

Meeting Date: January 16, 2013
Staff Contact: Allan Porter, Principal Engineer, Utility Development

TITLE: C-13-2 – Service Connection Agreement for Water and Sewer Service with Rio Rancho Eagle, LLC at 5751 McMahan NW

ACTION: Recommend Approval

SUMMARY:

Rio Rancho Eagle LLC desires to connect to existing water and wastewater infrastructure located in 5751 McMahan NW. The property is undeveloped land planned for a Dialysis Center near the corner of McMahan and Unser which is located outside the Water Authority's 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 Supply Charge

FISCAL IMPACT:

None

SERVICE CONNECTION AGREEMENT

Rio Rancho Eagle, LLC

7519 Brooklyn Ave. NE

Seattle, WA 98115

Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision (“Water Authority”) and Rio Rancho Eagle, LLC, whose address is 7519 Brooklyn Ave. NE, Seattle, WA 98115, agree as follows:

1. Recitals

- A.** Rio Rancho Eagle, LLC (“Owner”) is the owner of 5751 McMahon NW, Albuquerque, NM 87114 (Legal Description: Lot D-1, Lands of Zolin/Kunath Tres Esquinas LLC) (“Property”), more particularly described and as shown in the Availability Statement for the Property. The Availability Statement 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 Service Area within the region previously serviced by NMUI.
- C.** The Owner desires to connect to existing water and waste water infrastructure in Pinon Verde.
- D.** Water service to the Property will be taken from the existing 8 inch water line in Pinon Verde. Wastewater service to the Property will tie into the existing 8 inch sewer line also located in Pinon Verde. Installation of services shall be performed under the standard tapping permit or mini-work order process.
- E.** A Water Supply Charge will be assessed against the Property as it was platted after July 15, 2007 and therefore subsequent to the implementation of the Water Supply Charge policy.

2. Service

- A.** The 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.** The 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.** The 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, The 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 The Owner has not been completed and accepted by the Water Authority within seven (7) year of the effective date of this Agreement, this Agreement shall automatically terminate, and the Water Authority and The Owner shall have no further rights, obligations, or liabilities with respect to this Agreement, unless otherwise agreed in writing.
- 4. Indemnification.** The 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 The Owner, its agents, representatives, contractors, or subcontractors, or arising from the failure of The Owner, its agents, representatives, contractors, or subcontractors to perform any act or duty required of The Owner herein. The indemnification by The Owner will not extend to the negligent acts of the Water Authority.
- 5. Representations and Warranties of the Owner.** The Owner represents and warrants that:
- A.** The Owner is validly existing under the laws of the State of New Mexico.
 - B.** The Owner has all the requisite power and authority to enter into this Agreement and bind The Owner under the terms of the Agreement; and
 - C.** The undersigned officer of The Owner is fully authorized to execute this Agreement on behalf of The 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 the Owner:
Doug Armintrout
Rio Rancho Eagle, LLC.
7519 Brooklyn Ave. NE
Seattle, WA 98115

7. **Assignment.** This Agreement will not be assigned without the prior written consent of the Water Authority and the 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**

**Doug Armintrout
Managing Member**

By: _____
Mark S. Sanchez

By: _____
Doug Armintrout

Date: _____

Date: _____

August 10, 2012

Chair

Ken Sanchez
City of Albuquerque
Councilor, District 1

Vice Chair

Wayne Johnson
County of Bernalillo
Commissioner, District 5

Richard J. Berry
City of Albuquerque
Mayor

Art De La Cruz
County of Bernalillo
Commissioner, District 2

Rey Garduño
City of Albuquerque
Councilor, District 6

Maggie Hart Stebbins
County of Bernalillo
Commissioner, District 3

Trudy E. Jones
City of Albuquerque
Councilor, District 8

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

Executive Director
Mark S. Sanchez

Website
www.abcwua.org

Mike Balaskovits, PE
Bohannon Huston
7500 Jefferson NE, Courtyard I
Albuquerque NM 87109

**RE: Water and Sanitary Sewer Availability Statement #120613
Zolin Kunath Tres Esquinas LLC & Curb Inc.-Lot D1 - Zone Atlas Map: A-11**

Dear Mr. Balaskovits:

Project Information: The lot is ±1.4 acres. The site is located on the northwest corner of the Pinon Verde and McMahon, just west of the Unser and McMahon intersection, within the city limits. The site is currently zoned SU-1 and lies in the 3WR pressure zone within the Corrales trunk. The request for service availability indicates plans to construct a Dialysis Center.

