

Ordinance No. 14- 02

**AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT  
WITH THE CITY OF SPRINGFIELD, ILLINOIS**

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

**SECTION 1:** That certain Settlement Agreement between the City of  
Springfield, Illinois and the Village of Chatham, a copy of which is attached hereto, is hereby  
approved.

**SECTION 2:** The Village President shall execute the Settlement Agreement on  
behalf of the Village, and the proper officers of the Village are authorized and directed to carry  
out the agreement by its terms.

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

PASSED this 14 day of JANUARY, 2014.

*Thomas A Gray*  
\_\_\_\_\_  
VILLAGE PRESIDENT

ATTEST:

*Pat Schaad*  
\_\_\_\_\_  
Village Clerk



AYES: 4 KIMSEY HOLDEN FORMEASCHATTMAN  
NAYS: 0  
PASSED: 1-14-14  
APPROVED: 1-14-14  
ABSENT: 0

*PRESENT: 2 CLAYTON, BOYLE*  
*(TECHNICALLY, PRESENT COUNTS AS YES - SCHAAD)*

## SETTLEMENT AGREEMENT

This Settlement Agreement is executed this \_\_\_\_\_ day of January, 2014 (the "Execution Date"), by and between the City of Springfield, Illinois ("City"), and the Village of Chatham, Illinois ("Village").

### RECITALS

Whereas, the City and the Village entered into a contract dated January 24, 1967 ("1967 Contract") in which the City agreed to sell and supply drinking water to the Village and the Village agreed to buy and take delivery of drinking water;

Whereas, the 1967 Contract provided for a term commencing no later than September 1, 1970, and continuing until April 1, 1998; the 1967 Contract was amended on January 6, 1970, to extend the term until April 1, 2010; the 1967 Contract was amended a second time on April 20, 1993, which extended the supply of City water to the Village of Loami through the Village's distribution system and also extended the term of the 1967 Contract to December 31, 2013, and the 1967 Contract was amended yet again on December 22, 1998 as described below;

Whereas, the City and the Village engaged in litigation over the 1967 Contract, as amended in 1970 and 1993, and reached a settlement memorialized in an Agreement dated December 22, 1998, providing in part that (1) the City would be the Village's exclusive water supplier unless Chatham entered into an agreement with another unit of government for an alternative water supply, in which case the 1967 Contract, as amended in 1970 and 1992, could be terminated upon three years' advance notice; and (2) the City would incur infrastructure costs to increase the water supplied to the Village, so that if the Village terminated the Water Contract prior to the year 2013, it would compensate the City for its "stranded investment" in the amount of \$150,000 (the 1967 Contract, the 1970 and 1993 amendments, and the December 22, 1998, Settlement Agreement being hereafter collectively referred to as the "Water Contract");

Whereas, on July 21, 2010, the Village sent notice to the City that it had entered into a binding commitment with another unit of government to obtain an alternative source of water supply and, therefore, was terminating the Water Contract effective three years from the date of the letter;

Whereas, the Village stopped purchasing and taking delivery of water from the City as of May 10, 2012, effectively terminating the Water Contract as of that date except for the wheeling of water to Loami;

Whereas, the Village paid and the City accepted \$150,000 as compensation for the stranded investment as required under the Water Contract;

Whereas, the Village has agreed to permit the City to continue to wheel water to the Village of Loami through the Village's distribution system up to March 31, 2014, at no charge to the City or Loami; and

Whereas, the City and the Village engaged in negotiations over a financial remedy for the Village's early termination of the Water Contract and have amicably settled all of the disputes relating to the early termination and are accordingly satisfied that the various terms and conditions described in this Settlement Agreement are fair, adequate and reasonable to each of them so as to avoid the risk and cost of litigation;

Now, therefore, in consideration of the mutual covenants and agreements set forth in this Settlement Agreement, the City and the Village agree as follows:

1. **Payment.** The Village shall pay the City the sum of \$700,000.00 in cash within 60 days after the Execution Date, or, if the Village has obtained and confirmed financing terms for the payment within 60 days after the Execution Date, then the Village shall make the payment as soon thereafter as is practicable, and in no case later than 90 days from the Execution Date (the "Payment Date"). The City and the Village may agree in writing to extend the Payment Date. Of the total payment amount, \$500,000.00 shall be allocated to damages incurred by the City as a result of the early termination of the Water Contract and \$200,000.00 shall be consideration for the execution of a lease, as described in Paragraph 2.

2. **Lease.** Contingent on the payment described in Paragraph 1 and the approvals described in Paragraph 5, the City and the Village agree to execute a lease for a pump station situated on property owned by the City substantially in the form attached hereto as "**Exhibit A.**"

3. **Wheeled Water.** The Village grants the City permission to continue to wheel water to the Village of Loami through the Village's distribution system until March 31, 2014, at no charge to City or Loami.

4. **Mutual Release and Discharge.** With the exception of the performance of and the continued compliance with the obligations described in this Settlement Agreement, effective as of the Execution Date, the City and the Village each covenant not to sue and fully, finally and forever RELEASE and DISCHARGE each other with respect to any and all claims, whether known or unknown as of the Execution Date, which either of them possesses or could claim to be entitled to assert against each other and arising as a consequence or by virtue of, based on, relating to or in connection with the Water Contract.

5. **Contingent on Approvals.** The obligations of the City and the Village under this Settlement Agreement are contingent on approval by the City Council of the City of Springfield and the Board of Trustees of the Village of Chatham, respectively. The City and the Village shall cause ordinances approving the Settlement Agreement to be put before their respective governing bodies by January 15, 2014 ("Approval Date"). A copy of the City ordinance approving this Settlement Agreement, duly certified by the City Clerk or other appropriate City officer, shall be delivered to the Village within two weeks of the Approval Date. A copy of the Village resolution, duly certified by the Village Clerk or other appropriate Village officer, shall

be delivered to the City within two weeks of the Approval Date. If either governing body fails to approve this Settlement Agreement by the Approval Date, this Settlement Agreement shall become null and void and without further effect. The City and the Village may agree in writing to extend the Approval Date.

