City of Hopkinton
P.O. Box 154
Hopkinton IA
52237-0154

DELAWARE COUNTY IOWA
FILED
1999 SP -1 AM 10: 35
BOOK 1999 PAGE 3076
RECORDER
DELAWARE COUNTY IOWA
646.00

William D. Werger, Atty. at Law 401 East Main St. Manchester, IA 52057 (319)927-5920

I, Diane Nordmann, City Clerk of the City of Hopkinton, Iowa, hereby certify that the following Operations and Maintenance Agreement Between the City of Hopkinton and the City of Delhi is a true copy as shown be the records of the City of Hopkinton, Iowa.

Diane Nordmann
Diane Nordmann, City Clerk

Subscribed and Sworn to before me this 24th day of August, 1999.

Wilma L Parsons

WILMA L. PARSONS
MY COMMISSION EXPIRES
12-10-01

Operations and Maintenance Agreement Between the City of Hopkinton and the City of Delhi

This Agreement is made this 10th day of May, 1999, by and between the City of Hopkinton (hereafter "Hopkinton") and the City of Delhi (hereafter "Delhi").

Article I - Legal Basis

This Agreement is authorized by the provisions of Chapter 28E of the Code of Iowa 1999. After execution by proper authorities, this Agreement shall be filed with the Iowa Secretary of State and recorded with the Delaware County Recorder prior to entry into force pursuant to § 28E.8 of the Iowa Code.

Article II - Scope of Services

Pursuant to this Agreement, Hopkinton shall provide to Delhi, through a certified and competent Superintendent, professional management, operation, and maintenance of the water production, water treatment, water storage, water distribution, sewage collection, and wastewater treatment systems of the city of Delhi, including:

WATER SYSTEM: Two water production wells; pressurized water tanks and ancillary chemical feed equipment; two ground storage tanks (20,000 gallon capacity each); and water distribution mains of varying sizes.

WASTEWATER SYSTEM: One lift station and two cell wastewater stabilization lagoon with a design capacity of 94,400 gallons per day with CBOD five 30-day average of 25 mg/l and TSS 30-day average of 80 mg/l, as designated in Owner's NPDES permit and its collection system.

Article III - Term of Agreement

This Agreement shall commence on July 1, 1999 and shall remain in full force and effect for three (3) years. The Agreement shall be automatically renewed for successive terms of one (1) year each unless written notice of cancellation is given by either party at least ninety (90) days prior to the anniversary date of the commencement date.

Article IV - Specific Services by Hopkinton

Hopkinton, through its Superintendent, shall provide the following specific services pursuant to this Agreement:

1. Monitor, sample, analyze and report as required by the Iowa Department of Natural Resources (DNR) in matters related to municipal water supply and with respect to Delhi's NPDES permit for wastewater treatment.

2. Provide monthly written reports to the Mayor and City Council of Delhi summarizing plant performance, flows, monthly costs of operations, major projects or accomplishments, and preventative and corrective maintenance activities for the month.

3. Respond to concerns raised by Delhi's consulting engineer with regard to management and operation of the systems covered herein.

4. Provide assistance to Delhi and Delhi's consulting engineer and/or accountant in evaluation of rate structure, capital improvements, major replacement schedules, financial management audit, budgeting and pre-treatment requirements.

5. Act as Delhi's responsible agent to DNR or to the federal EPA in matters relating to compliance with water quality and discharge requirements, and other liaison activities, as required. Hopkinton shall provide Delhi with copies of all reports and correspondence exchanged between Iowa DNR and federal EPA and Hopkinton concerning the systems covered herein

6. Implement a comprehensive preventative maintenance program to ensure projected life expectancy of plant equipment.

7. Maintain effluent quality, while plant loadings and flows are within the design capability of the wastewater stabilization pond.

8. Maintain cleanliness of process equipment and building, and general appearance of all buildings and grounds. Conduct operations such that nuisances of sight, sound, and odor are eliminated or minimized to the extent reasonably possible.

