
**THE CITY OF BLUE ISLAND
COOK COUNTY, ILLINOIS**

PAVED

**ORDINANCE
NUMBER 2019-049**

**AN ORDINANCE APPROVING THE WATER SUPPLY
AGREEMENT BETWEEN THE CITY OF BLUE ISLAND,
ILLINOIS AND THE VILLAGE OF POSEN, COOK
COUNTY, ILLINOIS**

**DOMINGO F. VARGAS, Mayor
Randy Heuser, City Clerk**

**TOM HAWLEY
JAMES KLINKER
WILLIAM CAZARES
FRED BILOTTO
NANCY RITA
KEVIN DONAHUE
CANDANCE CARR**

**ALECIA SLATTERY
JOHNNY HILL
RAEANN CANTELO ZYLMAN
DEXTER JOHNSON
ANNETTE ALEXANDER
MIKE MECH
BILL FAHRENWALD**

Aldermen

Published in pamphlet form by authority of the Mayor and City Clerk of the City of Blue Island on
Odelson & Sterk, Ltd. - City Attorneys - 3318 West 95th Street, Evergreen Park, Illinois 60805

ORDINANCE NO. 2019-049**AN ORDINANCE APPROVING THE WATER SUPPLY AGREEMENT
BETWEEN THE CITY OF BLUE ISLAND, ILLINOIS AND THE
VILLAGE OF POSEN, COOK COUNTY, ILLINOIS****SECTION ONE**

WHEREAS, the City of Blue Island, Cook County, Illinois and the Village of Posen, Cook County, Illinois are public agencies within the meaning of the Intergovernmental Cooperation Act, as set forth in 5 ILCS 220/1 *et seq.*; and

WHEREAS, Article VII, Section 10 of the Illinois Constitution of 1970 authorizes units of local government to enter into contracts to exercise, combine or transfer any power or function not prohibited by law; and

WHEREAS, the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, (the "Act") authorizes units of local government to exercise jointly with any public agency of the State, including other units of local government, any power, privilege or authority which may be exercised by a unit of local government individually, and to enter into contract for the performance of governmental services, activities or undertakings; and

WHEREAS, the Corporate Authorities further find that it is in the best interest of the City of Blue Island to sell Lake Michigan water to the Village of Posen.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Blue Island, Cook County, Illinois and the Village of Posen, Cook County, Illinois as follows:

Section 1. That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as it fully set forth in their entirety.

Section 2. The Water Supply Agreement, attached hereto as Exhibit "A", by and between the City of Blue Island, Cook County, Illinois and the Village of Posen, Cook County, Illinois, for a

ten (10) year term, is hereby authorized and approved substantially in the form presented to the City Council, with such necessary changes as may be authorized by the Mayor, the execution thereof to constitute the approval by the City of any and all changes or revisions therein contained.

Section 3. The City Clerk is hereby directed to forward a copy of a Letter of Acceptance to the Village of Posen, upon execution of said by the Mayor, as authorized herein.

Section 4. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any other provision of this Ordinance.

Section 5. All ordinances, resolutions, motion or orders in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 6. This Ordinance shall be in full force and effect upon its passage, approval and publication as provided by law.

ADOPTED this _____ day of _____, 2019, pursuant to a roll call vote as follows:

	YES	NO	ABSENT	PRESENT	ABSTAIN
Hawley					
Klinker					
Cazares					
Bilotto					
Rita					
Donahue					
Carr					
Slattery					
Hill					
Cantelo Zylman					
Johnson					
Alexander					
Mech					
Fahrenwald					
Vargas (Mayor)					
TOTAL					

APPROVED by the Mayor on _____, 2019.

DOMINGO F. VARGAS
MAYOR OF THE CITY OF BLUE
ISLAND, COUNTY OF COOK AND
STATE OF ILLINOIS

ATTESTED and Filed in my office this _____ day of _____.

Randy Heuser, City Clerk

PUBLISHED in pamphlet form this _____ day of _____.