6. **Costs and Expenses.** The City and the Village agree to pay their own expenses relating to this Settlement Agreement, including their respective attorneys' fees.

7. **No Admission of Liability.** Neither the City nor the Village, by their execution of this Settlement Agreement, admits to any liability or the commission of or the engagement in any improper acts or activities. This Settlement Agreement, without attributing liability to or alleging the commission of malfeasance on the part of either the City or the Village, is intended by them to resolve a pending business dispute in an amicable manner.

8. **Binding Effect.** This Settlement Agreement is binding on, and inures to the benefit of, the City and the Village and all of their respective successors in interest.

9. **Remedies.** The City and the Village possess all of the remedies available to them with respect to the violation of any term or provision of the Settlement Agreement, including the equitable remedy of specific performance. If any litigation is instituted to enforce compliance with the terms or provisions of this Settlement Agreement, then, in that event, neither of them will be required to post any bond or deposit any other security as a prerequisite condition to the institution or the prosecution of that enforcement action.

10. **Opportunity to Consult an Attorney.** Prior to entering into this Settlement Agreement, the City and the Village consulted with and obtained the advice of counsel of their own selection.

11. **Governing Law, Jurisdiction and Venue.** The Settlement Agreement will be governed by and construed pursuant to the laws of the State of Illinois. Any justiciable dispute arising by virtue of or related to the Settlement Agreement will be determined solely and exclusively under Illinois law by a court of competent jurisdiction located in Sangamon County, Illinois.

12. **Counterparts.** This Settlement Agreement, if so desired by the City and the Village, may be executed in multiple counterparts, and each counterpart, when so executed, will be deemed by them to be an original version of this Settlement Agreement.

13. **Null and Void.** Failure to pay by Chatham by the Payment Date or a mutual agreed upon extension shall result in this Settlement Agreement being null and void.

In witness whereof, the City and the Village respectively executed this Settlement Agreement on the Execution Date in pursuance of the uses and purposes described and contained in this Settlement Agreement.

**The City of Springfield, Illinois**

\_\_\_\_\_  
J. Michael Houston, Mayor

Attest:

\_\_\_\_\_  
Cecilia Tumulty, City Clerk

**The Village of Chatham, Illinois**

\_\_\_\_\_  
Tom Gray, Village President

Attest:

\_\_\_\_\_  
Pat Schad, Village Clerk

Prepared by:  
City of Springfield, Illinois  
800 E. Monroe, 4<sup>th</sup> Floor  
Springfield, IL 62701  
217-789-2116, ext. 2626

Return to:  
Village of Chatham, Illinois  
116 E. Mulberry  
Chatham, IL 62629  
217-483-2451

Tax I.D. Number: part of 29-04-400-005

Common Address: part of 149 N. Lakewood Drive, Springfield, IL 62629

**PUMP STATION  
LAKESHORE LEASE**

**THIS LEASE**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between the **CITY OF SPRINGFIELD, ILLINOIS**, a municipal corporation, hereinafter referred to as "City" and the **VILLAGE OF CHATHAM, ILLINOIS**, a municipal corporation, hereinafter referred to as "Lessee" or "Chatham".

**WITNESSETH:**

**WHEREAS**, the City, as part of its municipal water supply has acquired the land for a large artificial lake known as Lake Springfield, including for its protection a surrounding zone of marginal or shore land, and the leasing of portions of such shore land to persons who agree to protect said lake from pollution, undue erosion and other injury, by the development of suitable vegetation, and the improvement, care and maintenance of the premises, and

**WHEREAS**, the City previously authorized the use of a portion of such marginal land by Chatham for the purpose of maintaining a pumping station and necessary appurtenances, and

**WHEREAS**, the use of the land for a pumping station was authorized as part of a Contract entered into January 24, 1967, between the City and Chatham for the City to supply water directly to Chatham pursuant to Ordinance No. 22-1-67, which Contract was amended on January 6, 1970, April 20, 1993, and on December 22, 1998, through a Settlement Agreement pursuant to Ordinance No. 26-1-99, and further provided for on January 7, 2014, through a Settlement Agreement pursuant to Ordinance No. 12-1-14("2013 Settlement"), wherein Chatham agreed to pay \$200,000 as consideration for this lease, and

**WHEREAS**, the City desires to lease the land used for the pumping station and related appurtenances to Chatham, and Chatham desires to lease such land from the City under the terms as agreed by the parties.

**NOW, THEREFORE**, in consideration of \$200,000 pursuant to Paragraph 1 of the 2013 Settlement, in hand paid by Chatham to City, and of the rent and other covenants, the parties agree as follows:

1. Lease Term. The City hereby leases to Lessee the following described real estate, hereinafter described as "premises," situated in the City of Springfield, Sangamon County, Illinois,

Part of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 4, Township 14 North, Range 5 West of the Third Principal Meridian, Sangamon County, Illinois, said part being further described as follows:

Commencing at an iron pipe at the Southeast corner of said Section 4; thence North 89 degrees 44 minutes 00 seconds West 85.84 feet along the South line of said Section 4; thence North 00 degrees 16 minutes 00 seconds East 22.06 feet to the point of beginning; thence North 26 degrees 52 minutes 13 seconds West 54.45 feet; thence North 03 degrees 38 minutes 41 seconds West 41.57 feet; thence South 89 degrees 47 minutes 11 seconds East 77.53 feet; thence South 00 degrees 55 minutes 41 seconds West 90.61 feet; thence North 89 degrees 02 minutes 15 seconds West 48.80 feet to the point of beginning, containing 0.14 acres, more or less.



as described on the attached Exhibit A, for a term of ninety-nine years beginning January 1, 2014, and ending January 1, 2113, unless terminated sooner as hereinafter provided.