9. Properly secure and protect utility facilities within the limits of available security devices.

10. Use a professional manner in dealing with community groups concerned with an facet of the operations, including tours and other public relations programs.

11. Provide proof of certification upon each renewal date.

12. Provide personnel on call 24 hours per day and 7 days per week for emergency situations.

13. Advise Delhi and serve as its liaison to regulatory agencies and industrial users in matters related to the operation of the facilities.

Article V - Expense Reimbursement

Hopkinton will be responsible for expenses incurred in the routine operation and maintenance of Delhi's facilities including utilities, chemicals, materials, contract services, and equipment repair, to the extent that said expenses on an annual basis do not exceed $6,000. In performing maintenance and repairs, Hopkinton shall expend the lowest reasonable cost possible in an effort to minimize such expenditures. Hopkinton shall report the actual expenditures to Delhi on a monthly basis. Hopkinton shall promptly notify Delhi when expenses are incurred that exceed the annual amount of $6,000. Hopkinton shall invoice Delhi on a monthly basis for the expenses which are in excess of the annual amount of $6,000 and Delhi shall reimburse Hopkinton for such excess expenditures. Any vehicle, radio equipment or any temporary or portable equipment which is provided by Hopkinton during the term of this Agreement and which is not deemed part of the systems covered herein shall remained titled in the name of Hopkinton, be maintained at the expense of Hopkinton and shall remain the property of Hopkinton upon termination of this Agreement.

Article VI - Capital Expenditures

Hopkinton shall not make any expenditures for capital replacements of the systems covered herein or any components thereof without the prior approval of Delhi unless there is an emergency. An emergency exists when such expenditures are necessary to continue operation of Delhi's systems and to provide for public health, safety, and environmental protection. If there is an emergency, Hopkinton shall provide Delhi with verbal notice of the need for the capital replacement expenditure as soon as possible. All capital expenditures shall result in the property so purchased being titled in the name of the City of Delhi.

Article VII - Liability of Hopkinton

Hopkinton shall be liable as follows:

1. Hopkinton shall indemnify and hold Delhi, its agents and employees harmless under this Agreement for all claims, damages, costs or expenses caused by malfunction or failure of the systems covered herein or any components thereof or other liability or loss including

injury, death, or damages to any person or property related in any way to the performance of this Agreement to the extent such claims, damages, costs, expenses, liability or loss are directly and solely caused by the negligent acts, errors or omissions of any agent or employee of Hopkinton in the furtherance of this Agreement. This provision shall survive the termination of this Agreement.

2. Hopkinton shall not be liable for any claim, damage, cost or expense (including attorney fees) caused by malfunction or failure of the systems covered herein or any components thereof or other liability or loss not directly and solely caused by the negligent acts, errors or omissions of any agent or employee of Hopkinton in the furtherance of this Agreement.

3. Hopkinton shall not be responsible for inherent water quality that fails to meet specifications of the Safe Drinking Water Act and amendments thereto concerning inorganic chemicals, pesticides, volatile organic chemicals, synthetic organic compounds, lead and copper standards, however, Hopkinton will use its best efforts to treat Delhi's potable water supplies to meet drinking water standards.

4. Hopkinton will operate the systems covered herein in compliance with state and federal regulatory requirements and will pay all fines imposed for process upsets and violation of discharge limits unless the process upsets and violations are attributable to:

    a. Pollutants which are not within the Design Capabilities of the systems covered herein, including, but not limited to soluble oil, heavy metals, excessive suspended solids and excessive organic loadings;

    b. The malfunction or failure of equipment which is not proximately caused by the negligent acts, errors or omissions of any agent or employee of Hopkinton;

    c. Construction activities which are undertaken to improve the wastewater treatment process but which are beyond the operating scope of services of Hopkinton as delineated in this Agreement;

Article VIII - Insurance

Hopkinton shall provide and maintain at all times during the term of this Agreement, the following minimum insurance coverage:

1. Statutory Worker's Compensation Insurance in compliance with the laws of the state of Iowa which has jurisdiction of the City of Hopkinton employees engaged in the performance of services hereunder, together with Employer's Liability coverage in the amount of $500,000 for each incident;

2. General liability coverage with a self-insured retention of $1,000,000 and purchased excess liability coverage of $25,000 combined single limit, each occurrence, for bodily injury and property damage with Delhi named as an additional insured;

3. Comprehensive auto liability insurance which shall include $500,000 combined single limit coverage for bodily injury and property damage.

