

ORIGINAL



0000097073

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
SANDRA D. KENNEDY
PAUL NEWMAN
BOB STUMP

RECEIVED

2009 MAY 18 P 3:18

AZ CORP COMMISSION
DOCKET CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE FORMAL
COMPLAINT OF CHARLES J. DAINS
AGAINST RIGBY WATER COMPANY

DOCKET NO. W-01808A-09-0137

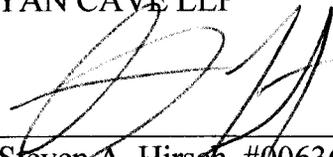
RIGBY WATER COMPANY'S
NOTICE OF FILING MAINLINE
EXTENSION AGREEMENT

Rigby Water Company ("Rigby") hereby provides notice of the filing of the Mainline Extension Agreement between Rigby and Terra Mobile Ranchettes Estates, dated October 1, 1998. A copy of the Mainline Extension Agreement, which was previously filed with Utilities' Staff in 2006 and, in an abundance of caution, again on May 18, 2009, is attached as Exhibit A.

RESPECTFULLY SUBMITTED this 18th day of May, 2009.

BRYAN CAVE LLP

By


Steven A. Hirsch, #006360
Stanley B. Lutz, #021195
Two N. Central Avenue, Suite 2200
Phoenix, AZ 85004-4406
Attorneys for Beardsley Water Company

Arizona Corporation Commission
DOCKETED

MAY 18 2009

DOCKETED BY 

BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

57

1 ORIGINAL and 13 copies of the foregoing
2 filed this 18th day of May, 2009 with:

3 Docket Control Division
4 Arizona Corporation Commission
5 1200 West Washington Street
6 Phoenix, Arizona 85007

7 and

8 COPY of the foregoing mailed
9 this 18th day of May, 2009, to:

10 Lyn Farmer, Esq.
11 Chief Hearing Officer
12 Arizona Corporation Commission
13 1200 W. Washington
14 Phoenix, AZ 85007

15 Mr. Ernest Johnson
16 Director, Utilities Division
17 Arizona Corporation Commission
18 1200 W. Washington
19 Phoenix, AZ 85007-2927

20 Janice Alward, Esq.
21 Chief Legal Counsel
22 Legal Division
23 Arizona Corporation Commission
24 1200 W. Washington Street
25 Phoenix, AZ 85007-2926

26 and

27 Craig A. Marks, Esq.
28 Craig A. Marks, PLC
10645 North Tatum Boulevard
Suite 200-676
Phoenix, Arizona 85028

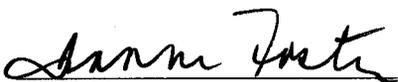


EXHIBIT A

MAIN EXTENSION AGREEMENT

WATER FACILITIES

This Agreement is entered into at Mesa, Arizona on this 1st day of October, 1998, by and between Terra Mobile Ranchettes Estates, hereinafter referred to as Applicant and Rigby Water Company, an Arizona corporation, hereinafter referred to as Utility.

- 1) Applicant is the owner of the property as set forth in Exhibit A, a copy of which is attached hereto and made a part hereof and hereinafter referred to as Property.
- 2) Applicant intends to develop said Property within the property set forth in Exhibit A and will require domestic water service.
- 3) Applicant and Utility agree that said property lies within the Certificate of Convenience and Necessity of Utility and therefore Utility is obligated to provide said domestic water service in accordance with the rules and regulations of the Arizona Corporation Commission (ACC)

AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions set forth below, the parties hereto agree:

- 1) Applicant shall cause the proposed domestic water system to be designed, constructed or installed as necessary to provide an adequate supply of domestic water to each and every dwelling unit within the property as described in Exhibit A. Said water system shall include all necessary water facilities including but not limited to mains, fittings, fire hydrants, service lines, meter assemblies, meters, storage and pumping facilities.
- 2) Applicant shall be responsible for all costs associated with the construction of the domestic water system including engineering, permits, easements, labor, materials, equipment, transportation, insurance and bonds if applicable.
- 3) Applicants cost, as set forth in Exhibit B, a copy of which is attached hereto and made a part hereof, shall be subject to refund in accordance with the rules and regulations of the ACC and further described in Section 16 of this Agreement.

