
Meeting Date: April 20, 2022
Staff Contact: Kristopher Cadena, Chief Engineer, Utility Development

TITLE: R-22-12 – Authorizing an Agreement with Thunderbird Kirtland Development, LLC for Water and Sewer Service for Max Q

ACTION: Recommend Approval

SUMMARY:

Thunderbird Kirtland Development, LLC proposes a mixed-use development within Kirtland AFB, located along the south side of Gibson Blvd., between Carlisle Blvd. and Charlene Rd. The project will be developed in two phases totaling approximately 35 acres. The property is outside of the Adopted Service Area.

The property lies within Pressure Zone 3E in the Ridgecrest Trunk.

Water and wastewater service is contingent on the Developer constructing internal distribution and collector lines that tie to the existing infrastructure proximate to the property.

All services provided within the development will be subject to current Utility Expansion and Water Resource Charges.

FISCAL IMPACT:

None.

**DEVELOPMENT AGREEMENT
MAX Q**

Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision, (“Water Authority”) and Thunderbird Kirtland Development, LLC (“TKD”), a Delaware limited liability corporation, (“Developer”) (together, “Parties”), agree as follows:

1. Recitals

- A.** Thunderbird Kirtland Development, LLC (“Developer”) is the Lessee under that certain Site Development Lease (“SDL”) with the United States Air Force under the Enhanced Use Lease authority of 10 U.S.C. Section 2667; the SDL consists of approximately 35 contiguous acres (AKA SDL-1 and SDL-2) situated on Kirtland Air Force Base, Albuquerque, New Mexico (the “Federal Government”) on federal property located in Bernalillo County, NM, located south of Gibson Boulevard, between Carlisle Boulevard and Charlene Drive in Albuquerque more particular described as shown in Exhibit A.1 (the “Property”). The Property is located outside of the Water Authority’s adopted Water Service Area.
- B.** The Property will develop as a mixed-use business park comprised of two phases, Site Development Lease 1 (SDL-1), which is approximately 21.4 acres, and Site Development Lease 2 (SDL-2) which is approximately 13.6 acres.
- C.** The Property is described as the metes and bounds identified in the ALTA surveys shown in Exhibit A.2 and Exhibit A.3.
- D.** The Property is located in Pressure Zone 3E of the Ridgecrest Trunk.
- E.** The Parties desire to agree upon terms and conditions pursuant to which the Water Authority will provide water and sanitary sewer service to the Property. As a condition of such service, the Developer shall construct, or cause to be constructed, extensions of existing public water and sanitary sewer lines and other necessary infrastructure improvements (collectively, “Facility Improvements”) under all applicable plans, specifications, requirements, and standards of the Water Authority. The Serviceability Letter for the Property reflecting necessary Facility Improvements referred to in this Agreement is attached hereto as Exhibit B and incorporated herein by reference and made a term of this Agreement.
- F.** The Facility Improvements referenced in this Agreement are not considered Master Plan improvements by the Water Authority. As such, reimbursement of construction costs associated with their construction will not be available through water and sewer UEC (defined below in Section 3.B) reimbursements.

2. Design and Construction of the Facility Improvements

- A.** The Developer will cause definitive designs and plans of the Facility Improvements to be produced which will include estimates of all costs and expenses. The Developer will not take service from the Facility Improvements until the Water Authority has approved the Facility Improvements. The Developer will obtain all necessary permits, assurances, and approvals from the Water Authority and City, and the Developer will deliver a copy of such permits, assurances, and approvals to the Water Authority prior to the start of construction. Construction will be handled through the City or Water Authority work order process, based on determination from the City for work within its public right-of-way.
- B.** The Developer will complete, or cause to be completed, construction of the Facility Improvements as approved by the City of Albuquerque Design Review Committee and the Water Authority, and in conformance with all applicable plans, specifications, and standards of the City and the Water Authority. The Water Authority shall provide service to the Property only after the Water Authority has accepted the Facility Improvements. The Water Authority shall accept, operate, and maintain the Facility Improvements after the Developer conveys, at no expense to the Water Authority, all the Facility Improvements together with all real and personal property rights, including an Air Force Grant of Easement (“Easement”), which the Water Authority deems reasonably necessary which shall be free and clear of all claims, encumbrances and liens for the construction, operation and maintenance. The Easement shall be for the life of the SDL, unless otherwise approved by Kirtland Air Force Base (KAFB). The Water Authority will accept permission for the Facility Improvements within the Easement under the Developer’s SDL with KAFB. It is understood that this permission is term limited to match the term of the Developer’s SDL. Accordingly, upon expiration of the SDL term, the Developer shall either, in accordance with the SDL: 1) Abandon the Facility Improvements in place; 2) Remove the Facility Improvements and restore the Property to the original condition or condition satisfactory to the Federal Government; or 3) Extend the SDL including the permission for Water Authority mains to be located on the Property. The provisions of this Agreement constitute covenants running with the referenced Property for the benefit of the Water Authority and its successors and assigns until terminated, and are binding on the Developer and their heirs, successors, and assigns.
- C.** The contractor’s one (1) year warranty period shall commence upon final project acceptance by the Water Authority. The Developer shall be responsible for conducting an 11-month warranty inspection. Developer shall be responsible for correcting any deficiencies found during the inspection to the satisfaction of the Water Authority.

- D. The Developer will be responsible for close coordination of the project with the Water Authority during the design and construction phases, including review of design details, during the design process, and the approval of specifications and contract documents. The Water Authority will review and approve in a timely manner the design plans for construction and estimated cost, to ensure the designs meet Water Authority standards and follow the guidance provided in the City's Development Process Manual ("DPM") and/or applicable Water Authority Design Manuals.
- E. To the extent relevant and applicable and to the extent there is no conflict with the terms of this Agreement, the usual procedures and documentation, including the Procedure "A", as defined in the Development Process Manual (DPM) of the City, will be followed and used for the Facility Improvements.
- F. Upon completion of all Work Order projects, the Developer shall provide to the Water Authority a completed Asset Data Table of the assets installed/constructed or any other asset information required of the Water Authority.

3. Service

- A. The Developer 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 the concurrent connection of sanitary sewer service to the Water Authority's wastewater system.
 - B. The Developer or its successor shall pay Utility Expansion Charges (UEC) and the Water Resource Charges (WRCs) 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. Pursuant to Water Authority Resolution No. R-05-13, the Developer agrees that it will incorporate water conservation guidelines that will seek to achieve water usage of no more than 180 gallons per household which is equivalent to seventy-five (75) gallons per capita per day.
4. **Termination.** If construction of the Facility Improvements by the Developer has not been completed and accepted by the Water Authority within seven years of the effective date of this Agreement, this Agreement shall automatically terminate, and the Water Authority and the Developer shall have no further rights, obligations, or liabilities with respect to this Agreement, unless otherwise agreed in writing.
5. **Water for Construction.** During the construction of the Facility Improvements, the Developer agrees to utilize alternative methods as approved by the City of Albuquerque's Air Quality Division for dust abatement and control including compost from the Water Authority, if economically feasible. The Developers may purchase water for construction from the Water Authority from the nearest approved fire hydrant

in accordance with the Water Authority's Water and Sewer Rate Ordinance. Water purchased from the Water Authority shall be used only for construction.

