

**SUBDIVISION or MULTIPLE TAP PURCHASE AGREEMENT  
(Involving 3 or more taps)**

1. **PARTIES.** The parties to this Agreement are the **MORGAN COUNTY QUALITY WATER DISTRICT**, a title 32 special district, (“District”) and \_\_\_\_\_ (“Applicant”).
2. **RECITALS AND PURPOSE.** The Applicant is the owner of certain property to be developed, as described herein. The District is a special district organized under Colorado law and which provides treated water service to its customers for which monthly service charges are made. The Applicant desires to purchase water taps for the development project. The purpose of this Agreement is to set forth the terms and conditions concerning the District's supplying such domestic water service to the proposed project. Accordingly, the parties agree to the following provisions in consideration of the mutual covenants set forth herein.
3. **TERM OF AGREEMENT.** In the event that the Applicant:
  - 3.1 Fails to obtain all applicable and required land use approvals of the Project within 180 days of execution of this Agreement; or
  - 3.2 Fails to make any payment or perform any act as set forth herein,

This Agreement shall expire and all obligations herein including, without limitation, the District’s commitment to sell such single-family equivalencies shall automatically terminate.

4. **LEGAL DESCRIPTION OF PROJECT** For purposes of this Agreement, the term "project" shall mean the property described on *Exhibit A* which is attached and incorporated herein, and which is known as the \_\_\_\_\_ Subdivision (*hereinafter “the Subdivision”*). The Applicant agrees to furnish a reproducible copy of the preliminary plat to the District and said plat is expressly incorporated in this Agreement. Any change or alteration in the area, size, shape, density, usages, requirements, tap equivalents needed, or timing of development of the subdivision which may affect the number of taps required for the project, or the method or manner of the provision of water to or within the project, shall first require the written approval of the District.
5. **TAPS NEEDED FOR PROJECT COMPLETION.** For purposes of this Agreement, the term “tap” shall mean that size of a connection to one of the District’s treated water distribution lines and which is utilized and designed for a single family or its equivalency pursuant to the District’s rules and regulations. The total number of single family equivalency (“SFE”) taps required for the project will be \_\_\_\_\_. Of that total number, Applicant hereby requests and agrees to purchase, and District commits to sell to Applicant, \_\_\_\_\_ SFE taps pursuant to this Agreement, and any additional SFE taps needed for the project, if any, will be subject to further written agreements; provided, however, that nothing in this Agreement shall be construed as an obligation by the District to reserve for the benefit of the Applicant the remaining balance of the total number of needed taps absent such additional agreement(s).
6. **TAPS COMMITTED; SALE OF LOT WITH COMMITTED TAP.** Pursuant to paragraph 7, Applicant shall transfer or cause to be transferred (or shall pay cash in lieu thereof) sufficient water for the \_\_\_\_\_ committed taps.
  - 6.1 Applicant agrees to complete the purchase of the \_\_\_\_\_ committed taps by payment of the of all of the components of the then applicable tap fee, in accordance with the following schedule, provided that any taps purchased in full in any given calendar year in excess of the minimum specified below shall be credited to the following year’s minimum:

- \_\_\_\_\_ taps in year 1 (expiring one year from date of this Agreement)
- \_\_\_\_\_ taps in year 2
- \_\_\_\_\_ taps in year 3
- \_\_\_\_\_ taps in year 4

\_\_\_\_\_ taps in year 5

6.2 In the event that the Applicant fails to complete the purchase of the minimum number of taps in each year specified above, or fails to complete the purchase of all \_\_\_\_\_ taps by \_\_\_\_\_, 200\_\_\_\_ the District shall retain the raw water shares/units transferred hereunder, or the cash payment made in lieu of such transfer, as liquidated damages and the obligation of the

6.3 District to provide further taps shall be terminated. The undersigned acknowledges that by extending this Agreement, the District has agreed to commit a definite portion of the total capacity of its system to the Applicant and therefore must look to the Applicant for performance of its obligations to purchase the committed taps in order for the District to meet its financial obligations.

6.4 Applicant acknowledges and agrees that the District may increase the amount of its tap fee in the future, with or without advance notice to the Applicant, in accordance with its applicable rules, regulations or bylaws.