Hopkinton shall furnish to Delhi certificates of insurance as evidence that policies providing the required coverage and limits are in full force and effect. Such policies shall provide that no less than thirty (30) days advance notice of cancellation, termination or alteration shall be sent directly to Hopkinton and Delhi.

Article IX - Responsibilities of Delhi

As a part of this Agreement, Delhi agrees to assume the following responsibilities:

1. Delhi shall maintain in full force and effect, in accordance with their respective terms, all guarantees, warranties, easements, permits, licenses and other similar approvals and consents received or granted to Delhi as owner of all systems covered herein and component parts thereof;

2. Delhi shall be responsible for all capital replacement expenditures which are defined as nonrecurring expenditures greater than $500, that Delhi determines necessary and required, provided that Hopkinton will first be consulted for justification and need;

3. Delhi shall be responsible for filing, obtaining, and maintaining current water supply operations permit and NPDES permit for discharge of wastewater; provided, however, Hopkinton shall assist Delhi with preparing these filings and shall provide ongoing assistance regarding the maintenance of these permits;

4. Delhi shall at all times provide access to the systems covered herein to Hopkinton for the services to provided herein;

5. Delhi shall provide Hopkinton the use of all existing equipment owned by Delhi, necessary for the operation and maintenance of the systems covered herein;

6. Delhi shall be responsible for all damage to the systems covered herein, components thereof, and the distribution system, and all resulting liability to any and all third parties, when such damage and/or liability are caused by flood, fire, acts of God or other force majeure, civil disturbance, extreme cold temperatures, excessive subsoil moisture, or misuse of property to the extent Delhi was negligent regarding the misuse of such property;

7. Delhi shall be responsible for all fines imposed for process upsets and violations of discharge limits attributable to the operation and maintenance of the systems covered herein to the extent set forth in Article VII, subparagraph 4;

8. Delhi shall designate an individual to act as liaison with Hopkinton's superintendent in connection with the performance of services by the City of Hopkinton under this Agreement;

9. Delhi shall be responsible for all property, excise and other taxes assessed on the systems covered herein;

10. Delhi shall maintain in full force and effect all policies of property and general liability insurance pertaining to the systems covered herein. Delhi shall furnish Hopkinton with certificates of insurance as evidence that such policies are in full force and effect, and Hopkinton shall be named as an individual insured under such policies. Such policies shall provide that no less than thirty (30) days advance notice of cancellation, termination or alteration shall be sent directly to Hopkinton and Delhi; and

11. Delhi shall indemnify and hold Hopkinton, its employees and agents, harmless under this Agreement for all claims, damages, costs or expenses caused by malfunction or failure of the systems covered herein or any components thereof or other liability or loss including injury, death, or damages to any person or property related in any way to the performance of this Agreement to the extent such claims, damages, costs, expenses, liability or loss are caused by the negligent acts, errors or omissions of Delhi. This provision shall survive the termination of this Agreement.

Article X - Compensation

As compensation for services rendered by Hopkinton and its Superintendent pursuant to this Agreement, Delhi agrees to pay Hopkinton the sum of $2,698.00 per month during the thirty-six (36) months of this Agreement, commencing with the Commencement Date. The monthly payment shall be due and payable on the first day of each month in which services are to be rendered. Emergency calls are $16 per hour additional, payable to Hopkinton within thirty (30) days of the date of the invoice or Delhi can exchange those emergency hours for scheduled work week hours at its option.

