

67-7

ORDINANCE APPROVING THE EXECUTION
OF A CONTRACT BETWEEN THE VILLAGE
OF CHATHAM, ILLINOIS AND THE CITY
OF SPRINGFIELD, ILLINOIS

Be It Ordained, By The President and the Trustees,
constituting the Board of Trustees of the Village of Chatham,
Illinois:

Section 1. That the Village of Chatham, Illinois enter
a contract with the City of Springfield, Illinois to provide
for the furnishing of water to the Village of Chatham, Illinois
and establishing the rates to be charged and the conditions of
use of the said water, a copy of which contract is attached
hereto, marked Exhibit A and made a part hereof.

Section 2. That the President and Village Clerk of the
Village of Chatham, Illinois be and they are hereby authorized
to execute the said contract in the manner and form provided on
the copy of the contract attached hereto as Exhibit A.

Section 3. Whereas, an emergency exists and this ordinance
affects the public health, this ordinance shall take effect
immediately from and after its passage.

PASSED: January, 19, 1967,

SIGNED: January, 19, 1967

RECORDED: January, 19, 1967.

Leo Lerman
President

ATTEST:

Roscoe Watten
Village Clerk

CONTRACT

This Contract, made and entered into as of January 19, 1967 by and between the VILLAGE OF CHATHAM, ILLINOIS, hereinafter for brevity called "Chatham", and the CITY OF SPRINGFIELD, ILLINOIS, hereinafter for brevity called "Springfield",

WITNESSETH THAT:

WHEREAS, Chatham is desirous of entering into a long term contract for Springfield to supply water directly to Chatham; and

WHEREAS, Springfield is willing to supply water directly to Chatham in accordance with the terms of a long term contract;

NOW THEREFORE, In consideration of the premises and the mutual undertakings of the parties, it is covenanted and agreed as follows:

1. Until the Auburn, Divernon, Girard, Pawnee, Thayer and Virden Water Commission shall establish its new source of supply ready for use, or until September 1, 1970, whichever occurs first, Chatham shall receive water from aforesaid Water Commission. As soon as aforesaid Water Commission does establish its new source of supply ready for use, or on September 1, 1970, whichever occurs first, Chatham shall begin to receive water directly from Springfield in accordance with terms of this supply contract which shall remain in force until April 1, 1998, unless terminated by either party after April 1, 1991 as provided herein.

2. Springfield will furnish to Chatham, water of the same quality as that supplied to Springfield's inhabitants, to be delivered and metered by Springfield's meter or meters; and Chatham will purchase from Springfield all water metered to it and pay therefor on or before the 20th day of each calendar month for all water received during the preceding month, at the rate of twenty-five cents (25¢) per 100 cubic feet.

Said water rate shall be reviewed at the end of each fiscal year of Springfield, and shall be adjusted thenceforth

up or down to the nearest one-tenth cent per 100 cubic feet by adding or subtracting an amount to reflect the increase or decrease in the average operation cost, and the debt service for long term debt exclusive of debt for Springfield's distribution piping and storage facilities per 100 cubic feet of water sold the previous year as shown on the annual reports of the City Water, Light & Power Department of Springfield. Said average operation cost shall be based on total hundred cubic foot units of water sold and the following items, exclusive of depreciation: Source of supply, purification, distribution, accounting and collecting and administrative and general expenses. Said increase or decrease herein shall be computed using the average operation cost as aforesaid and the debt service for long term debt, exclusive of debt for Springfield's distribution piping and storage facilities, per 100 cubic feet of water sold as shown in the annual audit for the fiscal year ending February 28, 1966, as a base cost. The adjustment in the water rate shall be retroactive to the beginning of the current fiscal year of Springfield.

Said rates adjusted as described shall be applicable for the entire term of this contract, except that after April 1, 1991, either Chatham or Springfield may seek to renegotiate water rates for the balance of the contract period. If mutually satisfactory rates are not agreed upon by April 1, 1991, either Chatham or Springfield may terminate this contract by serving at least one year's advance notice of its intentions to terminate. In the event of termination in this manner, the rates stated in this agreement adjusted as described shall prevail for all water furnished by Springfield to Chatham up to termination date.

