

## ORDINANCE NO. 1207

AN ORDINANCE AMENDING SECTION 10.12.02 OF THE EUREKA SPRINGS MUNICIPAL CODE, FOR THE PURPOSE OF ESTABLISHING THE POLICIES AND PROCEDURES FOR WATER DISTRIBUTION SYSTEM EXTENSIONS FOR THE CITY OF EUREKA SPRINGS WATER DEPARTMENT, FIXING THE EFFECTIVE DATE THEREOF AND DECLARING AN EMERGENCY

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS:

## SECTION 1. POLICIES AND PROCEDURES

The following policies and procedures are hereby established for the City of Eureka Springs Water Department.

## 1 - DEFINITIONS

- 1.1 The City of Eureka Springs is hereinafter called the CITY.
- 1.2 APPLICANT as used herein shall mean the person(s), entity, organization, or corporation applying for an extension of the CITY'S Distribution System.
- 1.3 DISTRIBUTION FACILITIES shall mean water mains, valves, fire service lines, meters, service lines, fire hydrants, storage tanks, pumps and structures and appurtenances thereto.
- 1.4 MINOR DISTRIBUTION FACILITIES shall mean DISTRIBUTION FACILITIES which, in the opinion of the CITY will cost less than \$5,000.00.

## 2 - GENERAL

- 2.1 The CITY shall determine the necessity for additional DISTRIBUTION FACILITIES. Whenever the capacity of the existing DISTRIBUTION FACILITIES are not adequate, in the opinion of the CITY, to provide service required by the APPLICANT, or to provide the quantity of water required for fire protection, or whenever the APPLICANT desires water service beyond the limits of the existing Water Distribution System, then the APPLICANT must make application for additional DISTRIBUTION FACILITIES. Once approved by the CITY, all costs associated with the installation or construction of such additional DISTRIBUTION FACILITIES must be borne by the APPLICANT. The CITY may, from time to time, determine that it is in the public interest that DISTRIBUTION FACILITIES be installed which have a capacity greater than those required to be installed by the APPLICANT. In such event, the CITY may pay that portion of the cost which is representative of the cost for the facilities in excess of those required by the CITY for service to the APPLICANT'S property.
- 2.2 The CITY shall determine the size, type, location, point(s) of connection to the distribution system and point(s) of termination of all DISTRIBUTION FACILITIES.
- 2.3 No DISTRIBUTION FACILITIES shall be installed prior to the APPLICANT entering into a written contract with the CITY.
- 2.4 The information furnished herein is subject to change and may not apply under certain circumstances, and is not binding upon the CITY because the CITY is not bound except by written contract. Blank contract forms are available at the CITY office for each type contract.

## WATER MAIN EXTENSION POLICY

1. The City of Eureka Springs shall determine the diameter, length and location of all water mains which are to be part of the waterworks system and shall determine where they shall be connected to the system.
2. Property may be connected to the system only if the City of Eureka Springs determines that it has the capacity to give service.

### Payment for Facilities

1. If the City of Eureka Springs is requested to extend a main to provide initial service for property, the applicant requesting the extension shall be required to pay the cost of installing the necessary mains, appurtenant facilities, storage tanks and pumping stations and the cost of lands or easements required. However, part of the cost may be borne by the City of Eureka Springs if it determines that a portion of the cost is not primarily for the benefit of the applicant.

### Reimbursement of Costs

1. If, as a result of a contract with the City of Eureka Springs, all or part of the cost of installing water facilities is paid by some other entity, such as a property owner or an improvement district, the City of Eureka Springs may agree in that contract, to allow reimbursement on all or part of the entity's cost. The reimbursement may include payment of front foot and per acre pro rata charges allowed by the City of Eureka Springs. However, total reimbursement to the other entity shall not exceed its participation in the cost. Furthermore, there shall be no reimbursement for connections made or for pro rata charges collected more than five years after the mains are placed in service or more than five years after the date of the other entity's contract with the City of Eureka Springs, whichever is earlier.

