



**Agenda Item No. 9f**

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Meeting Date: December 9, 2020

Staff Contact: Kristopher Cadena, Chief Engineer, Utility Development

**TITLE:** **C-20-41 – Approving Service Connection Agreement for Water and Sewer Service with Learning Lab Development PER, LLC at 4580 Nunzio Ave. NW**

**ACTION:** **Recommend Approval**

**SUMMARY:**

Learning Lab Development PER, LLC desires to connect to existing water and wastewater infrastructure located at 4580 Nunzio Ave. NW. The proposed development consists of construction of a new daycare center. The property is currently zoned NR-C for commercial use and is undeveloped. The subject site is located on Nunzio Ave., northwest of the intersection of Paseo Del Norte and Eagle Ranch Rd. within City of Albuquerque. The development is located outside of the Water Authority's Adopted Service Area, but within the City of Albuquerque. No additional infrastructure requirements are needed to provide water and wastewater service to this property other than a service agreement approved by the Water Authority Board.

As a condition of service, the owner will be required to:

- Comply with the ordinances, resolutions, plans, and regulations of the Water Authority
- Obtain concurrent water and wastewater service
- Pay the Utility Expansion Charge (UEC) at the rates that are imposed at the time of a service connection
- Pay the Water Resource Charge (WRC)

**FISCAL IMPACT:**

None

**SERVICE CONNECTION  
AGREEMENT**

**The Learning Experience**

**Learning Lab Development PER, LLC  
PO Box 9043  
Albuquerque, NM 87119**

**Albuquerque Bernalillo County Water Utility Authority**, a New Mexico political subdivision ("Water Authority") and Learning Lab Development PER, LLC, whose address is PO Box 9043, agree as follows:

**1. Recitals**

- A.** Learning Lab Development PER, LLC ("Owner") is the owner of 4580 Nunzio Ave. NW, Albuquerque, NM 87124 (Legal Description: Tract Lettered "F" of Plat of Tracts C, E and F, FOUNTAIN HILLS PLAZA SUBDIVISION, situate within Projected Section 13, T. 11 N., R. 2 E., N.M.P.M., Town of Alameda Grant City of Albuquerque, Bernalillo County, New Mexico, as the same are shown and designated on said plat, recorded October 29, 2019, in Plat Book 2019C, Page 100, in the office of the County Clerk of Bernalillo County, New Mexico) ("Property"), more particularly described and as shown in the Serviceability Statement for the Property. The Serviceability Letter for the Property reflecting request for service referred to in this Agreement is attached hereto as **Exhibit A** and incorporated herein by reference.
- B.** The property is located outside the Water Authority's **Adopted Service Area** within the region previously serviced by New Mexico Utilities, Inc.
- C.** Owner desires to connect to existing water and waste water infrastructure with a 6 in. Fire Line, 1.5 in. Water Service, and a 6 in. Sanitary Sewer Service
- D.** Water service to the Property will be taken from the existing 8 in. Water Line within Nunzio Ave. Wastewater service to the Property will tie into the existing 8 in. Sanitary Sewer Line. Installation of services shall be performed under the standard tapping permit or mini-work order process.
- E.** All developments located outside of the Water Authority's service area will be assessed a Water Resource Charge (WRC) as provided in the Water Authority's Water and Sewer Rate Ordinance for the development of new water resources, rights and supplies necessary to serve the development.

**2. Service**

- A.** Owner shall comply with the Water Authority's Water and Sewer System

Expansion Ordinance, as amended from time to time. Connection for water service shall require concurrent sewer service connection to the Water Authority's wastewater system.

- B.** Owner shall pay Utility Expansion Charges ("UECs") at the rates that are imposed at the time of a service connection, as provided in the Water Authority's Water and Sewer Rate Ordinance, as amended from time to time.
- C.** Owner shall pay all outstanding Pro Rata assessments in full at the time of service application.
- D.** Pursuant to Water Authority Resolution No. R-05-13, Owner agrees that it shall incorporate water conservation guidelines that shall achieve water usage of seventy-five (75) gallons per capita per day.