2. Rent. As rent for said premises, Lessee agrees to pay to the City at the Office of Public Utilities or such other place as may be designated by the City, One Dollar (\$1.00) per year, due upon commencement of this lease and by January 1<sup>st</sup> each year thereafter. By signature of this lease the City acknowledges receipt of \$99.00 in full payment for the full term of the lease.

3. Preference in Again Leasing. At the expiration of the term hereof, the Lessee, if not in default, shall be preferred by the City over all other in the further leasing of said premises, subject to such ordinances and regulations, for such term, and upon the payment of such rental as the City may then charge for said location. If Lessee does not desire to enter into a new lease at that time, it shall have the right and shall remove the improvements from the leased premises placed on the leased premises by Lessee at its cost prior to the expiration of this lease.

4. No Power to Mortgage. The Lessee may not mortgage the leasehold hereby granted, nor any of its improvements now or hereafter on the leased premises.

5. Taxes and Utilities. The Lessee will also pay before the same become delinquent any and all taxes and assessments levied on any part of the leased premises and the improvements thereon during the term of this lease, and all reasonable charges of the City for water, electricity, or other utility service availed of by the Lessee. Interruption or inadequacy of any service shall not excuse or relieve the Lessee from payment for service rendered, and the City shall not be liable for damage caused to any improvement or other property of the Lessee by the action of waters of Lake Springfield or other cause.



6. Local Improvements. Whenever the leased premises will be specially benefited by the construction of any local improvement or improvements pursuant to Article 9 of the Illinois Municipal Code, or such subsequent replacement legislation, and the Lessee consents thereto in writing, the City may cause such improvement or improvements to be made, and the Lessee will pay to the City such part of the cost thereof and in such installment, as the City may apportion on the basis, and not in excess, of the benefits thereby conferred on the leased premises; and the apportionment of cost as made by the City shall be prima facie evidence of the matters recited in such petition, as to what property is benefited, the fairness of the apportionment, and that the leased premises are so benefited not less than the amount of the cost so apportioned thereto.

7. Use of the Premises. Lessee may use the premises only to operate and maintain (and replace) a pumping station and necessary appurtenances. Lessee is also granted the right to access the leased premises by entering Lessor's property located to the south of the leased premises and to the north of the public right of way.

8. Fencing and Access. Lessee shall maintain fencing around said pump station and shall replace such fencing from time-to-time as necessary to restrict access only to personnel authorized by Chatham to enter. Said fence shall be locked, so as to restrict access only to personnel authorized by Chatham to enter.

9. Riparian Rights. Lessee shall have no riparian rights to the waters of Lake Springfield.

10. Lessee's Responsibilities.

- a. The Lessee shall be solely responsible for obtaining and maintaining all necessary governmental permits in order to allow for pumping,

construction of pumping facilities, maintaining and replacing said pumping facilities. Copies of all permit applications and permits shall be supplied to the Office of Public Utilities within a reasonable time upon such request, but not longer than fourteen (14) days.

- b. All equipment, installation, operations, and maintenance costs of the pumping facility will be borne by the Lessee.
- c. At no time does the City guarantee a supply of water for this pumping facility.
- d. If the facilities become non-functional or are no longer needed, the facilities will be removed from the premises by the Lessee at no cost to the City pursuant to paragraph 3 above.

11. Improvements. The Lessee will make no alterations or improvements on the premises without the written consent of the City, which shall not be unreasonably withheld. Before beginning any alteration or improvement, plans therefor, including all appurtenances, plumbing, and the location on the leased premises, shall first be submitted to and approved in writing by the City, and any structure built without such written approval shall be removed or altered by the Lessee so as to comply with the City's requirements, and upon the failure of the Lessee to do so at the City's request, the City may cause the same to be removed or altered, and the amount of expense so incurred shall be paid by the Lessee to the City on demand. No facilities located on the premises shall be removed or demolished by Lessee without the written consent of the City, which shall not be unreasonably withheld.

12. General Regulations. The Lessee shall:

- (a) keep all of the developed leased premises in sanitary condition, decent, neat, and free from noxious weeds and debris, and shall maintain all improvements thereon attractive in appearance and in good repair;
- (b) care for and protect from injury all shade and ornamental trees, shrubbery and sod, and shall not remove, trim, or permit the removal or trimming of any tree on the leased premises more than three (3) inches in diameter without the consent of the City, nor permit any of the premises to be denuded of vegetation or to be cultivated in such manner as to cause or permit soil erosion.

13. Reserved Rights of City.

- (a) Should the City require the leased premises or a portion thereof to be used exclusively by the City for any public purpose inconsistent with its occupancy by the Lessee, the City may terminate this lease upon giving not less than twenty-four (24) months' notice in writing of its intention so to do; provided, however, that the City may only terminate this lease based on a public use for which the City has no reasonable alternative except to require Lessee's vacation of the premises. If the City exercises its rights hereunder, it shall pay to the Lessee \$100,000.00 for exercise in the first year of the lease, which amount shall be decreased by \$1,000.00 every year thereafter. The City may set off against this payment all amounts owed to it by the Lessee under the terms of this lease that are due or past due and unpaid.

- (b) Representatives of the City shall have the right to go upon the premises at any and all times for the purpose of inspecting the same, and to improve and protect the shore line; and to do any other work pertaining to the lake on any part of the leased premises or on other lands. Representatives of the City shall further have the right to inspect, maintain and remove the City's meter, pipes, valves and telemetry equipment that are currently located on the leased premises. The City shall restore the surface of any areas it disturbs.

14. Eminent Domain. If the leased premises, or any part thereof, shall be taken by or pursuant to governmental authority or through the exercise of the right of eminent domain, or if a part only of said premises is taken and the balance of said premises in the option of the Lessee is not suitable for the operation of this lease, at the option of the Lessee said lease shall terminate without further liability on the part of the Lessee, or the rent hereunder shall be reduced in the proportion to the reduction in the area of the premises, but nothing herein shall be deemed a waiver of the sole right of the Lessee to any award for damages to it or its leasehold interest caused by such taking, whether made separately or as a part of a general award.