### Front Foot Pro Rata Charge

1. Any entity requesting water service for property which will be served by an existing abutting main installed after \_\_\_\_\_, at the expense of anyone other than the entity which owned the property at the time the main was installed, shall be required to pay a front foot pro rata charge.
2. For the purpose of these rules "front" is defined as the side of the property abutting the main from which service will be received, whether that side actually be a side, the front, or the rear. If the main abuts more than one side of the property, the City of Eureka Springs shall have the option of treating the longest side as the front, for the purpose of computing the front foot charge. If each side of the main is abutted by property to be served by it, the front foot charge shall be applicable separately to the property on each side. For the purpose of these rules, a main is abutting if it will be directly connected by a stub service to the property to be served.
3. For water mains up to eight inches in diameter, the front foot charge for each side of the main shall be \$3.50 for each front foot of the property to be served and shall be in addition to any applicable per acre charge. The City of Eureka Springs may levy a higher front foot charge for mains larger than eight inches in diameter.

4. The front foot charge shall not be an assessment against the property, but its payment shall be a condition precedent, and a continuing condition, to the right of connection to and service from an abutting main. Failure of the City of Eureka Springs to levy or collect the front foot charge for any reason prior to connection and service shall not constitute a waiver of the charge unless the waiver is in writing and specifically authorized by the City of Eureka Springs.

#### Per Acre Pro Rata Charge

1. For the purpose of these rules, a feeder main is defined as a water pipe line eight (8) inches or more in diameter. In addition to making water service available to abutting property, a feeder main permits the connection and extension of other mains which serve lands substantial distances away.
2. Any entity requesting water service for property which is benefited by an existing feeder main placed in service after \_\_\_\_\_, 19\_\_\_\_, at the expense of anyone other than the entity which owned the property at the time the feeder main was installed, shall be required to pay a per acre pro rata charge.
3. The per acre charge shall be at the rate of \$150.00 an acre for the property to be served by an abutting main and shall be in addition to any applicable front foot charge. However, the minimum per acre charge, even for less than one-third of an acre, shall be \$50.00. If the land to be served lies within the specified distance of more than one feeder main, only one per acre charge shall be levied for any particular acre, but the City of Eureka Springs may levy the charge for the most distant feeder main.
4. The per acre charges shall not be an assessment against the property, but its payment shall be a condition precedent, and a continuing condition, to the right of connection to and service from an abutting main. Failure of the City of Eureka Springs to levy or collect the per acre charge for any reason prior to connection and service shall not constitute a waiver of the charge unless the waiver is in writing and specifically authorized by the City of Eureka Springs.

#### 3 - REQUESTING EXTENSIONS & COST ESTIMATES

- 3.1 Upon request from the APPLICANT, the CITY will determine the DISTRIBUTION FACILITIES required to serve the APPLICANT'S property, provided the APPLICANT furnishes plats, descriptions or other documents to the satisfaction of the CITY, which accurately depicts said property and its proposed use.
- 3.2 The CITY may, at its option, prepare cost estimates, upon request by the APPLICANT, for MINOR DISTRIBUTION FACILITIES. The CITY will not prepare cost estimates for any other facilities.

#### 4 - PREPARATION OF PLANS & SPECIFICATIONS

- 4.1 When staff personnel are available, the CITY may, at its option, prepare plans and specifications upon request of the APPLICANT for MINOR DISTRIBUTION FACILITIES provided the APPLICANT pays to the CITY, in advance, the amount of the Final Cost Estimate for the facilities.
- 4.2 The APPLICANT is responsible for the preparation of plans and specifications for all other DISTRIBUTION FACILITIES. Such plans and specifications must be prepared by a Registered Professional Engineer, licensed to practice in Arkansas.

