNER of its obligations hereunder. If OWNER fails to purchase or maintain the insurance required under Section 4.c, EMC may, but will not be obligated to, purchase such insurance on OWNER's behalf, and EMC shall be reimbursed for any premiums paid by EMC on behalf of OWNER.

All of the above policies, except Worker's Compensation, shall name EMC as an additional insured, but only to the extent of OWNER's performances and indemnification obligations pursuant to this Agreement.

d. Representations. OWNER represents and warrants to EMC that the OWNER has, or will have or hold as of the date hereof, and will continue to have or hold throughout the term of this Agreement, all approvals, licenses, permits and certifications necessary to operate, manage, maintain and repair the Facilities.

5. COMPENSATION

a. Compensation. OWNER shall pay EMC, as compensation ("EMC Compensation") for the EMC Services, the annual sum of \$499,966.68, payable in equal monthly installments of \$41,663.89, subject to adjustments as specified below. Monthly payments are due, in advance, no later than tenth day of the month to which such payment relates. Late payments shall accrue interest at the then current prime rate plus one (1%) percent per annum on the unpaid balance.

b. Annual Adjustments. The EMC Compensation shall be adjusted annually on each anniversary of the Effective Date, beginning with an adjustment of the initial EMC Compensation. Each annual compensation adjustment is cumulative throughout the term of this Agreement. The EMC Compensation (excluding the electricity threshold), as agreed upon, is \$403,966.68 of such EMC Compensation. This component shall be adjusted based upon the percentage change in the Consumer Price Index ("CPI") Midwest Size Class D, Series ID#CUUR0200SA0 for the twelve (12) month period immediately preceding such adjustment date, with a maximum adjustment increase of six percent (6%).

c. Adjustments Based on Water and Wastewater Flows and Loadings. The data used by EMC is as follows:

Water

Average daily production:	.65 MGD
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Wastewater

Average daily flow:	1.17 MGD
Average daily influent BOD:	350 mg/l
Average daily influent TSS:	500 mg/l
Average daily influent NH3	40 mg/l

In the event that during any twelve (12) month rolling period the average flow and/or loading increases or decreases by 5 % or more, the EMC Compensation shall be adjusted upward or downward as agreed to between the OWNER and EMC.

d. Adjustments Based on Increased Operating Costs. In the event that any changes in the scope of the operations of, or regulations applicable to, the Facilities shall occur, from and after the Effective Date, including, but not limited to, changes in governmental regulations or reporting requirements, effluent quality standards, monitoring requirements, level of treatment, personnel qualifications, staffing rules, or changes in the scope of the EMC Services (as set forth on Exhibit B) which increase the cost of operating the Facilities, OWNER shall pay to EMC an increase in the annual compensation paid to EMC, as reasonably determined by EMC, and retroactive to the date of such notification by EMC (which shall include a reasonably detailed explanation for the increase to the annual compensation).

e. Adjustment Based on Changed Electricity Rates. Electricity expense is included in the annual fees to be paid to EMC and is initially established at \$96,000. This amount will change with any adjustment in electricity rates or any other form of change to utility provider charges of any type or kind. Upon any such change, a like amount change will be made to the EMC Compensation. Any amount less than the established threshold not expended by EMC for electricity during a given contract year shall be returned to OWNER in full within sixty (60) days of the end of the contract year. During any contract year, amounts expended by EMC which aggregate to a total greater than the benchmark for electricity shall be reimbursed by OWNER to EMC in full within sixty (60) days of the end of the contract year.

6. Capital Improvements. OWNER shall be solely responsible for all capital improvement expenditures. For purposes of this Agreement, a capital improvement expenditure shall be defined to be the cost of adding new equipment (accessory, appurtenances, or components thereof), or new

structures (as opposed to replacing, maintaining, repairing, or rebuilding the existing structures) which satisfy any of the following criteria:

- a. increases its efficiency and capacity for which it was designed and constructed; or
- b. has a service life of at least five (5) years; or
- c. costs in excess of \$2,500 dollars per occurrence, exclusive of any EMC personnel labor costs.

EMC shall submit, for OWNER's approval, capital improvement expenditures prior to incurring the same. Each request for approval will identify the reason and estimated costs for the expenditure. Notwithstanding anything to this Section 6, EMC shall have the right, in emergency situations, to authorize the expenditure of monies for capital improvements where the failure to do so would have an adverse effect, as determined by EMC, on the Facilities or the OWNER Equipment.