**3. Termination.** If construction of the Connection to the waterline and sanitary sewer modifications by Owner has not been completed and accepted by the Water Authority within seven (7) years of the effective date of this Agreement, this Agreement shall automatically terminate, and the Water Authority and Owner shall have no further rights, obligations, or liabilities with respect to this Agreement, unless otherwise agreed in writing.

**4. Indemnification.** Owner will indemnify and hold harmless the Water Authority and its officials, agents, and employees from any claims, actions, suits, or other proceedings arising from the acts or omissions of Owner, its agents, representatives, contractors, or subcontractors, or arising from the failure of Owner, its agents, representatives, contractors, or subcontractors to perform any act or duty required of Owner herein. The indemnification by Owner will not extend to the negligent acts of the Water Authority.

**5. Representations and Warranties of Owner.** Owner represents and warrants that:

- A.** Owner is validly existing under the laws of the State of New Mexico.
- B.** Owner has all the requisite power and authority to enter into this Agreement and bind Owner under the terms of the Agreement; and
- C.** The undersigned officer of Owner is fully authorized to execute this Agreement on behalf of Owner.

**6. Notices.** Any notice to be given under this Agreement will be in writing and will be deemed to have been given when deposited in the United States Mail postage prepaid addressed:

If to the Water Authority:

Mark S. Sanchez  
Executive Director  
Albuquerque Bernalillo County  
Water Utility Authority  
One Civic Plaza, Room 5012  
Albuquerque, New Mexico 87102

**If to Owner:**

Learning Lab Development PER, LLC  
c/o Scooter Haynes  
PO Box 9043  
Albuquerque, NM 87119

- 7. Assignment.** This Agreement will not be assigned without the prior written consent of the Water Authority and Owner.
- 8. Miscellaneous.** This Agreement will be governed by and interpreted in accordance with the laws of the State of New Mexico. The headings used in this Agreement are for convenience only and shall be disregarded in interpreting the substantive provisions of the Agreement. This Agreement binds and benefits the Water Authority and their successors, assigns, and transferees and The Owner and their successors, assigns and transferees. Time is of the essence of each term of this Agreement. If any provision of this Agreement is determined by a court of competent jurisdiction to be void, invalid, illegal, or unenforceable, that portion will be severed from this Agreement and the remaining parts will remain in full force as though the invalid, illegal, or unenforceable portion had never been a part of this Agreement.
- 9. Integration; Interpretation.** This Agreement contains or expressly incorporates by reference the entire agreement of the parties with respect to the matters contemplated by this Agreement and supersedes all prior negotiations. This Agreement may only be modified in writing executed by both parties.
- 10. Approval.** This Agreement is subject to the approval of the Board of Directors of the Water Authority and will not become effective until approved by the Water Authority.
- 11. Effective Date.** The effective date of this Agreement is the date last entered below.

In Witness Whereof, the parties hereto have executed this Agreement on the dates entered below.

**Albuquerque Bernalillo County  
Water Utility Authority**

**Owner**

By: \_\_\_\_\_  
Mark S. Sanchez  
Executive Director

By: \_\_\_\_\_  
Simon "Scooter" T. Haynes  
Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
                  ) ss.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on this \_\_\_ day of  
\_\_\_\_\_, by \_\_\_\_\_ [name]  
\_\_\_\_\_, [title] of \_\_\_\_\_,  
[company name], a \_\_\_\_\_ [type of entity], on behalf of said  
company.

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Notary Public

My Commission Expires:

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STATE OF NEW MEXICO      )  
                                 ) ss.  
COUNTY OF BERNALILLO      )

This instrument was acknowledged before me on this \_\_\_ day of  
\_\_\_\_\_, by Mark S. Sanchez, Executive Director of the Albuquerque  
Bernalillo County Water Utility Authority, a political subdivision of the State of New Mexico,  
on behalf of said political subdivision.

