

SAN JOSE WATER COMPANY (U168W)  
San Jose, California

Revised  
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Cal. P.U.C. Sheet No. 814-W  
Cal. P.U.C. Sheet No. 452-W

Form No. 5

MAIN EXTENSION CONTRACT  
"B RULE" - INDIVIDUAL  
APPLICANT INSTALL

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. 254

Fred R. Meyer

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Vice President

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Regulatory Affairs

Resolution No. \_\_\_\_\_

TITLE

SAN JOSE WATER COMPANY  
(U-168-W)

FORM NO. 5

MAIN EXTENSION CONTRACT  
"B RULE" - INDIVIDUAL  
APPLICANT INSTALL

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, Applicant desires to have water service available to certain real property ("Property") situate, lying and being in the County of Santa Clara, State of California, delineated on that certain map attached hereto as Exhibit A; and

WHEREAS, Applicant desires to have water service available to the Property through and by means of an extension ("Extension") of Utility's existing mains to be installed substantially as shown on Exhibit A hereto; and

WHEREAS, upon the terms and conditions herein set forth, Applicant is willing to install the Extension, or cause the same to be installed, at its own expense, all in accordance with the provisions hereinafter set forth; and

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

NOW THEREFORE, for an 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, addresses and descriptions of the person or persons herein collectively referred to as "Applicant" are as follows:

<u>Name</u>	<u>Address</u>	<u>Description</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, 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. Applicant's Deposit. Utility's cost in preparing detailed plans, specifications and cost estimates for the Extension is \$\_\_\_\_\_, and Utility's cost in inspecting installation of the Facilities is \$\_\_\_\_\_, Utility hereby acknowledges receipt from Applicant of \$\_\_\_\_\_, representing the total of said costs. Upon completion of installation of the Extension, Utility will connect the same to its existing mains and submit a statement of the cost thereof to Applicant, which sums Applicant agrees to pay promptly to Utility. The aggregate amount of the foregoing costs is hereinafter referred to as Applicant's Deposit.

In addition to the aforementioned costs, Applicant's Deposit will include any income tax component authorized by the Commission at the date of execution of this agreement. The income tax component will be based upon the aforementioned costs plus the utility's estimate of cost of work to be performed by the Applicant.

4. Installation of Facilities.

(a) Applicant agrees to install the Extension, or cause the same to be installed, at its own expense on or before \_\_\_\_\_, 19\_\_\_. The Extension shall be installed strictly in accordance with the specifications attached hereto as Exhibit C, and the installation thereof shall be subject to inspection by and approval of Utility in all respects. The Extension shall be installed by Applicant, or by \_\_\_\_\_, a contractor, hereinafter referred to as "Contractor", selected by Applicant

pursuant to competitive bidding procedures initiated by Applicant and limited to bidders who were qualified in Utility's judgment. Utility will perform the work of connecting the Extension to its existing mains at the points designated on Exhibit A hereto.

(b) If Contractor is to install the Extension pursuant to the provisions of the preceding subparagraph (a), Applicant agrees that its construction contract ("Construction Contract") with Contractor shall specifically provide, among other things, that:

(i) The Construction Contract is entered into for the direct benefit of Utility who shall be entitled to institute and maintain legal proceedings to recover any damages it may sustain by reason of the failure of Contractor to duly perform the provisions of the Construction Contract, including, without limitation, the failure of Contractor to install the Extension within the time herein provided and in accordance with said specification;

(ii) Installation of the Extension shall be subject to the inspection and approval of Utility in all respects;

(iii) Title to the Extension shall vest in Utility in accordance with the provisions of paragraph 6 hereof;

(iv) The insurance requirements of paragraph 5 hereof shall be fulfilled.

(c) Applicant agrees to reimburse Utility upon demand by Utility for the cost to Utility of all replacements and repairs to the Extension made necessary within one (1) year from completion of installation thereof by reason of defective materials or workmanship; such reimbursement shall not be subject to refund hereunder. Utility's acceptance of the Extension shall under no circumstances be deemed to constitute approval of such materials and workmanship for purposes of the preceding sentence.

(d) 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.

5. Indemnity: Insurance.

(a) Utility shall not be responsible or held liable in any manner whatsoever for any injury or damage which may be done to any person or property in the course of installation of the Extension by or on behalf of Applicant or which may result from such installation, and Applicant agrees to indemnify Utility and hold it free, safe and harmless of, from and against any and all liability for the death of, or injury to, any person and for the loss of, or damage to, any property which may arise by reason of

acts done or omitted to be done in the course of installation of the Extension by or on behalf of Applicant or which may result from such installation, and Applicant further agrees to reimburse Utility upon demand for all costs and expenses which Utility may incur in resisting any claim which may be made against Utility for any such injury or damage to any person or property.

Applicant expressly agrees that the agreements contained in this paragraph shall survive the performance of the remainder of this Agreement and shall remain in full force and effect notwithstanding such performance. Applicant further agrees that during the period beginning with the commencement of construction of the Extension and terminating upon final acceptance of the same by Utility, the following insurance will be maintained in full force and effect by Applicant or Contractor (if the Extension is to be installed by Contractor) without cost or expense to Utility: (i) Bodily injury liability insurance with limits of not less than Five Hundred Thousand Dollars (\$500,000) per person and One Million Dollars (\$1,000,000) per occurrence, and (ii) property damage insurance with a limit of not less than Two Hundred Fifty Thousand Dollars (\$250,000) per accident, insuring Utility against any and all liability for the death of or injury to any person and for the loss of or damage to any property, respectively, which may arise by reason of acts done or omitted to be done in the course of installation of the Extension or which may result from such installation, and further insuring Utility against all costs and expenses incurred by Utility in resisting any claim which may be made against Utility for any

such injury or damage to any person or property. Each such policy (A) shall be issued by an insurance company approved in writing by Utility, Which is qualified to do and doing business in the State of California, (B) shall name Utility as an additional insured, (C) shall specify that it acts as primary insurance and that no insurance effected by Utility shall be called upon to cover a loss under the policy so procured or caused to be procured by Applicant, (D) shall provide that the policy shall not be canceled or altered without thirty (30) days' prior written notice to Utility, and (E) shall otherwise be in form satisfactory to Utility. Each such policy or a certificate thereof shall be delivered to Utility concurrently with execution of this Agreement.