7. Maintenance and Repair Costs.

- a. **Costs up to \$2,500.** EMC shall pay the costs of all individual repair parts, maintenance materials, supplies and outside maintenance service items (collectively, "M&R Items") under \$2,500 per event, excluding EMC labor costs, during the term of this Agreement. The annual budget for such M&R Items costing less than \$2,500 is included in the annual fees to be paid to EMC and is initially established at \$62,889.42. This budget will adjust annually by the same percentage change in the CPI as detailed in Section 5(b) of this Agreement. Any amount less than the established threshold not expended by EMC for maintenance during a given contract year shall be returned to OWNER in full within sixty (60) days of the end of the contract year. During any contract year, amounts expended by EMC which aggregate to a total greater than the benchmark for maintenance and repair items are the responsibility of EMC.
- b. **Costs \$2,500 and above.** Any M&R Items which cost in excess of \$2,500 per event, excluding EMC labor costs, shall be approved by the OWNER and paid for in its entirety directly by OWNER. Notwithstanding anything to the contrary in this Section 7, EMC shall have the right, in emergency situations, to authorize the expenditure of monies for M&R Items where the failure to do so would have an adverse effect, as determined by EMC, on the Facilities or the OWNER Equipment.

8. Chemical Costs. EMC shall pay the costs of all chemicals during the term of this Agreement. The annual budget for chemicals is included in the annual fees to be paid to EMC and is initially established at \$14,135.86. This budget will be adjusted annually by the same percentage change in the CPI as detailed in Section 5(b) of this Agreement. Any amount less than the established threshold not expended by EMC for chemicals during a given contract year shall be returned to OWNER in full within 60 days of the end of the contract year. During any contract year, amounts expended by EMC which aggregate to a total greater than the benchmark for chemicals are the responsibility of EMC.

9. Representative. No later than the Commencement Date, OWNER shall designate in writing to EMC, the name and title of OWNER's authorized representative(s) for all purposes of this Agreement.

10. **Warranties and Guarantees.** EMC will assist OWNER in OWNER's enforcement of OWNER Equipment warranties and guarantees, if any. EMC will be responsible for compliance with the terms of warranties on any new equipment purchased after the Effective Date.
11. **Termination.** Either Party to this Agreement may terminate this Agreement upon material breach by the other Party, provided, however, such terminating Party first provides written notice of such breach to the other Party and such breach is not cured within ninety (90) days from the date of the notice or, in the event that a cure is not capable within such ninety (90) day period, such cure is not commenced within such ninety (90) day period.
12. **Hold Harmless.** EMC agrees to and shall hold OWNER, its elected and appointed officers, and its employees harmless from any liabilities, claims, damages or fines (including attorney's fees) for personal injury or property damage caused by, or arising from the negligence of EMC, unless such claims, damages or fines are caused or contributed by the failure of (i) the water or wastewater influent to meet the criteria established as set forth on the Exhibit B-1 hereto; or (ii) by the presence of any hazardous, toxic or radioactive substances within the Facilities. The obligation of EMC to hold OWNER harmless is subject to the comparative responsibility provision of this Agreement.
13. **Comparative Responsibility.** In the event that both EMC and OWNER are found by an independent fact finder to be negligent, and the negligence of both is the proximate cause of such claim for damage for personal injury or property damage, then, in that event, each party shall be responsible for the portion of the liability equal to such party's comparative share of the total negligence.
14. **Limitation of Liabilities.** Each Party agrees that it shall not assert any claim for indirect, incidental, consequential, special, punitive or exemplary damages including, but not limited to, claims for lost revenue, profit or business reputation, whether based in tort or contract. Each Party, however, reserves the right to seek direct damages in an amount not to exceed the insurance limits specified above for covered claims, or the annual EMC Compensation for any uninsured claims.
15. **Miscellaneous.**
 - a. **Waiver.** The failure on the part of either Party to insist in any one or more cases upon the strict performance of any of the provisions of this Agreement, or to exercise any right, remedy or option herein contained, shall not be construed as a waiver of such provision, right, remedy or option in any other case or similar cases. Any waiver shall be in writing, and signed by the Party to be charged, in order to be enforceable.
 - b. **Assignments.** This Agreement shall not be assigned by either Party without the prior written consent of the other Party.
 - c. **Nondiscrimination.** EMC agrees and shall refrain from unlawful discrimination in employment and undertakes affirmative action to ensure a quality of employment opportunity; shall comply with procedures and requirements of the State Human Rights Department's regulations concerning equal employment opportunity and Affirmative Action; and shall provide such information, with respect to its employees and applicants for employment and assistance as the Department may reasonably request.
 - d. **Relationship and Confidentiality.** It is understood that the relationship of EMC to OWNER is that of an independent contractor and that none of the employees or agents of EMC shall be