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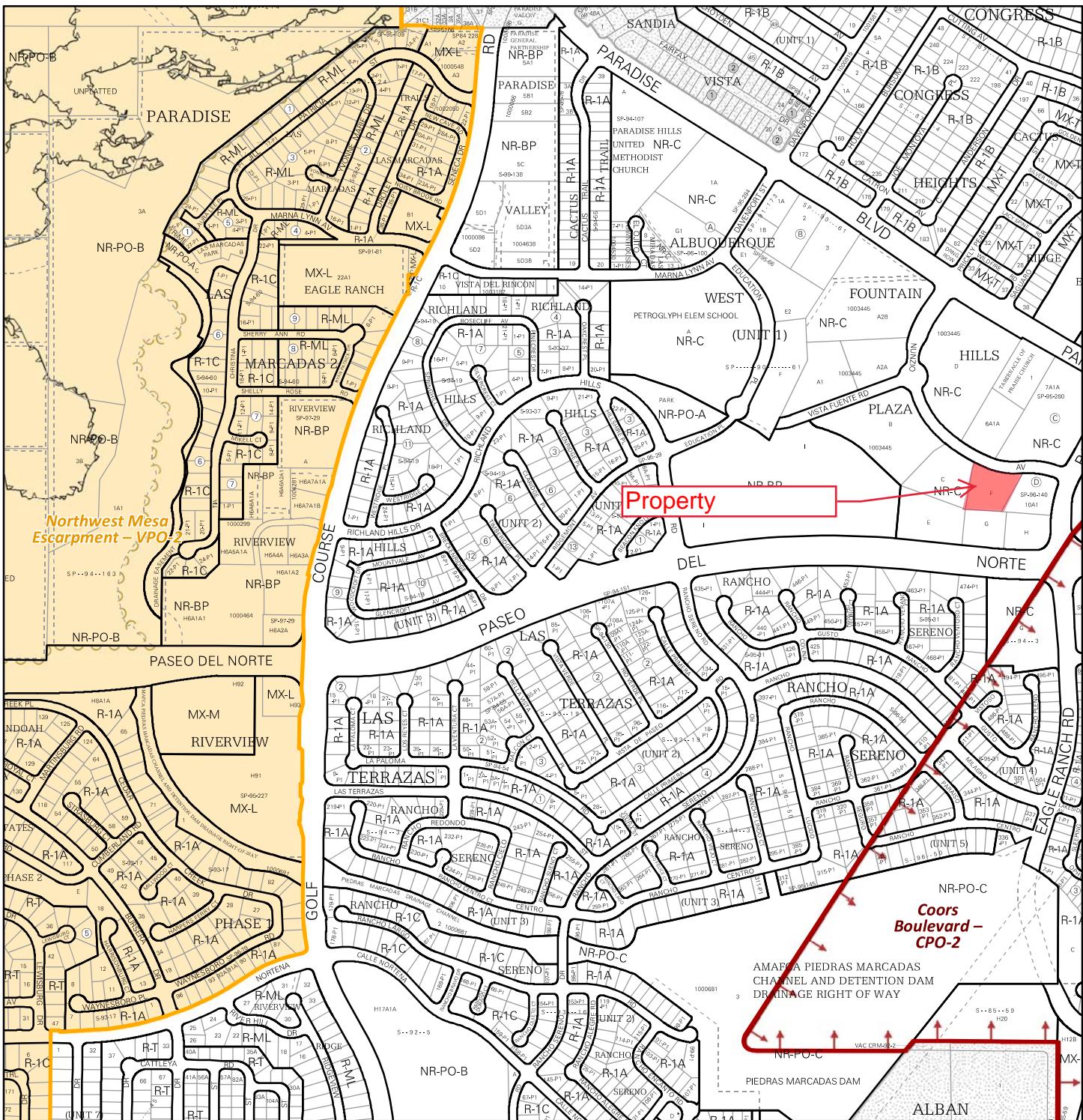
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Notary Public

My Commission Expires:

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Exhibit A.1



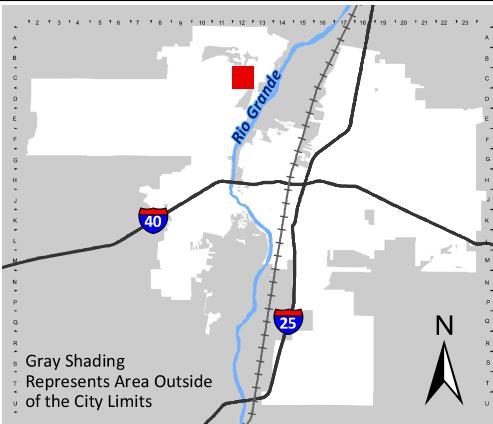
For more details about the Integrated Development Ordinance visit: <http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance>

## IDO Zone Atlas May 2018



IDO Zoning information as of May 17, 2018

The Zone Districts and Overlay Zones  
are established by the  
Integrated Development Ordinance (IDO).