- 6. Indemnification.** Until final acceptance of the Facility Improvements by the Water Authority, the Developer shall be solely responsible for the condition and maintenance of the Facility Improvements and the premises upon which the Facility Improvements are constructed. The Developer agrees to indemnify and hold harmless the Water Authority and its officials, agents, and employees from and against all suits, actions or claims of any character brought because of any injury or damage arising out of the design or construction of the Facility Improvements, or by reason of any act or omission, or misconduct of the Developer, its agents, employees or the Engineer or Contractor or its agents or employees. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement. Nothing herein is intended to impair any right or immunity under the laws of the State of New Mexico. The indemnification by the Developer herein does not extend to the negligent acts of the Water Authority.
- 7. Representations and Warranties of Developer.** The Developer represents and warrants that:

 - A.** Developer is a validly existing limited liability company under the laws of the State of Delaware.
 - B.** Developer has all the requisite power and authority to enter into this Agreement and bind the Developer under the terms of the Agreement; and
 - C.** The undersigned officer of the Developer is fully authorized to execute this Agreement on behalf of the Developer.
- 8. Notices.** Any notice to be given under this Agreement will be in writing and will be deemed to have been given when deposited with the United States Postal Service, postage prepaid and addressed as follows:

If to the Water Authority:

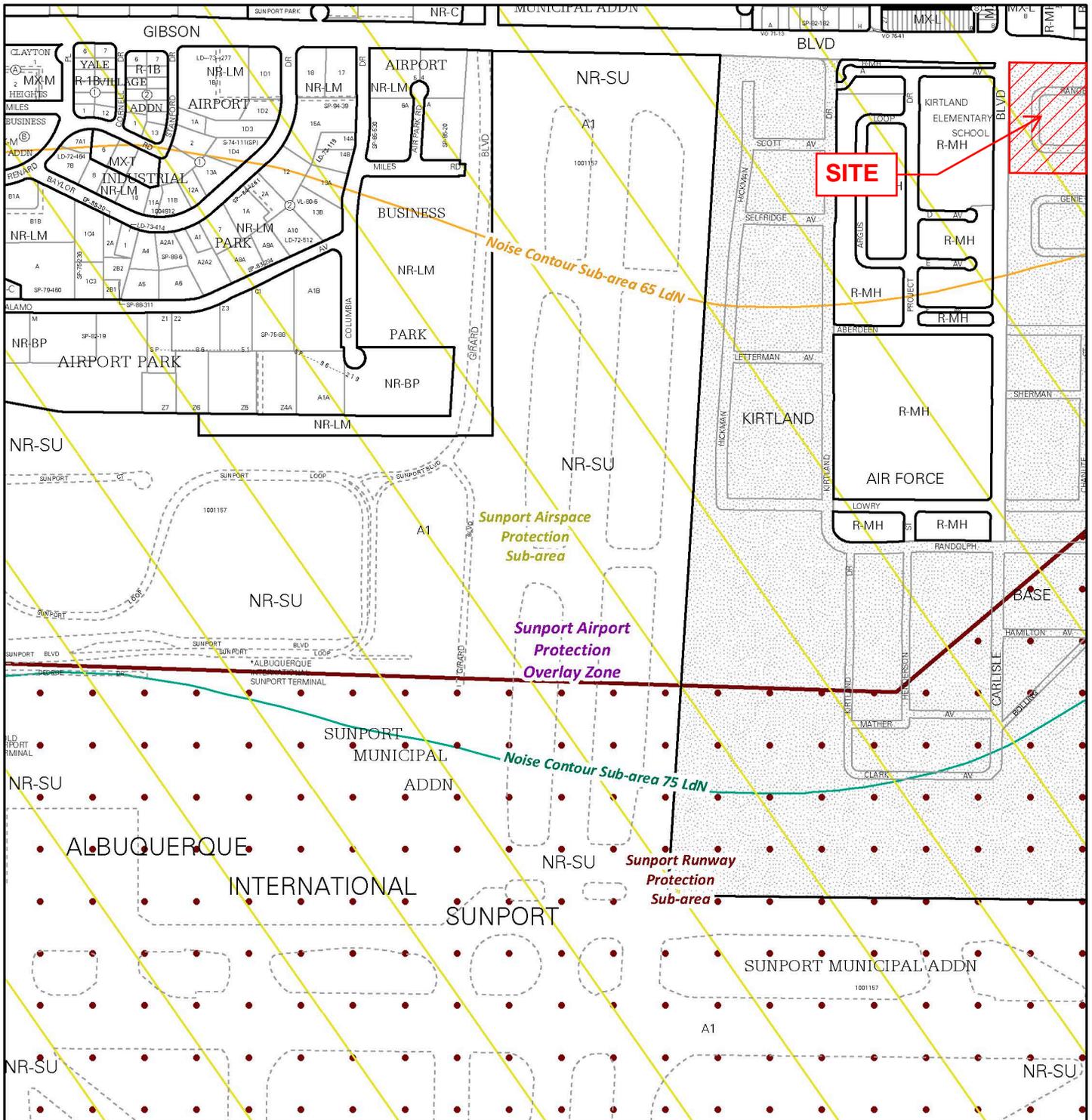
Mark S. Sanchez
Executive Director
Albuquerque Bernalillo County
Water Utility Authority
One Civic Plaza, Room 5012
Albuquerque, New Mexico 87102

If to Developer:

Thunderbird Kirtland Development, LLC (TKD)
Attn: Kevin Yearout, Managing Member
8501 Washington St.
Albuquerque, NM 87113

- 9. Assignment.** This Agreement will not be assigned without the prior written consent of the Water Authority and the Developer. If so assigned, this Agreement shall extend to and be binding upon the successors and assigns of the parties hereto.
- 10. 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 Developer 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.
- 11. 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.
- 12. 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.
- 13. Effective Date.** The effective date of this Agreement is the date last entered below.

EXHIBIT A.1
ZONE ATLAS MAP M-16 & M-17



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

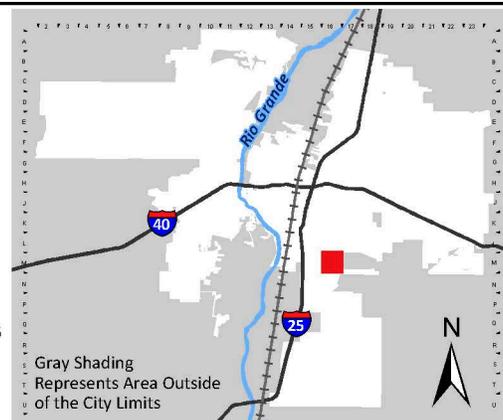
IDO Zone Atlas

May 2018



Albuquerque Geographic Information System

IDO Zoning information as of May 17, 2018
The Zone Districts and Overlay Zones are established by the Integrated Development Ordinance (IDO).



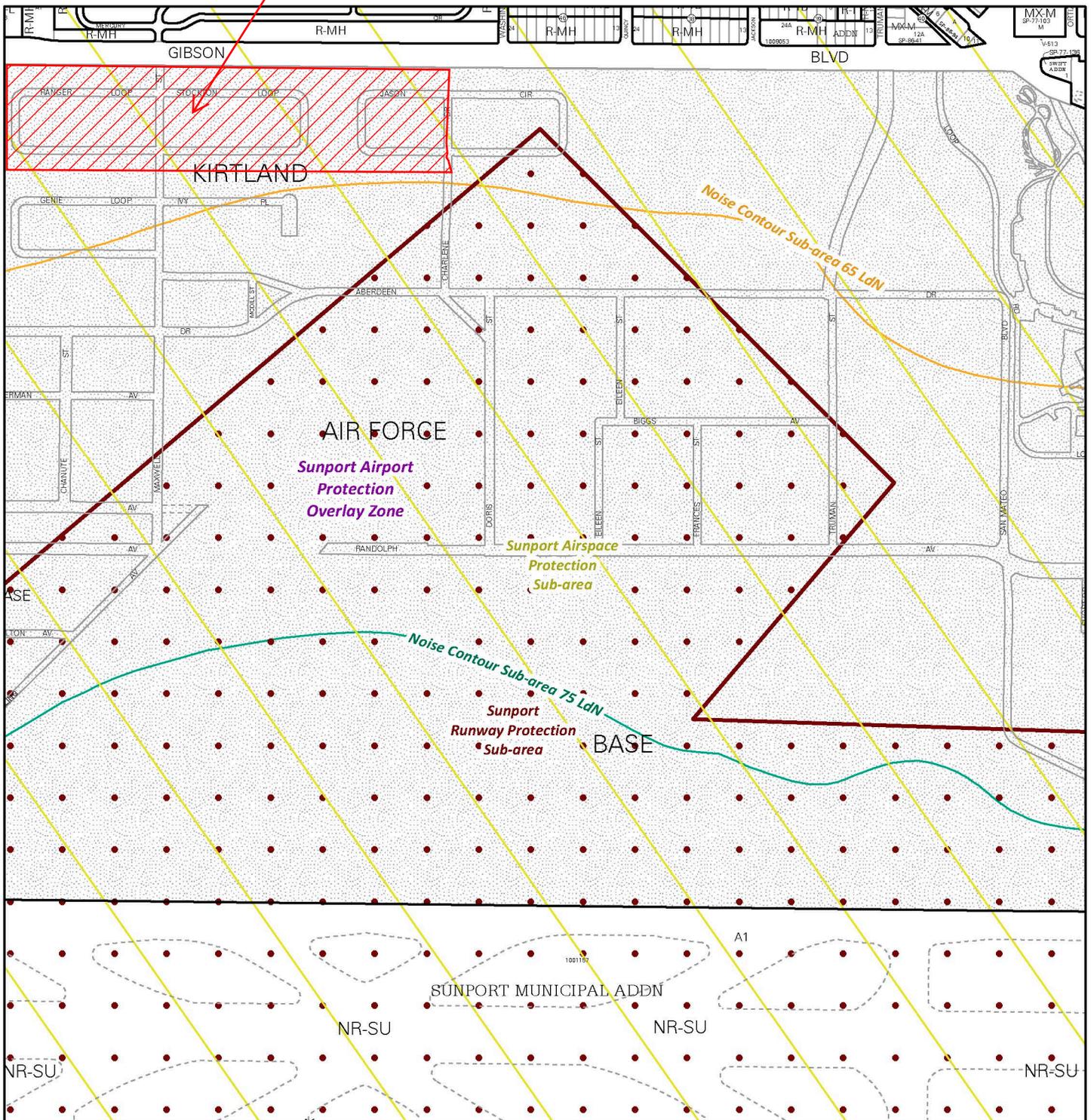
Gray Shading Represents Area Outside of the City Limits

