

APPENDIX 1

APPLICATION TO AND AGREEMENT WITH THE MOULTON NIGUEL WATER DISTRICT FOR WATER AND SEWER SERVICE

The undersigned, hereinafter referred to as "Applicant," hereby requests a permit for the extension of certain sewer service and the extension of certain water service by the MOULTON NIGUEL WATER DISTRICT, hereinafter referred to as the "District" in accordance with the Rules and Regulations of the District, as amended from time to time including, but not by way of limitation, its "Standard Specifications for the Construction of Domestic Water, Sewer and Recycled Water Facilities" to that certain real property of said District, in the _____ acres, and described as follows:

City/County _____
Legal Description _____

Applicant hereby applies for that water and sewer which can be provided by the facilities described below, in accordance with the Rules and Regulations of the District, as amended from time to time, for the purpose of: Applicant hereby represents that Applicant is the _____ of said real property. Applicant estimates that the total service to be required of the District upon ultimate development of said real property is as follows:

RESIDENTIAL

COMMERCIAL

Water 600 gal/day/du x ____ du = ____ gal/day

3800 gal/day/acre x ____ acre = ____ gal/day

Sewer 250 gal/day/du x ____ du = ____ gal/day

2000 gal/day/acre x ____ acre = ____ gal/day

1. Upon acceptance of this application by the District, as evidenced by the District with execution and delivery to Applicant of a copy hereof, the District agrees to issue such permit in accordance with the Rules and Regulations of the District as the same may be amended from time to time, all of which are incorporated herein by this reference and made a part hereof as though fully set forth herein, and in accordance with and subject to the terms and conditions herein set forth.

2. Applicant hereby agrees to build or cause to build the following described facilities and agrees to pay all costs of installation of same, including, but not limited to, cost of labor, materials, equipment, contractors' expense and profit, engineering condemnation, and attorney's fees:

Table with 3 columns: Facility Type, Length, Size. Rows include Domestic Water System Facilities, Sewer System Facilities, and Recycled Water System Facilities.

3. Applicant agrees that the facilities described herein shall be constructed in accordance with plans approved by the District and the applicable specifications of the District by a contractor licensed by the State of California to install said facilities.

4. Applicant guarantees the facilities constructed under this Agreement against defects in workmanship and materials for a period of one year after the date of acceptance by the District. It is further agreed that these facilities shall be restored to full compliance with the requirements of the plans and specifications previously referred to herein, including any test requirements, for any portion of such facilities which during said one year period are found to be deficient with respect to any provisions of the plans or specifications. This guarantee is in addition to any and all other warranties, expressed or implied with respect to such facilities.

5. Applicant agrees to provide the District with a report of the actual costs of said facilities on the standard reporting form of the District and to substantiate such report with invoices and receipts acceptable to the District. Applicant further agrees:

(a) In the event both sewer trunk and sewer non-trunk facilities are built under this Agreement, that a separate reporting form shall be submitted for the non-trunk facilities and a separate form for the trunk facilities.

(b) In the event that both domestic water and recycled water transmission and domestic water and recycled water distribution facilities are to be built under this Agreement, that a separate reporting form shall be submitted for the transmission facilities and a separate form for the distribution facilities.

6. Applicant agrees to grant, or cause to be granted, to the District, without cost to the District, all necessary easements for the construction, installation, and maintenance of said facilities across all privately owned lands to be traversed by said facilities, which easements shall be in a form and condition of title satisfactory to the District and shall be executed by all necessary parties having an interest in said lands.

7. Applicant agrees to provide to the District, prior to acceptance of the facilities described herein, a complete set of reproducible mylars, of Chronoflex, 4 mil (which may be corrected construction drawings, i.e., street improvement plans for a tract), of said facilities showing the following:

(a) Domestic Water Facilities (including major revisions):

- (i) The location, size, and type of material of domestic water pipelines.
- (ii) The location of all valves, fire hydrants, and other appurtenances by stationing.
- (iii) The location, with respect to property sidelines, of lateral pipes for house connections and the domestic water meter.
- (iv) The location of the limits of the right-of-way of the District, if the domestic water facilities are not located within a public street.