15. Indemnification. The Lessee covenants and agrees to indemnify and save City harmless from any and all claims, demands, suits, actions, judgments, and recoveries, including the defense thereof, for or on account of damage or injury (including death) to property or person of Lessee, its agents, servants or other party or parties arising out of or due to the construction or operation of any improvements placed on the premises, or Lessee's use of the premises. Lessee agrees to reimburse the City for any and all expenses incurred by the City for environmental damage and/or clean up deemed necessary by the City, caused by Lessee's use of the premises,

including any attorney fees, penalties or fines, associated with the pollution or contamination of air, water, land and groundwater, and the amount of the expense shall be paid by Lessee to the City on demand.

16. Voluntary Cancellation. Upon full performance of all accrued obligations hereunder, the Lessee may surrender this lease and be relieved of any obligations thereafter accruing under the provisions hereof, subject to the provisions of paragraph 3 above.

17. Transfer of Lease. Neither this lease, nor any interest therein or in the leased premises, shall be assigned or transferred by the Lessee, any receiver, trustee in bankruptcy, or other representative of the Lessee or the Lessee's estate, or by operation of law, legal process or any other means whatsoever, without the written consent of the City; nor shall the premises or any part thereof be used by any person other than the Lessee's agents or employees, without such written consent. No assignment or transfer shall become operative until approved in writing by the City and the transferee has signed an agreement assuming the obligations herein of the Lessee. The Lessee may not sublet the premises. The City may withhold its consent to any transfer of this lease until any default under the terms of this lease by any lessee, custodian, assignee, or proposed lessee has been removed. The City may condition the grant of such consent on the renegotiation of the terms of this lease, including the rent to be charged. However, the City consents to an assignment of this lease to the South Sangamon Water Commission.

18. Defaults. If default be made in any of the provisions herein to be kept, observed or performed by the Lessee, and such default be not made good within sixty (60) days after written notice thereof from the City, or, if the Lessee fails to vacate the premises at the expiration of the term of this lease or if thereby any transfer of this lease, or any interest therein, except in compliance with the provisions of the paragraphs above, then and in any such case the City may,

at its option, at once and without further demand or notice, terminate this lease and re-enter and take possession of the premises and expel the Lessee and all other persons found on the premises, using such force as may be necessary without being guilty of trespass or forcible entry or detainer, or liable for any loss or damage caused thereby and all buildings and appurtenances placed on the leased premises shall at the option of the City become the property of the City in full settlement as liquidated damages sustained by the City by reason of such default of the Lessee. To secure the payment of the rent and performance of all other obligations of the Lessee to the City, the City shall have a lien, prior to all other liens (except mechanics liens) on all buildings and appurtenances placed on the leased premises and also all other liens and remedies given by law. And, at the City's option, any lien in favor of the City may be secured in equity or by distress, or by foreclosure sale, in like manner as a secured party can act under the Uniform Commercial Code of Illinois, and the City may bid at any such sale without obligation to account for more than the sum bid.

19. Notices. The Lessee and any person claiming any interest under this lease shall at all times keep his or her post office address on file in the Office of Public Utilities of the City, and any notice required or permitted to be given under this lease, shall be deemed for all purposes to have been given when such notice in writing shall have been deposited in the United States mail, postage prepaid, and properly addressed to such designated address, and the affidavit of the person so mailing such notice shall be prima facie evidence of such notice and the mailing thereof.

20. Binding Effect. All provisions hereof shall run with the land and extend to and be binding upon the legal representatives, successors and assigns of the parties hereto. In

administration of this lease, the City may act through its Office of Public Utilities, unless otherwise provided by Ordinance of the Council of the City of Springfield.

21. Illinois Law. This lease agreement is to be construed in accordance with the laws of the State of Illinois.

22. Severability. If any section, subsection, sentence, clause, phrase or portion of this lease agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision and such holding shall not effect the validity of the remaining portions thereof.

23. Merger. This lease agreement and the exhibits attached hereto contain the full understanding of the parties with respect to the subject matter hereof and is a complete and exclusive statement of the understanding of the parties.

24. Insurance.

- (a) Upon the effective date of this lease, Lessee shall furnish proof that satisfactory liability insurance policies are in force for Workers' Compensation as required by the laws of the state, Comprehensive General Liability and Comprehensive Automobile Liability.
- (b) The Lessee shall have the City and all of its officers and employees included as co-insured on all insurance policies referred to in this Section. All such policies shall provide that the issuing insurance company will not cancel them without thirty (30) days prior notice to the City and the Lessee.
- (c) The liability insurance policies shall be maintained throughout the duration of this lease. The policies of insurance, or a certificate thereof,



shall be deposited with and kept on file by the Risk Management Department.

- (d) Chatham certifies that: (i) it is a self-insured local public entity pursuant to the provisions of 745 ILCS 10/9-103, for all activities and its various departments and employees, and (ii) it has adequate self-insurance funds to meet the requirements of this Paragraph 24.
- (e) The Assignee of any assignment of this lease shall meet the insurance requirements of this Paragraph 24.

25. For notification purposes, the parties shall use the following:

Office of Public Utilities  
Property Manager  
200 East Lake Shore Drive  
Springfield, IL 62712

Village of Chatham  
116 E. Mulberry  
Chatham, IL 62629

26. Recording. Lessee shall cause this lease to be recorded in the Sangamon County Recorder of Deeds Office.

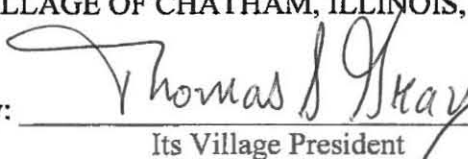
This lease is signed in triplicate as of the date above written.

