

SANGAMON COUNTY, ILLINOIS

ORDINANCE
NUMBER 19-38

**AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT WITH CITIZENS
EQUITY FIRST CREDIT UNION (“CEFCU”)**

DAVE KIMSEY, Village President
AMY DAHLKAMP, Village Clerk

KRISTEN CHIARO
ANDREW DETMERS
BRETT GERGER
RYAN MANN
MATT MAU
PAUL SCHERSCHEL
Village Trustees

Published in pamphlet form by authority of the President and Board of Trustees of the Village of Chatham
on Dec. 23, 2019

Sorling Northrup – 1 N. Old State Capitol Plaza, Suite 200, Springfield, IL 62705

ORDINANCE NO. 19 - 38

AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT WITH CITIZENS EQUITY FIRST CREDIT UNION (“CEFCU”)

WHEREAS, the Village of Chatham (hereinafter “Village”) is an Illinois Municipal Corporation existing and operating under the Illinois Municipal Code and the laws of the State of Illinois; and

WHEREAS, on December 8, 2006, CEFCU issued two Irrevocable Letters of Credit, Numbers 067 and 072, respectively (together, the “**Letters of Credit**”), both naming the Village as beneficiary; and

WHEREAS, the Letters of Credit provided that they automatically extended unless terminated in writing; and

WHEREAS, CEFCU has now terminated the Letters of Credit in writing, and the Village may no longer draw on either of the Letters of Credit; and

WHEREAS, prior to CEFCU terminating the Letters of Credit, the Village made presentations to CEFCU in connection with the Letters of Credit; and,

WHEREAS, a dispute has arisen as to the Letters of Credit and the honoring of the presentations made by the Village on the Letters of Credit (collectively, “**the Dispute**”); and

WHEREAS, to avoid the time, expense and risk associated with proceeding with or litigating the Dispute, the Village and CEFCU have agreed to completely compromise and settle all of the matters that were asserted or that could have been asserted in connection with the Dispute, including the Letters of Credit;

WHEREAS, the President and Board of Trustees of the Village have determined it to be in the best interest of the Village to enter into the Settlement Agreement attached hereto as **Exhibit A** to fully resolve all of the matters connected to the Dispute.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Chatham, Sangamon County, Illinois, as follows:

Section 1. Recitals. The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth in this Section 1.

Section 2. Approval of Settlement Agreement. The Settlement Agreement attached hereto as **Exhibit A** shall be, and is hereby, approved. The Village President and Clerk are hereby authorized to execute the Settlement Agreement and any other documents as required by law or necessary to complete the actions contemplated therein.

Section 3. Severability. In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

Section 4. Repeal and Savings Clause. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, action, or causes of action which shall have accrued to the Village of Chatham prior to the effective date of this Ordinance.

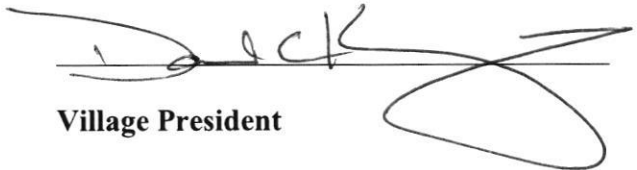
Section 5. Effectiveness. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

SO ORDAINED this 23 day of Dec, 2019, at Chatham, Sangamon County, Illinois.

	AYE	NAY	ABSTAIN	ABSENT
KRISTEN CHIARO	✓			
ANDREW DETMERS	✓			
BRETT GERGER	✓			
RYAN MANN				✓
MATT MAU	✓			
PAUL SCHERSCHEL	✓			
DAVE KIMSEY				

TOTAL				
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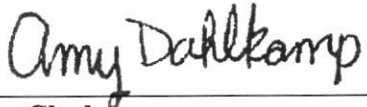
APPROVED this 23rd day of December, 2019.



A handwritten signature in black ink, appearing to read 'Dack', written over a horizontal line. The signature is stylized with a large loop at the end.

Village President

ATTEST:



A handwritten signature in black ink that reads 'Amy Dahlkamp', written over a horizontal line.

Village Clerk

**EXHIBIT A
SETTLEMENT AGREEMENT**

SETTLEMENT AGREEMENT

This Settlement Agreement (“**Agreement**”), is entered into as of the ___ day of December, 2019 (the “**Execution Date**”), between THE VILLAGE OF CHATHAM, ILLINOIS, an Illinois municipal corporation (the “**Village**”) and CITIZENS EQUITY FIRST CREDIT UNION, an Illinois credit union (“**CEFCU**”). The Village and CEFCU are sometimes referred to herein together as the “**Parties**”; and each individual as a “**Party**”.