considered employees of OWNER. OWNER agrees that OWNER will not talk to any employee of EMC regarding employment with OWNER without having received the prior permission of EMC, which permission shall not be unreasonably withheld, conditioned or delayed. Except as otherwise required by applicable law, the terms of this Agreement shall be confidential and not disclosed to third parties absent mutual consent, which shall not be unreasonably withheld.

e. Force Majeure. Each Party's performance under this Agreement shall be excused if the Party is unable to perform because of actions due to causes beyond its reasonable control, including but not limited to Acts of God, the acts of civil or military authority, any act of national or international terrorism or bioterrorism, floods, epidemics, quarantine restrictions, riots, and strikes. In the event of any such force majeure, the Party unable to perform shall notify the other Party as soon as practicable, but in any event, within twenty-four (24) hours of the existence of such force majeure and shall be required to resume performance of its obligations under this Agreement upon the termination of the aforementioned force majeure. If any act or event of force majeure occurs which presents EMC performing this Agreement, EMC agrees to use commercially reasonable efforts to renew its performance under the Agreement as soon as practicable after the ending of the act or event of force majeure.

f. Authority to Contract. Each Party warrants and represents that it has authority to enter into this Agreement.

g. Severability. If any of the terms and conditions of this Agreement are held by any court of competent jurisdiction to contravene or to be invalid under the laws of any political body having jurisdiction over the subject matter hereof, such contravention or invalidity shall not invalidate the entire Agreement, but instead, the Agreement shall be construed as if not containing the particular provision or provisions held to be illegal or invalid, the rights and obligations of the Parties shall be construed and enforced accordingly, and this Agreement shall thereupon remain in full force and effect as so construed.

h. Notices. Notice under this Agreement shall be deemed to have been properly given when addressed as provided below, and shall be deemed effective (except as otherwise provided in this Agreement) (i) upon receipt or receipt and refusal if sent by first class mail, return receipt requested, registered or certified; (ii) one (1) business day after being sent by an overnight courier service; or (iii) when received if sent by facsimile as confirmed by an electronically generated facsimile confirmation. Each Party shall have the right to change its address by giving the other Party written notice thereof.

Notices required to be given to OWNER shall be addressed to:

City of Galena
312-1/2 North Main Street
Galena, IL 61036
Attention: City Engineer

Notices required to be given to EMC shall be addressed to:

Environmental Management Corporation
1001 Boardwalk Springs Place
O'Fallon, MO 63366
Attention: Contract Administrator

With copies (which shall not constitute notice) to:

The BOC Group, Inc.
575 Mountain Avenue
Murray Hill, NJ 07974
Attention: Vice President & General Counsel

i. Entire Agreement, Counterparts and Amendments. This Agreement, together with the Exhibits and Appendices as incorporated herein, shall constitute the entire Agreement between the Parties pertaining to the subject matter hereof and supercedes all other prior agreements, representations and understandings, both written and oral, any except to the extent incorporated in this Agreement. This Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but which together shall constitute a single instrument. No amendment, modification or alteration of the terms or provisions of this Agreement shall be binding unless the same shall be in writing and duly executed by the Parties hereto, except that any of the terms or provisions of this Agreement may be waived in writing at any time by the Party which is entitled to the benefits of such waived terms or provisions. No waiver of any of the provisions of this Agreement shall be deemed to or shall constitute a waiver of any other provision hereof (whether or not similar). No delay on the part of any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

j. No Third Party Beneficiaries. This Agreement is not intended to and shall not confer upon any other person, other than the Parties hereto, any rights or remedies with respect to the subject matter hereof including.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written by their duly authorized officers or representatives.