CITY OF SPRINGFIELD, ILLINOIS  
OFFICE OF PUBLIC UTILITIES

Attest: \_\_\_\_\_  
City Clerk

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

Attest:   
Village Clerk

VILLAGE OF CHATHAM, ILLINOIS,  
By:   
Its Village President



SCALE: 1"=100'



CITY WATER LIGHT & POWER SPRINGFIELD, ILLINOIS
EXHIBIT "A"
CHATHAM PUMP STATION

**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. 14- 02, adopted by the President and Board of Trustees of said Village on the 14 day of JANUARY, 2014, said Ordinance being entitled:

**AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT  
WITH THE CITY OF SPRINGFIELD, ILLINOIS**

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 14 day of JANUARY, 2014.

  
Village Clerk



## SETTLEMENT AGREEMENT

This Settlement Agreement is executed this 14<sup>th</sup> day of January, 2014 (the "Execution Date"), by and between the City of Springfield, Illinois ("City"), and the Village of Chatham, Illinois ("Village").

### RECITALS

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Whereas, on July 21, 2010, the Village sent notice to the City that it had entered into a binding commitment with another unit of government to obtain an alternative source of water supply and, therefore, was terminating the Water Contract effective three years from the date of the letter;

Whereas, the Village stopped purchasing and taking delivery of water from the City as of May 10, 2012, effectively terminating the Water Contract as of that date except for the wheeling of water to Loami;

Whereas, the Village paid and the City accepted \$150,000 as compensation for the stranded investment as required under the Water Contract;

Whereas, the Village has agreed to permit the City to continue to wheel water to the Village of Loami through the Village's distribution system up to March 31, 2014, at no charge to the City or Loami; and

Whereas, the City and the Village engaged in negotiations over a financial remedy for the Village's early termination of the Water Contract and have amicably settled all of the disputes relating to the early termination and are accordingly satisfied that the various terms and conditions described in this Settlement Agreement are fair, adequate and reasonable to each of them so as to avoid the risk and cost of litigation;

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4. **Mutual Release and Discharge.** With the exception of the performance of and the continued compliance with the obligations described in this Settlement Agreement, effective as of the Execution Date, the City and the Village each covenant not to sue and fully, finally and forever RELEASE and DISCHARGE each other with respect to any and all claims, whether known or unknown as of the Execution Date, which either of them possesses or could claim to be entitled to assert against each other and arising as a consequence or by virtue of, based on, relating to or in connection with the Water Contract.

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be delivered to the City within two weeks of the Approval Date. If either governing body fails to approve this Settlement Agreement by the Approval Date, this Settlement Agreement shall become null and void and without further effect. The City and the Village may agree in writing to extend the Approval Date.

6. **Costs and Expenses.** The City and the Village agree to pay their own expenses relating to this Settlement Agreement, including their respective attorneys' fees.

7. **No Admission of Liability.** Neither the City nor the Village, by their execution of this Settlement Agreement, admits to any liability or the commission of or the engagement in any improper acts or activities. This Settlement Agreement, without attributing liability to or alleging the commission of malfeasance on the part of either the City or the Village, is intended by them to resolve a pending business dispute in an amicable manner.

8. **Binding Effect.** This Settlement Agreement is binding on, and inures to the benefit of, the City and the Village and all of their respective successors in interest.

9. **Remedies.** The City and the Village possess all of the remedies available to them with respect to the violation of any term or provision of the Settlement Agreement, including the equitable remedy of specific performance. If any litigation is instituted to enforce compliance with the terms or provisions of this Settlement Agreement, then, in that event, neither of them will be required to post any bond or deposit any other security as a prerequisite condition to the institution or the prosecution of that enforcement action.

10. **Opportunity to Consult an Attorney.** Prior to entering into this Settlement Agreement, the City and the Village consulted with and obtained the advice of counsel of their own selection.

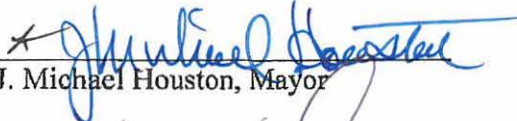
11. **Governing Law, Jurisdiction and Venue.** The Settlement Agreement will be governed by and construed pursuant to the laws of the State of Illinois. Any justiciable dispute arising by virtue of or related to the Settlement Agreement will be determined solely and exclusively under Illinois law by a court of competent jurisdiction located in Sangamon County, Illinois.

12. **Counterparts.** This Settlement Agreement, if so desired by the City and the Village, may be executed in multiple counterparts, and each counterpart, when so executed, will be deemed by them to be an original version of this Settlement Agreement.


13. **Null and Void.** Failure to pay by Chatham by the Payment Date or a mutual agreed upon extension shall result in this Settlement Agreement being null and void.

In witness whereof, the City and the Village respectively executed this Settlement Agreement on the Execution Date in pursuance of the uses and purposes described and contained in this Settlement Agreement.

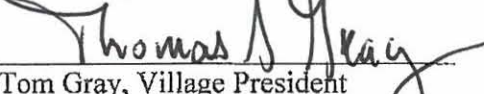
**The City of Springfield, Illinois**

  
J. Michael Houston, Mayor

Attest:

  
Cecilia Tumulty, City Clerk

**The Village of Chatham, Illinois**

  
Tom Gray, Village President

Attest:

  
Pat Schad, Village Clerk





Prepared by:  
City of Springfield, Illinois  
800 E. Monroe, 4<sup>th</sup> Floor  
Springfield, IL 62701  
217-789-2116, ext. 2626

Return to:  
Village of Chatham, Illinois  
116 E. Mulberry  
Chatham, IL 62629  
217-483-2451

Tax I.D. Number: part of 29-04-400-005

Common Address: part of 149 N. Lakewood Drive, Springfield, IL 62629

**PUMP STATION  
LAKESHORE LEASE**

**THIS LEASE**, made and entered into this 14<sup>th</sup> day of January, 2014, by and between the **CITY OF SPRINGFIELD, ILLINOIS**, a municipal corporation, hereinafter referred to as "City" and the **VILLAGE OF CHATHAM, ILLINOIS**, a municipal corporation, hereinafter referred to as "Lessee" or "Chatham".