- 4.2.1 All plans and specifications must conform to the requirements of:
- (1) The CITY;
  - (2) the Arkansas State Health Department;
  - (3) any other federal, state, county or local governmental agencies having jurisdiction.
- 4.2.2 All plans and specifications must be approved in advance of construction by:
- (1) The CITY;
  - (2) the Arkansas State Health Department;
  - (3) the Arkansas State Highway Department, if any facilities are within the right-of-way of city streets or county roads or streets;
  - (4) the county or city having jurisdiction if any part of the facilities are to be located within the right-of-way of city streets or county roads or streets;
  - (5) the applicable railroad company whenever facilities are located within railroad right-of-way;
  - (6) all other federal, state, county or local governmental agencies having jurisdiction; and
  - (7) entities such as utilities whose facilities are located within an exclusive easement which will be traversed by the proposed DISTRIBUTION FACILITIES.
- 4.2.3 The APPLICANT shall give notice of proposed facilities, except MINOR DISTRIBUTION FACILITIES constructed by the CITY at the APPLICANT'S expense, by submitting the plans for the facilities or a suitable plat depicting the facilities to the appropriate planning agency for review as follows (1) the City, if any part of the facilities are to be located within the territorial jurisdiction, and (2) the Carroll County Judge if any part of the facilities are to be located outside of the territorial jurisdiction of the CITY. The APPLICANT shall not commence construction of the facilities prior to such review by the aforesaid planning agency having jurisdiction. Should the planning agency having jurisdiction deny approval, final approval of construction of the facilities will be withheld pending approval by the CITY.
- 4.2.4 The APPLICANT shall pay all fees associated with the review of the plans for the facilities. The APPLICANT shall obtain or cause to be obtained all permits required in connection with the construction of facilities except those permits specifically requiring that the CITY be designated as permittee; in which case the APPLICANT shall prepare and submit to the CITY all documents necessary for such permits. The APPLICANT shall pay the cost of all fees, bonds and other expenses in connection with obtaining permits.
- 4.3 The APPLICANT must furnish easements for the facilities if suitable public rights-of-way are not available. If the CITY determines that fee title to any property is required, or that easements on private property are necessary, the APPLICANT must obtain the necessary conveyances in the name of the City of Eureka Springs, for the use and benefit of the CITY on forms approved by the CITY and pay all costs connected therewith. All instructions of conveyance shall contain such terms and conditions as may be required by the CITY and the APPLICANT shall furnish merchantable title thereto acceptable to the CITY. If title certificates or abstracts of title are required by the CITY, the APPLICANT must furnish them and pay all expenses incurred by the CITY in connection with title examination and preparation of conveyances.

4.4 The DISTRIBUTION FACILITIES will not be accepted by the CITY and meter connections thereto will not be made prior to the APPLICANT'S conformance to these requirements.

## 5 - CONSTRUCTION & CONTRACTS

5.1 The CITY may, at its option, construct MINOR DISTRIBUTION FACILITIES. The APPLICANT shall construct all other DISTRIBUTION FACILITIES.

5.2 Two types of contracts are described below:

5.2.1 REGULAR CONTRACT FOR DISTRIBUTION SYSTEM FACILITIES:  
This type of contract applies to the construction of MINOR DISTRIBUTION FACILITIES by the CITY. The CITY prepares the plans and specifications, obtains necessary permits, serves notice to the applicable planning agency, and performs the work or subcontracts for its performance. The APPLICANT must make payment, in advance, to the CITY in the amount of the Final Cost Estimate plus any other amounts due the CITY. The APPLICANT shall execute the contract well in advance of the time service is required.

5.2.2 SPECIAL CONTRACT FOR DISTRIBUTION SYSTEM FACILITIES:  
This contract applies to the construction of DISTRIBUTION FACILITIES by the APPLICANT. Under this contract, the APPLICANT must perform the work or subcontract for its performance. The plans and specifications must be prepared by the APPLICANT'S Engineer as set forth in Paragraph 4.2 above. Furthermore, resident inspection of the work must be provided by the APPLICANT'S Engineer during the time construction is in progress to assure the CITY that the facilities are constructed in accordance with the plans and specifications. The APPLICANT'S Engineer must prepare "as-built" plans which shall depict the facilities constructed and certified by the Engineer to conform to the CITY'S requirements. The APPLICANT must furnish the CITY reproducible copies of the "as-built" plans and the actual final construction cost, as certified by the APPLICANT'S Engineer.

5.2.3 OTHER CONTRACTS:  
Separate contracts will be required if (1) the APPLICANT desires the installation of fire hydrants outside the Eureka Springs city limits or on private property or (2) the APPLICANT desires fire service connection to private property.

## 6 - CHARGES & FEES

6.1 In addition to paying the costs of constructing DISTRIBUTION FACILITIES, the APPLICANT must pay to the CITY the following charges and fees when facilities are constructed under a SPECIAL CONTRACT FOR DISTRIBUTION SYSTEM FACILITIES.