6.5 The Applicant shall give the District 90 days advance notice of its intention to physically connect the development to the District's lines and facilities. Applicant shall, before any such connection is made, have transferred the raw water or paid the cash payment in lieu thereof, and paid the balance of any amounts due and owing for such tap fees, including without limitation, any other components of the tap fee, in accordance with the District's then applicable fee schedule and rules and regulations.

6.6 *Applicant may not sell a lot within the subdivision without completing the purchase of a tap for that lot. With any request to transfer a purchased tap, Applicant shall provide the District with proof of sale of the tap and lot on such forms as the District may require that request that the tap be transferred with the lot. Upon presentation of such proof, and upon payment by Applicant of all fees and charges then due for the issuance of a tap for that lot, and upon the transfer of the required amount of raw water for the issuance of such tap(s), the District shall transfer the requested tap. Nothing herein shall be construed as authorizing the transfer of a purchased or committed outside of the subdivision.*

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7. **RAW WATER TRANSFER OR CASH PAYMENT IN LIEU THEREOF.**

7.1 Within 10 days of final plat approval by the applicable governing body or agency having jurisdiction over the project, Applicant shall transfer ½ of a unit of Colorado-Big Thompson Project water, administered by the Northern Colorado Water Conservancy District, for each tap committed to be purchased pursuant to paragraph 6.1 above. The cash value of any excess units transferred to the District in order to meet this requirement shall be applied or credited to the balance of the remaining tap fees due and owing. The raw water to be transferred shall consist of \_\_\_\_\_ CBT units as may be adjusted pursuant to District regulations. In the event that Applicant can not obtain the required raw water on the open market, the Applicant may, at the discretion of the District's Board and for good cause shown, make a cash payment in lieu of the transfer of raw water, in such an amount as the District may determine to be necessary to obtain raw water including administrative costs, transfer fees and other related costs, or in accordance with its then existing policies, rules and regulations.

7.2 Applicant shall give District 7 days advance notice of its intention to physically connect such taps to the District's lines and facilities to provide the District with sufficient time to effectuate the raw water transfers, if needed. Applicant shall, before any such connection is made, transfer the raw water and pay the balance of any amounts due and owing for such tap fees, including without limitation, the fee in lieu of raw water component (if water is not transferred to District) and all other components of the tap fee, in accordance with the District's then applicable fee schedule.

7.3 The failure of Applicant to complete the raw water transfer, or to pay the cash amount in lieu thereof as set forth in paragraphs 7.1 and 7.2, within 10 days of final plat approval or to pay the components of the tap fees for the total number of taps specified in paragraph 5, on or before the fifth anniversary of the initial payment to the District of the plant investment fee component of the tap fee, shall constitute a default. Upon such default any amounts of water so transferred or any sums paid hereunder by Applicant shall be retained by District as liquidated damages for such default. It is understood and agreed by Applicant that the purpose of this requirement for completion of the purchase of all taps within a five year period is based upon the financial requirements of the District to fund its capital construction needs. The District, by this Agreement, has committed

a definite portion of the total capacity of its system to the Applicant and, therefore, must look to the Applicant for performance of its obligations in order that the District may meet its capital construction and operating expenses. If there is a default by Applicant, District may recommit such taps to other applicants without further notice to Applicant.