**WITNESSETH:**

**WHEREAS**, the City, as part of its municipal water supply has acquired the land for a large artificial lake known as Lake Springfield, including for its protection a surrounding zone of marginal or shore land, and the leasing of portions of such shore land to persons who agree to protect said lake from pollution, undue erosion and other injury, by the development of suitable vegetation, and the improvement, care and maintenance of the premises, and

**WHEREAS**, the City previously authorized the use of a portion of such marginal land by Chatham for the purpose of maintaining a pumping station and necessary appurtenances, and

**WHEREAS**, the use of the land for a pumping station was authorized as part of a Contract entered into January 24, 1967, between the City and Chatham for the City to supply water directly to Chatham pursuant to Ordinance No. 22-1-67, which Contract was amended on January 6, 1970, April 20, 1993, and on December 22, 1998, through a Settlement Agreement pursuant to Ordinance No. 26-1-99, and further provided for on January 7, 2014, through a Settlement Agreement pursuant to Ordinance No. 12-1-14("2013 Settlement"), wherein Chatham agreed to pay \$200,000 as consideration for this lease, and

**WHEREAS**, the City desires to lease the land used for the pumping station and related appurtenances to Chatham, and Chatham desires to lease such land from the City under the terms as agreed by the parties.

**NOW, THEREFORE**, in consideration of \$200,000 pursuant to Paragraph 1 of the 2013 Settlement, in hand paid by Chatham to City, and of the rent and other covenants, the parties agree as follows:

1. Lease Term. The City hereby leases to Lessee the following described real estate, hereinafter described as "premises," situated in the City of Springfield, Sangamon County, Illinois,

Part of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 4, Township 14 North, Range 5 West of the Third Principal Meridian, Sangamon County, Illinois, said part being further described as follows:

Commencing at an iron pipe at the Southeast corner of said Section 4; thence North 89 degrees 44 minutes 00 seconds West 85.84 feet along the South line of said Section 4; thence North 00 degrees 16 minutes 00 seconds East 22.06 feet to the point of beginning; thence North 26 degrees 52 minutes 13 seconds West 54.45 feet; thence North 03 degrees 38 minutes 41 seconds West 41.57 feet; thence South 89 degrees 47 minutes 11 seconds East 77.53 feet; thence South 00 degrees 55 minutes 41 seconds West 90.61 feet; thence North 89 degrees 02 minutes 15 seconds West 48.80 feet to the point of beginning, containing 0.14 acres, more or less.

as described on the attached Exhibit A, for a term of ninety-nine years beginning January 1, 2014, and ending January 1, 2113, unless terminated sooner as hereinafter provided.

2. Rent. As rent for said premises, Lessee agrees to pay to the City at the Office of Public Utilities or such other place as may be designated by the City, One Dollar (\$1.00) per year, due upon commencement of this lease and by January 1<sup>st</sup> each year thereafter. By signature of this lease the City acknowledges receipt of \$99.00 in full payment for the full term of the lease.

3. Preference in Again Leasing. At the expiration of the term hereof, the Lessee, if not in default, shall be preferred by the City over all other in the further leasing of said premises, subject to such ordinances and regulations, for such term, and upon the payment of such rental as the City may then charge for said location. If Lessee does not desire to enter into a new lease at that time, it shall have the right and shall remove the improvements from the leased premises placed on the leased premises by Lessee at its cost prior to the expiration of this lease.

4. No Power to Mortgage. The Lessee may not mortgage the leasehold hereby granted, nor any of its improvements now or hereafter on the leased premises.

5. Taxes and Utilities. The Lessee will also pay before the same become delinquent any and all taxes and assessments levied on any part of the leased premises and the improvements thereon during the term of this lease, and all reasonable charges of the City for water, electricity, or other utility service availed of by the Lessee. Interruption or inadequacy of any service shall not excuse or relieve the Lessee from payment for service rendered, and the City shall not be liable for damage caused to any improvement or other property of the Lessee by the action of waters of Lake Springfield or other cause.

6. Local Improvements. Whenever the leased premises will be specially benefited by the construction of any local improvement or improvements pursuant to Article 9 of the Illinois Municipal Code, or such subsequent replacement legislation, and the Lessee consents thereto in writing, the City may cause such improvement or improvements to be made, and the Lessee will pay to the City such part of the cost thereof and in such installment, as the City may apportion on the basis, and not in excess, of the benefits thereby conferred on the leased premises; and the apportionment of cost as made by the City shall be prima facie evidence of the matters recited in such petition, as to what property is benefited, the fairness of the apportionment, and that the leased premises are so benefited not less than the amount of the cost so apportioned thereto.

7. Use of the Premises. Lessee may use the premises only to operate and maintain (and replace) a pumping station and necessary appurtenances. Lessee is also granted the right to access the leased premises by entering Lessor's property located to the south of the leased premises and to the north of the public right of way.

8. Fencing and Access. Lessee shall maintain fencing around said pump station and shall replace such fencing from time-to-time as necessary to restrict access only to personnel authorized by Chatham to enter. Said fence shall be locked, so as to restrict access only to personnel authorized by Chatham to enter.

9. Riparian Rights. Lessee shall have no riparian rights to the waters of Lake Springfield.

10. Lessee's Responsibilities.

- a. The Lessee shall be solely responsible for obtaining and maintaining all  
necessary governmental permits in order to allow for pumping,

construction of pumping facilities, maintaining and replacing said pumping facilities. Copies of all permit applications and permits shall be supplied to the Office of Public Utilities within a reasonable time upon such request, but not longer than fourteen (14) days.

- b. All equipment, installation, operations, and maintenance costs of the pumping facility will be borne by the Lessee.
- c. At no time does the City guarantee a supply of water for this pumping facility.
- d. If the facilities become non-functional or are no longer needed, the facilities will be removed from the premises by the Lessee at no cost to the City pursuant to paragraph 3 above.