### 6.1.1 Special Charges

#### 6.1.1.1 General Engineering, Administration and Overhead.

For facilities installed under a SPECIAL CONTRACT FOR DISTRIBUTION SYSTEM FACILITIES, the APPLICANT shall pay the CITY an amount determined from the following table to cover the CITY general engineering, administrative and overhead cost:

<u>CONSTRUCTION COST</u>	<u>CHARGE AS % OF CONSTRUCTION COST</u>
0 - 1,000	10 (Minimum Charge \$ 70.00)
1,001 - 3,000	7 (Maximum Charge 150.00)
3,001 - 7,000	5 (Maximum Charge 280.00)
7,001 - 10,000	4 (Maximum Charge 300.00)
10,001 - 20,000	3 (Maximum Charge 500.00)
20,001 - 50,000	2.5 (Maximum Charge 1,000.00)
50,001 - 100,000	2 (Maximum Charge 1,500.00)
100,001 - 500,000	1.5 (Maximum Charge 5,000.00)
500,001 - Greater	1 (Maximum Charge 7,000.00)

6.1.2 Inspection by Water Works Personnel. For periodic inspection of the work by a representative of the CITY during the period of construction, the APPLICANT shall pay the CITY at the rate of \$20.00 per inspection trip of \$10.00 per hour, whichever is greater. Such inspection shall not relieve the APPLICANT of the duty to provide inspection as provided in Paragraph 5.2.2 above.

6.2 METER CONNECTION CHARGES. In addition to the costs of the construction of DISTRIBUTION FACILITIES, the APPLICANT shall pay the customary connection charge, then being collected by the CITY prior to the installation of meters. This charge is based on the size meter installed and for normal installation is as follows:

	<u>INSIDE CITY</u>	<u>OUTSIDE CITY</u>
5/8-inch residential meter	\$300.00	\$400.00
5/8-inch commercial meter	\$325.00	\$425.00
3/4-inch meter	\$350.00	\$450.00
1-inch meter	\$400.00	\$500.00
1½-inch meter	\$450.00	\$550.00
2-inch meter	\$500.00	\$600.00
Over 2-inch meter	at cost	at cost

The above charges were in effect on 816, 1984 and are subject to change, and will be greater when the anticipated cost of constructing the service line is substantially higher than normal due to streets thicker than two (2) inches, or other conditions which will increase the cost of construction. Furthermore, the charges for larger meters will be greater and will be computed by the CITY upon request.

6.3 PRO RATA CHARGE. In certain areas of the Distribution System, a pro rata charge based on front footage and/or acreage may apply. The APPLICANT must pay all such applicable charges upon execution of the contract for DISTRIBUTION FACILITIES.

#### 7-REFUNDS

7.1 The particular circumstances under which refunds are paid are set forth in each contract between the CITY and the APPLICANT. The APPLICANT may be entitled to a refund based on front footage for property, other than that owned by the APPLICANT, which received water service by a connection to DISTRIBUTION FACILITIES construction contract. An addendum to the CONTRACT FOR DISTRIBUTION SYSTEM FACILITIES will cover such refund.

#### SECTION 2. SPECIAL CONTRACT

There is a need for a Special Contract for Water Distribution System Facilities that can be used by the City of Eureka Springs Water Department which is as follows:

#### SPECIAL CONTRACT FOR DISTRIBUTION SYSTEM FACILITIES

This agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 1984, between the City of Eureka Springs (hereinafter called CITY) and \_\_\_\_\_ (hereinafter called APPLICANT).

A plat is attached to and incorporated in this agreement, showing water mains and appurtenances thereto (hereinafter called FACILITIES) which APPLICANT wishes to have installed to serve the property designated on the plat.