Zone Atlas Page:
M-16-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

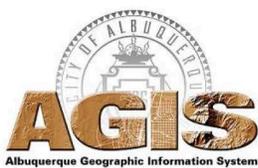
Feet
0 250 500 1,000

SITE

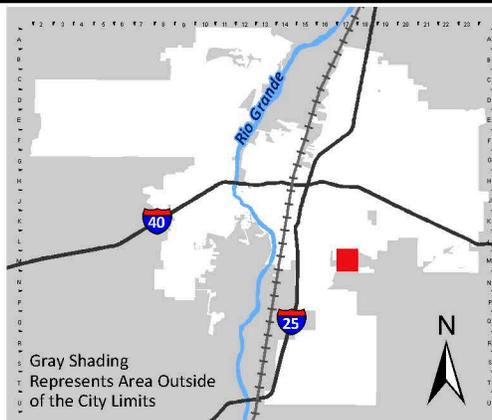


For more details about the Integrated Development Ordinance visit: <http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance>

IDO Zone Atlas May 2018



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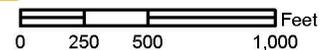
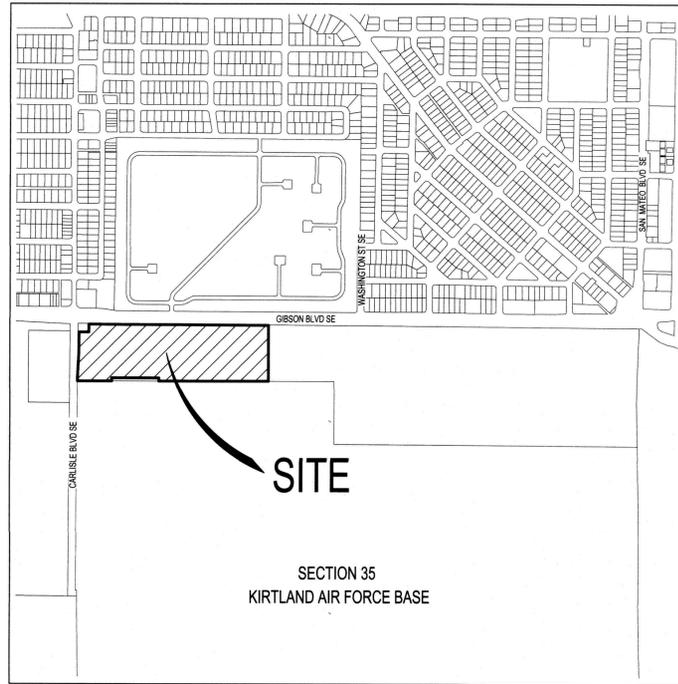


EXHIBIT A.2
ALTA/NPS LAND TITLE SURVEY

ENHANCED USE LEASING
PROJECT PHASE I (SDL-1)

**ALTA/NSPS LAND TITLE SURVEY
ENHANCED USE LEASING PROJECT
PHASE I
KIRTLAND AIR FORCE BASE
SECTION 35
TOWNSHIP 10 NORTH, RANGE 3 EAST,
N.M.P.M.,
ALBUQUERQUE, BERNALILLO COUNTY,
NEW MEXICO
FEBRUARY, 2020**



**LOCATION MAP
NOT TO SCALE**

NOTES

1. TRACT IS LOCATED WITHIN THE KIRTLAND AIR FORCE BASE, SECTION 35, T10N, R3E, NMPM, BERNALILLO COUNTY, CITY OF ALBUQUERQUE, NEW MEXICO.
2. SITUS ADDRESS TAKEN FROM BERNALILLO COUNTY PARCEL MAP IS: "ALBUQUERQUE NM 87117"
3. THE APPROXIMATE CENTER OF THE PROJECT IS LOCATED AT LATITUDE: 35°04'40"N, LONGITUDE: 106°44'34"W.
4. GROSS ACREAGE: 21.43 ACRES.
5. BASIS OF BEARING IS BETWEEN ALBUQUERQUE GEODETIC REFERENCE SYSTEM (AGRS) BLM MONUMENT "T10N R3E S34 AP9N" TO MONUMENT "ACS BM 29-L16" N85°33'37"W.
6. SITE WITHIN SECTION 35 LIES ENTIRELY WITHIN "AREAS IN WHICH FLOOD HAZARD ARE UNDETERMINED, BUT POSSIBLE (ZONE D)" AS SHOWN ON FEMA FIRM VERSION NUMBER: 2.3.3.2, MAP NUMBER: 35001C0381G, MAP REVISED: SEPTEMBER 26, 2008.
7. DISTANCES ARE GROUND DISTANCES (US. FT.).
8. RECORD BEARINGS AND DISTANCES ARE SHOWN IN PARENTHESES ().
9. ALL EASEMENTS OF RECORD MADE KNOWN TO ME BY THE OWNER, UTILITY COMPANIES, OR OTHER INTERESTED PARTIES ARE AS SHOWN ON THE DOCUMENT.
10. THIS ALTA / NSPS LAND TITLE SURVEY IS BASED ON INFORMATION OBTAINED FROM TITLE SEARCH REPORT DATED JANUARY 6, 2020 FILE NO. 1908882 ISSUED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, TITLE INSURANCE COMPANY.
11. DATE OF FIELD SURVEY: JULY 2019 AND FEBRUARY 2020.
12. THERE WERE NO BUILDINGS OBSERVED WITHIN THE SUBJECT PROPERTY IN THE PROCESS OF CONDUCTING THE FIELD WORK.
13. NO DIRECT ACCESS FROM GIBSON BLVD OR CARLISLE BLVD. THIS IS A SECURED SITE BEING A PART OF KIRTLAND AIR FORCE BASE.

DESCRIPTION

A Certain Tract of land located within Section 35, Township 10 North, Range 3 East, New Mexico Principal Meridian, Bernalillo County, New Mexico, said Tract being portion of the West and North boundaries of Kirtland Air Force Base as the same is shown and designated on Metes and Bounds Survey executed by Thomas A. Maestas Cadastral Surveyor, beginning January 15, 2013 and completed September 16, 2014, pursuant to special instructions dated and approved October 29, 2012 and supplemental special instructions dated and approved January 15, 2013 for group No. 1149, New Mexico, Plat dated October 16, 2014 office of the United States Department of the Interior Bureau of Land Management, being more particularly described as Enhanced Use Leasing Property Phase I, by New Mexico State Plane Coordinate Bearings, Central Zone, NAD83, U.S. Survey Feet ground distances as follows.