11. Improvements. The Lessee will make no alterations or improvements on the premises without the written consent of the City, which shall not be unreasonably withheld. Before beginning any alteration or improvement, plans therefor, including all appurtenances, plumbing, and the location on the leased premises, shall first be submitted to and approved in writing by the City, and any structure built without such written approval shall be removed or altered by the Lessee so as to comply with the City's requirements, and upon the failure of the Lessee to do so at the City's request, the City may cause the same to be removed or altered, and the amount of expense so incurred shall be paid by the Lessee to the City on demand. No facilities located on the premises shall be removed or demolished by Lessee without the written consent of the City, which shall not be unreasonably withheld.

12. General Regulations. The Lessee shall:

- (a) keep all of the developed leased premises in sanitary condition, decent, neat, and free from noxious weeds and debris, and shall maintain all improvements thereon attractive in appearance and in good repair;
- (b) care for and protect from injury all shade and ornamental trees, shrubbery and sod, and shall not remove, trim, or permit the removal or trimming of any tree on the leased premises more than three (3) inches in diameter without the consent of the City, nor permit any of the premises to be denuded of vegetation or to be cultivated in such manner as to cause or permit soil erosion.

13. Reserved Rights of City.

- (a) Should the City require the leased premises or a portion thereof to be used exclusively by the City for any public purpose inconsistent with its occupancy by the Lessee, the City may terminate this lease upon giving not less than twenty-four (24) months' notice in writing of its intention so to do; provided, however, that the City may only terminate this lease based on a public use for which the City has no reasonable alternative except to require Lessee's vacation of the premises. If the City exercises its rights hereunder, it shall pay to the Lessee \$100,000.00 for exercise in the first year of the lease, which amount shall be decreased by \$1,000.00 every year thereafter. The City may set off against this payment all amounts owed to it by the Lessee under the terms of this lease that are due or past due and unpaid.

- (b) Representatives of the City shall have the right to go upon the premises at any and all times for the purpose of inspecting the same, and to improve and protect the shore line; and to do any other work pertaining to the lake on any part of the leased premises or on other lands. Representatives of the City shall further have the right to inspect, maintain and remove the City's meter, pipes, valves and telemetry equipment that are currently located on the leased premises. The City shall restore the surface of any areas it disturbs.

14. Eminent Domain. If the leased premises, or any part thereof, shall be taken by or pursuant to governmental authority or through the exercise of the right of eminent domain, or if a part only of said premises is taken and the balance of said premises in the option of the Lessee is not suitable for the operation of this lease, at the option of the Lessee said lease shall terminate without further liability on the part of the Lessee, or the rent hereunder shall be reduced in the proportion to the reduction in the area of the premises, but nothing herein shall be deemed a waiver of the sole right of the Lessee to any award for damages to it or its leasehold interest caused by such taking, whether made separately or as a part of a general award.

15. Indemnification. The Lessee covenants and agrees to indemnify and save City harmless from any and all claims, demands, suits, actions, judgments, and recoveries, including the defense thereof, for or on account of damage or injury (including death) to property or person of Lessee, its agents, servants or other party or parties arising out of or due to the construction or operation of any improvements placed on the premises, or Lessee's use of the premises. Lessee agrees to reimburse the City for any and all expenses incurred by the City for environmental damage and/or clean up deemed necessary by the City, caused by Lessee's use of the premises,



including any attorney fees, penalties or fines, associated with the pollution or contamination of air, water, land and groundwater, and the amount of the expense shall be paid by Lessee to the City on demand.

16. Voluntary Cancellation. Upon full performance of all accrued obligations hereunder, the Lessee may surrender this lease and be relieved of any obligations thereafter accruing under the provisions hereof, subject to the provisions of paragraph 3 above.

17. Transfer of Lease. Neither this lease, nor any interest therein or in the leased premises, shall be assigned or transferred by the Lessee, any receiver, trustee in bankruptcy, or other representative of the Lessee or the Lessee's estate, or by operation of law, legal process or any other means whatsoever, without the written consent of the City; nor shall the premises or any part thereof be used by any person other than the Lessee's agents or employees, without such written consent. No assignment or transfer shall become operative until approved in writing by the City and the transferee has signed an agreement assuming the obligations herein of the Lessee. The Lessee may not sublet the premises. The City may withhold its consent to any transfer of this lease until any default under the terms of this lease by any lessee, custodian, assignee, or proposed lessee has been removed. The City may condition the grant of such consent on the renegotiation of the terms of this lease, including the rent to be charged. However, the City consents to an assignment of this lease to the South Sangamon Water Commission.

18. Defaults. If default be made in any of the provisions herein to be kept, observed or performed by the Lessee, and such default be not made good within sixty (60) days after written notice thereof from the City, or, if the Lessee fails to vacate the premises at the expiration of the term of this lease or if thereby any transfer of this lease, or any interest therein, except in compliance with the provisions of the paragraphs above, then and in any such case the City may,

at its option, at once and without further demand or notice, terminate this lease and re-enter and take possession of the premises and expel the Lessee and all other persons found on the premises, using such force as may be necessary without being guilty of trespass or forcible entry or detainer, or liable for any loss or damage caused thereby and all buildings and appurtenances placed on the leased premises shall at the option of the City become the property of the City in full settlement as liquidated damages sustained by the City by reason of such default of the Lessee. To secure the payment of the rent and performance of all other obligations of the Lessee to the City, the City shall have a lien, prior to all other liens (except mechanics liens) on all buildings and appurtenances placed on the leased premises and also all other liens and remedies given by law. And, at the City's option, any lien in favor of the City may be secured in equity or by distress, or by foreclosure sale, in like manner as a secured party can act under the Uniform Commercial Code of Illinois, and the City may bid at any such sale without obligation to account for more than the sum bid.