3. Chatham will acquire from the City of Auburn, or the Auburn, Divernon, Girard, Pawnee, Thayer and Virden Water Commission, the pumping station, reservoir, water mains and valves located between the north side of the Auburn pumping station now located on Springfield property and a certain road approximately two miles south, known as the Covered Bridge Road, which runs east and west through the center of Sections 21 and 22, Township 14 North, Range 5 West of the Third Principal Meridian, and will continue to maintain and operate during the term of this contract, shut-off valve or valves, connections to Springfield's meter or meters, a reservoir having a capacity of at least one million gallons, pumps, slow acting valves, and such other devices as may be mutually approved for satisfactory operation. Said reservoir shall be open to atmospheric pressure and shall be connected to Springfield's water distribution facilities through a slow acting back pressure automatic control valve or other device approved by Springfield. Pumps shall be operated so that they will pump from the reservoir and not from Springfield's water distribution facilities except as hereinafter provided. Water supply from Springfield shall be supplied through an open connection located not less than six (6) inches above the overflow provided in the reservoir. Upon approval by Springfield, an emergency connection may be operated directly from Springfield's supply main to the pumping station. Springfield agrees to sell to Chatham the electricity required for the operation of pumping facilities and Chatham agrees to pay Springfield for the electricity at prevailing industrial service rates charged by Springfield for such service.

4. After the system, referred to in paragraph 3 hereof has been acquired by Chatham, subject to the provisions of paragraph 6 hereof, Springfield agrees to provide distribution capacity adequate to supply water to Chatham at the rate of

576,000 gallons per day, at a pressure of not less than 20 pounds per square inch measured at ground level at the meter, PROVIDED that so long as the Auburn, Divernon, Girard, Pawnee, Thayer and Virden Water Commission is receiving water through the same system which supplies Chatham, Springfield's obligation for the total supply to Chatham and the cities and villages of the Water Commission is limited to 5/7ths of the capacity of the main from Lindsay Bridge to what is now known as the Auburn Pump House, and the allocation of water between the cities and villages of the aforesaid Water Commission and Chatham shall be a matter between said parties for which Springfield has no responsibility.

5. As a consideration for the 576,000 gallons per day rate of supply provided by Springfield, Chatham agrees to obtain for Springfield full title to the main between the north end of the Auburn pumping station and Lindsay Bridge, together with necessary easements and permits to operate and maintain the same, Chatham agrees that it will not have title or any interest in or responsibility for maintenance of the above described water main.

Springfield agrees that in the event this contract should be extended beyond 1998, or a new water supply contract entered into at that time, that Springfield shall not again charge Chatham the investment cost of providing a transmission capacity of 576,000 gallons per day.

6. The obligations of Springfield to supply water hereunder shall be fulfilled by reasonable diligence in procuring labor or material to remedy any interruption or insufficiency of the service caused by any break or interruption in Springfield's plant or water mains. In the event at any time during the period

of the contract a shortage of water causes Springfield to impose restrictions or rationing of water to any of its users, Chatham agrees to impose the same restrictions or rationing on its users for the period in which they are imposed on Springfield's users.

7. In the event that Chatham defaults in any of the terms and conditions of this contract, Springfield shall have, in addition to any other remedy now or hereafter existing at law or in equity, any one or more of the following remedies, to-wit:

- (a) Commence and prosecute any suit or action for any indebtedness owing by Chatham under this Contract and obtain a judgment against Chatham for the amount due.
- (b) Enforce payment of any judgment obtained against Chatham by mandamus proceedings to compel the collection of sufficient revenues to satisfy said judgment.
- (c) Commence and prosecute any suit or action for injunctive relief to enforce compliance with the terms and conditions of this contract.

In the event that Chatham makes default in any of the terms and conditions of this contract, and such default shall continue for a period of two hundred seventy (270) days after written notice of such default shall have been served on Chatham Springfield shall have, in addition to any of the foregoing remedies, the right at its sole discretion to cut off and stop the water supply to Chatham.

The provisions hereof shall not be exhausted by a single exercise thereof, but shall be applicable and may be availed of from time to time as often as occasion therefor arises.

8. Any notice herein provided to be given or served, may be served or given by sending the same by registered mail properly stamped and addressed, separately, to the Village President and Village Clerk of Chatham at their residential, professional or business offices, and on the City of Springfield by identical registered mail, notice separately to the Mayor, the City Clerk and the Commissioner of Public Property, at their respective offices.

9. Chatham agrees that except where specific and express written consent is granted by Springfield in each instance, no water will be supplied to customers not served by the Chatham system on March 1, 1964, where such customers are located north of a line described as follows:

Beginning at the Northwest corner of Section 2, Township 14 North, Range 6 West of the Third Principal Meridian; thence east along the north line of Sections 2 and 1, Township 14 North, Range 6 West, and the north line of Section 6, Township 14 North, Range 5 West to the northeast corner of the Northwest Quarter of said Section 6, thence South along the east line of the Northwest Quarter of said Section 6 to the center line of Section 6; thence east along the east-west centerline of Sections 6 and 5 to the northeast corner of the West Half of the Southwest Quarter of Section 5, Township 14 North, Range 5 West; thence south along the east line of the West Half of the Southwest Quarter of Section 5 to the Southeast corner of the West Half of the Southwest Quarter of Section 5; thence East along the south line of Sections 5 and 4 to the Southeast corner of Section 4, Township 14 North, Range 5 West; thence South along the east line of Section 9, Township 14 North, Range 5 West, to the Southeast corner of Section 9; thence east along the South line of Sections 10, 11 and 12 to the Southeast corner of Section 12, Township 14 North, Range 5 West shown on Exhibit 1, attached hereto.