Randy Heuser, City Clerk

EXHIBIT A

Water Supply Agreement

**WATER SUPPLY AGREEMENT BETWEEN THE
CITY OF BLUE ISLAND, COOK COUNTY, ILLINOIS
AND THE VILLAGE OF POSEN, COOK COUNTY, ILLINOIS**

THIS AGREEMENT made and entered into this ___ day of October, 2019 and executed in duplicate originals (each executed copy constituting an original) by and between the CITY OF BLUE ISLAND, COOK COUNTY, ILLINOIS [hereinafter called the "CITY"], and the VILLAGE OF POSEN, COOK COUNTY, ILLINOIS (hereinafter called the "PURCHASER") organized and existing under and by virtue of the laws of the State of Illinois and located within the Metropolitan Water Reclamation District of Greater Chicago.

WHEREAS, the CITY has entered into a contract with the City of Chicago for the purchase of a supply of Lake Michigan water; and

WHEREAS, the CITY and the PURCHASER are desirous of and willing to enter into a Water Supply Agreement pursuant to which the CITY will furnish, from the CITY's supply of water purchased from the City of Chicago, a supply of Lake Michigan water for consumers supplied by the PURCHASER'S water system. The CITY will supply PURCHASER at the connection to the CITY'S water main at 2601 W. 139th St., Blue Island, Illinois; and

WHEREAS, the CITY and the PURCHASER hereto have each, respectively, duly authorized their respective Mayors to sign and their Municipal Clerks to attest this Agreement; and

NOW, THEREFORE, in consideration of the above Recitals which are made a contractual part of this Agreement and the mutual covenants and agreements hereinafter contained, the parties agree to the following:

A. DEFINITIONS

The following terms as used in this Agreement shall have the meanings set forth below unless the context indicates a different meaning:

"ACTIVE LOCATION" shall mean the water connection located at 2601 W. 139th St. in the City of Blue Island, Illinois.

"FACILITIES" shall mean the SERVICE MAINS, all reservoirs within the PURCHASER'S water system and all connections to other entities outside the limits of the PURCHASER'S water system, including any reservoirs on such entities' water systems.

"FORCE MAJEURE" means acts of God, strikes, lockouts or other industrial disturbances, acts of a public enemy, orders of any kind of the government of the United States, of the State of Illinois, or of any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, tornados, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, canals, or tunnels, partial or entire failure of the Lake Michigan water supply from the City of Chicago, and inability on the part of

CITY to deliver Lake Michigan water, or of PURCHASER to receive Lake Michigan water, that is not as a result of the party's own actions or inactions, and on account of any other causes not reasonably within the control of the party claiming such inability.

"PUBLIC WORKS DIRECTOR" shall mean the Public Works Director of the CITY.

"REVENUES" shall mean the revenues derived from the operation of the PURCHASER'S water system, as stated in 65 ILCS 5/11-124.1.

"SERVICE MAIN" shall mean the primary supply piping between the CITY's water system and the overflow tank at the PURCHASER'S reservoir, including the connection to the CITY's water system and the control valve on the meter vault.

"STATE" shall mean the State of Illinois, Department of Natural Resources, or any predecessor or successor to the Department of Natural Resources having authority over the allocation of Lake Michigan water.

B. SERVICE TO BE FURNISHED.

(1) The CITY agrees to furnish to the PURCHASER, and the PURCHASER agrees to purchase and take from the CITY under and in accordance with the terms of this Agreement, a supply of water through metered connection authorized by the PUBLIC WORKS DIRECTOR from the CITY's water main at the CITY limits, at the ACTIVE LOCATION to be used by the PURCHASER in supplying water to consumers located within the corporate limits of the PURCHASER. The CITY acknowledges that the PURCHASER may, according to its needs, purchase and take from the CITY less than the full amount of water permitted by Exhibit 1.

