

26-1-99

**SETTLEMENT AGREEMENT
BETWEEN
THE VILLAGE OF CHATHAM, ILLINOIS
AND
CITY OF SPRINGFIELD, ILLINOIS**

WHEREAS, in 1967 the Village of Chatham, Illinois, ("Chatham") and the City of Springfield, Illinois ("Springfield") entered into an Agreement whereby Springfield agreed to supply water to Chatham under the terms of a long-term contract; and

WHEREAS, the 1967 contract has been twice amended, once in 1970 and once in 1993; and

WHEREAS, Chatham and Springfield are in litigation over the 1967 contract, as amended, in a lawsuit captioned The Village of Chatham v. the City of Springfield, Case No. 97-CH-0191 in the Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois; and

WHEREAS, the parties wish to settle the litigation amicably through an additional amendment to the 1967 contract and additional recitals and agreements contained in this settlement agreement.

NOW, THEREFORE, the parties agree as follows:

1. Paragraph 4 of the 1967 contract is amended to state as follows:

Springfield agrees, upon receipt of payments as identified in this paragraph below and in Paragraph 16b, and upon completion of construction per paragraph 16b, to provide, for the duration of this contract, up to 1.2 million gallons of water per day for Chatham's use at a pressure of not less than 20 pounds per square inch measured at ground level at the meter. In consideration thereof, Chatham will pay Springfield, within 30 days of execution of this Agreement, the sum of \$54,000. During the term of this contract, after completion of the main described in Paragraph 16a, should the Village's demand exceed 1.2 million gallons per day on any given day, Chatham shall pay for additional capacity in minimum blocks of 100,000 gallons per day. Upon being invoiced by the City for additional capacity at a rate of \$13,500 per block, the Village shall pay for same within Thirty (30) days from receipt of invoice. The Village shall pay for additional 100,000 gallon-per-day

blocks at the above price, should demand exceed the then contractual limit on any given day. The City, after completion of the main described in paragraph 16a, shall provide additional capacity as may be purchased by the Village up to a maximum demand of 2.0 million gallons per day. The gallons per day figures contained in this paragraph and elsewhere in this contract refer to peak demand on any particular day.

Prior to completion of the water main described in Paragraph 16a, should Chatham desire a supply of water in excess of 1.2 million gallons of water per day, Chatham may receive such water as it requires over 1.2 million gallons per day from the ADGPTV Water Commission.

2. Paragraph 5 of the 1967 contract is amended to state as follows:

Springfield agrees that in the event this contract shall be extended beyond the year 2013, or a new water supply contract entered into at that time, that Springfield shall not again charge Chatham the investment cost of providing a capacity of 1.2 million gallons per day, or such other capacity as is purchased by Chatham pursuant to paragraph 4.

3. Paragraph 10 of the 1967 contract is amended to state as follows:

10. (a) Unless the written consent of the City of Springfield is first obtained, Chatham agrees that water will not be supplied through the Chatham system to any customer not located within the corporate limits of Chatham, except customers served as of May 1, 1998, a list of such customers with their addresses having been provided to Springfield, and future customers as provided in paragraph 10(b) unless otherwise agreed upon.

(b) The above-written consent shall not be required for prospective noncontiguous customers or owners/developers of noncontiguous lands provided that such customers' lands are south of the line and in agreement with the terms of paragraph 9 hereof, and provided that Chatham executes and records an annexation agreement with such customers, owners, or developers (hereinafter referred to collectively as customers in this paragraph). Said annexation agreements shall expressly state that water service provided to such customers is contingent upon measures being taken by such customers to prevent pollution of the Lake Springfield Watershed by residential, industrial, animal, or other waste generated by the customer, and by soil erosion from the customer's lands. Storm water flows shall also be regulated such that the rate of flow from the customer lands after development shall not exceed the rate of flow from the predevelopment condition. Storm water detention shall be provided as appropriate. The control of the above stated pollution sources shall be regulated by ordinance(s) passed by Chatham that are at least as stringent as those passed by Springfield (as may be amended from time to time). Chatham shall be obligated to enforce such ordinances. Springfield shall be a third party beneficiary of any such ordinances. Chatham shall ensure that these provisions of the annexation agreement shall run with the land prior to and after annexation. Chatham shall forward to the City a copy of each such annexation agreement upon execution.