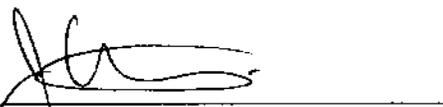
CITY OF GALENA, ILLINOIS

By: 

Name: Richard Auman

Title: Mayor

ENVIRONMENTAL MANAGEMENT CORPORATION

By: 

Name: John A. Mitchell

Title: President


07-26-04

EXHIBIT A Facilities

- Wastewater Treatment Plant located at:
1989 East Cross Road
- 1952 (Reconstructed in 2002) Lift Station located at:
114 Meeker Street
- Industrial Park Lift Station located at:
11326 Technical Drive
- Linda Pluym Lift Station located at:
Oldenburg Lane
- Cobblestone Lift Station located at:
Oldenburg Lane
- Bouthillier Lift Station located at:
Bouthillier St. & Park Avenue
- Water Street Storm Water Pumping Station located at:
Water Street between Green Street and Perry Street
- Riverside Drive Storm Water Pumping Station located at:
Riverside Drive between Spring Street and flood gates
- #5 Well House located at:
1238 Franklin Street
- #6 Well House located at:
Gear Street
- #7 Well House located at:
Industrial Park
- Water Storage Facilities located at:
1238 Franklin Street
Dodge & Hill Streets
Horseshoe Mound
Industrial Park
- Industrial Park water booster station located at:
Highway 20 and Franklin Street
- Bouthillier water booster station located at:
307 Bouthillier Street
- Operation of SCADA system for above facilities

EXHIBIT B
EMC Services

The EMC Services to be provided by EMC during the term of this Agreement shall include and be limited to the following:

a. Facilities Operation. EMC shall use commercially reasonable efforts to operate and manage the Facilities so that the effluent/finished water discharge meets or exceeds the wastewater effluent/finished water requirements established by United States Environmental Protection Agency ("USEPA") and the Illinois Environmental Protection Agency ("IEPA") under the permits issued by such authority so long as the influent does not exceed the design limitations set forth on Exhibit B-1 ("Facilities Maximum Design Parameters"). EMC shall comply with all applicable local, state, and federal laws and regulations as they pertain to the Facilities. EMC will pay all fines and surcharges resulting solely from the negligence or intentional acts of EMC, which may be imposed by the regulatory agency having jurisdiction for effluent/water quality violations associated with the permits issued with respect to the Facilities; provided, however, that EMC shall have no such obligation in the event that such violations are a result of influent violations at the Facilities Design Limitations or the presence of hazardous or toxic substances.

b. Water Distribution and Water Wells System. EMC will operate, maintain and manage the Water Distribution System and the Water Wells to extend their useful life, to provide maximum capacities, to prevent unnecessary damage to public and private property, to minimize inconveniences by handling interruptions in service and to prevent public health hazards. EMC will provide 24-hour per day, seven days per week emergency service and will use commercially reasonable efforts to maintain uninterrupted service to customers.

The Water Distribution System and Water Wells will be operated, maintained and managed in a manner to:

1. Identify sources of problems within the system through inspection, monitoring and investigation;
2. Clean, maintain and repair system to ensure safe transportation and storage of water throughout the system in compliance with the Safe Drinking Water Act and its amendments;
3. Continue City past practices of assisting on maintenance items at the swimming pool, ornamental fountains, drinking fountains and any storm water issues; and
4. Maintain a high standard of physical appearance for the entire water system at all times which will include general touch-up painting.

c. Wastewater Collection System. EMC will operate, maintain and manage the Wastewater Collection System in such manner as to extend its useful life, to provide maximum capacities, to prevent unnecessary damage to public and private property, to minimize inconveniences by handling interruptions in service and to prevent public health hazards. EMC will provide 24-hour per day, seven-day-per-week emergency service and will use commercially reasonable efforts to maintain uninterrupted service to customers.

The Wastewater Collection System will be operated, maintained and managed in a manner to:

1. Identify sources of problems within the sewer system through inspection, monitoring and investigation;

2. Clean, maintain and repair sanitary sewers, force mains and lift stations on a regular basis to ensure that wastewaters are transported to wastewater treatment facilities in compliance with NPDES permits;
3. Prevent sewage from bypassing to waters of the State and to protect the Collection System from flooding due to high water, in accordance with the Water Pollution Control Acts Amendments, Public Law 92-500 and the Clean Water Act Amendment;
4. Eliminate potential sources of odors;
5. EMC shall implement a customer service program to inspect all sewer related customer complaints and respond to the customer or the consultant on the results of these inspections;
6. Maintain a high standard of physical appearance for the entire wastewater system at all times;
7. Implement a preventative maintenance program; and
8. Provide recommendations on inflow and infiltration issues.