- (b) Sewer System Facilities (including major revisions):
 - (i) The location, size and type of material of all sewer pipelines.
 - (ii) The location of all manholes, wyes, and other appurtenances by stationing.
 - (iii) The location, with respect to property sidelines of lateral stubs for house connections.
 - (iv) The location of the limits of the right-of-way of the District, if the sewer facilities are not located within a public street.

- (c) Recycled Water Facilities (including major revisions):
 - (i) The location, size and type of material of all recycled water pipelines.
 - (ii) The location of all valves and other appurtenances by stationing.
 - (iii) The location, with respect to property sidelines, of lateral pipes for connections to the recycled water meter.
 - (iv) The location of the limits of the right-of-way of the District, if the recycled water facilities are not located within a public street.

8. Applicant agrees that he will execute and deliver a proper sale, on the standard form of the District, of the facilities described herein to the District, its successors and assigns; and bill of sale is accepted by its Board of Directors or its duly authorized employee. However, it is also understood and agreed that the Applicant hereby disclaims in favor of the District all right, title, and interest in and to said systems, appurtenances, and easements; and that Applicant hereby covenants and agrees to execute and deliver to the District any documents required to complete the transfer of the said facilities concurrently with the acceptance by the District; and that Applicant hereby agrees that Applicant is holding any title to said facilities, pending acceptance by the District, as trustee, acknowledging Applicant's obligation to complete said facilities and transfer the same debt-free to the District.

9. Applicant and District agree that the above provisions shall not preclude the use of said facilities by the property owners within the developed area or outside of said development prior to such delivery of bill of sale to the District; as long as the quality of said domestic water and sewage is acceptable to the District under its Rules and Regulations and approval has been obtained from the District for permission to connect to said facilities or to existing facilities. Applicant agrees that the use of said facilities by the Applicant, transferee, or assignee, of such facilities by the District.

10. Applicant agrees to hold the District harmless from any expense or liability resulting from said construction, and further agrees that Applicant will indemnify the District and will hold it, its agents, employees, officers, and representatives free and harmless from and against any and all liabilities for death, injury, loss, damage, or expense (including reasonable attorney's fees) to person or property which may arise or is claimed to have arisen as a result of any work or action performed by Applicant or on behalf of Applicant with respect to the construction and in the installation or repair of such facilities. Applicant shall not be responsible for the claims resulting from the District's sole negligence.

11. Applicant hereby agrees to pay all administration and engineering fees (including inspection and plan check costs) calculated as a percentage of the total cost used for bonding purposes as established by the District, as well as sewer connection fees, water connection fees, and any other charges of the District as provided for in the Rules and Regulations of the District presently in effect. Fees and charges indicated herein are not subject to adjustment or refund.

12. Applicant agrees to accept such conditions of pressure and service as are provided for by District's sewerage, domestic water and recycled water systems at the location of all proposed connections thereto and to hold the District harmless from and against any and all damages, liability, and expense arising out of high- or low-pressure conditions with respect thereto or from interruptions of service. The District will also take steps to add a similar statement to its application forms given to individual homeowners and customers.

13. Applicant further agrees that any rights hereunder shall be assignable only after giving notice to the District.

14. Applicant agrees, if said District employs an attorney to enforce this Agreement, to pay said District for all attorney's fees so incurred.

15. Applicant agrees to abide by all of the forgoing provision including, but not by way of limitations, the prohibitions of the District against the use of self-regenerating water softeners, which are connected to the sewer facilities of the District. Applicant agrees that upon delivery by District of 72 hours prior written notice of date, time, and locations, the District may enter upon the hereinabove described property for the purpose of ascertaining whether the provisions of this Agreement are being performed. Applicant shall not be responsible in any way for the failure of its successors or assignors to comply with any of the provisions of this Agreement.

IN WITNESS WHEREOF, the other parties have duly caused their authorized signatures to be attached hereto, SIGNATURES MUST BE NOTARIZED.

APPLICANT:

PROPERTY OWNER

By _____

By _____

By _____

By _____

Date _____

Date _____

MOULTON NIGUEL WATER DISTRICT

By _____

Director of Engineering

Date _____

APPROVED AS TO FORM;
Bowie, Arneson, Wiles and Giannone
A Law Corporation
Legal Counsel to MNWD

By _____