

Ordinance No. 91-48

AN ORDINANCE APPROVING A CONTRACT BETWEEN THE VILLAGE OF CHATHAM, ILLINOIS, AND THE UNITED COMMUNITY BANK OF CHATHAM

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

SECTION 1: That certain Successor Paying Agent, Bond Registrar and Custodian Agreement between the Village of Chatham, Illinois and United Community Bank of Chatham, attached hereto as Exhibit A, is hereby approved, subject to review by the Village Attorneys.

SECTION 2: The President and Clerk of the Village are authorized and directed to execute and attest said Agreement on behalf of the Village of Chatham. The proper officers of the Village of Chatham are authorized and directed to perform said Agreement on behalf of the Village upon its execution by the United Community Bank of Chatham.

SECTION 3: This Ordinance is effective immediately.

PASSED this 8 day of OCTOBER, 1991.

  
\_\_\_\_\_  
CARL OBLINGER, VILLAGE PRESIDENT

ATTEST:

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

AYES: 6  
NAYS: 0

PASSED: 10-8-91  
APPROVED: 10-8-91

ABSENT: 0

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. 91-48, adopted by the President and Board of Trustees of said Village on the 8 day of OCTOBER, 1991, said Ordinance being entitled:

**AN ORDINANCE APPROVING A CONTRACT BETWEEN THE VILLAGE OF CHATHAM, ILLINOIS, AND THE UNITED COMMUNITY BANK OF CHATHAM**

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 8 day of OCTOBER, 1991.

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

PREPARED BY:

John M. Myers  
LONG, MORRIS, MYERS & RABIN, P.C.  
1300 South Eighth Street  
P. O. Box 1858  
Springfield, IL 62705-1858  
Telephone: 217/544-5000

SUCCESSOR PAYING AGENT, BOND REGISTRAR, AND CUSTODIAN AGREEMENT

THIS AGREEMENT entered into as of \_\_\_\_\_, 1991, between the Village of Chatham, Sangamon County, Illinois ("Issuer") and the United Community Bank of Chatham, Sangamon County, Illinois ("Bank").

WITNESSETH

WHEREAS, Issuer has issued \$3,680,000.00 Waterworks and Sewerage Revenue Bonds, Series 1978, for the purpose of acquiring, constructing, and providing a sewage collection system for the Village of Chatham, Sangamon County, Illinois; and

WHEREAS, the bond issuance was duly authorized by the Village of Chatham Ordinance No. 78-29, dated November 14, 1978, the terms of which Ordinance are incorporated herein by this reference; and

WHEREAS, the paying agent and bond registrar for said bonds to date has been First of America Bank, Springfield, Illinois formerly known as Illinois National Bank of Springfield; and

WHEREAS, Issuer desires to appoint a successor paying agent, bond registrar and custodian; and

WHEREAS, United Community Bank of Chatham, Sangamon County, Illinois, has agreed to act in such capacities;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

**1. Definitions**

The following terms in this agreement shall have the following meanings:

(a) **Accounts:** The Bond and Interest Account, Bond Reserve Account, and Improvement, Extension and Replacement Account established in section 9 of the Bond Ordinance.

(b) **Custodian:** The entity responsible for holding and investment of monies on deposit in the accounts.

(c) **Paying Agent:** The entity responsible for the payment of principle and interest on the bonds on behalf of the Issuer.

(d) **Registrar:** The entity responsible for maintaining records on behalf of the Issuer for the purpose of noting the owners of the bonds.

Any term not defined herein shall have the meaning ascribed to it in the bond ordinance.

## **2. Current Status of Project**

Issuer hereby warrants that the bond issuance was duly authorized and that the current status of the project is completely and accurately represented by the bond ordinance, and that no other relevant or material information regarding the current status of the project exists which Issuer has not provided to Bank in writing prior to the date of this Agreement.

## **3. Bank's Duties**

- (a) **Bond Registrar:** As bond registrar, Bank agrees to:
  - (i) maintain a listing of all registered holders of the bonds;
  - (ii) execute assignments and transfers of bonds upon presentation of proof of assignment or transfer in such forms as may be agreed to by Issuer and Bank;
  - (iii) issue replacement certificates in the event of assignment, transfer, loss, theft, mutilation, or destruction of bonds;
  - (iv) cancel certificates upon assignment, transfer, or redemption;
  - (v) maintain and store canceled certificates until two years following cancellation or maturity of the last outstanding bond certificate, whichever is later.
- (b) **Paying Agent:** As paying agent, Bank agrees to:
  - (i) calculate and issue checks for payment of principle and interest in accordance with and at the times provided in the bond Ordinance;
  - (ii) report to Issuer not less often than annually, the payments and principle of interest made on behalf of Issuer during the period since the preceding report;
  - (iii) prepare and file any reports, returns or other documentation required to be prepared and filed by Issuer with the Internal Revenue Service or any other federal, state or local government or its agencies.
- (c) **Custodian:** As custodian, Bank agrees to:
  - (i) create and maintain accounts on behalf of Issuer for the deposit and investment of monies required to be held in accounts pursuant to the bond Ordinance;
  - (ii) maintain books of account for accounts required to be maintained by the bond Ordinance;
  - (iii) make all necessary transfers or disbursements of monies from the accounts as may be required by the bond Ordinance, as may be necessary for payment of principle or interest on the bonds, and as may be directed by