(b) An endorsement or a certificate thereof to the workers' compensation insurance policy of Applicant or Contractor (if the Extension is to be installed by Contractor) providing that the underwriter thereof waives all right of subrogation against Utility by reason of any claim arising out of or connected with the installation of the Extension shall be delivered to Utility concurrently with execution of this Agreement. Said endorsement shall provide that it shall not be canceled or altered without thirty (30) days' prior written notice to Utility.

6. Title to Extension. Title to each part or portion of the Extension shall pass to Utility forthwith as each such part of portion thereof shall be installed regardless of whether the

same shall be installed by Applicant or Contractor and regardless of whether the same shall be attached to the balance of Utility's system, provided, however, that such passage of title shall under no circumstances be deemed to constitute acceptance by Utility of the Extension as installed in accordance with said specifications. Such acceptance may only be effected by appropriate written notice from Utility to Applicant. Applicant warrants that upon such passage of title, the title shall be free and clear of and from any and all liens, charges and encumbrances whatsoever. Applicant agrees to use its best efforts to assist Utility in obtaining any and all permits, franchises or other governmental authorizations which may be required for the operation of the Extension. Applicant further agrees that if so requested in writing by Utility subsequent to such acceptance of the Extension by Utility, as aforesaid, Applicant will promptly make, execute and deliver to Utility an instrument or instruments, in form satisfactory to Utility, which shall confirm such passage of title to Utility.

7. Street Grades. If the Extension is installed in easements or rights of way where final grades have not been established or in streets whose grades have not been brought to those established by public authority. Applicant, upon written notice by Utility, shall deposit with Utility forthwith the estimated cost, as determined by Utility, of relocating, raising or lowering the Extension upon establishment of final grades. Adjustment of any difference between the amount so deposited and

the actual cost of relocating, raising or lowering the Extension shall be made within ten (10) days after Utility has ascertained such actual cost. The net deposit representing actual cost shall not be subject to refund. Utility will refund the entire deposit relating to such proposed relocation, raising or lowering when appropriate authority determines that such displacements are not required.

8. Applicant's Bond. Concurrently with execution of this Agreement Applicant shall deliver to Utility a surety bond in the aggregate amount of \$\_\_\_\_\_ in form satisfactory to Utility, issued by a bonding company approved in writing by Utility which is qualified to do and doing business in the State of California guaranteeing unto Utility (a) the performance by Applicant and Contractor or all the obligations contracted to be performed hereunder, (b) installation of the Extension in accordance with the provisions hereof, (c) vesting in Utility of title to the Extension in accordance with the provisions hereof, (d) reimbursement of the cost to Utility of all replacements and repairs to the Extension made necessary within one (1) year from completion of installation thereof by reason of defective materials or workmanship, and (e) payment in full by Applicant or Contractor of the claims of all persons performing labor upon or furnishing materials to be used in, or furnishing power contributing to, the Extension.

9. Applicant's Advance Subject to Refund. Applicant agrees that promptly upon completion of installation of the Extension in accordance with said specification and acceptance of the same by Utility, Applicant will, at its own expense, furnish to Utility a reasonably detailed statement of the actual construction cost of the Extension, subject to audit by Utility, including ins aid cost, (a) Applicant's Deposit, (b) the cost, if any, to Applicant of complying with the insurance requirements of paragraph 5 hereof, and (c) the cost, if any, to Applicant of the bond required by paragraph 8 hereof. The total amount of said actual cost as shown by said statement, or the sum of \$ \_\_\_\_\_, being the price quoted by Utility to Applicant in Utility's detailed estimate of the cost of installation of the Extension), whichever is the lesser, shall be conclusively deemed to be the actual construction cost of the Extension and is herein referred to as Applicant's Advance Subject to Refund.

The income tax component of the Applicant's Advance Subject to Refund will also be adjusted based upon the lesser of actual costs or utility's estimates.

10. Refund. If from time to time another applicant or applicants ("New Applicants") shall apply to Utility for service and shall be directly connected to the Extension, Utility agrees that as a condition to the furnishings of service by it to each New Applicant, Utility will require each New Applicant to pay to it, in addition to all other sums required to provide such service, an amount equal to the total installed cost of 100 feet

of the Extension. Utility agrees that upon receipt of such amount from each New Applicant, it will promptly refund the same amount to Applicant provided that Applicant is not in default hereunder. However, no refunds will be made hereunder to Applicant after a period of ten (10) years from the date of completion of the Extension, and the total amount so refunded to Applicant shall not exceed Applicant's Advance Subject to Refund.

Applicant's Advance Subject to Refund shall include any income tax component authorized by the Commission and collected by the utility.

11. Utilities Right to Offset. In the event Applicant shall become entitled to a 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.

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  
                      374 West Santa Clara Street  
                      San Jose, California 95196

Either party, by notice given as hereinbefore provided, may change the address to which notices 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 4 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.

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

Applicant

Utility