Article XI - Termination

This Agreement may be terminated by either party in the event of the other party's material and substantial breach of contract terms, by the first party's giving written notice of such breach and the second party's failure to correct within thirty (30) days of receipt of such notice. Termination of the Agreement at the end of any term may be affected by either party with at least 90 days prior notice to the other party prior to the end of the term.

Article XII - Additional Provisions

1. The Superintendent shall at all times remain an employee of Hopkinton, which shall be responsible for authority and control of said Superintendent. Hopkinton shall be solely responsible for all compensation of its Superintendent including all statutory wage withholding. Holidays of the City of Hopkinton will be observed at Delhi's facilities. Holiday, vacation and sick pay shall be the responsibility of Hopkinton. Hopkinton shall provide substitute coverage when its Superintendent is not available. Superintendent's regularly scheduled work week shall be as follows:

Hopkinton facility:

Monday-Thursday:	8:00 a.m. - 12 Noon
Friday:	8:00 a.m. - 10:00 a.m.
Saturday-Sunday & Holidays:	1 hour/day - time is at Superintendent's discretion

Delhi facility:

Monday-Thursday:	12:30 p.m. - 4:30 p.m.
Friday:	10:30 a.m. - 12:30 p.m.
Saturday-Sunday & Holidays	1 hour/day - time is at Superintendent's discretion

2. Regular scheduled hours may be adjusted as needed to accommodate special circumstances, such as the need to haul bio-solids during the 2-3 weeks of dry season, spring, summer, or fall from the Hopkinton Wastewater Plant. Normal hours will be adjusted to insure that approximately 20 hours are always maintained at the Delhi facilities each week.

3. Lab work for Delhi's waste stabilization ponds will be done by Hopkinton's certified lab at no cost to Delhi.

4. The Jetting of ¼ of Delhi sewer lines per year at the cost of $.30 per foot for 5,500 ft., or $1650 each year during the term of the Agreement is to be considered a normal operation and maintenance expense as covered in Article V and included in the yearly amount of $6,000.00. All other jetting of household and main trunk sewers of Delhi's facilities, including only households that are serviced by Delhi's facilities, shall be done and billed to the household by the Superintendent at a straight rate of $50.00 for first jetting and $35.00 for any other jettings done on the same trip.

5. The Iowa Department of Natural Resources has directed that the priority for the health and safety of the communities and the environment shall be as follows:

    a. Delhi's waterworks (Public Health)

    b. Hopkinton's waste treatment plant (Mechanical Plant)

    c. Delhi's waste stabilization ponds (Wet Wells)

6. This Agreement represents the entire agreement of the parties and may only be modified or amended in a writing signed by both parties.

7. Written notices required to be given under this Agreement shall be deemed given when mailed by first class mail to the City of Hopkinton, Attention: Superintendent, P.O. Box 154, Hopkinton, IA 52237-0154 and to Delhi, Attention: City Clerk ,P.O. Box 225, Delhi, IA 52223-0225.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

City of Hopkinton, Iowa

Danial J. Tucker, Mayor

Attest: Diane Nordmann
Diane Nordmann, City Clerk

Superintendent

City of Delhi, Iowa

Roy Atkinson, Mayor

Attest: Janet Cords
Janet Cords, City Clerk

STATE OF IOWA)
) ss:
COUNTY OF DELAWARE)

On this 21st day of May, 1999, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Diane Nordmann, City Clerk of Hopkinton and Danial J. Tucker, Mayor of Hopkinton to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

NOTARIAL SEAL IOWA
WILMA L. PARSONS
MY COMMISSION EXPIRES
12-10-01

Wilma L Parsons
Notary Public in and for said State

STATE OF IOWA)
) ss:
COUNTY OF DELAWARE)

On this 9th day of June, 1999, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Janet Cords, City Clerk of Delhi and Roy Atkinson, Mayor of Delhi to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

NOTARIAL SEAL IOWA
JASON P. ELSE
MY COMMISSION EXPIRES
8/31/2001

Jason P Else
Notary Public in and for said State