Zone Atlas Page:

**C-12-Z**

----- Easement      Escarpment

Petroglyph National Monument

Areas Outside of City Limits

Airport Protection Overlay (APO) Zone

Character Protection Overlay (CPO) Zone

Historic Protection Overlay (HPO) Zone

View Protection Overlay (VPO) Zone

0 250 500 1,000 Feet

## Exhibit A.2

Exhibit A.2  
Page 1 of 3

## Exhibit A.2

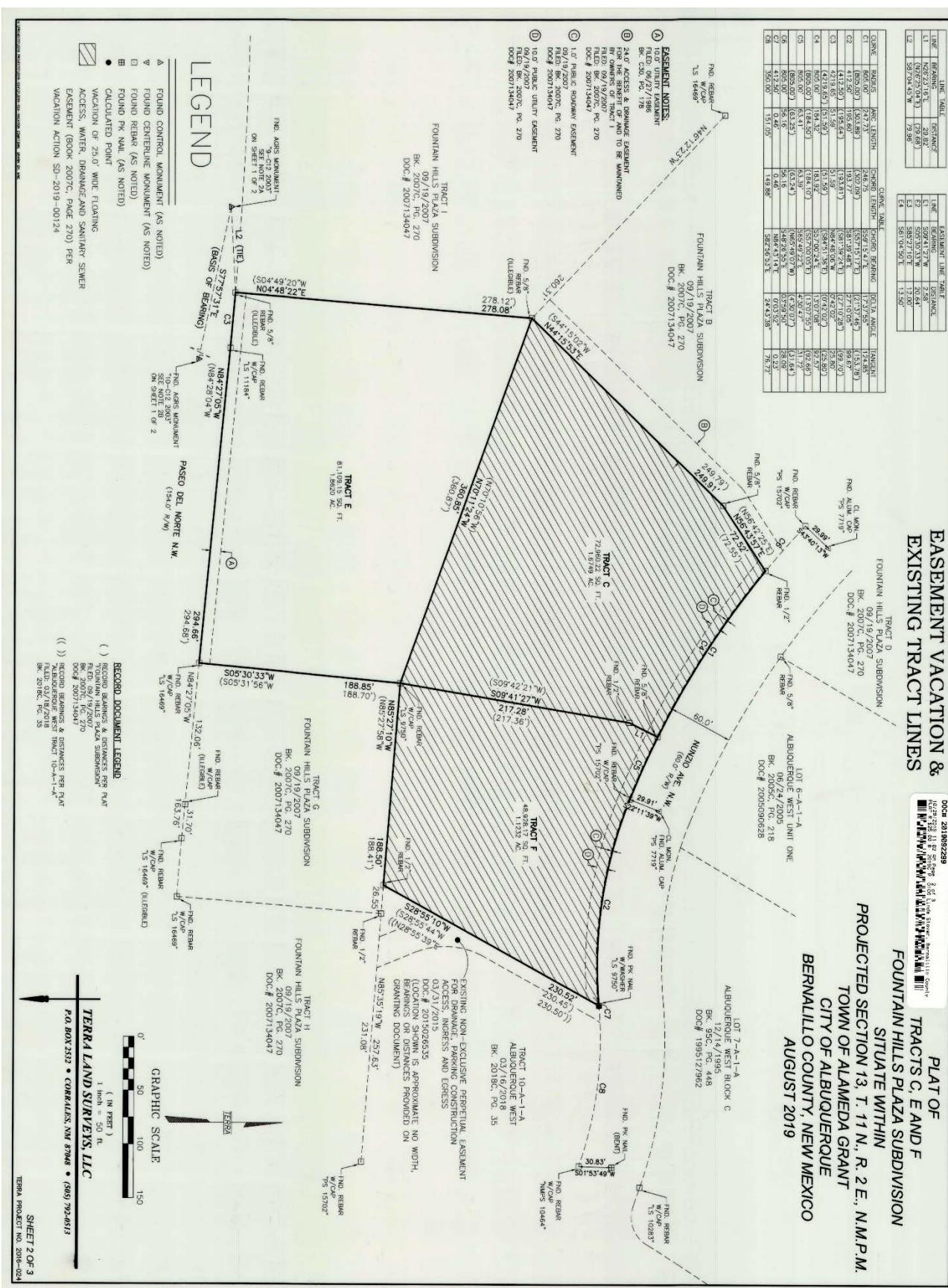


Exhibit A.2  
Page 2 of 3

## Exhibit A.2

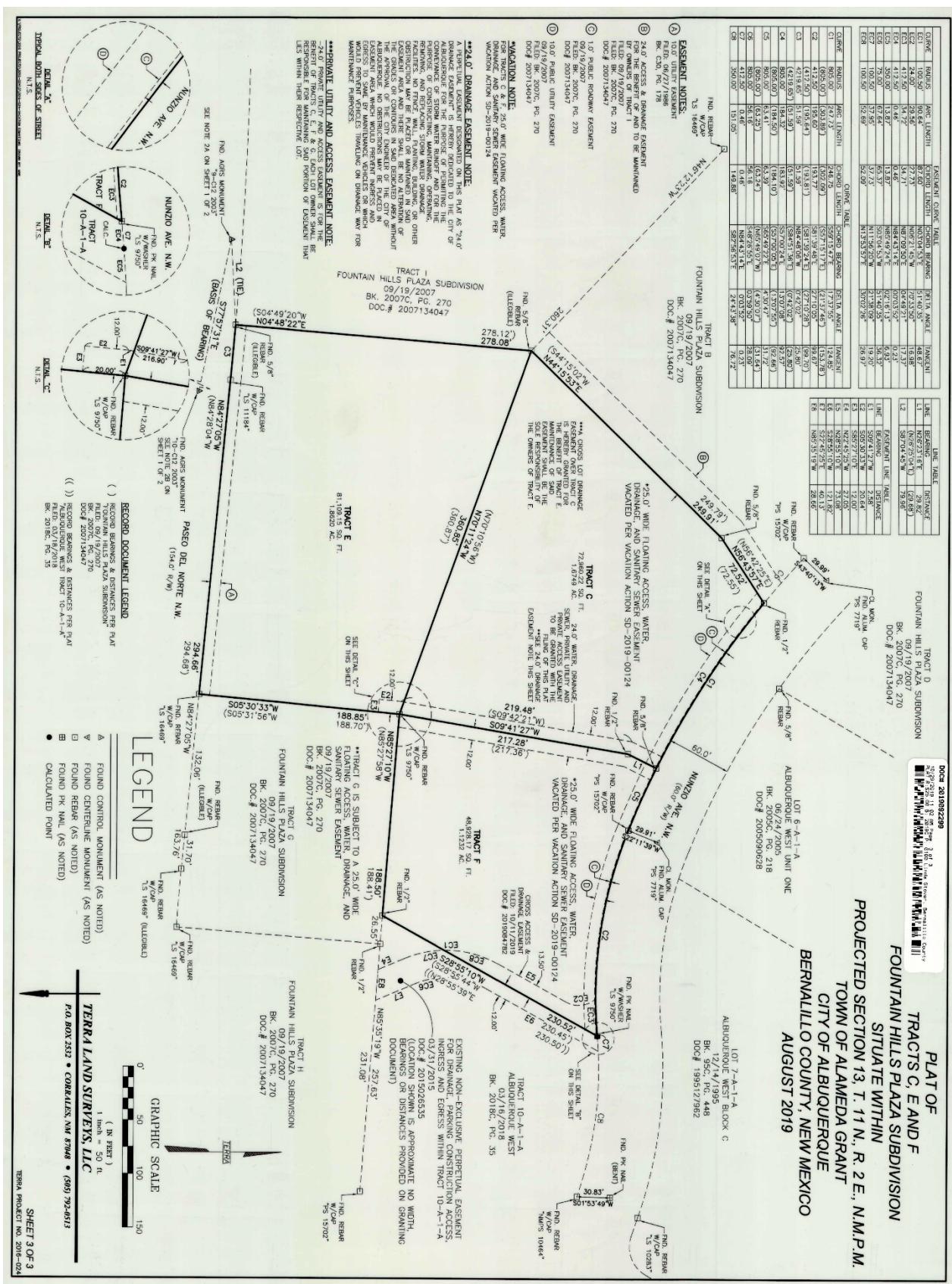


Exhibit A.2  
Page 3 of 3

October 20, 2020

**Chair**

Klarissa J. Peña  
City of Albuquerque  
Councilor, District 3

**Vice Chair**

Debbie O'Malley  
County of Bernalillo  
Commissioner, District 1

Pat Davis  
City of Albuquerque  
Councilor, District 6

Trudy E. Jones  
City of Albuquerque  
Councilor, District 8

Timothy M. Keller  
City of Albuquerque  
Mayor

Charlene Pyskoty  
County of Bernalillo  
Commissioner, District 5

Steven Michael Quezada  
County of Bernalillo  
Commissioner, District 2

**Ex-Officio Member**  
Pablo R. Rael  
Village of Los Ranchos  
Board Trustee

**Executive Director**  
Mark S. Sanchez

**Website**  
[www.abcwua.org](http://www.abcwua.org)

Scooter Haynes  
Learning Lab Development PER, LLC  
PO Box 9043  
Albuquerque, New Mexico 87119