From the **POINT OF BEGINNING (POB)** being a point at the northwest corner of said Enhanced Use Leasing Property Phase I, **WHENCE** a found BLM 3.5" Brass Disk T10N R3E S34 AP9N bears, N63°49'59"W a distance of 57.79 feet;

THENCE S89°39'53"E a distance of 360.01 feet;

THENCE N89°28'39"E a distance of 68.71 feet;

THENCE S89°43'47"E a distance of 337.91 feet;

THENCE S89°52'53"E a distance of 82.20 feet;

THENCE S89°39'30"E a distance of 709.30 feet;

THENCE S89°40'58"E a distance of 138.63 feet;

THENCE South a distance of 526.78 feet;

THENCE West a distance of 1,034.24 feet;

THENCE North a distance of 30.31 feet;

THENCE West a distance of 446.00 feet;

THENCE South a distance of 30.31 feet;

THENCE West a distance of 324.00 feet;

THENCE N00°25'22"E a distance of 30.81 feet;

THENCE N02°59'14"E a distance of 233.38 feet;

THENCE N00°23'54"E a distance of 197.45 feet;

THENCE East a distance of 93.81 feet;

THENCE N00°03'46"W a distance of 73.70 feet to the **POINT OF BEGINNING**.

BASIS OF BEARING: Bearings based on New Mexico Central Zone (3002), NAD 1983, between the found BLM 3.5" Brass Disk T10N R3E S34 AP9N and a found City Of Albuquerque 2" Brass Plug bears N85°33'37"W.

This tract contains 933,382 Sq. Ft., 21.4275 Acres more or less.

UTILITY NOTE

A "DESIGN LOCATE" REQUEST WAS MADE THROUGH NM811 TO FACILITATE THE DESIGNATION OF UNDERGROUND UTILITIES WITHIN THE SURVEYED AREA. THE LOCATION OF UNDERGROUND UTILITIES SHOWN ON THIS MAP/PLAT IS BASED ON THE MARKINGS (I.E. PAINT, PINFLAGS, STAKES, ETC.) PLACED ON THE SURFACE BY THE UTILITY OWNERS, AND/OR BASED ON ASBUILT PLANS PROVIDED BY THE UTILITY OWNERS. WITHOUT EXCAVATION, BOHANNAN HUSTON DOES NOT GUARRANTY THE EXACT LOCATION, TYPE, SIZE OR MATERIAL OF THE UNDERGROUND UTILITY LINE. NM811 LOCATE REQUEST NUMBER 19JU090947, REQUEST MADE ON JULY 9, 2019.

TITLE SEARCH REPORT, DOCUMENTS PROVIDED

PATENTS:

1. United States of America to Gust Johnson dated March 8, 1922 recorded in Book 72, page 384, records of Bernalillo County, New Mexico - Pertains to this survey (not plotted)
2. United States of America to Silas W. Henry dated January 30, 1924 recorded in Book 77, page 43, records of Bernalillo County, New Mexico - Pertains to this survey (not plotted)

LEASE:

1. The Department of the Air Force United States of America to Kirtland Air Force Base Housing, Inc. dated August 12, 1958 in Book D437, page 357, records of Bernalillo County, New Mexico- Does not pertain to this survey (not plotted)
2. The Department of the Air Force United States of America to Kirtland Air Force Base Housing, No. Two, Inc. dated August 12, 1958 in Book D437, page 365, records of Bernalillo County, New Mexico- Does not pertain to this survey (not plotted)
3. The Department of the Air Force United States of America to Kirtland Air Force Base Housing, No. Three, Inc. dated August 12, 1958 in Book D437, page 373, records of Bernalillo County, New Mexico- As to Parcel Y-1 Does not pertain to this survey (not plotted). As to Parcel Y-2; Pertains to this survey (plotted as shown- same as parcel shown in Quitclaim Deed (Bk D446, pg. 131).

EASEMENT:

1. The Secretary of the Air Force Kirtland Air Force Base to City of Albuquerque dated October 27, 1953 in Book D259, page 3, records of Bernalillo County, New Mexico- Does not pertain to this survey (not plotted)
2. Kirtland Air Force Base to Public Service Company of New Mexico dated March 16, 1954 in Book D273, page 49, records of Bernalillo County, New Mexico- Document not provided.

QUITCLAIM DEEDS:

1. City of Albuquerque to United States of America dated October 10, 1958 recorded in Book D446, page 131, records of Bernalillo County, New Mexico- Pertains to this survey (plotted in approximate manner as shown)

SURVEYOR'S CERTIFICATION

To: THE UNITED STATES OF AMERICA, acting by and through THE SECRETARY OF THE AIR FORCE

To: Old Republic National Title Insurance Company

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1,3,7,8,11,12,13,16,18, of Table A thereof. The fieldwork was completed on July 2019 and February 2020.

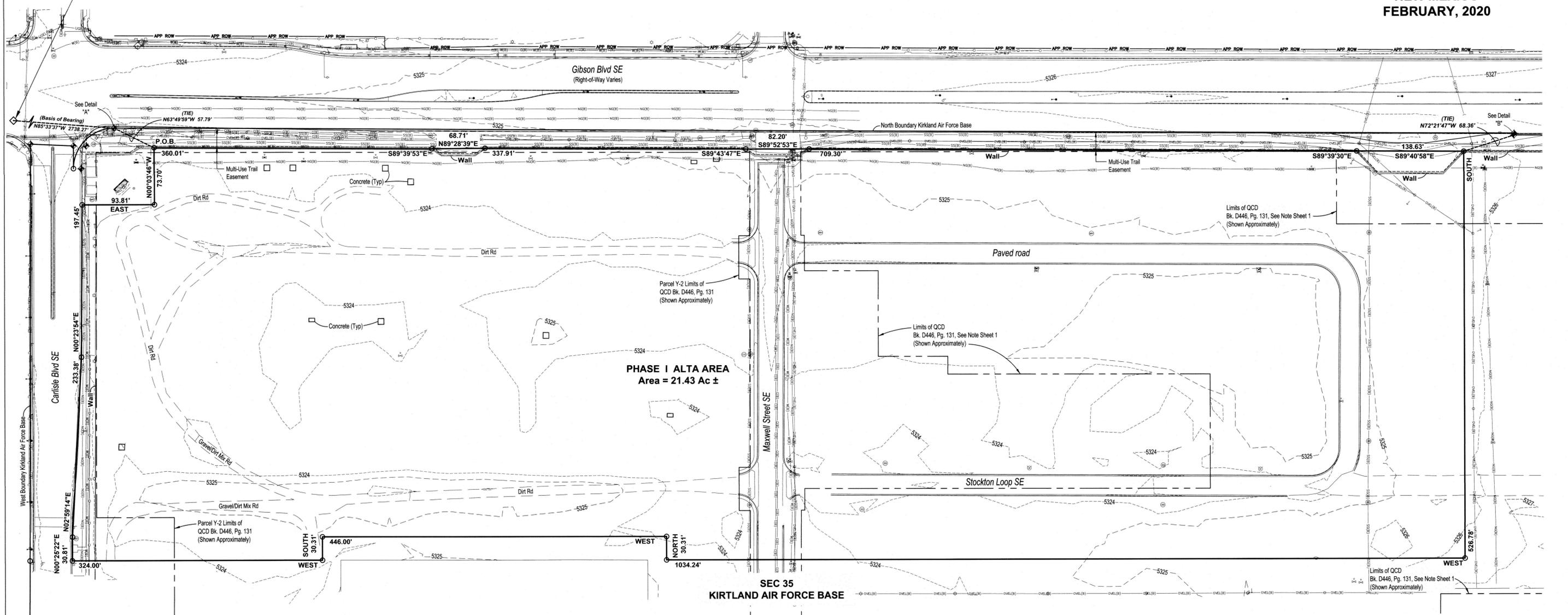
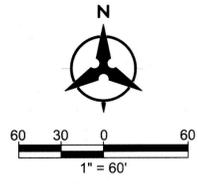

Barry S. Phillips
New Mexico Professional Surveyor 15517
bphilips@bhinc.com
FOR AND ON BEHALF OF BOHANNAN HUSTON, INC.



