

Ordinance No. 00- 36

**AN ORDINANCE APPROVING AN AGREEMENT WITH  
EMC OF SOUTHERN ILLINOIS, LLC**

*BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE  
VILLAGE OF CHATHAM, SANGAMON COUNTY, ILLINOIS, AS FOLLOWS:*

**SECTION 1:** That certain Agreement with EMC of Southern Illinois, LLC, a copy of which is attached hereto, is hereby approved.

**SECTION 2:** The Village President is hereby authorized to execute said contract, and the proper officers of the Village are hereby authorized to carry out the contract according to its terms.

**SECTION 3:** This Ordinance is effective immediately.

PASSED this 11 day of July, 2000.

  
\_\_\_\_\_  
VILLAGE PRESIDENT

ATTEST:

  
\_\_\_\_\_  
Village Clerk

AYES:

5

NAYS:

0

PASSED:

7-11-00

APPROVED:

7-11-00

ABSENT:

Reynolds

**ORDINANCE CERTIFICATE**

STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF SANGAMON        )

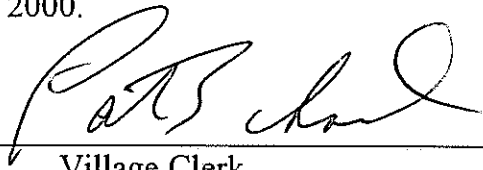
I, the undersigned, do hereby certify that I am the duly qualified and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

I do further certify that the ordinance attached hereto is a full, true, and exact copy of Ordinance No. 00-36 adopted by the President and Board of Trustees of said Village on the 11 day of July, 2000, said Ordinance being entitled:

**AN ORDINANCE APPROVING AN AGREEMENT WITH  
EMC OF SOUTHERN ILLINOIS, LLC**

I do further certify that prior to the making of this certificate, the said Ordinance was spread at length upon the permanent records of said Village, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Village this 11 day of July, 2000.

  
\_\_\_\_\_  
Village Clerk

## AGREEMENT

This Agreement is made by the Village of Chatham, Illinois, an Illinois municipal corporation ("Chatham"); the Village of Rochester, Illinois, an Illinois municipal corporation ("Rochester"); and EMC of Southern Illinois, LLC (hereinafter "EMC") a Delaware limited liability company with its principal place of business at 23 Public Square, Suite 320, Belleville, Illinois, and is dated this 11 day of July, 2000. The parties agree as follows:

1. EMC shall provide certain consulting engineering services for Chatham and Rochester as described in the Scope of Work attached hereto as Exhibit A. EMC shall complete the work within 90 days of the effective date of this agreement.

2. For its services, EMC shall be paid a lump sum of \$29,500.

3. EMC shall invoice Chatham upon completion of the work, and Chatham shall pay EMC within 90 days of receipt of the invoice, subject to partial reimbursement by Rochester as set forth in an Intergovernmental Agreement attached hereto as Exhibit B. Chatham and Rochester are severally liable for EMC charges, to the extent of their obligations as set forth in that Intergovernmental Agreement.

4. If within 90 days of receipt of the invoice, the parties enter into a contract whereby EMC designs, builds and operates a water treatment facility for Chatham and Rochester, EMC will waive its right to payment of the invoice, and the services rendered pursuant to this contract shall be considered as part of the services rendered by EMC with respect to the new contract, and will be included in the price of the new contract.

5. This Agreement shall be effective on the 11 day of July, after

its approval by ordinance of Chatham and Rochester and execution by all the parties hereto. It may be terminated at any time by ordinance of Chatham and Rochester and notice to EMC, provided that Chatham and Rochester shall be liable for all services performed by EMC on a time and material basis according to EMC's regular and customary rates, up to the date of termination, not to exceed the lump sum price set forth herein.

6. This is the entire contract between the parties with respect to its subject matter, and all prior representations and agreements with respect to its subject matter are hereby disclaimed. This contract shall be construed in accordance with Illinois law. It may be modified only with a writing signed by the parties and approved by ordinances of Chatham and Rochester.

AGREED this 11 day of July, 2000

EMC OF SOUTHERN ILLINOIS, LLC  
By: Environmental Management Corporation,  
a Missouri corporation, its manager

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

VILLAGE OF CHATHAM, ILLINOIS

BY: Linda Kuster

Its President

ATTEST

Robert A. Krueger

Its Clerk

VILLAGE OF ROCHESTER

BY: \_\_\_\_\_

Its President

ATTEST

\_\_\_\_\_

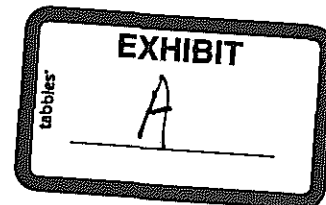
Its Clerk

## **EXHIBIT A**

### **Scope of Work**

Scope of Work to include the following:

- **Preliminary Engineering Report that addresses the following:**
  - Evaluation/Analysis of Transmission main route and alternate
  - Process Flow Diagram
  - General equipment arrangement drawing
  - Regulatory compliance clarification
  - Site plan identifying configuration and location of built structure
  - Development schedule for Design, Construction, Operation
  - Cost Opinion including O&M cost
  - Evaluation of Financing alternatives
  - Growth parameters/assumptions
  - Evaluate water sources: Surface and Well Fields
  
- **Approach**
  - Feasibility Workshop
  - Review Meetings
  - Value Engineering
  
- **Timeline**
  - Report issued on Day 90
  - Presentation at mutually agreed upon date after completion of Service



**INTERGOVERNMENTAL AGREEMENT**  
**Between**  
**THE VILLAGE OF ROCHESTER, ILLINOIS**  
**and**  
**THE VILLAGE OF CHATHAM, ILLINOIS**

This Intergovernmental Agreement, is made this 11 day of July, 2000, by and between the Village of Rochester, Illinois, an Illinois municipality (hereinafter referred to as "Rochester"), and the Village of Chatham, Illinois, an Illinois municipality (hereinafter referred to as "Chatham").