d. Project Management and Staffing. EMC shall monitor the Facilities on a seven (7) day per week, twenty-four (24) hour per day basis. EMC shall staff the Facilities with a Facilities Manager, experienced in the areas of water/wastewater treatment, process control, water/wastewater laboratory analysis, and maintenance procedures for water/wastewater treatment facilities. The Facilities' staff shall have required licenses or waivers necessary to lawfully operate the Facilities.

e. Project Support. EMC shall, as required and determined by EMC, provide on-call, backup expertise in operations, management, and maintenance applications to ensure compliance with this Agreement.

f. Maintenance Management. EMC shall institute a preventive maintenance program for all OWNER Equipment. Records maintained by EMC shall include the history of maintenance and the schedule of programmed maintenance throughout the term of this Agreement for each item of OWNER Equipment. Standard operating and maintenance procedures will be established by EMC, consistent with industry-wide practices, for each major piece of OWNER Equipment.

g. Operational Costs and Expenses. EMC shall pay all costs of EMC employees, fuels, electricity, chemicals, services, spare parts, materials, maintenance, sludge disposal, repairs and expendable supplies required in the normal operation and maintenance of the Facilities, except, and in the event, such expenses are further limited within this Agreement.

h. Corrective Action. In the event that the effluent quality is not in compliance with regulatory requirements, EMC will submit a report to OWNER outlining the proposed corrective action and a schedule.

i. Hazardous Substance. In the event that any hazardous substance is received at the Facilities, EMC shall notify OWNER and assist OWNER in the removal and/or reduction of such hazardous substance. In the event that any hazardous substance cannot be treated or removed using the processes and equipment provided, and if effluent parameter(s) affected by any hazardous substance listed in the permits are exceeded, EMC shall not be responsible for permit compliance or additional operational costs until the hazardous substance is removed from the Facilities and the Facilities are completely recovered and capable of generating effluent quality within design parameters. For all purposes of this Exhibit B and the Agreement to which it is attached, "hazardous substance" shall mean (a) any petroleum, petroleum products, by-products or breakdown products, radioactive materials, asbestos-containing materials or polychlorinated biphenyls; or (b) any chemical, material or substance defined or regulated as hazardous or as a pollutant, contaminant or waste under any

statute, law, ordinance, by-law, decree, regulation, code, order, rule or judgment of any governmental authority having the force of law.

j. Biological Toxic Substance. In the event that any biological toxic substance is received at the Facilities, EMC shall notify OWNER and assist OWNER in the removal and/or reduction of such biological toxic substance. In the event that any biological toxic substance cannot be treated or removed using the processes and equipment provided, and if effluent parameter(s) affected by the biological toxic substance listed in the permits are exceeded, EMC shall not be responsible for permit compliance or additional operational costs until the biological toxic substance is removed from the Facilities and the Facilities are completely recovered. For all purposes of this Exhibit B and the Agreement to which it is attached, "biological toxic substance" shall mean any substance or combination of substances contained in the Facilities' influent in sufficiently high concentrations so as to interfere with the biological processes necessary for the removal of the organic and chemical constituents of the wastewater. The rebuttable presumption shall be that any biological toxic substance proven to be present in the Facilities entered with the influent. Biological toxic substances include, but are not limited to, heavy metals, phenols, cyanides, pesticides, herbicides, acids, caustics, chlorine, quaternary ammonia and other cleaning or sanitizing compounds.

k. Handling and Disposal of Contaminated Sludge. If the influent contains abnormal, hazardous or biologically toxic substances, the sludge from such influent shall be deemed contaminated. EMC shall make every effort to isolate such contaminated sludge consistent with current USEPA and IEPA guidelines. OWNER shall reimburse EMC for expenses directly related to disposal of the contaminated sludge.