8. **PAYMENT OF LINE PARTICIPATION FEE.** In conjunction with the payment of the taps, Applicant shall tender to the District a check in the amount of \$\_\_\_\_\_ representing 100% of the line participation fee of \$\_\_\_\_\_ per tap for the reimbursement to the District and/or third party or parties that participated in the payment of the construction costs of the main line(s) extension(s) which will service the project.
9. **DESIGN SPECIFICATIONS.** It is agreed, as a condition precedent to service, that all water lines and appurtenant facilities required to provide water service within the boundaries of Applicant's project as described on Exhibit A and all necessary transmission lines, connecting lines and appurtenant facilities necessary to connect with the lines of the District as presently engineered and installed, shall be installed at Applicant's sole cost and expense and shall be in accordance with design and specifications as fixed by the District. Applicant agrees that the actual installation and construction of all on-site improvements shall be subject to the general, as opposed to specific, supervision of, and inspection by, the District and all related costs of the District's engineering study, review, approval and inspection (including the District's cost and expenses of obtaining necessary easements if public rights-of-way are not available or if available, not feasible to utilize) shall be at the cost of Applicant. Applicant further agrees to give the District, through the District's Engineer, adequate notice, prior to commencement of construction, of the date when such construction shall begin.
10. **EASEMENTS.** Applicant shall furnish, at Applicant's expense, all easements, rights-of-way, and consents both within the project ( if public utility easements are not dedicated by the plat) and without the project, if required. Such easements, rights-of-way and consents shall be provided prior to commencement of construction. Those easements lying outside of the project and which may be required for the construction of any portion of the water lines and appurtenant facilities which may be needed to service the project (excluding public rights of way), and as determined by the District in its sole discretion, shall be obtained by District but at Applicant's expense. All such costs and expenses of easement acquisition shall be paid by Applicant to District as a condition precedent to service to the project.
11. **WATER SERVICE.**
- 11.1 The Applicant acknowledges that District is responsible only for making domestic water available to the project's individual taps at such pressure as may be available at the point of delivery as a result of the District's normal operation of its water system. The District may temporarily disconnect the flow of water in the main or at the individual points of delivery in order to repair, maintain, test, improve, or replace the main or other portions of the District's water distribution, storage and or supply system.
- 11.2 Applicant covenants and agrees that it will not make any warranties or representations to any home builder, contractor, developer, landscaping contractor, home owner, lessee, tenant, property owner, or any other person or entity, regarding the District's water system's capabilities, pressure, or flows.
- 11.3 Upon issuance of a tap, Applicant shall be responsible for, and shall pay, the then current monthly minimum use pursuant to the District's then established fee schedule until the house/structure is occupied and monthly use charges commence pursuant to an individual service contract.
12. **OVERSIZED LINES.** In the event Applicant shall be required to pay for installation of transmission and connecting lines outside the boundaries of Applicant's subdivision, and District requires that such lines and facilities be oversized to permit the use of those lines by the District to serve additional lands and property in addition to the property of the Applicant, District agrees to establish the cost of such over sizing and to reduce this cost to a "cost per tap" based upon the engineered capacity of the lines and the system which such over sizing can serve. District and Applicant shall enter into a Line Reimbursement Agreement which shall provide, as a minimum, that the District will impose a surcharge upon future users of the oversized line, said surcharge to be calculated on a per tap basis utilizing District's engineering estimate as to the line's total capacity. During a period of 10 years from and after the date of the Line Participation Agreement, but not thereafter, the District will collect and pay to Applicant the collected line surcharges to reimburse Applicant for its additional costs in paying for the over sizing of the line.