**RE: Water and Sanitary Sewer Serviceability Letter #200919**

**Project Name: TLE @ Paseo and Eagle Ranch**

**Project Address: 4580 Nunzio Ave.**

**Legal Description: TR F PLAT OF FOUNTAIN HILLS PLAZA SUBD (A  
REPLAT OF TRACTSB-1-A, C-1-A, D-1-A ALBUQUERQUE WEST UNIT ONE  
LOT 10-A-2BLK D ALBUQUERQUE WEST & TRACT B RICHLAND HILLS  
UNIT 1)**

**UPC: 101206448928311906**

**Zone Atlas Map: C-12**

Dear Mr. Haynes:

**Project Description:** The subject site is located on Nunzio Ave., northwest of the intersection of Paseo Del Norte and Eagle Ranch Rd. within City of Albuquerque. The property consists of approximately +/- 1.1 acres and is currently zoned NR-C for Non-Residential Commercial use. The property lies within the Pressure Zone 2WR in the Corrales trunk. The request for information indicates plans to construct a 10,000 sq. ft. daycare center.

**Service Connection Agreement:** As this development is outside the Water Authority's Adopted Service Area, a Service Connection Agreement must be approved by the Water Authority Board. The developer shall coordinate with the Utility Development Section of the Water Authority to obtain a Service Connection Agreement.

**Water Resource Charge:** All developments located outside of the Water Authority's Adopted Service Area will be assessed a Water Resource Charge (WRC) as provided in the Water Authority's Water and Sewer Rate Ordinance for the development of new water resources, rights and supplies necessary to serve the development. The WRC shall not be used for reimbursement of master planned facilities.

**Existing Conditions:** Water infrastructure in the area consists of the following:

- Eight inch PVC distribution main (project #26-5844.80-10) along Nunzio Ave.

Sanitary sewer infrastructure in the area consists of the following:

- Eight inch PVC collector line (project #26-5844.80-10) along Nunzio Ave.

**Water Service:** New metered water service to the property can be provided via routine connection to the existing eight inch distribution main along Nunzio Ave. Existing metered service and fire lines that will not be utilized are to be removed by shutting the valve near the distribution main and capping the line near the valve. For fire lines, the valve access shall be grouted, and collar removed. Service is also contingent upon compliance with the Fire Marshal's instantaneous fire flow requirements. Water service

will not be sold without adequate fire protection. Water service will only be sold in conjunction with sanitary sewer service.

**Sanitary Sewer Service:** New sanitary sewer service can be provided via routine connection to the existing eight inch collector line along Nunzio Ave. All food service establishments must install a grease trap upstream of the domestic private sewer connection prior to discharge into the public sanitary sewer lines.