If any sludge from the wastewater treatment plant is classified as "hazardous waste" as defined by the USEPA, which means that the regulatory agencies require the sludge to be transported to a designated hazardous waste landfill, EMC shall notify OWNER and request permission to transport the sludge to a designated landfill. OWNER shall reimburse EMC for the actual costs of transport, landfill fees and any other verifiable out-of-pocket expenses associated with the handling and disposal of the sludge. EMC shall comply with ANSCI, OSHA, the Industrial Commission and other federal, state and local laws and regulations applicable to the operation of trucks and other miscellaneous equipment used for the disposal of said sludge. No vehicle shall be overloaded.

l. Sludge Management and Sludge Disposal. EMC shall be responsible for handling and disposing of sludge residuals generated by the Facilities in a manner consistent with all applicable regulations of the USEPA and the IEPA.

m. Testing and Laboratory Analysis. EMC shall perform the sampling and analysis of the appropriate influent and effluent as outlined in OWNER's permit, and as required for the proper operation of the Facilities. EMC shall prepare all permit monitoring and operations reports, and submit them to OWNER for final review and sign-off prior to submission to the appropriate regulatory agency having jurisdiction over the Facilities.

n. Reporting. EMC will submit internal reports relating to the operations of the Facilities to OWNER and assist OWNER in OWNER's reporting requirements to local, state and federal regulatory agencies, all in accordance with the mutually agreed upon procedures. EMC will be responsible for representing OWNER with the relevant regulatory agencies and advise OWNER of all meetings, hearings and relevant related information for the Facilities. Upon request by EMC, OWNER shall participate in such meetings of regulatory or governmental agencies as EMC deems necessary.

o. Records of Operation. Records maintained by EMC will be in compliance with all applicable law and regulations. These records, capable of providing historical data and trend, will be the property of OWNER. EMC will maintain these records at the Facilities site, available during the term of this Agreement for use by authorized OWNER personnel. EMC agrees to provide OWNER's officials with access to the Facilities at any time, upon reasonable prior notice.

p. Safety. EMC shall administer a site-specific safety program to include training, record keeping, and safety meetings, all in conformance with the OWNER safety program, and any requirements of the State of Illinois.

q. Training. EMC shall implement an ongoing training program, with classroom and hands-on training for all Facilities personnel. Training will include Facilities operations and maintenance, laboratory operations and maintenance, supervisory skills and energy management.

r. Odor Control. EMC will operate and maintain the Facilities to minimize the generation of odors through an ongoing odor control program. In the event of an odor generating event from the Facilities, EMC will assist OWNER in the development and implementation of a corrective action plan to mitigate the odor generation. EMC will work with OWNER to deal in a concerned, professional manner with any individuals or community groups concerned with odors.

s. Capital Budget Submission. On an annual basis, EMC will provide a formal report to OWNER on EMC's projection of capital needs and assist OWNER with the preparation of the OWNER's annual budget. EMC shall also, if requested, annually submit its recommendations regarding additions to or deletions from OWNER's long-term capital program. EMC will submit detailed rationale for any changes or additions, and preliminary cost estimates. Implementation of these recommendations by OWNER, however, is not a condition of EMC's performance of the EMC Services. Review and approval of these capital expenditures shall remain the responsibility of OWNER.

t. Emergency Response Plan. EMC will develop, maintain, and implement, if necessary, an emergency response plan for the Facilities that will be in compliance with all applicable regulations.

EXHIBIT B-1
Facilities' Maximum Design Parameters

EMC will operate and maintain the Water/Wastewater Facilities so that the water quality will meet the requirements of the Safe Drinking Water Act and the effluent meets the requirements of all applicable permits.

Wastewater:

EMC will be responsible for meeting the effluent quality requirements of all applicable permits unless one or more of the following occurs:

- The influent to the treatment plant does not contain adequate nutrients to support operation of biological processes and/or contains toxic substances which cannot be removed by existing processes and facilities.
- Toxic discharges into the sewer system in volumes which would make compliance with discharge limits substantially impossible.
- The flow, influent BOD, influent TSS and/or influent Ammonia is greater than the plant design parameters, which are the following:

Average Flow	1.171 MGD
Peak Flow	4.241 MGD
Influent BOD	2,240 lbs/day
Influent TSS	2,660 lbs/day
Influent Ammonia	400 lbs/day
- If the Treatment Plant can operate only at reduced capacity due to construction activities, fire, flood, adverse weather conditions, labor disputes or other causes beyond EMC's control.

Water:

EMC will be responsible for meeting the finished water quality requirements of the Safe Drinking Water Act unless one or more of the following occurs:

- The raw water to the treatment plant contains toxic substances which cannot be removed by existing process and facilities;
- Toxic discharges into the water supply system in volumes which would make compliance with water quality limits substantially impossible;
- The peak production, influent iron and influent manganese is greater than the plant design parameters, which are the following:

Peak Production Rate	3.89 MGD
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- If the Treatment Plant can operate only at a reduced capacity due to construction activities, fire, flood, adverse weather conditions, labor disputes or other causes beyond EMC's control; and
- In the event that influent raw water quality characteristics change when compared to current raw water from the existing ground water supply.