RECITALS

WHEREAS, on December 8, 2006, CEFCU issued two Irrevocable Letters of Credit, Numbers 067 and 072, respectively (together, the “**Letters of Credit**”), both naming the Village as beneficiary; and

WHEREAS, the Letters of Credit provided that they automatically extended unless terminated in writing; and

WHEREAS, CEFCU has now terminated the Letters of Credit in writing, and the Village may no longer draw on either of the Letters of Credit; and

WHEREAS, prior to CEFCU terminating the Letters of Credit, the Village made presentations to CEFCU in connection with the Letters of Credit; and,

WHEREAS, a dispute has arisen as to the Letters of Credit and the honoring of the presentations made by the Village on the Letters of Credit (collectively, “**the Dispute**”); and

WHEREAS, to avoid the time, expense and risk associated with proceeding with or litigating the Dispute, the Village and CEFCU have agreed to completely compromise and settle all of the matters that were asserted or that could have been asserted in connection with the Dispute, including the Letters of Credit;

NOW, THEREFORE, in consideration of the foregoing Recitals, and further in consideration of the mutual promises contained in this Agreement, the Village and CEFCU agree as follows:

AGREEMENT

1. The foregoing Recitals are true and correct, constitute material consideration for the Parties’ obligations under this Agreement, and are incorporated into the terms of this Agreement.

2. CEFCU agrees to pay the sum of \$38,808.75 within five (5) business days of the execution of this Agreement.

3. Except for CEFCU’s obligations under this Agreement, the Village, for itself and its agents, representatives, contractors, insurers, successors and assigns, hereby releases and

forever discharges CEFCU and its subsidiaries, divisions, affiliates, officers, directors, employees, partners, shareholders, members, agents, representatives, contractors, insurers, successors and assigns, from any and all claims, demands, actions or causes of action, past, present and future, both known and unknown, and of whatever kind, nature and description relating to or arising out of the Dispute.

4. Except for the Village's obligations under this Agreement, CEFCU, for itself and its subsidiaries, divisions, affiliates, officers, directors, employees, partners, shareholders, members, agents, representatives, contractors, insurers, successors and assigns, hereby releases and forever discharges the Village and its agents, representatives, contractors, insurers, successors and assigns from any and all claims, demands, actions or causes of action, past, present and future, both known and unknown, and of whatever kind, nature and description relating to or arising out of the Dispute.

5. The Village hereby irrevocably assigns, and CEFCU shall be subrogated to, all rights of recovery against any person, entity or organization for all claims of any kind arising out of the Dispute, including, without limitation, all claims arising out of the Letters of Credit, to the extent of the sum paid by CEFCU under this Agreement, and the Village shall take no action that would jeopardize or otherwise prejudice CEFCU's right to pursue recovery related to the Dispute including, without limitation, pursuant to the Letters of Credit.

6. Each Party affirms that it has not filed with any governmental agency or court any type of action or report against the other Party and currently knows of no existing act or omission by the other Party that may constitute a claim or liability excluded from the release in paragraph 3 or 4 above.

7. The Parties have entered into this Agreement as a means of finally compromising, settling and resolving all questions, issues, duties, obligations and responsibilities between them relating to the Dispute, including, without limitation, the Letters of Credit, without incurring the expense, inconvenience and uncertainty of continued or protracted litigation. Nothing herein, including without limitation, the consideration exchanged under this Agreement, shall be construed or interpreted as a concession or admission by any Party with respect to any issue in dispute between them, or with respect to any other person, firm or entity, and neither this Agreement nor anything herein, nor any part of the negotiations had in connection herewith, shall constitute evidence with respect to any such issue or dispute.

8. This Agreement shall be binding upon and inure to the benefit of the Parties' respective transferees, successors and assigns.

9. This Agreement, for all purposes, shall be governed by and construed in accordance with the laws of the United States of America and the State of Illinois without regard to conflict-of-law principles. Any action or proceeding by either of the Parties to enforce this Agreement shall be brought only in state or federal court located in the State of Illinois. The Parties hereby irrevocably submit to the exclusive jurisdiction of such courts and waive the defense of inconvenient forum to the maintenance of any such action or proceeding in such venue.

10. This Agreement sets forth the full and final understanding of the terms of the Parties' settlement as to the Dispute and may only be modified or amended by a written instrument executed by both parties. The Parties acknowledge and agree that they have been represented by legal counsel in connection with their settlement negotiations, that they have read this Agreement and that they fully understand all of their respective rights and obligations under this Agreement. This Agreement shall be deemed to have been jointly drafted by the Parties for purposes of interpreting the meaning of any of the terms of this Agreement.

11. This Agreement may be executed in counterparts and the counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart signature page of this Agreement, by facsimile, electronic mail in portable document format (.pdf), or by any other electronic means, has the same effect as delivery of an executed original of this Agreement.

12. No modification, waiver, amendment or discharge of this Agreement shall be valid unless the same is in writing and signed by the Party against whom the enforcement of such modification, waiver, amendment or discharge is sought.

13. By signing below, each Party warrants and represents that the person signing this Agreement on its behalf has authority to bind that Party and that the Party's execution of this Agreement is not in violation of any by-law, covenants and/or other restrictions placed upon them by their respective entities.

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the Execution Date.

CITIZENS EQUITY FIRST CREDIT UNION,
an Illinois credit union

By: _____
Its: _____

THE VILLAGE OF CHATHAM,
ILLINOIS, an Illinois municipal corporation

By: Patricia M. McCarthy
Its: Village Manager

ATTEST:

By: Jill A. Butler
Its: Admin Assistant