**Fire Protection:** From the request for availability the instantaneous fire flow requirements for the project are 1,500 gallons-per-minute and one (1) required fire hydrant. As modeled using InfoWater™ computer software, the fire flow can be met. An analysis test was performed at the existing fire hydrant #180 along Nunzio Ave. The fire one plan indicated an onsite private fire hydrant and a six inch fire line. It is to be noted that the onsite fire hydrant shall be painted safety orange.

Any changes to the proposed connection points shall be coordinated through Utility Development. All new required hydrants as well as their exact locations must be determined through the City of Albuquerque Fire Marshal's Office and verified through the Utility Development Office prior to sale of service. Please note that the engineer designing the fire line is responsible for determining pressure losses and sizing of the private water line(s) downstream of the public water line to serve the proposed fire hydrants and/or fire suppression system.

**Cross Connection Prevention:** Per the Cross Connection Ordinance, all new non-residential premises must have a reduced pressure principle backflow prevention assembly approved by the Water Authority and installed at each domestic service connection at a location accessible to the Water Authority. All new fire line services to fire protection systems shall be equipped with a reduced pressure principle backflow prevention assembly approved by the Water Authority and Fire Marshal having jurisdiction at each service connection. A double check valve assembly approved by the Water Authority and Fire Marshal having jurisdiction may be installed instead of a reduced pressure backflow prevention assembly provided the fire protection system contains ANSI/NSF Standard 60 or 61 water piping throughout the entire fire protection system, the fire sprinkler drain discharges into atmosphere, and there are no reservoirs, fire department connections, connections from auxiliary water supplies, antifreeze nor other additives. The Water Authority requests that all backflow (containment) devices be located above ground just outside the easement or roadway right-of-way. Contact Cross Connection at 289-3454 for more information.

**Easements:** Exclusive public water and sanitary sewer easements are required for all public lines that are to be constructed outside of any dedicated rights-of-way. A minimum width easement of 20 feet is required for a single utility and 25 feet for water and sewer both within the same easement. Easements for standard sized water meters need to be five feet by five feet and include the length of the water service if located on private property. For larger meters that require a meter vault, a 35 feet by 35 feet easement is required. Actual easement widths may vary depending on the depth of the lines to be installed. Acceptable easements must be documented prior to approval of service.

**Pro Rata:** Pro Rata is not owed, and the property can utilize the services available upon completion of the requirements of this statement to connect to water and sanitary sewer.

**Design and Construction:** of all required improvements will be at the developer / property owner's expense. Improvements must be coordinated through the Water Authority Mini Work Order process. Construction must be by a licensed, bonded, public utility contractor.

**Costs and Fees:** In addition to installation and construction costs, any new metered water services will be subject to both water and sanitary sewer Utility Expansion Charges (UEC) payable at the time of service application. All charges and rates collected will be based on the ordinances and policies in effect at the time service is actually requested and authorized.

**Water Use:** All new commercial developments shall be subject to the requirements for water usage and water conservation requirements as defined by the Water Authority, particularly the Water Waste Ordinance. Where available, outdoor water usage shall utilize reclaimed water.

**Closure:** This serviceability letter does not provide a commitment from the Water Authority to provide services to the development. It only provides details of infrastructure that is available and potential precursors for the proposed development. For service to be provided, a Board approved service connection agreement must be supplemented by this serviceability letter. The serviceability letter will remain in effect for a period of one (1) year from the date of issue and applies only to the development identified herein. Its validity is, in part, contingent upon the continuing accuracy of the information supplied by the developer. Changes in the proposed development may require reevaluation of availability and should be brought to the attention of the Utility Development Section of the Water Authority as soon as possible.

Please feel free to contact Mr. Kristopher Cadena in our Utility Development Section at (505) 289-3301 or email at [kcadena@abcwua.org](mailto:kcadena@abcwua.org) if you have questions regarding the information presented herein or need additional information.