Existing Conditions: Water infrastructure in the area includes an eight inch line (Project #26-6830.82-04 and 7901.84) in Pinon Verde and an 18 inch line (NMUI-008-90) in McMahon.

Sanitary sewer infrastructure in the area is limited to an eight inch line (Project #26-6830.82-04) in Pinon Verde.

Service: New metered water service to the site is available contingent upon compliance with the Fire Marshal's fire flow requirements and confirmation that the eight inch line in Pinon Verde connects to the 18 inch line in McMahon. Upon confirmation of the line, service taps may be made to that line. Water service will only be sold in conjunction with sewer service. Water service shall only be provided in conjunction with sewer service.

Sanitary sewer service to the site is available to the site via routine connection to the eight inch line in Pinon Verde.

Fire Protection: A statement from the City Fire Marshal's office indicates that the instantaneous flow required is 1,280 GPM, supplied by one but possibly two hydrants, required within 300 feet of the largest building. New hydrants may be required; all required hydrants as well as their exact locations must be determined through the Fire Marshal's Office and verified through the Utility Development Office prior to sale of service.

Construction of all required improvements will be at the developer/property owner's expense and must be coordinated through the Water Authority Mini-Work Order process. Designs must be by a licensed, New Mexico registered, Professional Engineer. Construction must be by a licensed, bonded, public utility contractor.

Costs and Fees: In addition to installation and construction costs, new sanitary sewer and metered water services will be subject to 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. Credit will be given for any previous accounts on this property.

Water Supply Charge: All developments located outside of the Water Authority's service area will be assessed a Water Supply Charge (WSC) 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 WSC shall not be used for reimbursement of master planned facilities.

Service Connection Agreement: As this development is outside the existing service area, a Service Connection Agreement must be executed between the owner and the Water Authority. The Utility Development Section of the Water Authority will coordinate with the developer in order to execute this Service Connection Agreement.

Water Use: All new development shall be required to meet the standard water usage of 180 gallons per household per day which is equivalent to 75 gallons per capita day. Indoor water use shall consist of 70% of total use with outdoor limited to 30%. Where available, outdoor water usage shall utilize reclaimed water.

Closure: This statement of availability will remain in effect for a period of one 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 the Utility Development Office at (505) 924-3987, or by fax at (505) 924-3864 if you have questions regarding the information presented herein or need additional information.