4. Paragraph 13 of the 1967 contract is amended to state as follows:

Chatham agrees that Springfield will be the exclusive supplier of water to Chatham during the life of the contract unless Chatham enters into a binding commitment with another unit of government or private entity or obtain or develop an alternative source of supply, in which event Chatham may terminate this contract with at least three years prior written notice subject to the rights of the Village of Loami under this contract. Chatham recognizes that Springfield will endure a stranded investment for newly constructed water main installed pursuant to this Agreement if Chatham terminates the contract prior to the year 2013. Unless notice of termination is served prior to January 1, 2000, Chatham agrees to compensate Springfield in the amount of \$150,000 if it terminates the contract prior to the year 2013. However, paragraph 10(b) shall survive any such termination until the date the contract would have expired in the absence of such termination.

5. The following paragraph 16 is added to the 1967 contract.

16(a) Subject to the Illinois Department of Transportation constructing a new bridge on I-55 over Lake Springfield, and it granting permission to Springfield to construct a water main in the embankment of and on said bridge, the City of Springfield shall construct at its sole cost a new water main to serve the Village of Chatham over that bridge to be constructed across Interstate 55. The timing of bridge and water main construction is totally dependent on the schedule of the Illinois Department of Transportation, over which neither the City nor Chatham has control. If Chatham serves notice of termination to Springfield, pursuant to paragraph 13, Springfield will not be obligated to construct this water main. Until completion of the bridge project, Springfield shall provide up to 1.2 million gallons per day through its existing system in accordance with paragraph 16b. Springfield may curtail Chatham's water supply through the existing system in a fire suppression emergency or water main break. In the event of system-wide shortages, Springfield may curtail water to Chatham to the extent that Springfield curtails supplies to its other customers.

(b) Within 30 days of execution of this Agreement, Chatham will pay to Springfield the additional sum of \$25,000. In consideration thereof, within 60 days of receipt of payment, and dependent upon the receipt of any necessary permits and easements for water main construction, Springfield shall provide a 6-inch connection with a 4-inch meter and control valves at the southwest corner of Route 4 and 7 South Road to the City's main, which will be used, after the construction of the bridge main described in paragraph 16a, for emergency use only (e.g., water main break or fire suppression) in Chatham. Chatham shall assist Springfield as needed in obtaining an easement for a meter pit at this location. Also, prior to completion of the water main across the I-55 bridge, Springfield will regulate the flow of water through the existing metered connection near I-55 such that there will be no less than 40 pounds per square inch on the Springfield side of the remote controlled valve at the Chatham meter near I-55 between the hours of 11:00 p.m. and 5:00 a.m. and no less than 50 psi on the Springfield side of the valve between the hours of 5:00 a.m. and 11:00 p.m. Prior to completion of the I-55 bridge main, Springfield may use the Route 4 connection, if it so desires, to meet in part its obligation under paragraph 4 to supply the Village of Chatham with 1.2

million gallons of water per day.

6. Chatham agrees, within 30 days hereof, to repeal the special rate established pursuant to Ordinance No. 96-03 for customers of its water system which are located within the corporate limits of another municipality. Customers within the corporate limits of Springfield and served by Chatham shall be charged the normal rate for other extraterritorial customers.

7. Except as modified by this Settlement Agreement, all other provisions of the 1967 contract, as amended, shall remain in full force and effect.

8. The parties agree to dismiss the litigation and all affirmative defenses and counterclaims with prejudice within 20 days of execution of this Agreement.

9. This Agreement is the entire agreement between the parties with respect to the subject matter, and all prior oral representations regarding its subject matter are disclaimed. This Agreement is effective upon its execution by the Mayor of Springfield and the Village President of Chatham pursuant to ordinances passed by the respective corporate authorities of the parties. This Agreement shall be construed in accordance with Illinois law and may be enforced only in the Circuit Court of the Seventh Judicial Circuit of Sangamon County, Illinois. It may be modified only in writing and pursuant to ordinances passed by the corporate authorities of the parties.