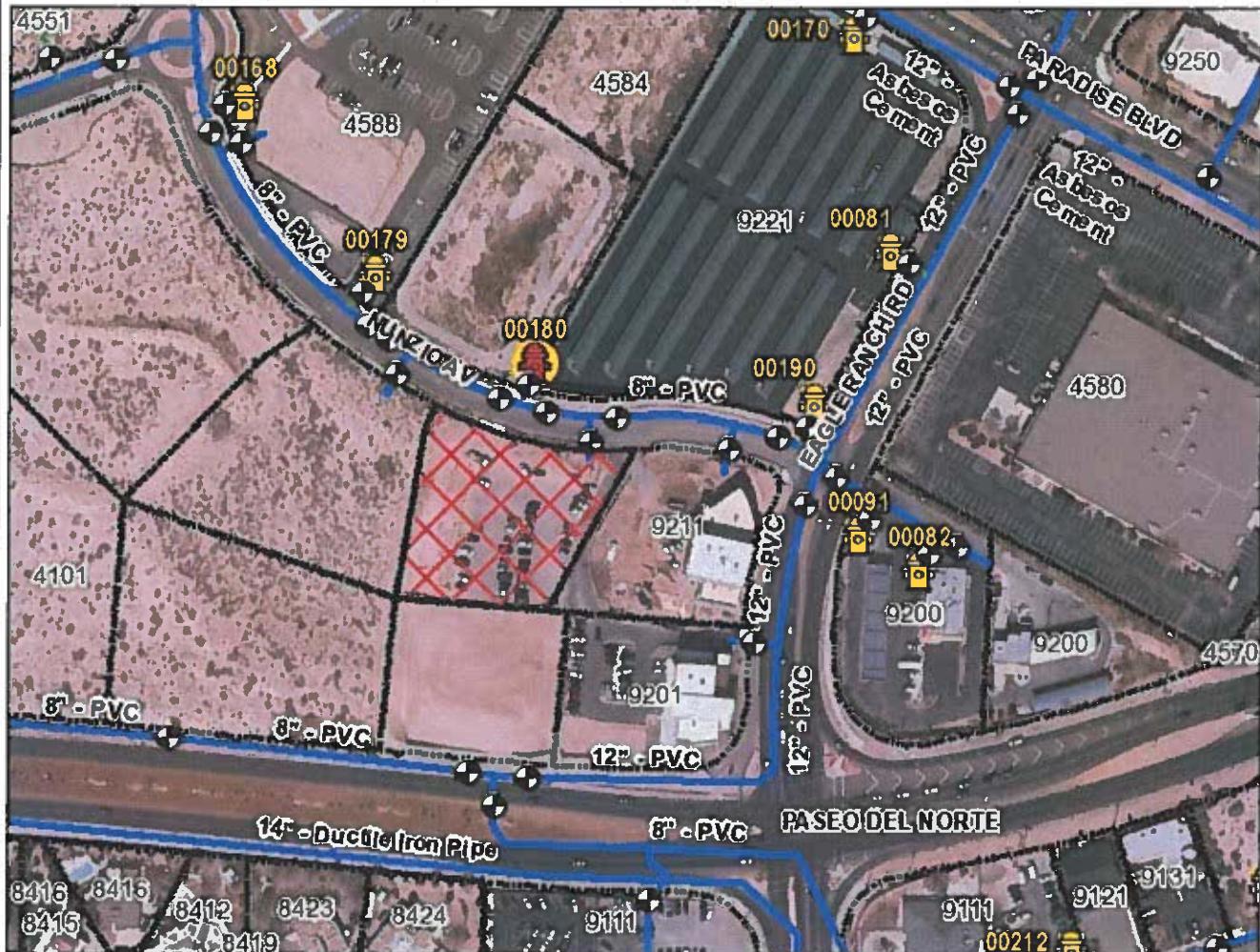
Sincerely,



Mark S. Sanchez  
Executive Director

Enclosures: Infrastructure Maps (2)  
f/ Serviceability Letter 200919

## 200919 - Water



### Legend

Project Location

Valve

Analysis Point

Hydrant

### Pipe

#### SUBTYPE

Distribution Line

Hydrant Leg

0

410

820 Feet



Water Utility Authority

## 200919 - Sanitary Sewer



### Legend

Project Location

Sewer Manhole

### Sewer Pipe

#### SUBTYPE

COLLECTOR

0

410

820 Feet



Water Utility  
Authority