ORIGINAL

4) Applicant shall cause the domestic water system to be designed and constructed with sufficient capacity to serve the water needs of the Property, including fire protection.

5) Applicant may be required by Utility to provide "oversizing" in Applicants design and construction to benefit the needs of Utility. If oversizing is required by Utility, the Utility shall be obligated to pay those costs applicable to the oversized facilities. Said payment shall be based on material costs only and shall not include any costs for labor, equipment, transportation engineering, permits, disinfection, testing or any other costs not applicable in the sole discretion of Utility. Oversizing costs are set forth in Exhibit C, a copy of which is attached hereto and made a part hereof.

6) Applicant shall obtain all applicable permits, including zoning and other necessary permits which may be required prior to construction of the Domestic water system. All domestic water system facilities shall be constructed in accordance with the plans and specifications as prepared by Applicants engineer and reviewed by Utility's engineer and approved by Utility in writing. All domestic water system facilities shall be constructed in accordance with acceptable utility construction practices and in accordance with the rules and regulations of the ACC and the Arizona Department of Environmental Quality and the requirements of all other municipal and governmental agencies having jurisdiction.

7) Applicant shall comply with Utility's requirements for inspection and testing of the domestic water facilities constructed under this Agreement. Applicant shall provide Utility adequate notice when facilities under construction are ready for inspection and/or testing. Utility shall provide said inspection within five working days of being so noticed.

8) Utility shall provide Applicant written notice of any deficiencies discovered during said inspection within 10 working days of said inspection. Utility reserves the right to withhold acceptance of the facilities unless said facilities have been constructed in accordance with the requirements set forth herein.

9) Applicant herewith agrees to diligently pursue and promptly correct all deficiencies in construction, materials and workmanship as noted in Utilities written notice of deficiencies.

10) Applicant agrees to promptly correct all defects and deficiencies in construction, materials, and workmanship upon request by Utility and for one year following Utility's acceptance of the facilities at Applicants sole cost. It is understood that inspection and / or acceptance by Utility in no way relieves or limits Applicant of any responsibility and liability for construction and installation of the facilities in accordance with the terms of this Agreement.

11) The domestic water system facilities and all parts thereof, upon acceptance by Utility as provided herein, shall become and remain the sole property of utility without the requirements of any written document of transfer to Utility. However, Applicant shall furnish such documents pertaining to ownership and title as Utility may reasonably request to evidence or confirm transfer of possession and title to Utility free and clear of liens, or containing provision for satisfaction of lien claims by Applicant, acceptable to Utility. Applicant shall cause or cause to be repaired promptly, at no cost to Utility, all damage to the facilities caused by construction operations until all construction within the property is complete whether caused by Applicant or not.

12) Applicant shall convey or cause to be conveyed to Utility by Warranty Deed free and clear title to the land upon which any well and/or storage facility pertinent to the provision of domestic water is required. Any other lands applicable to and necessary for the provision of domestic water service as set forth on Applicants plans and specifications shall also be conveyed to Utility. Said lands are described on Exhibit C, a copy of which is attached hereto and made a part hereof.

13) Applicant shall, at no cost to Utility, grant or cause to be granted to Utility, perpetual right-of-ways and easements, in a form acceptable to Utility, for the facilities and future attachments to the facilities, including, but not limited to water mains, and access to the supply, production and storage sites. If any rights of way of easements are required by Utility for attachments to developments other than Applicants development, Utility and Applicant shall mutually agree on an acceptable location for such easements or rights of way.

14) Applicant shall, within 120 days following acceptance by Utility of facilities, furnish Utility with the following described original documents.

a) Copies of all invoices and billings and other statements of expenses incurred by Applicant for the construction of the domestic water system.

b) Releases and waivers from contractors, sub-contractors and vendors for materials, equipment, supplies, labor and other costs of construction of said facilities.

