

SAN JOSE WATER COMPANY (U168W)
San Jose, California

Revised
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Cal. P.U.C. Sheet No. 518-W
Cal. P.U.C. Sheet No. 456-W

Form No. 9
MAIN EXTENSION CONTRACT
"C RULE"
SPECIAL FACILITIES AND DISTRIBUTION PLANT
FIRE FLOW REQUIREMENTS EXCEED GENERAL ORDER NO. 103

PLEASE REFER TO TARIFF BOOK FOR SAMPLE FORM

(To be inserted by utility)

Issued by

(To be inserted by Cal. P.U.C.)

Advice No. 186

Fred R. Meyer

Date Filed Nov 13 1985

Vice President

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Dec. No. _____

Chief Fin. Officer

Resolution No. _____

TITLE

FORM 09

MAIN EXTENSION CONTRACT
"C RULE"
SPECIAL FACILITIES AND DISTRIBUTION PLANT
FIRE FLOW REQUIREMENTS EXCEED GENERAL ORDER NO. 103

THIS AGREEMENT, made and entered into this _____
day of _____, 19____, by and between the
person or persons listed in paragraph 1 hereof, hereinafter
collectively referred to as "Applicant," and SAN JOSE WATER
COMPANY, a California corporation, hereinafter referred to
as "Utility,"

W I T N E S S E T H:

WHEREAS, the Applicant is the developer of that certain
subdivision of real property situate, lying and being in
the County of Santa Clara, State of California, which is
known as _____ Subdivision, in accordance
with the map thereof filed in the office of the County Recorder
of said County on _____, 19____, in Book
_____ of Maps at page _____
and which is hereinafter referred to as the "Subdivision,"
and

WHEREAS, Applicant is now selling or proposes in the
near future to sell lots in the Subdivision and to this end
desires to have water service available in the Subdivision

through and by means of facilities to be installed therein substantially as shown on that certain map attached hereto as Exhibit A; and

WHEREAS, said facilities consist of mains and appurtenances, hereinafter referred to as "Mains and Appurtenances", and certain special facilities, hereinafter referred to as "Special Facilities", required to furnish water to the Subdivision or parts thereof as follows:

The Mains and Appurtenances and the Special Facilities are hereinafter collectively referred to as the "Facilities"; and

WHEREAS, upon the terms and conditions herein set forth Utility is willing to install the Facilities and to furnish water service in the Subdivision through and by means thereof at the rates and in accordance with the rules of the Utility now in force, or that may from time to time hereafter be lawfully established in its service area;

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants, agreements, terms and provisions herein contained, it is agreed as follows to wit:

1. Applicant. The names and addresses of the person or persons herein collectively referred to as "Applicant" are as follows:

<u>Name</u>	<u>Address</u>
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2. Applicable Rule. This agreement is entered into pursuant to the requirements and in accordance with the various applicable provisions of Utility's Main Extension Rule No. 15, hereinafter referred to as the "Rule," in effect and on file with the California Public Utilities Commission ("Commission"); a copy of the Rule is attached hereto as Exhibit B. This agreement does not, therefore, require specific authorization of the Commission to carry out its terms and conditions.

3. Fire Protection. The Mains and Appurtenances are designed to meet fire flow requirements in excess of the minimum fire flows contained in Section VIII.1.(a) of the Commission's General Order No. 103, as ordered by Decision 82-04-089, dated April 21, 1982. Because of Applicant's fire protection requirements, certain designated mains, shown on Exhibit A, will be larger in size than the mains otherwise required to serve the Subdivision. The increase in cost of such oversizing is \$_____. Applicant has advanced such increased cost to Utility, receipt of which is hereby

acknowledged by Utility. The increase in cost shall not be subject to refund hereunder.

4. Applicant's Deposit.

(a) The estimated total installed cost of the Facilities (excluding the cost of oversizing specified in paragraph 3 hereof), hereinafter referred to as the "Estimated Cost", is \$ _____, consisting of \$ _____, representing Utility's estimated cost of installing and connecting the Mains and Appurtenances to Utility's existing mains, and \$ _____, representing Utility's estimated cost of constructing the Special Facilities. Applicant has advanced to Utility an amount equal to the Estimated Cost, receipt of which amount is hereby acknowledged by Utility.