19.     Notices. The Lessee and any person claiming any interest under this lease shall at all times keep his or her post office address on file in the Office of Public Utilities of the City, and any notice required or permitted to be given under this lease, shall be deemed for all purposes to have been given when such notice in writing shall have been deposited in the United States mail, postage prepaid, and properly addressed to such designated address, and the affidavit of the person so mailing such notice shall be prima facie evidence of such notice and the mailing thereof.

20.     Binding Effect. All provisions hereof shall run with the land and extend to and be binding upon the legal representatives, successors and assigns of the parties hereto. In

administration of this lease, the City may act through its Office of Public Utilities, unless otherwise provided by Ordinance of the Council of the City of Springfield.

21. Illinois Law. This lease agreement is to be construed in accordance with the laws of the State of Illinois.

22. Severability. If any section, subsection, sentence, clause, phrase or portion of this lease agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision and such holding shall not effect the validity of the remaining portions thereof.

23. Merger. This lease agreement and the exhibits attached hereto contain the full understanding of the parties with respect to the subject matter hereof and is a complete and exclusive statement of the understanding of the parties.

24. Insurance.

- (a) Upon the effective date of this lease, Lessee shall furnish proof that satisfactory liability insurance policies are in force for Workers' Compensation as required by the laws of the state, Comprehensive General Liability and Comprehensive Automobile Liability.
- (b) The Lessee shall have the City and all of its officers and employees included as co-insured on all insurance policies referred to in this Section. All such policies shall provide that the issuing insurance company will not cancel them without thirty (30) days prior notice to the City and the Lessee.
- (c) The liability insurance policies shall be maintained throughout the duration of this lease. The policies of insurance, or a certificate thereof,

shall be deposited with and kept on file by the Risk Management Department.

- (d) Chatham certifies that: (i) it is a self-insured local public entity pursuant to the provisions of 745 ILCS 10/9-103, for all activities and its various departments and employees, and (ii) it has adequate self-insurance funds to meet the requirements of this Paragraph 24.
- (e) The Assignee of any assignment of this lease shall meet the insurance requirements of this Paragraph 24.

25. For notification purposes, the parties shall use the following:

Office of Public Utilities  
Property Manager  
200 East Lake Shore Drive  
Springfield, IL 62712

Village of Chatham  
116 E. Mulberry  
Chatham, IL 62629

26. Recording. Lessee shall cause this lease to be recorded in the Sangamon County Recorder of Deeds Office.

This lease is signed in triplicate as of the date above written.

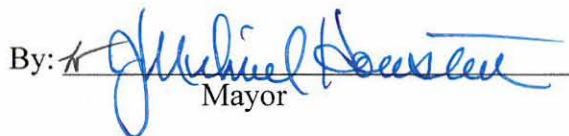
Attest:



City Clerk

CITY OF SPRINGFIELD, ILLINOIS  
OFFICE OF PUBLIC UTILITIES

By:

  
Mayor

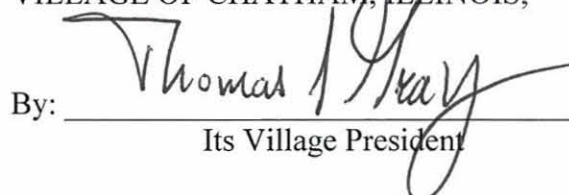
VILLAGE OF CHATHAM, ILLINOIS,

Attest:



Village Clerk

By:

  
Its Village President



SCALE: 1"=100'



CITY WATER LIGHT & POWER  
SPRINGFIELD, ILLINOIS

EXHIBIT "A"

CHATHAM PUMP STATION



# DELANO

## LAW OFFICES, LLC

1 Southeast Old State Capitol Plaza  
Post Office Box 1948  
Springfield, Illinois 62705  
217-544-2703  
Facsimile: 217-544-4664

[www.delanolaw.com](http://www.delanolaw.com)  
Email: [delano@delanolaw.com](mailto:delano@delanolaw.com)

CHARLES H. DELANO, III  
(1940 - 2006)  
CHARLES H. DELANO, IV, P.C.  
THOMAS C. PAVLIK, JR.  
SARAH DELANO PAVLIK  
PATRICK JAMES SMITH  
DAVID A. STUBBS  
JACOB VIGOR

February 6, 2014

**VIA HAND DELIVERY**

Tracy Pederson  
City of Springfield  
800 East Monroe, 4<sup>th</sup> Floor  
Springfield, Illinois 62701

Re: Village of Chatham - City of Springfield

Dear Tracy:

Pursuant to Paragraph 2 of the Pump Station Lakeshore Lease dated January 14, 2014, between the City of Springfield, Illinois, and the Village of Chatham, Illinois, enclosed please find the Village of Chatham's check payable to the City of Springfield in the amount of \$99.00 representing full payment of rent pursuant to the Lease.

If you should have any questions, please feel free to contact me. As always, thank you very much for your cooperation.

Sincerely,

DELANO LAW OFFICES, LLC



Thomas C. Pavlik, Jr.

TCP/kas  
Enclosure  
cc: Village of Chatham (via e-mail)

034100

Vendor: City Of Springfield  
Vendor No. SPRINGFI Vendor Account No:  
Invoice Number Date Description  
1/27/2014 Rent for 99 year ground lease

Check Date: 01/28/2014  
Check Amount: 99.00  
Invoice Amount  
99.00

## VILLAGE OF CHATHAM

ACCOUNTS PAYABLE  
116 E. MULBERRY  
CHATHAM, IL 62629



UNITED COMMUNITY BANK  
*The Leader of Community Banking*  
www.UCBank.com

70-840 / 711

034100

Date  
01/28/2014

Amount  
99.00

Pay: NINETY-NINE AND XX / 100

To the order of:

City Of Springfield  
106 Municipal Center W  
Springfield, IL 62701-0000

Thomas S Gray  
Sherry K. Dierking

⑈034100⑈ ⑆071108407⑆ 01345369⑈