(2) The PURCHASER shall not furnish any SUBSEQUENT PURCHASERS with water from its allocation of water supplied by the CITY without the approval of the PUBLIC WORKS DIRECTOR and the City of Blue Island City Council.

C. QUANTITY OF WATER TO BE FURNISHED.

(1) The quantities of water to be supplied to the PURCHASER are set forth on Exhibit 1 for the years indicated thereon. The individual consumer's quantities of water are included in the allocation made to the PURCHASER. These quantities of water may be adjusted by the PUBLIC WORKS DIRECTOR if there are any future reductions in the allocation of Lake Michigan water the CITY receives from the City of Chicago. The PUBLIC WORKS DIRECTOR shall determine the reduced allocation to the PURCHASER by a written addenda to this Agreement.

(2) The water supplied and taken in accordance with this Agreement shall be withdrawn at a uniform rate during the 24 hours of each day. The maximum hourly rate of withdrawal from the CITY's water main shall not exceed twice the annual average daily contracted amount; provided that, notwithstanding the foregoing, upon prior notification by the PURCHASER to the PUBLIC WORKS DIRECTOR, the maximum hourly rate of withdrawal from the CITY's water main may exceed twice the annual average daily contracted amount in the event of an emergency, subject to the availability to the

CITY of such additional water supply. The CITY shall have the right to restrict the supply of water to all purchasers of the CITY water for public health and fire protection. The PURCHASER shall be responsible for any damage to the water system of the CITY or of any of its customers due to excessive surges caused by the malfunction or misuse of the PURCHASER's water system, including, without limitation, fast-acting valves or booster station operation.

(3) The PURCHASER shall install, or if previously installed, shall maintain a flow control system and a pressure recording system consisting of a manually operated flow control valve controlled by the CITY at a meter vault on existing water service connection to the CITY's water main at the CITY limits at the ACTIVE LOCATION in order to regulate the flow of water as herein provided. When requested by the PUBLIC WORKS DIRECTOR, the PURCHASER shall provide the necessary equipment to transmit pressures, rates of flow and receiving reservoir elevations, and to convert the manually operated flow control valves to remotely controlled flow control valves. All devices necessary for the control and transmission of pressures and rates of flow of water furnished shall be provided and maintained by the PURCHASER. The transmission of pressures and rates of flow readings shall be to a location designated by the CITY and the flow control valve shall be controlled by the CITY.

D. STANDARD TERMS AND CONDITIONS

I. GENERAL

(1) This Agreement shall be in force and effect for a period of ten (10) years, ending on October __, 2029. Payment for amounts of water for average daily use shall be a continuing valid and binding obligation of the PURCHASER payable from REVENUES as hereinafter provided for the term.

(2) No officer, official or agent of the CITY has the power to amend, modify or alter this Agreement or waive any of its conditions so as to bind the CITY by making any promise or representation not contained herein; provided, however, that the PUBLIC WORKS DIRECTOR may make modifications pursuant to paragraph D (I)(8) herein.

(3) This Agreement shall not be assigned or transferred by either party.

(4) This Agreement shall be subject to cancellation in the event a court of competent jurisdiction restricts or limits directly or indirectly, any of the CITY's rights to obtain, sell, contract for or distribute Lake Michigan water.

(5) The quantity of water supplied under this Agreement shall not exceed the amount of Lake Michigan water allocated annually by the STATE to the PURCHASER.

(6) It is expressly understood and agreed that any obligations on the part of the CITY to supply Lake Michigan water shall be conditioned upon the agreement between the City of Chicago and CITY being in full force and effect during the duration of this Agreement and the CITY's ability to secure and maintain an adequate supply of Lake Michigan water from the City of Chicago.

(7) The CITY shall not be responsible in damages for any interruption or failure to supply water that is a result of circumstances or events that are not in its control. PURCHASER, to the fullest extent permitted by law, agrees to save, keep and hold CITY harmless from any and all damages of every

kind, nature and description, including attorney's fees, which CITY may suffer as a result of PURCHASER's operation or use of CITY's water system and the Lake Michigan water supplied to PURCHASER.