(b) Applicant agrees that at such times as it may wish that services be attached to the Facilities, it will advance to Utility the estimated total installed cost of such services; the amount so advanced shall be added to the Estimated Cost.

(c) The total installed cost of the following Facilities subject to refund hereunder is estimated to be \$ _____:

(d) The total installed cost of the following Facilities not subject to refund hereunder is estimated to be \$ _____:

5. Installation of Facilities. Utility agrees that it will, as soon as necessary materials and labor are available, and necessary permits, franchises, licenses or other governmental authorizations have been obtained, commence and prosecute to completion with all reasonable diligence the work of installing the Facilities Utility reserves the right to make such changes in design or materials as it may deem necessary. Within sixty (60) days after Utility has ascertained its actual costs in installing the Facilities, it will provide Applicant with a statement of the same showing in reasonable detail the costs incurred for materials, labor and other direct and indirect costs, overheads and total costs, or unit costs or contract costs, whichever are appropriate. If such actual construction costs shall not have been determined within one hundred twenty (120) days after completion of construction work, a preliminary determination of actual costs shall be submitted, based upon the best available information at that time. If such actual costs as finally determined shall be greater or less than the Estimated Cost, the difference shall be advanced by Applicant to Utility or repaid by Utility to Applicant as the case may be, and the Estimated Cost adjusted accordingly. The Estimated Cost as so adjusted shall be Applicant's Advance Subject to Refund. If, at any time following installation of the Facilities, Utility, upon written request of Applicant, shall abandon a portion of the Facilities, Utility shall promptly notify Applicant of the installed cost of the Facilities so abandoned,

and Applicant's Advance Subject to Refund shall, as of the date of such notice by Utility, be reduced by the amount of such installed cost set forth in such notice.

6. Engineering and Street Grades. Applicant agrees to set stakes on the street and lot boundaries of the Subdivision and provide Utility with finished street grades and typical cross sections to enable Utility to determine a location for the mains and the depth to which they are to be laid. Utility will determine the locations and depths of the mains in relation to the data furnished by Applicant. Installation of the mains will not be commenced by Utility until curbs and gutters have been installed and street grades have been brought to those established by public authority. In the event Utility incurs any cost or expense in relocating, raising or lowering the Facilities by reason of inaccuracy of Applicant in performance of its obligations under this paragraph, Utility shall give written notice to Applicant of such actual cost or expense within ten (10) days after Utility has ascertained the same, and Applicant agrees to pay Utility promptly the amount thereof, which shall not be subject to refund by Utility hereunder.

7. Applicant's Agreements.

(a) Applicant agrees to use its best efforts to assist Utility to obtain any and all permits, franchises or other governmental authorizations which may be required for the installation of the Facilities Applicant further agrees to convey or cause to be conveyed to Utility any and

all easements and rights of way which may be necessary or reasonably appropriate for installation of the Facilities.

(b) Applicant agrees to comply with applicable provisions of local building codes and/or ordinances relating to (i) interior plumbing requirements in new buildings covering toilets, shower heads, and kitchen and lavatory faucets, as set forth in Section A.4.e.1. of the Rule, and (ii) design and operation of automatic irrigation systems in parks, median strips, landscaped public areas and landscaped areas surrounding condominiums, townhouses, apartments and industrial parks, as set forth in Section A.4.e.2. of the Rule.

8. Refunds.

(a) Provided that Applicant is not in default hereunder, Utility agrees to make annual refunds hereunder to Applicant in cash, without interest, for a period not to exceed forty (40) years from the date hereof, commencing not later than six months after the first anniversary of the date hereof. Each such annual refund shall equal 2½% of Applicant's Advance Subject to Refund. If any portion of Applicant's Advance Subject to Refund shall not have been refunded upon termination of said 40 year period, Utility shall refund said portion to Applicant with the last refund payment hereunder. The total amount refunded hereunder shall not exceed Applicant's Advance Subject to Refund, without interest.