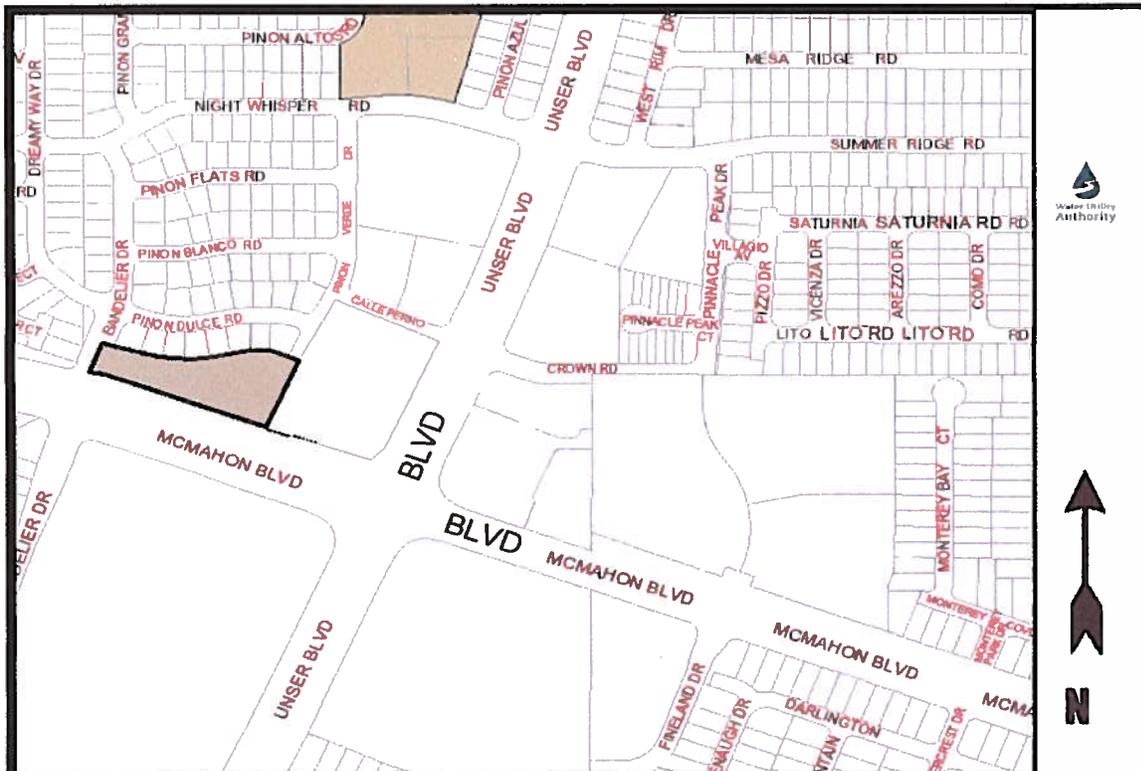
Sincerely,



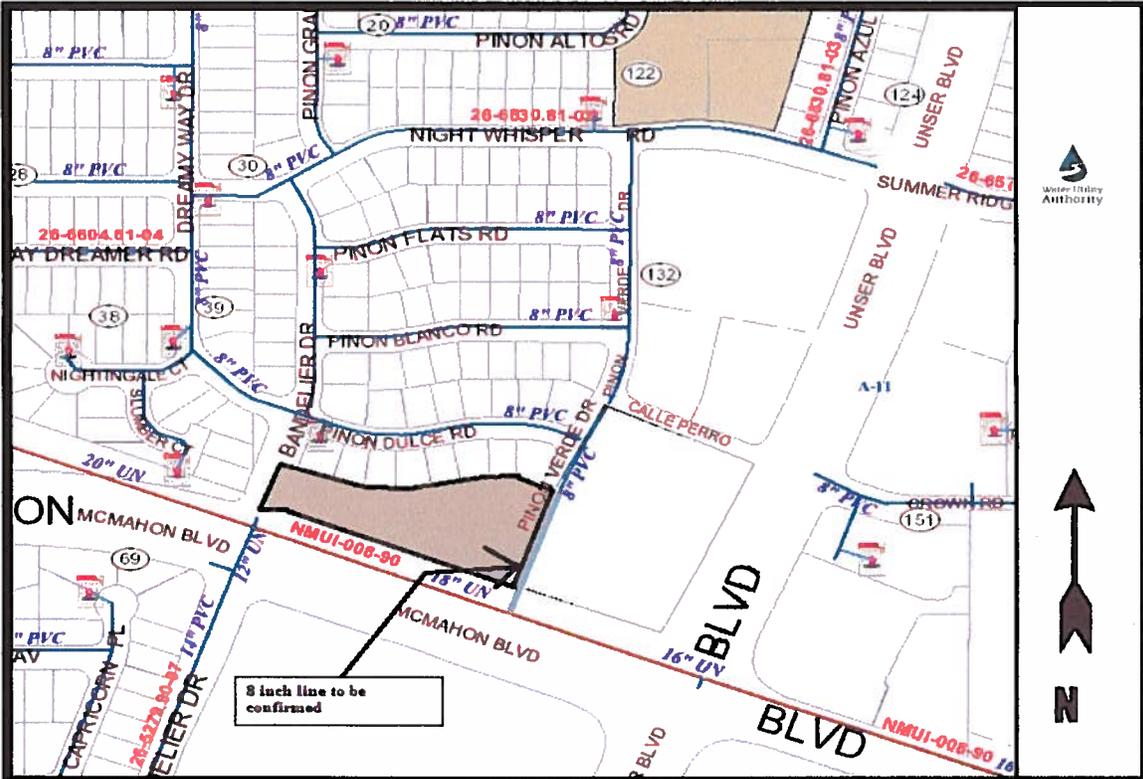
Mark S. Sanchez
Executive Director

Encl: Site and Infrastructure Maps (3)