13. **CONVEYANCE OF LINES.** Upon completion, approval and acceptance of the work by the District through the issuance of the District's certificate of acceptance, this Agreement shall operate as a sale, conveyance, transfer and assignment by the Applicant of all Applicant's interest and ownership in said lines to the District, free and clear of all liens and encumbrances, and shall warrant that the work has been done in accordance with the laws of the State of Colorado, and all other governmental subdivisions, agencies and units and in accordance with the design standards and requirements of the District. Applicant shall guarantee the lines as installed against faulty workmanship and materials to the District for a period of twelve months from conveyance and shall, during said period, pay all cost and expense of repair or replacement of said lines and, at the request of the District, in its discretion, furnish a bond guaranteeing said repair and replacement. Upon completion, approval, acceptance, conveyance and transfer of lines and facilities to the District, the District shall assume all responsibility thereafter, and all cost and expense for operation and maintenance except as to the above twelve month guarantee. Completion of construction, inspection, approval and acceptance by the District, transfer of lines and facilities to the District, payment of all construction costs and expenses required to be done and paid by the Applicant are conditions precedent to the obligation of the District to furnish and provide water service to the project.
14. **DISTRICT REGULATIONS.** All service provided under this Agreement shall be subject to the monthly service charges and all bylaws, rules and regulations of the District which may be in force from time to time.
15. **GOVERNMENTAL REGULATIONS.** All provisions of this Agreement to the contrary notwithstanding, the obligation of the District to furnish water service under this Agreement, is limited by, and subject to all orders, requirements and limitations which may be imposed by federal, state, county or any governmental or regulatory body or agency having jurisdiction and control over the District and/or the operation of its domestic water system and treatment facilities.
16. **DOCUMENTS TO BE FURNISHED.** At such time or times as may be requested by District, Applicant agrees to furnish District the following:
- 16.1 A topographical survey of the property described in this Agreement; and
- 16.2 Final subdivision plat approved by appropriate regulatory boards, commissions, or agencies, together with requirements and conditions fixed by such entities for development and evidence of the Applicant's compliance or plan for compliance; and
- 16.3 In the event the initial area to be served under this Agreement is not the entire project to be developed by Applicant and the remainder is being planned as a phased development, Applicant shall furnish sketch plans, preliminary plats and/or plans as developed by the Applicant with reference to the future total development of the entire property. It is understood and agreed that a request for information as to future plans and developments of the Applicant (and the consideration of such plans by the District in connection with its obligation to service Applicant's above-described land under this Agreement) shall in not be construed as an agreement or obligation of District to serve such other lands, additional lands, or areas proposed by the Applicant for such future development beyond that provided in existing written commitments. All information required to be furnished to District by Applicant shall be provided at Applicant's expense.
- 16.4 Recorded plats and drawings of the development, including a mylar map certified by Applicant's engineer depicting all lines, valves, fittings and appurtenances as constructed, installed, and transferred pursuant to Paragraph 11 above.
17. **PARAGRAPH CAPTIONS.** The captions of the paragraphs are set forth only for convenience and reference, and are not intended in any way to define, limit, or describe the scope or intent of the Agreement.
18. **ADDITIONAL DOCUMENTS OR ACTION.** The parties agree to execute any additional documents and to take any additional action necessary to carry out this Agreement.
19. **INTEGRATION AND AMENDMENT; PRIOR AGREEMENTS.** This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. The Applicant shall reimburse the District for any expenses incurred by the District in connection with any amendment of this Agreement requested by the Applicant. If any provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

- 20. **ALTERNATIVE DISPUTE RESOLUTION.** In the event of any dispute or claim arising under or related to this Agreement, the parties shall use their best efforts to settle such dispute or claim through good faith negotiations with each other. If such dispute or claim is not settled through negotiations within 30 days after the earliest date on which one party notifies the other party in writing of its desire to attempt to resolve such dispute or claim through negotiations, then the parties agree to attempt in good faith to settle such dispute or claim by mediation conducted under the auspices of the Judicial Arbiter Group (JAG) of Denver, Colorado or, if JAG is no longer in existence, or if the parties agree otherwise, then under the auspices of a recognized established mediation service within the State of Colorado. Such mediation shall be conducted within 60 days following either party's written request therefore. If such dispute or claim is not settled through mediation, then either party may initiate a civil action in the District Court for Morgan County.
- 21. **ASSIGNMENT.** If Applicant is not in default hereunder, Applicant may assign this Agreement with the prior consent of the District, provided said assignment is in writing and further provided that the assignment is made in conjunction with a transfer of all, or substantially all, of the property described herein. No assignment shall, however, be effective upon the District, even if consent is given, unless and until the District receives written notice or a copy of the assignment.
- 22. **BINDING EFFECT.** This Agreement shall inure to the benefit of, and be binding upon, the parties, and their respective legal representative, successors, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of the Agreement except as otherwise specifically authorized herein.
- 23. **RECORDATION.** Applicant acknowledges and agrees that this Agreement may be recorded in the records of the clerk and recorder of Morgan County.

DATED: \_\_\_\_\_

**MORGAN COUNTY QUALITY WATER DISTRICT**

By: \_\_\_\_\_  
 President

ATTEST:

\_\_\_\_\_  
 Secretary

*Sample*

STATE OF COLORADO )  
 ) ss  
 COUNTY OF MORGAN )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by as President and \_\_\_\_\_ as Secretary of the Morgan County Quality Water District.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
 Notary Public

\_\_\_\_\_  
 Applicant

By: \_\_\_\_\_

STATE OF COLORADO        )  
  ) ss  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public