Date: 2-19-2020

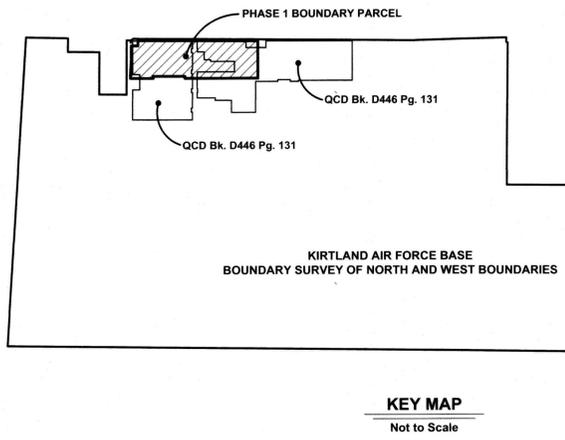
ALTA/NSPS LAND TITLE SURVEY
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 SECTION 35
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 N.M.P.M.,
 ALBUQUERQUE, BERNALILLO COUNTY,
 NEW MEXICO
 FEBRUARY, 2020

CITY OF ALBUQUERQUE CONTROL STATION 'ACS BM 29_L16'
 GEOGRAPHIC POSITION (NAD 1983)
 N.M. STATE PLANE COORDINATES (CENTRAL ZONE)
 X = 1531731.07 Y = 1476840.15
 GROUND TO GRID FACTOR= Not on Diagram
 ELEVATION = 5300.287
 MAPPING ANGLE: Not on Diagram

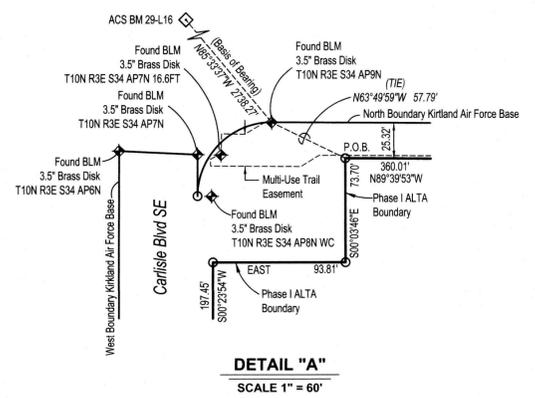


PHASE I ALTA AREA
 Area = 21.43 Ac ±

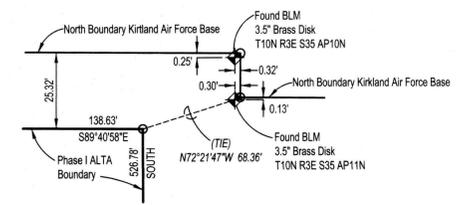
SEC 35
 KIRTLAND AIR FORCE BASE



KEY MAP
 Not to Scale



DETAIL "A"
 SCALE 1" = 60'



DETAIL "B"
 Not to Scale

LEGEND

○	CALCULATED POINT
◆	FOUND MONUMENT AS NOTED
— APP ROW —	APPROXIMATE RIGHT-OF-WAY
— OVE(L)E —	OVERHEAD ELECTRIC
— UVE(L)E —	UNDERGROUND ELECTRIC
— NG(L)E —	NATURAL GAS LINE
— CO(L)E —	COMMUNICATION LINE
— SD(L)E —	STORM DRAIN LINE
— SS(L)E —	SANITARY SEWER LINE
— W(L)E —	WATER LINE

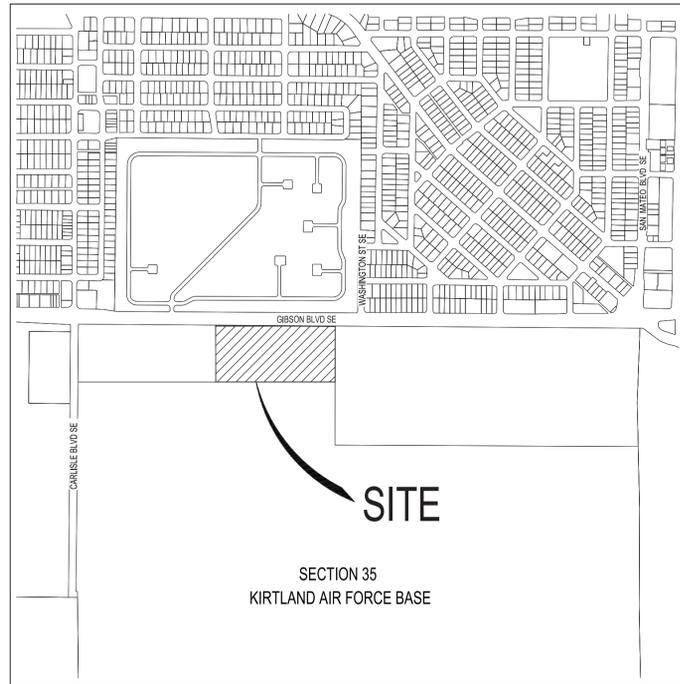


Plot: 19-Feb-2020 - 1:05 pm. Plotted by: DCDR/DVA
 P:\2019\06\SURVEY\02_OFFICE\ALTA\20190609_ALTA_CD18.dwg

EXHIBIT A.3
ALTA/NPS LAND TITLE SURVEY

ENHANCED USE LEASING
PROJECT SDL-2

**ALTA/NSPS LAND TITLE SURVEY
ENHANCED USE LEASING PROJECT
SDL-2
KIRTLAND AIR FORCE BASE
SECTION 35
TOWNSHIP 10 NORTH, RANGE 3 EAST,
N.M.P.M.,
ALBUQUERQUE, BERNALILLO COUNTY,
NEW MEXICO
JULY, 2021**



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3. THE APPROXIMATE CENTER OF THE PROJECT IS LOCATED AT LATITUDE: 35°05'73"N, LONGITUDE: 106°59'63"W.
4. GROSS ACREAGE: 13.5747 ACRES.
5. BASIS OF BEARING IS BETWEEN ALBUQUERQUE GEODETIC REFERENCE SYSTEM (AGRS) MONUMENT "ACS BM 29-L16" N87°09'55"W TO BLM MONUMENT "T10N R3E S35 AP11N".
6. SITE WITHIN SECTION 35 LIES ENTIRELY WITHIN "AREAS IN WHICH FLOOD HAZARD ARE UNDETERMINED, BUT POSSIBLE (ZONE D)" AS SHOWN ON FEMA FIRM VERSION NUMBER: 2.3.3.2, MAP NUMBER: 35001C0361G, MAP REVISED: SEPTEMBER 26, 2008.
7. DISTANCES ARE GROUND DISTANCES (US. FT.).
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11. DATE OF FIELD SURVEY: JUNE THRU JULY, 2021.
12. THERE WERE NO BUILDINGS OBSERVED WITHIN THE SUBJECT PROPERTY IN THE PROCESS OF CONDUCTING THE FIELD WORK.
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BEGINNING at the northwesterly corner of said Enhanced Use Leasing Project SDL-2, **WHENCE** a found BLM 3.5" Brass Disk stamped "T10N R3E S35 AP11N" bears, N72°24'07"E a distance of 68.27 feet;

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THENCE N89°37'14"E a distance of 96.35 feet;

THENCE S89°43'35"E a distance of 99.60 feet;

THENCE S89°28'29"E a distance of 28.55 feet;

THENCE S89°40'05"E a distance of 569.36 feet;

THENCE S00°19'55"W a distance of 521.54 feet;

THENCE N90°00'00"W a distance of 1126.12 feet;

THENCE N00°00'00"W a distance of 526.78 feet to the **POINT OF BEGINNING**;

Parcel contains ± 13.5747 acres (591,313 Sq. Ft.), more or less.