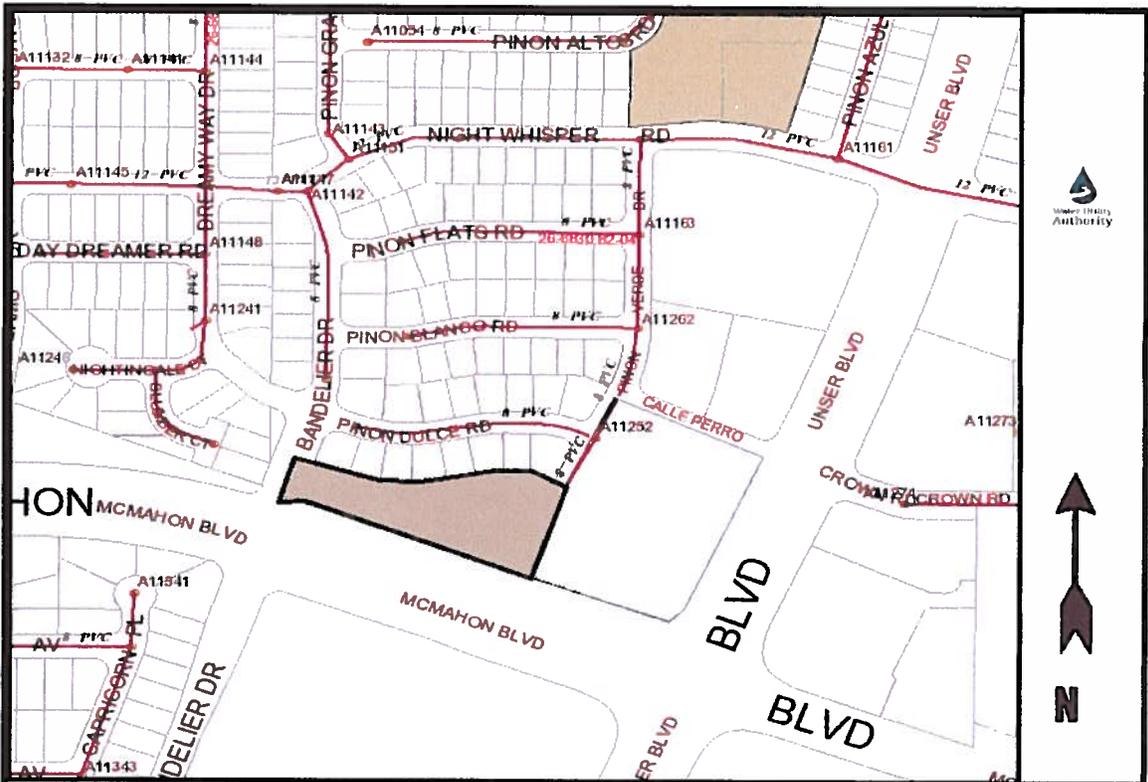
C: f/ Availability A-11



Availability Statement #120613-Site Map



Availability Statement #120613-Water Lines



Availability Statement #120613-Sewer Lines