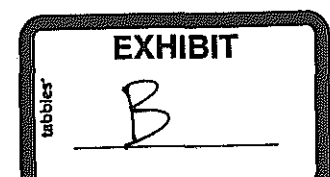
WITNESSETH:

WHEREAS, Rochester has the authority to take actions with respect to furnishing the water supply for Rochester pursuant to Divisions 124, 125 and 126 of the Illinois Municipal Code; and

WHEREAS, Chatham has the authority to take actions with respect to furnishing the water service for Chatham pursuant to Divisions 124, 125 and 126 of the Illinois Municipal Code; and

WHEREAS, Article VII, Section 10 of the Constitution of the State of Illinois of 1970; the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq.; and Section 1-1-5 of the Illinois Municipal Code, 65 ILCS 5/1-1-5, collectively permit, provide and expressly authorize Rochester and Chatham to exercise, combine, or transfer any power or function in any manner not prohibited by law or by ordinance; and

WHEREAS, the respective governing bodies of both Rochester and Chatham believe it is in the best interest of each municipality as well as the persons residing within their respective boundaries, that the municipalities cooperate in obtaining and providing funds for the services of an engineering consultant to study potential alternatives for water supply and water treatment for each of the municipalities in cooperation with each other; and





WHEREAS, the respective governing bodies of both Rochester and Chatham recognize that there will be discussions regarding the joint construction and operation of a water treatment plant and distribution system, and desire that financial arrangements between Rochester and Chatham be set forth in this Agreement; and

WHEREAS, Rochester and Chatham entered into an Intergovernmental Cooperation Agreement in May, 1998, and the parties desire to amend and restate in the form as follows, which necessitates the termination of the previous agreement; and

WHEREAS, in view of the financial resources of the parties, Chatham is willing to advance the funds necessary to pay the engineering consultant, subject to reimbursement from Rochester as set forth herein;

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. The recitals set forth above are hereby declared to be adopted by Rochester and Chatham as part of this Agreement, as if said recitals were expressly set forth verbatim in the body of this Intergovernmental Cooperation Agreement.

2. The parties each participated in the creation of the WATER Team which prepared and submitted its report to each of the governing bodies of Rochester and Chatham.

3. The parties have cooperated in the creation of a Request For Qualifications for the purpose of obtaining expressions of interest from qualified candidates to furnish consulting services to the parties in respect of a study of the joint construction and operation of a water treatment plant and distribution system (the "Study").

4. The parties shall mutually agree upon the selection of a consultant for the Study. Each party

shall be required to approve and authorize, at each such party's sole and absolute discretion, any proposed contract with such consultant. In the event either party shall not approve and authorize any such contract, then this Agreement shall be considered null and void, and neither party shall be obligated to the other hereunder.

5. The parties agree that in the event the parties agree on the selection of a consultant for the Study, and each party approves and authorizes a contract with such consultant, said contract shall be between the consultant and Rochester and Chatham, and such contract shall specify that each of Rochester and Chatham are obligated severally to the extent of their obligations set forth in this Agreement.

6. The parties shall cooperate with each other in good faith in all respects of this Agreement. The parties agree and acknowledge that in order to facilitate the cooperation of the parties in the Study, each party shall designate a contact person or persons for such party and that all communications involving the consultant for the Study shall involve each of the designated contact persons.

7. The cost and expense of the consultant for the Study shall be shared equally by the parties, as follows. The contract with the consultant shall have a not-to-exceed price of \$40,000, and shall provide that the consultant shall invoice Chatham upon completion of the work. Chatham shall pay the invoice, and Rochester shall within 30 days thereof reimburse Chatham 1/4 of the invoiced amount. Rochester shall reimburse Chatham an additional 1/4 of the invoiced amount on or before July 1, 2001.

8. The parties agree and acknowledge that all actions to be taken or approvals that are necessary in connection with this Agreement or the Study must be mutually agreeable and that each

party has the sole and absolute discretion with respect to each such action or approval. Furthermore, neither party shall be obligated to the other party for any exercise of discretion by such party.

9. Other than as set forth herein, nothing in this Agreement shall be construed to impose any duty upon either party with respect to the Study, including any financial obligations, other than as expressly set forth herein.

10. During the term of this agreement, neither party shall be deemed to have transferred or assigned any power, authority or discretion of such party to the other party.

11. This Agreement shall not become effective until first approved by appropriate ordinance or resolution of the governing bodies of Rochester and Chatham. Approval of this Agreement shall constitute the termination of any and all previous agreements and shall constitute the sole understanding and agreement between Rochester and Chatham with respect to the subject matter addressed herein.

12. Unless sooner terminated by mutual consent of the parties approved by ordinance of both parties, this Agreement shall remain in full force and effect until the happening of all of the following events: (a) completion of the Study by the consultant; (b) payment by Chatham of all amounts due to the consultant, and (c) payment by Rochester of all amounts due to Chatham. This Agreement may be modified only by a written instrument approved by ordinance of both of the parties.

IN WITNESS WHEREOF, Rochester and Chatham have hereby approved this Intergovernmental Cooperation Agreement.

VILLAGE OF ROCHESTER, ILLINOIS

By: \_\_\_\_\_  
Its President

ATTEST:

\_\_\_\_\_  
Its Clerk

VILLAGE OF CHATHAM,

By: Linda Kuster  
Its President

ATTEST:

[Signature]  
Its Clerk