WITNESSETH:

1. Unless otherwise specified in Paragraph 17 of this agreement, APPLICANT agrees to furnish all labor and materials and bear the entire cost of constructing FACILITIES.
2. APPLICANT shall prepare detailed plans and specifications for FACILITIES which incorporate CITY material and installation requirements. No work may be commenced until the plans and specifications are approved by the CITY in writing. After approval, the plans and specifications become a part of this agreement and APPLICANT agrees to perform the work in strict accordance therewith. At the discretion of the CITY, and in every instance when the total construction cost of FACILITIES, as estimated by the CITY exceeds \$5,000.00, the plans and specifications shall be prepared by or under the direct supervision of an Engineer registered to practice engineering in the State of Arkansas (hereinafter called ENGINEER). After commencement of construction of FACILITIES for which plans and specifications have been prepared by or under the direct supervision of ENGINEER, the work shall be continuously supervised or inspected by ENGINEER or by an individual who is under his direct supervision and who is competent to supervise or inspect the work being performed. ENGINEER shall submit written inspection reports to the CITY and APPLICANT during the progress of the construction of FACILITIES. APPLICANT shall hire ENGINEER and bear all engineering costs. Nothing herein shall preclude the CITY, at its discretion, from inspecting the work periodically.
3. APPLICANT shall give notice of APPLICANT'S proposed FACILITIES by submitting the plat attached to this agreement or plans for FACILITIES which have been approved by the CITY to the appropriate agency for review as follows: (1) the City of Eureka Springs if any part of FACILITIES are to be located within its territorial jurisdiction, and (2) the Carroll County Judge if any part of FACILITIES are to be located outside the territorial jurisdiction of the City of Eureka Springs but within Carroll County. APPLICANT shall not commence construction of FACILITIES prior to such review by the aforesaid agencies having jurisdiction.
4. In addition to conformance to CITY requirements, all plans and specifications for FACILITIES shall conform to the requirements of the Arkansas State Health Department and any other federal, state, county or local governmental agencies having jurisdiction over any part of the work covered herein including those agencies responsible for complying with the requirements of aforesaid governmental agencies and for the submittal of plans and specifications to all such agencies for review, and paying the cost of all fees and other expenses in connection therewith. APPLICANT shall not commence construction of FACILITIES prior to approval of the plans and specifications by the aforesaid agencies and furnishing the CITY written evidence of such approval. APPLICANT shall construct FACILITIES in such manner that they will not interfere with proposed future street, highway and drainage improvements.
5. APPLICANT shall obtain or cause to be obtained all permits required in connection with the construction of FACILITIES except those permits specifically requiring that the CITY be designated as permittee; in which case APPLICANT shall prepare and submit to the CITY all documents necessary for such permits. APPLICANT shall pay the cost of all fees, bonds and other expenses in connection with obtaining permits. APPLICANT shall not commence construction of FACILITIES prior to the issuance of all required permits, shall be responsible for conforming with all provisions thereof, and shall coordinate all post-construction inspections required by the issuer of permits.
6. Streets and easements where the FACILITIES are to

be constructed shall be opened up and graded by APPLICANT to + 0.1 foot of final grade. Property lines adjacent to the location for FACILITIES shall be staked by APPLICANT prior to commencing construction of FACILITIES. If rights-of-way not now in existence are required for FACILITIES, easements thereof, in a form acceptable to the CITY, shall be acquired by APPLICANT and conveyed to the City of Eureka Springs, Arkansas, for the use and benefit of the CITY.

7. The total pro rata charge applicable to APPLICANT'S property is \$ \_\_\_\_\_ which shall be paid by APPLICANT upon execution of this agreement in addition to other amounts specified herein. This charge is based upon \_\_\_\_\_ feet at \$ \_\_\_\_\_ per foot and \_\_\_\_\_ acres at \$ \_\_\_\_\_ per acre.

8. If any of the aforesaid FACILITIES have been installed by CITY prior to the execution of this agreement, the CITY statement of the cost of such FACILITIES shall be paid by APPLICANT upon execution of this agreement, which payment shall be in addition to the other amounts specified herein. The parties acknowledge that the foregoing statement of cost is \_\_\_\_\_ for the following: \_\_\_\_\_

9. The term FACILITIES also includes service lines at the following locations: \_\_\_\_\_

10. APPLICANT shall pay to the CITY the sum of \$20.00 per day or \$10.00 per hour, whichever amount is greater, for each day that a CITY representative inspects APPLICANT'S work hereunder. The hourly rate for Saturday, Sunday and holidays shall be 150% of the aforesaid rate. Such inspections are for the sole benefit of the CITY and no services are provided APPLICANT, either direct or implied. Such inspections shall not relieve APPLICANT of the duty to provide inspection as specified in Paragraph 2 hereof. APPLICANT shall pay to the CITY all other costs for services rendered by the CITY. In addition to the foregoing, APPLICANT also agrees to pay to the CITY \_\_\_\_\_ % of APPLICANT'S total cost of the work to cover CITY engineering and overhead expenses, not to exceed \$ \_\_\_\_\_.