(b) The Special Facilities were designed to serve

_____ lots or _____ living units. If at any time during the term of this Agreement another applicant ("New Applicant") shall apply to Utility for an extension of Utility facilities to serve an area which the Special Facilities were designed to serve, Utility agrees that as a condition to the extension of service it to such area Utility will require New Applicant to advance to it, in addition to all other sums required to provide such service, an amount equal to New Applicant's share or the cost of the Special Facilities ("New Applicant's Shares). Said amount shall be determined as follows: the Applicant's Advance Subject to Refund for the Special Facilities shall be divided by the greater of the number of lots or living units specified in the first sentence of this subparagraph, namely _____; the quotient shall be reduced by a sum equal to the quotient multiplied by the product of two and one-half percent (2 1/2%) times the number of years in which refunds have been due and payable under the provisions of this Agreement, prorated on a monthly basis to the nearest anniversary date of the date hereof; the result shall then be multiplied by the number of lots which the Special Facilities were designed to serve in the area in which New Applicant has requested Utility to serve. The product shall be New Applicant's Share. Utility agrees that upon receipt of New Applicant's Share, it will promptly pay over the same to Applicant. Applicant's Advance Subject to Refund shall be reduced concurrently by the amount of such payment. Utility agrees to require advances from subsequent applicants for service to areas which the Special Facilities were designed

to serve and to make refunds of those advances to Applicant in a manner similar to that set forth above.

9. Utility's Right of Offset. In the event Applicant shall become entitled to a repayment or refund under the provisions of this agreement, Utility shall have the right at such time to offset against the amount then due Applicant hereunder the total amount of any indebtedness then due or owing by Applicant to Utility.

10. Ownership. The Facilities to be installed hereunder and all construction work in connection therewith shall be and remain at all times the property of Utility, and Applicant shall have no right, title or interest whatsoever in or to the same.

11. Construction Delay. Utility shall not be responsible for any delay in construction resulting from any cause beyond its control, including, without limiting the generality of the foregoing, any delay resulting from inability to obtain sufficient proper materials and supplies, labor disturbances or shortages, or weather conditions or inability to obtain necessary permits, licenses, franchises or other governmental authorizations. In the event Utility is unable to obtain sufficient materials to meet all construction requirements necessary to provide adequate service to all its customers, it shall be entitled to allocate materials obtained by it to such construction projects as in its sole discretion it deems most important to service needs of its customers, and any delay in construction of the Facilities resulting from

any such allocation of materials by Utility shall be deemed to be a cause beyond its control and it shall not be responsible for such delay.

12. Notices. Any notice which it is herein provided may or shall be given by either party to the other shall be deemed to have been duly given when deposited in the United States mail, registered or certified, postage prepaid and addressed to the party to whom such notice is given at the following respective addresses:

To Applicant:

To Utility: San Jose Water Company
P.O. Box 229
374 West Santa Clara Street
San Jose, CA 95196

Either party, by notice given as hereinbefore provided, may change the address to which notice shall thereafter be addressed.

13. Nature of Obligations; Assignment. If more than one person is named in paragraph 1 hereof, the obligations of the persons executing this agreement as Applicant shall be joint and several. Until Applicant shall notify Utility in writing to the contrary, all refunds hereunder shall be paid by Utility to _____

_____ Applicant may assign this agreement only after (a) determination of the

amount of Applicant's Advance Subject to Refund, (b) settlement of any amounts owing to Utility or Applicant under paragraph 5 hereof by reason of a difference between Estimated Cost and actual cost, and (c) written notice to Utility. Any such assignment shall apply only to those refunds hereunder which become due more than thirty (30) days after the date of receipt by Utility of such notice of assignment. Utility will not make any single refund payment hereunder to more than one person.

14. Successors and Assigns. Subject to the provisions of the preceding paragraph 13, this agreement shall inure to the benefit of and shall bind the respective heirs, executors, administrators, successors and assigns of the parties hereto.

15. Jurisdiction of Public Utilities Commission. This agreement shall at all times be subject to such changes or modifications by the Commission as the Commission may from time to time direct in the exercise of its jurisdiction.

16. Applicant's Responsibility. Applicant hereby agrees to indemnify Utility against any and all loss or injury to any of utility's meters, pipes, or any other installations in the Subdivision caused by Applicant and/or its agents, servants, employees or by subcontractors or independent contractors performing services and/or furnishing materials to and for the benefit of Applicant.

11. IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate the day and year first above written.

SAN JOSE WATER COMPANY

By _____
Its Vice President

By _____
Its Secretary

UTILITY

APPLICANT