15) Utility will provide domestic water service to the Property in accordance with the rates, charges and conditions set forth in the tariffs of Utility as files with the ACC and in effect from time to time. It is agreed that water service to each and every dwelling unit within the Property will be metered accordingly. Applicant acknowledges and agrees that Utility has the right to and may in the future, connect the domestic water facilities to Utility's existing and/or future domestic water system.

16) The cost of construction and installation of facilities as evidenced by invoices furnished to Utility pursuant to Section 14 shall be advances in aid of construction subject to refund by Utility to Applicant. Utility shall make refunds annually to Applicant on or before August 31 for the preceding July 1 through June 30 period. The amount to be refunded annually shall be ten percent (10%) of the revenues (excluding sales taxes and all District, Municipal, County State or Federally imposed regulatory assessments) derived from the provision of metered domestic water service to the Property. Refunds shall be payable for a period of twenty (20) years from the date metered domestic water service is initiated to the Property. In no event shall the refunds paid to Applicant exceed the amount of the advanced in aid of construction. Any balance remaining at the end of the twenty year period shall become non-refundable. No interest shall be paid on any amount(s) advanced.

17) Applicant will furnish Utility with appropriate certificates of insurance, each containing a thirty (30) day notice of cancellation clause, stating collectively that Applicant or its contractors and subcontractors has the following insurance coverage during the period of construction hereunder.

- a) Workman's Compensation Insurance in the amounts required by the laws of the state of Arizona.
- b) Comprehensive General Liability Insurance including Products/Completed operations, with limits of not less than Two Million Dollars (2,000,000.00) combined single limit for bodily injury (including death) and property damage.

18) Applicant hereby assumes the full and entire responsibility and liability for any and all incidents of injury or death of any person, or loss or damage to any property contributed to or caused by the active or passive negligence of Applicant, its agents, servants, employees, contractors or subcontractors, arising out of or in connection with the construction of the domestic water facilities prior to Utility's acceptance as set forth herein. Accordingly, Applicant will indemnify and hold harmless Utility, its officers, directors, agents and employees from and against claims or expenses, including penalties and assessments, and attorneys' fees to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty assessment of damage, and in case any suit or other proceeding shall be brought on account thereof, Applicant will assume the defense at Applicants own expense and will pay all judgements rendered therein.

19) Applicant shall furnish Utility within sixty (60) days after completion of construction "As-Built" drawings certified as to correctness by an engineer registered in the State of Arizona showing the locations and respective sizes of all supply, transmission, production, storage, pumping facilities, and distribution facilities up to the curb valve of service connections to all dwelling units and/or structures served by the domestic water system.

20) Applicant shall cause any Department of Real Estate Subdivision reports issued regarding the Property, clearly to state that water services are to be provided by Utility and that Utility shall own all facilities utilized in providing said services, other than the service connections from the curb line into the dwelling unit premises.

21) The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision but the same shall, nevertheless, be and remain in full force and effect.

22) Communications hereunder shall be sent to the respective parties, addressed as follows:

APPLICANT: Terra Mobile Ranchettes Estates
4439 W. Glendale Boulevard
Glendale, AZ 85301

UTILITY: Rigby Water Company
P.O. Box 2899
Gilbert, AZ 85299-2899

or to other such address as the parties may advise each other in writing.

23) It is agreed that Utility is not an agent of Applicant and shall not incur any costs or expenses on behalf of Applicant and that Applicant is not an agent of Utility and shall not incur any cost or expenses on behalf of Utility.

24) This Agreement shall be governed by the laws of the State of Arizona and shall be subject to the approval of the ACC and such other regulatory agencies as may be required under the laws of said State.

25) This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective legal representatives, successors and assigns. However, neither Applicant nor Utility shall assign its rights, obligations and interest in this Agreement without the prior written consent of the other and such consent shall not be unreasonably withheld or delayed by either Applicant or Utility. Any attempted assignment without such consent shall be void and of no effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the day and year first above written.