(8) The PURCHASER shall not permit any water furnished hereunder to be used to supply any party outside the corporate limits of the PURCHASER, except as otherwise specifically provided herein, without the prior written consent of the PUBLIC WORKS DIRECTOR and the City of Blue Island City Council. The PURCHASER may, with the permission of the PUBLIC WORKS DIRECTOR, in an emergency, supply water to other CITY water users who have been previously authorized an emergency connection.

II. REPORTING REQUIREMENT

(9) At the end of each calendar year during the term of this Agreement and not later than March 31st of each year, the PURCHASER agrees to submit to the PUBLIC WORKS DIRECTOR a written copy of this prevailing water rate schedule as applicable to its water customers. It shall include all rates and relevant information and the premise on which rates have been furnished.

(10) The PURCHASER shall submit to the CITY by the 10th day of each month a report showing the amount of water received the previous month from the CITY and the amount furnished to customers of the PURCHASER. CITY shall prepare an invoice with a statement of charges to PURCHASER for the amount of water received by PURCHASER the previous month and submit the statement to PURCHASER within 30 days of receipt of the report from PURCHASER. Amounts due to the CITY shall be paid by the PURCHASER within 30 days of receipt of the statement of the monthly invoice.

(11) The PURCHASER shall notify the CITY in writing and keep the CITY informed of the responsible individual in charge of operations of the PURCHASER's water system.

(12) In the event (1) PURCHASER is rated below "BBB-" by S&P or "Baa3" by Moody's or (2) PURCHASER has defaulted on payments due under this Agreement, CITY may require PURCHASER to deposit money (the "Security Deposit") as security for payments due under this Agreement, upon written request. The Security Deposit shall be in an amount equal to the estimated costs for water supply during the preceding 90 days at the prevailing water rate. The Security Deposit shall be paid immediately. The Security Deposit may be drawn upon at any time to make payments due and owing by PURCHASER under this Agreement or to avoid a default under this Agreement. If drawn upon, CITY may require PURCHASER to replenish said Security Deposit.

III. RESERVATIONS

(13) The CITY reserves the right to inspect, test and repair the water meters as required. All such repairs shall be charged to and paid by the PURCHASER.

(14) The CITY shall supply the PURCHASER with water of a quality commensurate with that furnished to its consumers within the CITY limits.

(15) The PURCHASER shall receive its supply of water from the CITY by means of a method

approved by the PUBLIC WORKS DIRECTOR. The CITY water system must be safeguarded by means of an air gap at the receiving reservoir. When the requirement for a receiving reservoir is waived to permit a direct connection for emergency use, a backflow preventer, approved by the PUBLIC WORKS DIRECTOR, must be installed.

(16) The PURCHASER bears the responsibility for maintaining the water quality at any point beyond the control valve and within its distribution system. The CITY bears no degree of responsibility for the water quality at any point beyond the control valve.

(17) The PURCHASER shall immediately notify the PUBLIC WORKS DIRECTOR of any emergency or condition that may affect the quality of water in either party's system.

(18) The CITY reserves the right to make inspections of those facilities which may affect the quality of the water supplied to the PURCHASER and to perform required tests upon due notice to the PURCHASER.

IV. EQUIPMENT OPERATION

(19) The PURCHASER shall provide and maintain all SERVICE MAINS and valves and bear the costs for connecting said SERVICE MAINS to and severing them from the CITY's water system. The PURCHASER shall also pay any and all costs incurred by or on behalf of the CITY in connection with extending the CITY's water system to the point of connection with the PURCHASER's water system, if such extension is for the sole purpose of supplying water to the PURCHASER's water system. Each SERVICE MAIN shall be equipped with a valve located within the CITY limits and said valve shall be under the sole and complete control of the CITY. This valve shall mark the limit of the CITY's responsibility for maintenance of the piping system. The cost of maintaining or replacing the valve shall be the responsibility of the PURCHASER.