UTILITY NOTE

A "DESIGN LOCATE" REQUEST WAS MADE THROUGH NM811 TO FACILITATE THE DESIGNATION OF UNDERGROUND UTILITIES WITHIN THE SURVEYED AREA. THE LOCATION OF UNDERGROUND UTILITIES SHOWN ON THIS MAP/PLAT IS BASED ON THE MARKINGS (I.E. PAINT, PINFLAGS, STAKES, ETC.) PLACED ON THE SURFACE BY THE UTILITY OWNERS, AND/OR BASED ON ASBUILT PLANS PROVIDED BY THE UTILITY OWNERS. WITHOUT EXCAVATION, BOHANNAN HUSTON DOES NOT GUARRANTY THE EXACT LOCATION, TYPE, SIZE OR MATERIAL OF THE UNDERGROUND UTILITY LINE. NM 811 DID NOT LOCATE ANY UTILITIES WITHIN THE KIRTLAND AIR FORCE BASE AREA.
NM811 LOCATE REQUEST NUMBER 21JN170679 REQUEST MADE ON JUNE 17, 2021.

TITLE SEARCH REPORT, DOCUMENTS PROVIDED

PATENTS:

1. United States of America to Gust Johnson dated March 8, 1922 recorded in Book 72, page 384, records of Bernalillo County, New Mexico - Pertains to this survey (not plotted)
2. United States of America to Silas W. Henry dated January 30, 1924 recorded in Book 77, page 43, records of Bernalillo County, New Mexico - Pertains to this survey (not plotted)

LEASE:

1. The Department of the Air Force United States of America to Kirtland Air Force Base Housing, Inc. dated August 12, 1958 in Book D437, page 357, records of Bernalillo County, New Mexico- Does not pertain to this survey (not plotted)
2. The Department of the Air Force United States of America to Kirtland Air Force Base Housing, No. Two, Inc. dated August 12, 1958 in Book D437, page 365, records of Bernalillo County, New Mexico- Does not pertain to this survey (not plotted)
3. The Department of the Air Force United States of America to Kirtland Air Force Base Housing, No. Three, Inc. dated August 12, 1958 in Book D437, page 373, records of Bernalillo County, New Mexico- As to Parcel Y-1 Does not pertain to this survey (not plotted). As to Parcel Y-2; Pertains to this survey (plotted as shown- same as parcel shown in Quitclaim Deed (Bk D446, pg. 131).

EASEMENT:

1. The Secretary of the Air Force Kirtland Air Force Base to City of Albuquerque dated October 27, 1953 in Book D259, page 3, records of Bernalillo County, New Mexico- Does not pertain to this survey (not plotted)
2. Kirtland Air Force Base to Public Service Company of New Mexico dated March 16, 1954 in Book D273, page 49, records of Bernalillo County, New Mexico- Document not provided.

QUITCLAIM DEEDS:

1. City of Albuquerque to United States of America dated October 10, 1958 recorded in Book D446, page 131, records of Bernalillo County, New Mexico- Pertains to this survey (plotted in approximate manner as shown)

SURVEYOR'S CERTIFICATION

To: THE UNITED STATES OF AMERICA, acting by and through THE SECRETARY OF THE AIR FORCE

To: Old Republic National Title Insurance Company

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 13 of Table A thereof. The fieldwork was completed on June 2021 and July 2021.

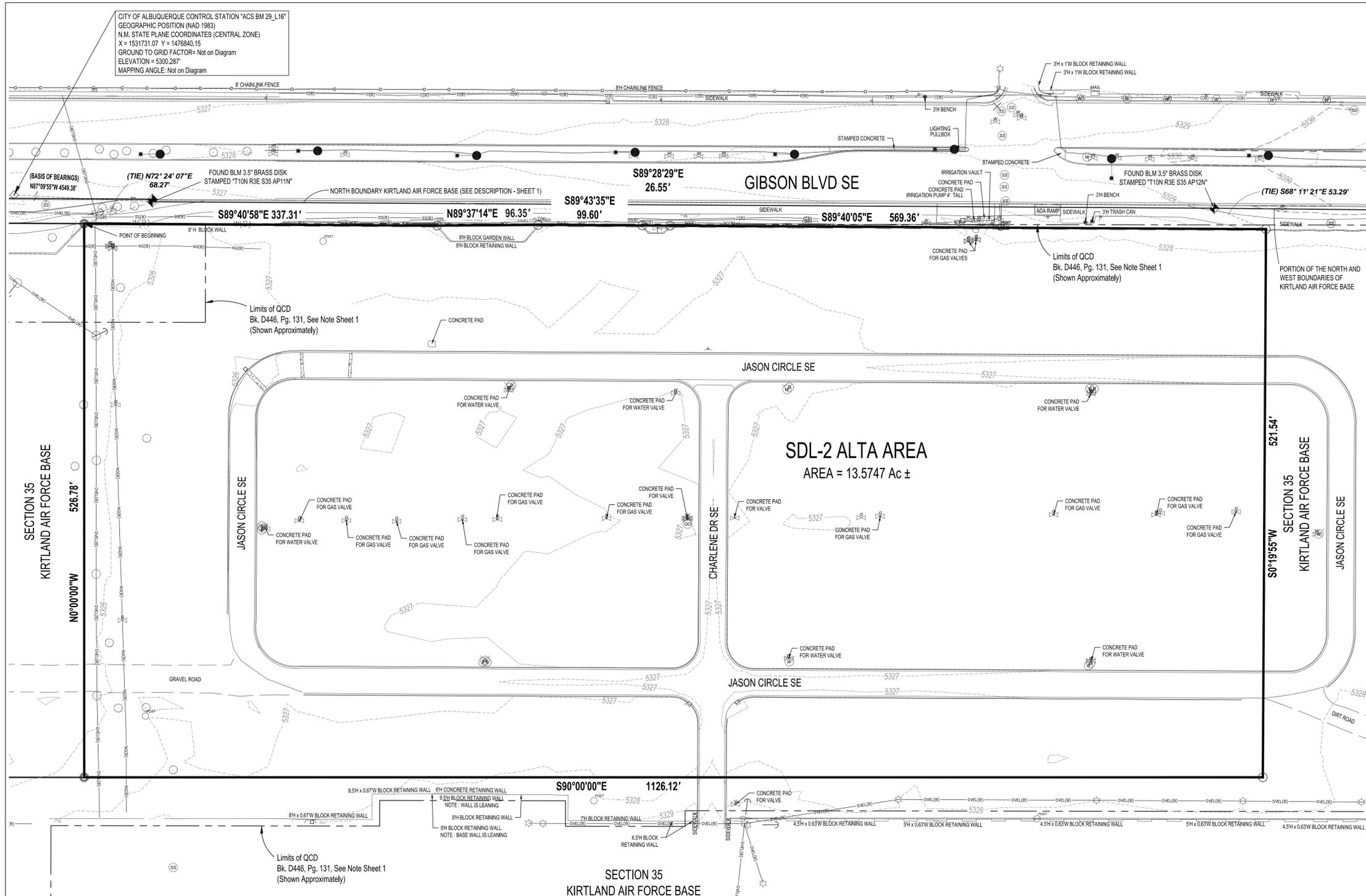

Barry S. Phillips
New Mexico Professional Surveyor 15517
bphilips@bhinc.com
FOR AND ON BEHALF OF BOHANNAN HUSTON, INC.