APPLICANT

Terra Mobile Ranchettes Estates Rigby Water Company

By: Charles Daines
Charles Daines DAINIS

UTILITY

By: Fred T. Wilkinson
Fred T. Wilkinson, President

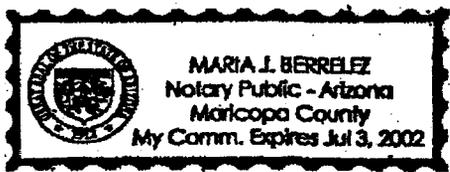
By: Judy A. Lopez
Judy A. Lopez, Secretary,
Treasurer

STATE OF ARIZONA)
County of Maricopa) SS

The foregoing instrument was acknowledged before me this ___ day of March 2nd, 1999, by Charles DAINIS known to me to be the _____ of _____, and authorized by said corporation to make this acknowledgement on its behalf.

By Maria J. Berrelez
Notary Public

My Commission Expires _____



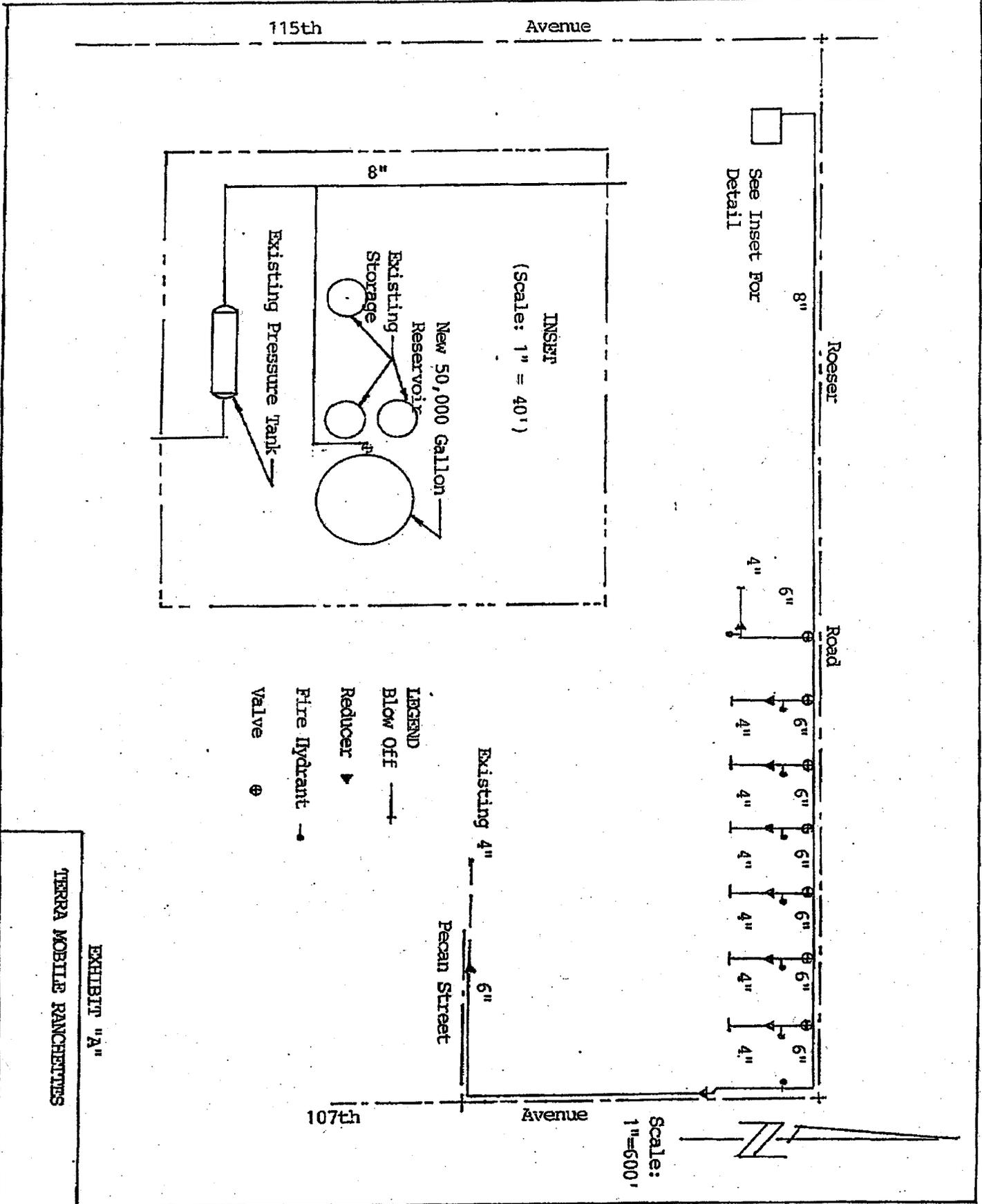
STATE OF ARIZONA)
County of Maricopa) SS