(20) The PURCHASER shall provide and maintain any and all devices expressly requested by the PUBLIC WORKS DIRECTOR for the purpose of controlling, measuring, transmitting and recording pressures, rates of flow, reservoir levels and other required operational information.

(21) The PURCHASER shall provide the meters, vaults with sump pumps and related devices, adhering to CITY standard practices, for measuring the supply of water furnished. The meters provided have been or must be delivered to the CITY meter shop for testing and picked up promptly after testing, all at the expense of the PURCHASER prior to installation by the PURCHASER. Plans, drawings and specifications for the equipment, piping and vault, or other protective structure have been, or must be, submitted to and approved by the PUBLIC WORKS DIRECTOR as a precondition to the issuance of an authorization for installing the meters and related devices. No substitute equipment shall be allowed without written approval of the PUBLIC WORKS DIRECTOR. The meter vault shall be located no farther than 150 feet from the control valve unless the PUBLIC WORKS DIRECTOR consents to installation at a greater distance. The PURCHASER is required to provide a tee and valve downstream of each meter installed in each meter vault. The tee and valve shall be of a size and in a location approved by the PUBLIC WORKS DIRECTOR. The tee and valve shall be a minimum of two inches pipe size. The PURCHASER is required to provide a one-inch pipe size pitometer test tap in the inlet pipe ahead of the header pipe in a location approved by the PUBLIC WORKS DIRECTOR.

(22) In the event that the PURCHASER should desire to alter the meter installation, the piping configuration, the meter vault or any of the FACILITIES, all drawings, plans and specifications shall be submitted to the PUBLIC WORKS DIRECTOR prior to an application being made for an installation permit and prior to the start of any construction. Alteration of any of the FACILITIES shall include construction of new FACILITIES or changes or additions to existing FACILITIES. All drawings, plans and specifications shall include profiles showing United States Geological Survey elevations and shall be prepared by a professional engineer, licensed to practice in the State of Illinois, all equipment shall be of a manufacture and type approved by the CITY, and all work shall be performed by a plumbing contractor licensed and bonded in the State of Illinois.

(23) The CITY's representative shall regularly inspect the meters measuring the supply of water furnished and shall repair any meter or part of a meter which is known or suspected to be registering incorrectly. All such repairs shall be made by the CITY's representative and the PURCHASER shall pay for all repairs made. The PURCHASER shall be responsible for replacing any meters which have been in service for a period longer than authorized or which are defective and not capable of being repaired. All such replacements shall be at the expense of the PURCHASER.

(24) When it is determined that a water meter registered incorrectly, an estimate of the amount of water furnished through the faulty meter shall be prepared by the PUBLIC WORKS DIRECTOR for the purpose of billing the PURCHASER. The estimate shall be based upon the average of 12 preceding readings of the meter, exclusive of incorrect readings. When less than 12 correct readings are available, fewer readings, including some obtained after the period of incorrect registration, may be used.

(25) The PURCHASER shall assure that reservoirs of sufficient capacity are provided in its entire system including its own system and the entities served to store twice the annual daily average allocation of water to the PURCHASER and the entities furnished water by the PURCHASER's water system. All reservoirs provided by the PURCHASER's water system shall be considered in meeting this requirement. The PURCHASER's water system is to be operated to utilize the reservoirs in a manner to assure that water is withdrawn from the CITY's water system as uniformly as possible.

V. RATES AND SECURITY

(26) Charges for water furnished to the PURCHASER shall be at such rate or rates as are set forth in Exhibit 1 to the Agreement.

(27) The PURCHASER shall be charged a penalty for late payment of water bills similar to that charged to metered customers in the CITY.

(28) Payments to be made by the PURCHASER hereunder to the CITY for water furnished to the PURCHASER shall be solely from REVENUES. The PURCHASER covenants and agrees to charge such rate or rates for the furnishing of water to its customers so that the REVENUE shall at all times be sufficient to pay in full all amounts due to the CITY from the PURCHASER hereunder.