10. Chatham shall convey to Springfield, the Lake Knolls water distribution system (pipes, valves, fire hydrants, service lines, meter settings and associated appurtenances). In consideration thereof, Springfield shall pay Chatham, within 30 days of execution of this agreement, the sum of \$46,500. Chatham shall continue serving these customers until the connection with the Springfield system can be effected.

Chatham agrees to convey, at no cost to Springfield, any easement rights necessary to effect the transfer of the system to Springfield.

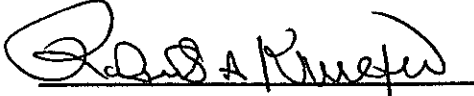
The Chatham main to Lake Knolls Subdivision will be cut and plugged at a point on the west side of Lakewood Drive approximately 240 feet south of the southern-most entrance to Lake Knolls at Birch Drive. Springfield will, at its cost, make all new taps to the distribution system, all cuts and plugs of the Chatham main, and record any easements, all at no cost to Chatham.

Springfield will assure that residents of Lake Knolls Subdivision who have annexation agreements with Chatham will receive service at costs as favorable as they would receive from being charged Chatham's inside-Chatham rate and other applicable service or meter charges.

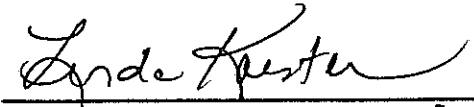
Final meter reads for Lake Knolls customers will be made jointly by Chatham and Springfield on the day the water system is first opened to the Springfield water supply. Springfield shall, as time allows, change out all meters and deliver the existing meters to Chatham.

DATED this 22 day of December, 1998.

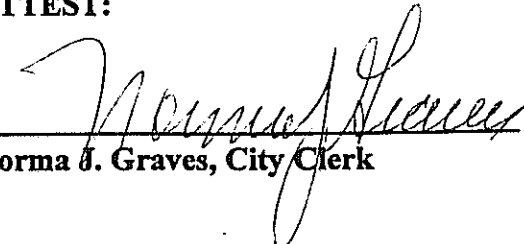
ATTEST:


Robert Krueger, Village Clerk

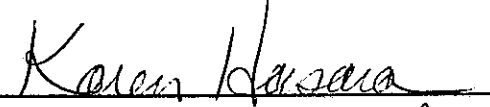
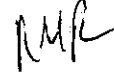
THE VILLAGE OF CHATHAM

By: 
Linda Koester, Village President

ATTEST:


Norma J. Graves, City Clerk

THE CITY OF SPRINGFIELD, ILLINOIS

By: 
Karen Hasara, Mayor 

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26.1.99

AN ORDINANCE AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT BETWEEN THE VILLAGE OF CHATHAM AND CITY OF SPRINGFIELD, ILLINOIS FOR CASE NUMBER 97-CH-0191 AND MODIFYING THE 1967 WATER SUPPLY AGREEMENT BETWEEN CHATHAM & SPRINGFIELD

WHEREAS, the City of Springfield is a home rule unit as defined in Article VII, Section 6(a) of the 1970 Illinois Constitution and has jurisdiction over matters pertaining to its government and affairs; and

WHEREAS, it is in the best interest of the City of Springfield to enter into a settlement agreement with the Village of Chatham to settle case number 97-CH-0191 and modify the 1967 water supply agreement between Chatham and Springfield; and

WHEREAS, the settlement agreement shall be located in the Office of the City Clerk.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, ILLINOIS:

Section 1: The City Council of the City of Springfield, Illinois hereby authorizes the execution of a settlement agreement between the City of Springfield and the Village of Chatham for Case Number 97-CH-0191 and agree to modify the 1967 Water Supply Agreement between Chatham and Springfield. The Mayor and City Clerk are authorized to execute any necessary documents to effectuate the settlement of this case.

Section 2: This ordinance shall become effective immediately upon its passage.

PASSED: January 19, 1999

SIGNED: January 21, 1999

RECORDED: January 21, 1999

Karen Hawala
MAYOR

ATTEST: Norma Haux
City Clerk

Approved as to legal sufficiency:

Requested by: Alderman Vose

AMR 11-5-99
Office of Corporation Counsel / Date