Date: 07-22-2021

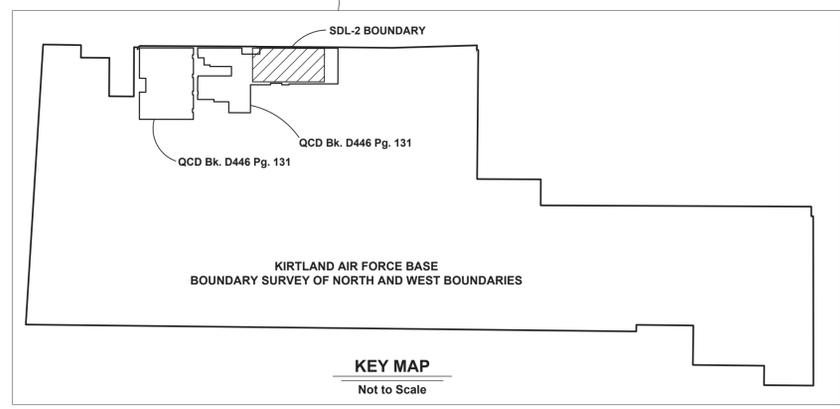
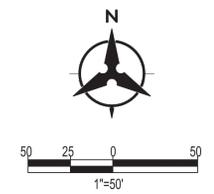
ALTA/NSPS LAND TITLE SURVEY
 ENHANCED USE LEASING PROJECT
 SDL-2
 KIRTLAND AIR FORCE BASE
 SECTION 35
 TOWNSHIP 10 NORTH, RANGE 3 EAST,
 N.M.P.M.,
 ALBUQUERQUE, BERNALILLO COUNTY,
 NEW MEXICO
 JULY, 2021

CITY OF ALBUQUERQUE CONTROL STATION "ACS BM 29_L16"
 GEOGRAPHIC POSITION (NAD 1983)
 N.M. STATE PLANE COORDINATES (CENTRAL ZONE)
 X = 1531731.07 Y = 1476840.15
 GROUND TO GRID FACTOR= Not on Diagram
 ELEVATION = 5300.287'
 MAPPING ANGLE: Not on Diagram



LEGEND

	BOLLARD		COMMUNICATIONS LINE SUE LEVEL B
	CONCRETE WALL BARRIER		DRAINAGE CULVERT
	ELECTRICAL POLE		ELECTRICAL LINE OVERHEAD SUE LEVEL B
	ELECTRICAL LINE UNDERGROUND SUE LEVEL B		FENCE CHAINLINK
	HALF CONCRETE WALL BARRIER		NATURAL GAS LINE SUE LEVEL B
	RETAINING WALL		SANITARY SEWER LINE SUE LEVEL B
	STORM DRAIN LINE SUE LEVEL B		STORM DRAIN LINE SUE LEVEL C
	WALL		WATER LINE SUE LEVEL B
	SURFACE CONTOUR MAJOR		SURFACE CONTOUR MINOR



Thu, 22-Jul-2021 12:15:00 PM Plotted by: AHUGS
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EXHIBIT B.1
SERVICABILITY LETTER
#200207R

February 17, 2022

Chair

Klarissa J. Peña
City of Albuquerque
Councilor, District 3

Vice Chair

Debbie O'Malley
County of Bernalillo
Commissioner, District 1

Tammy Fiebelkorn
City of Albuquerque
Councilor, District 7

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

Michael Balaskovits
Bohannon Huston, Inc.
7500 Jefferson St. NE
Albuquerque, New Mexico 87109

RE: Water and Sanitary Sewer Serviceability Letter #200207R
Project Name: Kirtland Air Force Base Enhanced Use Lease
Project Address: Southeast Corner of Gibson Blvd and Carlisle Blvd
Legal Description: Unplatted US Government Lands within Section 35,
Township 10 North, Range 3 East
UPC: 101705528933510142
Zone Atlas Map: M-17

Dear Mr. Balaskovits:

Project Description: The subject site is located on the southeast corner of the intersection of Gibson Boulevard and Carlisle Boulevard, within the Kirtland Airforce Base (KAFB). The proposed development consists of approximately 35 acres. The property lies within the Pressure Zone 3E in the Ridgecrest trunk.

The site will develop consistent with a mixed-use business park which will include, at a minimum, office, retail and hospitality facilities. The site intends to be developed in phases over the span of several years. The existing KAFB security fence along Gibson is intended to be removed and relocated for this business park development. The development intends to provide individual water services and sanitary sewer services to the various buildings with the subject site.

Statement Revision: This revision is being performed to account for a larger development area, expanding the area of the original statement's project area of 21.4 acres by an additional 13.6 acres to 35 acres total. The original request area is referred to Site Development Lease 1, or SDL-1. The expanded area is identified as SDL-2 (Project Angel) and is to include an additional 100,846 square feet of office and 87,590 square feet of high bay/lab. The required fire flow of the expanded area is higher than the original area, with a maximum fire flow demand of 3,375 gallons per minute.

Board Approval - Development Agreement: Pursuant to the System Expansion Ordinance, this property is outside of the Water Authority service area and the Water Authority Board must approve a Development Agreement to serve this property and establish requirements as a condition of service. Contact Utility Development in regards to Development Agreements. Though an approved Development Agreement currently exists for the property (**R-08-10**), as indicated in the "Termination" section of this document, this Agreement has surpassed the completion date of seven (7) years and therefore is no longer valid.

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

- Eight-inch PVC distribution main (project #26-4850.90-00) along Gibson Boulevard.
- 16-inch PVC distribution main (project #26-4850.90-00) along Gibson Boulevard.
- 12-inch PVC distribution main stub (project #26-4850.90-00) to the northwest corner of the site, near the intersection of Carlisle Boulevard and Gibson Boulevard.

- According to Field Operations, the existing buildings on southeast corner of Gibson Boulevard and Carlisle Boulevard are owned by KAFB and contain piping and backflow devices for an interconnection between the Water Authority's system and KAFB's system. The only infrastructure within the building that the Water Authority maintains is a large meter.

Sanitary sewer infrastructure in the area consists of the following:

- 18-inch RCP interceptor line stub (project #07-006-50) to the northwest corner of the site.

Water Service: New metered water service to the property can be provided contingent upon a developer funded project to extend a public distribution main internal to the site that loops with the 16-inch distribution main along Gibson Boulevard and a 12-inch distribution main extension along Carlisle Boulevard. This looped main shall be a minimum of ten-inches in diameter. These extensions will allow for service to each proposed structure while also facilitating future expansion of the water distribution system.

The 12-inch distribution main to be extended along Carlisle Boulevard shall be extended the length required to facilitate the above mentioned ten-inch distribution main alignment internal to the site. The proposed utility plan included two dead-end public distribution mains from the internal loop. These dead-end mains shall not be public. If necessary for fire flow, they may be installed as private fire lines. Metered services shall be to the depicted public main as described above. Please note that the final alignment of the public waterline shall remain out from under the proposed roundabout and in areas conducive to operations and maintenance. The engineer is responsible for determining pressure losses and sizing of the service line(s) downstream of the public water line to serve the proposed development.

As previously mentioned, according to Field Operations, the existing buildings on southeast corner of Gibson Boulevard and Carlisle Boulevard are owned by KAFB and contain piping and backflow devices for an interconnection between the Water Authority's system and KAFB's system. The only infrastructure within the building that the Water Authority maintains is a large meter. If these buildings are removed or relocated, the Water Authority will require the design and construction of a new large meter vault located outside KAFB buildings, at the end of the required 12-inch public distribution line extension along Carlisle Boulevard.

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 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: Sanitary sewer service can be provided contingent upon a developer funded project to extend a collector line from the existing interceptor manhole (Manhole #M16-091), located at the northwest corner of the site, interior to the site, and along alignments that facilitate service to each proposed structure. It is understood from the proposed utility plan that the alignment shall extend internal to the site and adjacent to the public distribution main alignment extending east to west. This alignment is acceptable. Please note that the final alignment of the public collector line shall remain out from under the proposed roundabout and in areas conducive to operations and maintenance.

It is understood that there exists a private sanitary sewer line, owned and operated by Kirtland Air Force Base, along Gibson Boulevard adjacent to the site. Service connections

to this infrastructure are prohibited. Please note that new water and sanitary sewer service to the site is contingent upon the aforementioned extensions and service connections from all proposed structures to the required extensions.

All food service establishments must install a grease interceptor upstream of the domestic private sewer connection prior to discharge into the public sanitary sewer lines.

Fire Protection: From the engineer's calculated fire flow, the instantaneous fire flow requirements for the project varied from 750 to 3,375 gallons-per-minute. Fourteen (14) new fire hydrants are required. As modeled using InfoWater™ computer software, the fire flow can be met. Analysis was performed along the proposed ten-inch water main required to be constructed internal to the site for this project.