VI. REQUEST FOR INCREASED USAGE

(29) In the event PURCHASER needs water in excess of that anticipated as maximum levels in

Exhibit 1, CITY shall have the option of either providing the excess water at a rate in excess of the prevailing rate or refusing to provide additional water requested by the PURCHASER. It is understood and agreed that the maximum annual consumption level by PURCHASER shall be 164,250,000 gallons of water, and in the event that consumption is in excess of that amount, the CITY shall have the right to increase the rate in effect hereunder so that CITY shall recoup its production costs of water produced and consumed by PURCHASER in excess of that maximum level. The increase in the rate shall not exceed 1.10% of the rate in effect at the time of the excess consumption.

VII. ACCESS TO METERING

(29) It is further agreed that PURCHASER shall provide to CITY the necessary access upon reasonable request to the meter facility measuring the amounts of water provided by CITY to PURCHASER.

VIII. INSURANCE AND INDEMNIFICATION

(30) PURCHASER shall insure or self-insure its water system against physical damages or losses, tort claims, unemployment insurance claims, and other losses commonly covered by insurance in such manner as is commonly provided in the industry for similar water operations. Upon request, PURCHASER agrees to provide to CITY the status of insurance procured, and reserves maintained. Any insurance provided pursuant to this Agreement shall not limit the indemnity obligations of the Parties under this Agreement.

VIII. FORCE MAJEURE AND NOTICES

(31) In case by reason of *force majeure* a party to this Agreement shall be rendered unable wholly or in part to carry out any obligation under this Agreement, then if such party shall give notice and full particulars of such *force majeure* in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such *force majeure*, shall be suspended during the continuance of the inability claimed, but for no longer period, and such party shall endeavor to remove or overcome the inability promptly. The settlement of strikes and lockouts (as described in the definition of *force majeure*) shall be entirely within the discretion of the party having the difficulty and that the above requirement that any *force majeure* shall be remedied promptly shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing Party when such settlement is unfavorable to it in the judgment of the Party having the difficulty. No *force majeure* which renders any of the parties unable to perform under this Agreement shall relieve PURCHASER of its obligation to make the payments which as set forth above in the payment terms in Sections D (II)(9) and D(II)(12).

(32) Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) electronic communications, such as facsimile; (c) overnight courier; (d) registered or certified, first class mail, return receipt requested.

If to the CITY:

Public Works Director
City of Blue Island

13051 Greenwood
Blue Island, Illinois 60406

In an emergency:

City of Blue Island
Department of Public Works
Water and Sewer Department
EMERGENCY NUMBER

If to the PURCHASER:

If an emergency:

Such address may be changed by notice to the other party given in the same manner as provided above. Any notice, demand or request sent pursuant to either paragraph (30) (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means. Any notice, demand or request sent pursuant to paragraph (30) (c) hereof shall be deemed received on the day immediately following deposit with the overnight courier and, if sent pursuant to paragraph (30) (d) hereof shall be deemed received two days following deposit in the mail.

(THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK, FOLLOWED BY THE SIGNATURE PAGE)

IN WITNESS WHEREOF, the CITY has caused this Agreement to be signed in duplicate originals (each executed copy constituting an original) by its Mayor and duly attested by its City Clerk, and the PURCHASER has caused the same to be signed in sextuplicate originals (each executed copy constituting an original) by its Mayor and its Corporate Seal to be hereto affixed, duly attested by its Village Clerk, all as of the date and year first above written.

CITY OF BLUE ISLAND, ILLINOIS

By: Mayor Domingo F. Vargas

ATTEST:

By: City Clerk Randy Heuser

POSEN, ILLINOIS

By: Mayor Frank Podbielniak

ATTEST:

By: Village Clerk Melanie Myers

EXHIBIT 1

WATER RATES