Chatham further agrees and will require all its customers to agree that no lands owned by Springfield will be served water by or annexed to Chatham or any of its customers without the consent of Springfield.

Chatham agrees that in the event the City of Springfield annexes any territory south of the line described in this section, the City of Springfield may serve such territory with water service and Chatham will not institute any new service in said annexed territory.

10. 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 existing customers being served at the time of execution of this contract. Chatham has furnished Springfield a list of all such existing customers outside the corporate limits of Chatham (including customers to be acquired from the City of Auburn) and a map of existing mains outside the corporate limits of Chatham (including mains to be acquired from the City of Auburn), as of the date of the execution of this contract. Said list of customers is attached as Exhibit 2 and said map is attached as Exhibit 3.

11. Payments for water to be made hereunder shall be solely from the revenues to be derived from the operation of the waterworks system of Chatham. No obligation of either party hereto shall be a debt within the meaning of any constitutional limitation. Payments by Chatham for water and electrical energy consumed by it shall be deemed to be an operating expense of its waterworks system.

12. No municipality, person, firm or corporation using water pumped through said water distribution facilities shall hereafter construct or use any sewer or sewer system heretofore or hereafter constructed which discharges into the basin of Sugar Creek or Lick Creek or any tributary thereof, without so treating or disposing of the sewage as not to pollute the waters of such stream or streams of Springfield's impounding reservoir; and no such municipality, person, firm or corporation shall be permitted to use such water while so violating the provisions of this paragraph; but nothing herein shall be construed as acquiescing in or consenting to any pollution whatsoever.

No new connections to the water system herein provided for shall be made until the plans for sewage disposal for the site using said water connection have been submitted to, and approved by the State Sanitary Water Board, or other regulatory body having jurisdiction thereof.

On complaint of either party to this contract made to the State Sanitary Water Board or such other regulatory body, and alleging improper usages or acts contaminating the water supply, such State Sanitary Water Board or such other regulatory body, may investigate and issue such directives as it may be authorized by law to issue requiring any customer using the water service to comply with requirements protecting said water supply from pollution and Chatham agrees to require such customer promptly to comply with said directive of said State Sanitary Water Board, or such other regulatory body, and further to shut off the water supply of any such customer who fails to comply with any such directive.

Nothing herein contained shall limit, restrict or prohibit either party to this contract to pursue any statutory or other legal right that it may have to petition the courts for proper relief from a violation of any of the terms of this contract, including petitions to terminate and eliminate any conditions alleged to cause pollution or contamination of said water supply.

13. Chatham agrees that Springfield will be the exclusive supplier of water to Chatham during the life of this contract unless a mutual agreement is made and approved by both Chatham and Springfield that a substitute or auxiliary water supply will be obtained or developed by Chatham to serve all or part of its water customers.

14. Chatham shall have the right to maintain during the terms of this contract and any renewal thereof without expense for the use of land occupied, its pumping station and necessary appurtenances on the following described real estate of Springfield, to-wit:

Part of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 11, Township 14 North, Range 5 West of the Third Principal Meridian in 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 $89^{\circ} 44'$ West 88.91 feet along the South line of said Section 4; thence North $0^{\circ} 16'$ East 30.0 feet to an iron pin, the point of beginning; thence North $27^{\circ} 04'$ West 96.19 feet to an iron pin; thence South $89^{\circ} 44'$ East 96.48 feet to an iron pin on the Westerly right of way line of U.S. Route 66; thence South $2^{\circ} 43'$ West along said Westerly right of way line, 85.53 feet; thence North $89^{\circ} 44'$ West along the Northerly right of way line of a public road, 48.65 feet to the point of beginning, containing 0.14 acres, more or less.

15. Unless the Village of Chatham acquires the system described in paragraph 3 hereof, and unless Springfield acquires the water main described in paragraph 5 hereof, this contract shall not become effective.

IN WITNESS WHEREOF each of the parties hereto has caused this instrument to be executed in its behalf by its proper

proper officers and its seal to be affixed, pursuant to ordinance
duly passed, adopted and recorded.

VILLAGE OF CHATHAM, ILLINOIS

BY: Leo Hermann
Its President

ATTEST:

Pauline Hatten
Village Clerk

CITY OF SPRINGFIELD, ILLINOIS

BY: _____
Its Mayor

ATTEST:

City Clerk