The foregoing instrument was acknowledged before me this 5th day of May, 1999, by Fred T. Wilkinson known to me to be the President of Rialto Water Company, and authorized by said corporation to make this acknowledgement on its behalf.

By Judy A. Lopez
Notary Public

My Commission Expires
6/28/02





115th

Avenue

See Inset For Detail

8"

Roeser Road

Road

4"

6"

4"

6"

4"

6"

4"

6"

4"

6"

4"

6"

4"

6"

INSERT
(Scale: 1" = 40')

New 50,000 Gallon Reservoir

Existing Storage

Existing Pressure Tank

Existing 4"

Pecan Street

6"

107th Avenue

Scale: 1" = 600'

- LEGEND
- Blow Off —+—
- Reducer —▶—
- Fire Hydrant —●—
- Valve ⊕

EXHIBIT "A"

TERRA MOBILE RANCHETTES

MEC No. RWC-002

Date February 18, 1999

Applicant: Terra Mobile Ranchettes Estates

TIERRA MOBILE RANCHETTES

EXHIBIT B

Distribution System:

5,440 L/F 8" C-900 P.V.C.	\$11.20	\$60,928.00
4,400 L/F 6" C-900 P.V.C.	\$9.00	\$39,600.00
1 only 6" 90 Bend	\$87.00	\$87.00
18 each 6" Gate Valve	\$580.00	\$10,440.00
1 only 6"x6" Reducer	\$140.00	\$140.00
2 each 8" 45 Bend	\$98.00	\$196.00
8 each 8"x6" Tee	\$220.00	\$1,760.00
8 each 6" Fire Hydrant	\$890.00	\$7,120.00
2 each 8" 90 Bend	\$105.00	\$210.00
4 each 8" Gate Valve	\$780.00	\$3,120.00
7 each 6"x6" tee	\$190.00	\$1,330.00

	Sub-Total	\$124,931.00

Services:

83 each 1" Corp. Stops	\$52.00	\$4,316.00
83 each 1" Angle Meter Stops	\$48.00	\$3,984.00
83 each Meter Boxes	\$70.00	\$5,810.00
1 only 8" 22 1/2 Bend	\$158.00	\$158.00

	Sub-Total	\$14,268.00

Reservoir:

1 only 50,000 gallon Tank	\$27,000.00	\$27,000.00
Clean up and testing costs	\$2,600.00	\$2,600.00

	Sub-Total	\$29,600.00

Booster Pumps:	\$50,851.00	\$50,851.00
-----------------------	-------------	-------------

Easement:

Art Tobin Easement	\$16,000.00	\$16,000.00
--------------------	-------------	-------------

Miscellaneous:

Bonds	\$672.00	\$672.00
-------	----------	----------

Permits	\$666.68	\$666.68
---------	----------	----------

Sub-Total		<u>\$1,338.68</u>
-----------	--	-------------------

SUMMARY:

Distribution System:	\$124,931.00
----------------------	--------------

Services:	\$14,268.00
-----------	-------------

Reservoir:	\$29,600.00
------------	-------------

Booster Pumps:	\$50,851.00
----------------	-------------

Easement:	\$16,000.00
-----------	-------------

Miscellaneous:	\$1,338.68
----------------	------------

Total	<u>\$236,988.68</u>
-------	---------------------

MEC No: RWC-002

Dated: February 18, 1999

Applicant: Terra Mobile Ranchettes Estates.

EXHIBIT C

OVERSIZING COSTS

No oversizing costs are required under this agreement.