Issuer to the extent that Issuer has authority to make such direction;

- (iv) provide Issuer, its authorized officers and employees with investment advice with respect to the monies on deposit in the accounts;
- (v) provide Issuer with reports, not less than quarterly, of all transactions involving the accounts.

#### **4. Issuer's Duties**

Issuer shall transfer or cause to be transferred all existing and appropriate documentation regarding the bonds, from the current bond registrar and paying agent to Bank.

Issuer will pay Bank an annual fee of **One Thousand Five Hundred Dollars (\$1,500.00)** in quarterly payments of **Three Hundred Seventy-five Dollars (\$375.00)** commencing when Bank first receives funds from First of America Bank, or November 15, 1991, whichever is sooner. Issuer will also reimburse Bank for its out-of-pocket costs, including, but not limited to, postage, express charges, duplication fees, and fees for any governmental or other charge relating to the transfer, exchange or issuance of said bonds.

Bank may engage legal counsel in connection with the administration of its duties hereunder and the reasonable fees for said counsel shall be deemed an expense incurred in connection with Bank's duties as bond registrar, paying agent, and custodian hereunder. Issuer shall reimburse Bank for the first \$1,000.00 in legal fees, and thereafter, for 50% of legal fees incurred in the administration of this Agreement or otherwise in connection with this Agreement when said legal fees do not arise as a result of the negligence of Bank in performance of its duties under this Agreement.

Issuer shall make reimbursements for all such costs and expenses to Bank upon presentation by Bank to Issuer of an itemized invoice. Payment shall be due and payable concurrent with the payment of fees for services performed by Bank under this Agreement.

#### **5. Indemnification**

Issuer agrees to indemnify and hold Bank harmless from and against any and all loss, liability or expense, including but not limited to legal costs and attorneys' fees incurred and arising out of or in connection with Bank's duties as paying agent, bond registrar and custodian hereunder, any action taken by the predecessor bond registrar and paying agent or Issuer, and in the event Bank is named as a party in any litigation arising out of or in connection with this Agreement; provided, however, that said obligation to indemnify and hold harmless

shall exclude any liability of Bank arising out of its own negligence or bad faith.

In the event Bank is named as a party in any such litigation, Bank may, in its sole discretion, deposit with the Clerk of the Court in which such litigation is pending any and all funds, bonds, or other property held by Bank pursuant to this Agreement, and thereupon shall stand fully relieved and discharged of any further duties hereunder. In the event Bank is threatened with litigation arising out of or in connection with this Agreement, Bank may, in its sole discretion, file an inter-pleader action in any court of competent jurisdiction and deposit with the Clerk of said Court any funds, bonds, or other property held by it, and thereupon shall stand fully relieved and discharged of any further duties hereunder.

The provisions of this section shall survive the termination of this agreement.

#### **6. Resignation**

Bank may resign as paying agent, bond registrar, and/or custodian by giving thirty (30) days written notice of such resignation to Issuer. Such resignation shall be effective upon: (a) the passage of such thirty (30) day period or earlier appointment by Issuer of a successor bond registrar, paying agent, and/or custodian; and (b) deposit by Bank of all funds, bonds, security or other property held by Bank pursuant to this agreement with a successor paying agent, bond registrar, and/or custodian.

#### **7. Illinois Law**

This Agreement shall be construed and enforced under the domestic laws of the State of Illinois. If any section of this Agreement shall be deemed unenforceable or invalid by a court of law, the remaining portions of the Agreement shall survive and remain valid and enforceable.

#### **8. Notices**

Any written notices, reports, correspondence, certificates or deliveries made pursuant to this Agreement shall be sent by first class mail, postage prepaid, return receipt requested, to the following addresses:

If to the Issuer: Mr. Donald C. Fuener, Village Treasurer  
Village of Chatham  
116 East Mulberry  
Chatham, Illinois 62629

If to the Bank: United Community Bank of Chatham  
J.C. Barnes, Sr. Vice President  
201 West Mulberry  
Chatham, Illinois 62629

All such notices shall be deemed given when delivered by hand delivery or on the third day following the day on which such notices were mailed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the date first written above.

**VILLAGE OF CHATHAM**

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

**ATTEST:**

\_\_\_\_\_

**UNITED COMMUNITY BANK**

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

**ATTEST:**

\_\_\_\_\_