11. After completion of the construction of FACILITIES, APPLICANT shall file with the CITY (1) a set of plans prepared by ENGINEER in reproducible form which depicts FACILITIES as finally constructed including reference distances to mains, service lines, valves and other appurtenances from property corners, street rights of way, permanent structures or objects in accordance with the CITY'S standard practice, and (2) a certificate showing the total construction costs of FACILITIES, and if required by the CITY, a copy of invoices for materials used in the construction of FACILITIES. FACILITIES will not be accepted by the CITY until such plans, certificates and documents are submitted and approved.

12. Upon completion of the construction of FACILITIES and acceptance by the CITY, ownership of FACILITIES shall vest by this agreement in the City of Eureka Springs, Arkansas, for the use and benefit of the CITY without the necessity of any other conveyance. FACILITIES shall become a part of the distribution system of the CITY. Except as may be specified in an addendum hereto, the CITY shall have the right to connect to and to make extensions from FACILITIES without payment to APPLICANT.

13. This is an agreement for installation of FACILITIES only and is not a contract for water service. APPLICANT acknowledges that (1) the furnishing of water by the CITY is a governmental

function and that the CITY does not agree to furnish any specific amount of water or water pressure; (2) water will be delivered only to customers who enter into separate service contracts with the CITY, but the right to contract, and the type of service to be rendered shall always be subject to such rules, regulations and policies of the CITY as may be in effect from time to time; and (3) water furnished under such separate service contracts will be supplied to such customers at whatever pressure and quantity available from time to time without liability for damages due to high or low pressure or stoppage of flow.

14. If within two (2) years after acceptance of FACILITIES by the CITY, any part of FACILITIES is damaged or valve boxes are covered or removed or if within four (4) years after acceptance of FACILITIES by the CITY any part of FACILITIES is found to be defective because of faulty workmanship or materials or is found not to be in strict accordance with the plans and specifications, APPLICANT shall, after notice from the CITY, promptly remedy the defects. Upon APPLICANT'S failure to remedy such defects, the CITY shall have the option of performing such work at APPLICANT'S expense.

15. If any part of FACILITIES requires relocation, in the opinion of the CITY, within five (5) years after acceptance of FACILITIES by the CITY because of the construction of street, road, highway or drainage improvements; then in such case APPLICANT shall pay the cost of the relocation of FACILITIES.

16. APPLICANT designates \_\_\_\_\_ as ENGINEERS who will provide the engineering services described herein.

17. Upon the CITY'S acceptance of FACILITIES, the CITY shall pay APPLICANT, less any amounts due the CITY, the following sums as the CITY'S contribution to construction of FACILITIES:

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18. APPLICANT acknowledges that providing water service from FACILITIES, or connections thereto, will not be commenced by the CITY prior to APPLICANT fulfilling all its obligations in strict accordance with the terms of this agreement including the payment of amounts due the CITY.

19. All prior negotiations are merged into this agreement and all written addenda hereto; said documents shall constitute the entire agreement of the parties.

20. The CITY and APPLICANT acknowledge and agree that the provisions of this agreement are severable and if any of these provisions shall contravene, or be invalid under the laws of the United States, the State of Arkansas, or any other jurisdiction, such contravention or invalidity shall not invalidate the whole agreement, but it shall be construed as if not containing the particular provision or provisions held to be invalid and the rights and obligations of the parties shall be construed and enforced accordingly.

CITY OF EUREKA SPRINGS

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
APPLICANT

\_\_\_\_\_  
TITLE

Estimated Total Construction

Cost - \$ \_\_\_\_\_

Final Total Construction

Cost - \$ \_\_\_\_\_

SECTION 3. PRO RATA CHARGE ADDENDUM TO SPECIAL CONTRACT

There is a need for a Pro Rata Charge Addendum to the Special Contract for Distribution System Facilities that can be used by the City of Eureka Springs Water Department which is as follows:

PRO RATA CHARGE ADDENDUM  
TO  
SPECIAL CONTRACT FOR DISTRIBUTION SYSTEM FACILITIES

THIS ADDENDUM is executed simultaneously with and becomes part of the "Special Contract for Distribution System Facilities; (hereinafter called (CONTRACT) entered into between the CITY and APPLICANT on \_\_\_\_\_.