EXHIBIT C
OWNER's Equipment

- Lift station built in 1952 and reconstructed in 2002, including:
 - Three (3) 20 hp Flygt submersible pumps
 - Metropolitan control panel
 - Caterpillar 125 KW stand-by generator

- Industrial Park Lift Station, including:
 - Two (2) 20 hp Fairbanks Morse pumps
 - USEMCO Control Panel

- Linda Pluym Lift Station, including:
 - Two (2) 5 hp Hydromatic submersible pumps
 - Hydromatic Control Panel

- Cobblestone Lift Station, including:
 - Equipment to be determined

- Bouthillier Lift Station, including:
 - Equipment to be determined

- Storm Water Pumping Stations at Water Street and Riverside Drive
 - Assist with operations, maintenance and repairs

- 1.171 MGD wastewater treatment plant, oxidation ditch type built in 2002, comprising:
 1. Administration Building with:
 - Garage / Shop Area
 - Restroom / Locker Facilities
 - General Purpose Room
 - Office
 - SCADA Room
 - Laboratory Facilities
 2. Screening Building with:
 - Parkson Mechanical Step Screen and Wash Press
 - Altronex SCCB Motor Control Center
 3. BNR / Oxidation Ditches with:
 - Two (2) EIMCO/EMU 8.5 hp BNR Mixers
 - Four (4) EIMCO 40 hp Carousel Aerators
 4. Two (2) 250,000 gallon US Filter clarifiers with aluminum Covers
 5. Biosolids Control Building with:
 - Komline Sanderson 1.5 meter gravity belt thickener / belt filter press
 - Parkson biosolids conveyors
 - Dynablen polymer feed system
 - Altronex SCCA Motor Control Center
 - One (1) Sum Pump
 - Two (2) Hayward Gordon model XCS5A WAS Pumps
 - Three (3) Hayward Gordon model XCS5A RAS Pumps
 - Three (3) Netzsch progressive cavity BST Pumps
 - Two (2) Crane Deming Plant Water System

- Metropolitan Industries Non-Potable Water System
 - Potable Water System
 - Site Well
 - Three (3) Garner Denver Positive Displacement Blowers for Digesters
 - 6. Two (2) Aerobic Digesters with Sanitiare Fine Bubble Diffusers
 - 7. Biosolids Storage Building
 - 8. Trojan Ultraviolet Disinfection
 - 9. Influent Pumping Station with:
 - Two (2) 30 hp Flyght Submersible Pumps
 - Two (2) 75 hp Flyght Submersible Pumps
 - 10. Grounds Maintenance
- Sanitary sewer system, consists of approximately 23 miles of predominantly eight-inch and some six-, ten-, twelve-, fifteen- and eighteen-inch pipes of clay, concrete and PVC.
 - Well houses and treatment points comprised of :
 1. #5 Well House (ID#11739), with vertical turbine pump producing 700 gpm and discharges to 450,000 elevated tank;
 2. #6 Well House (ID#11740), producing 1000 gpm and discharges directly to distribution system;
 3. #7 Well House (constructed in 2004-2005)
 4. Treatment consists of phosphate injection, chlorination and fluoridation.
 - Water storage facilities comprised of:
 1. 450,000 gallon elevated storage tank
 2. 750,000 gallon standpipe
 3. 300,000 gallon ground tank
 4. 500,000 gallon elevated storage tank (constructed in 2004-2005)
 - Industrial Park Booster Station comprised of:
 1. One (1) Deming 1½ hp pump rated at 36 gpm
 2. One (1) Deming 3 hp pump rated at 65 gpm
 3. One (1) Deming 40 hp pump rated at 940 gpm
 4. USEMCO control panel
 - Bouthillier Booster Station comprised of:
 1. Two (2) Peerless 30 hp pumps rated at 450 gpm each
 2. USEMCO control panel
 - Water distribution system consisting of four pressure zones. Water mains consist of approximately 22 miles of two-, four-, six-, eight-, ten- and twelve-inch pipe of cast iron, ductile iron, and PVC.