1. Pursuant to its current rules, the CITY may levy a front foot pro rata charge upon customers whose service lines are hereafter directly connected at right angles to the water facilities installed under the term of CONTRACT. Under current rules, that pro rata charge is \$ \_\_\_\_\_ per foot for the property served.

2. Under some circumstances, pursuant to its current rules, if one of the FACILITIES to be installed under CONTRACT, solely at APPLICANT'S expense, without CITY participation in the cost therefor, is a feeder main, the CITY may levy a per acre pro rata charge upon certain customers who hereafter connect to a public water main abutting their property and are benefited by the aforesaid feeder main. Under current rules, the per acre charge is at the rate of \$ \_\_\_\_\_ an acre for the property benefited; the minimum per acre charge is \$ \_\_\_\_\_. Current CITY rules define a feeder main as any water pipe line 8-inches or greater in diameter and property is deemed benefited by a feeder main.

3. During the fourth quarter of each year, the CITY shall prepare a statement showing the number of new service connections for which it has collected pro rata charges hereunder; the statement shall show, also, the amount and type of pro rata charges collected. Thereafter those sums shall be paid to APPLICANT, without interest, subject to the following conditions and exceptions:

- a. The CITY reserves the right to amend its pro rata charge rules in any respect and specifically reserves the right to abandon, increase or decrease pro rata charges. If a pro rata charge is increased, APPLICANT shall not share in the increase.
- b. No pro rata charge shall be paid directly to APPLICANT unless actually allowed by the CITY.
- c. No pro rata charge shall be paid to APPLICANT if the charge is declared to be unlawful.
- d. If any pro rata charge previously paid to APPLICANT is declared unlawful, APPLICANT shall refund any such payment promptly upon demand.

- e. In no event shall pro rata charges collected more than five (5) years after the date of CONTRACT be paid to APPLICANT.
- f. In no event shall the pro rata charges paid to APPLICANT exceed the amount of APPLICANT'S participation in the cost of the water mains to be constructed hereunder.

4. The pro rata charges payable to APPLICANT under the terms of this addendum pay pass to APPLICANT'S heirs, personal representatives or legatee, but no assignment or other transfer of refund rights, whether by voluntary action of APPLICANT, operation of law, or through legal processes, shall be binding upon the CITY, unless such transfer is requested, in writing, and approved by the CITY, in writing. The purpose of this restriction is not to prohibit transfers, but to insure that the CITY has notice satisfactory to it of such transfers and to limit multiple transfer and payees at CITY option.

CITY OF EUREKA SPRINGS

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

APPLICANT

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

DATE: \_\_\_\_\_

SECTION 4. EFFECTIVE DATE:

These policies and procedures shall become effective on or after \_\_\_\_\_, 1984.

SECTION 5.

All ordinances and parts of ordinances in conflict with this ordinance concerning the policies and procedures for the Eureka Springs Water Department are repealed as of the effective date herein established.

SECTION 6.

The provisions of this ordinance are separable, and if any portion, section, provision, or phrase of this ordinance shall be declared invalid or unconstitutional, such action shall not alter the validity of the remainder of this ordinance.

SECTION 7.

That it is hereby ascertained and declared that inadequate policies and procedures for the Eureka Springs Water Department will endanger the proper operation, maintenance, and continued improvement of the distribution system facilities of the CITY and adequate policies and procedures are immediately necessary to prevent a hazard to the public health, safety, and welfare

of the inhabitants of the CITY, and therefore, an emergency is declared and this Ordinance shall take effect from and after its passage and approval.

PASSED AND APPROVED BY THE CITY COUNCIL  
OF THE CITY OF EUREKA SPRINGS ON THIS THE  
12th DAY OF JUNE, 1984.

APPROVED:

ATTEST:



TRUIE WALSH  
City Clerk Treasurer

  
DONALD L. THURMAN, Mayor