From the information provided it is understood that 14 hydrants are required for fire protection to the site. Please note that all hydrants onsite and outside of the public waterline easement shall be private and are to be painted safety orange.

Any changes to the proposed connection points shall be coordinated through Utility Development. The engineer designing the fire lines for the site 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: See above discussion of required backflow devices specific to this project in the Water Service Section. Per the Cross Connection Ordinance, all new non-residential premises must have a reduced pressure principle backflow prevention assembly approved by the Water Authority installed at each domestic service connection at a location accessible to the Water Authority. No tees, branches or possible connection fittings or openings are allowed between the reduced principle backflow prevention assembly and the service connection unless protected by a backflow prevention assembly. These requirements also apply to all remodeled non-residential premises when the work area of the building undergoing repairs, alterations or rehabilitation, as defined in the International Existing Building Code, exceeds 50 percent of the aggregate area of the building regardless of the costs of repairs, alteration or rehabilitation.

All non-residential irrigation water systems connected to the public water system shall have a pressure vacuum breaker, spill-resistant pressure vacuum breaker or a reduced pressure principle backflow prevention assembly installed after the service connection. Such devices shall be approved by the Water Authority. No tees, branches or possible connection fittings or openings are allowed between the containment backflow prevention assembly and the service connection.

All non-residential customers connected via piping to an alternative water source or an auxiliary water supply and the public water system shall install a containment reduced pressure principle backflow prevention assembly approved by the Water Authority after the potable service connection.

All new services to private fire protection systems shall be equipped with a containment reduced pressure principal backflow prevention assembly approved by the Water Authority and Fire Marshal having jurisdiction installed after the service connection. No tees, branches or possible connection fittings or openings are allowed between the containment backflow prevention assembly and the 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 private fire protection system meets or exceeds ANSI/NSF Standard 60.61 throughout the entire private

fire protection system, the fire sprinkler drain discharges into atmosphere, and there are no reservoirs, fire department connections nor connections from auxiliary water supplies.

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 (505) 289-3454 for more information.

Pretreatment: If the development is for industrial use, and if either of the following apply, then contact the Industrial Pretreatment Engineer at (505) 289-3439 or pretreatment@abcwua.org:

- 1) The industry falls under one or more EPA categories found in Title 40 Code of Federal Regulations Parts 400-699, or
- 2) The industry plans to discharge more than 25,000 gallons of wastewater per day.

Coordination with Pretreatment shall take place early in the planning stages and design.

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: Design and construction of all required improvements will be at the developer/property owner's expense. Improvements must be coordinated through the City of Albuquerque via the Work Order process. Onsite construction of public water and sewer mains must be coordinated through the Water Authority Work Order process for any work not under a City Work Order. Designs must be performed by a licensed, New Mexico registered, professional engineer. Construction must be performed by a licensed and bonded public utility contractor.

Utility Expansion Charge (UEC): 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. Per the Rate Ordinance, each customer classification on the same premise requires a separate meter.

Water Resource Charge (WRC): 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 except pursuant to a Water Authority Governing Board approved development agreement allowing reimbursement to offset the cost of regional master planned water, wastewater, and reuse supply projects necessary to the Water 2120 planning strategy.

Water Use: When metered water service becomes available to this site, the Water Authority is ready, willing, and able to provide the maximum annual requirement for the subject subdivision/project for a period of at least 70 years as required by the Bernalillo

County Subdivision Ordinance. However, the Water Authority is also committed to meeting water conservation goals and requirements. Accordingly, all new development utilizing Water Authority services are subject to the requirements for water usage and water conservation requirements as defined by the Water Authority. Where available, outdoor water usage shall utilize reclaimed water.

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 Reduction Ordinance.

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 development 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 if you have questions regarding the information presented herein or need additional information.

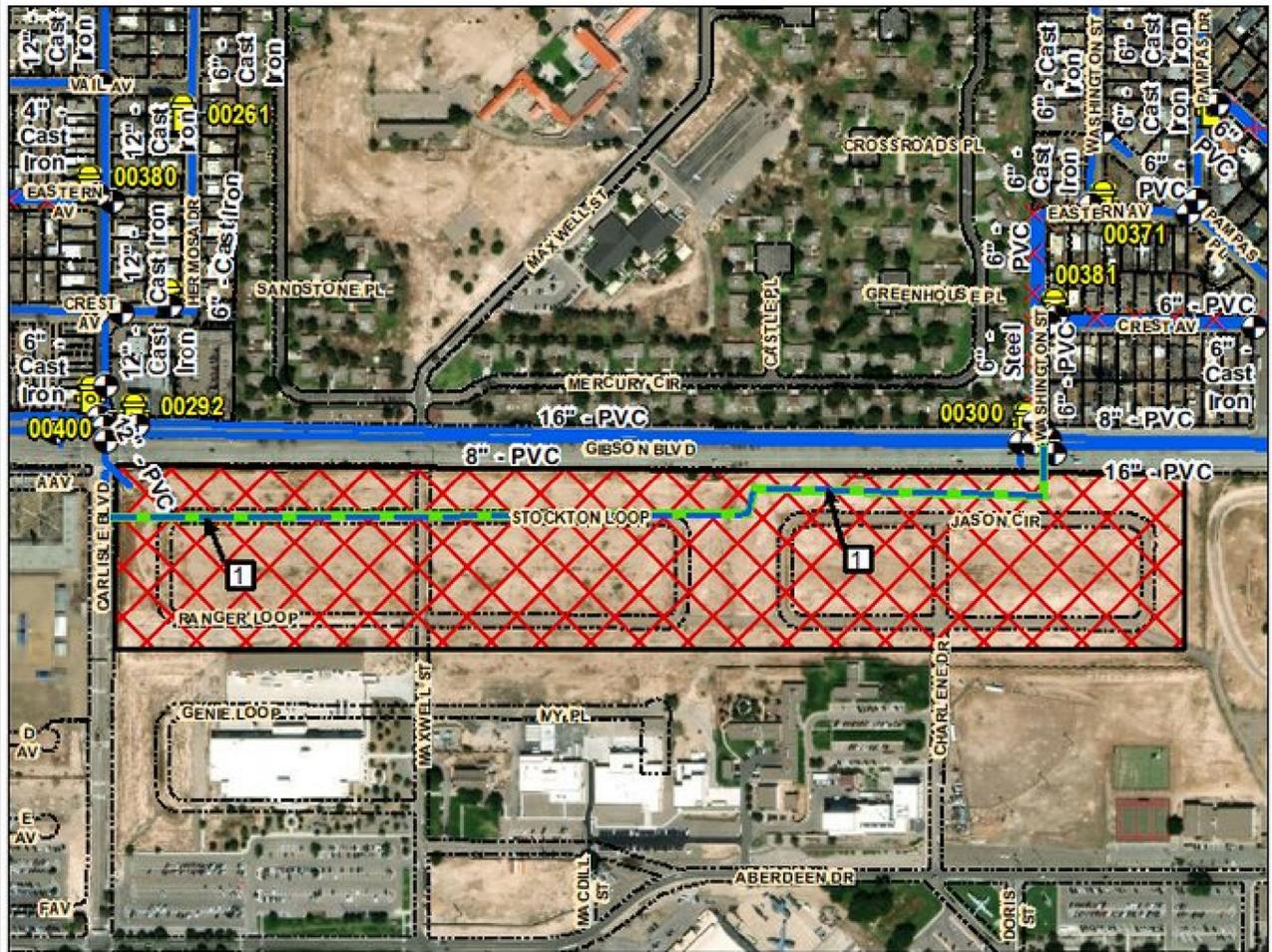
Sincerely,



Mark S. Sanchez
Executive Director

Enclosures: Infrastructure Maps
f/ Serviceability Letter #200207R

200207R - Water



Legend

-  Project Location
-  Valve
-  Hydrant

Pipe

SUBTYPE

-  Distribution Line
-  Hydrant Leg
-  Abandoned

0 900 1,800 Feet



 --- General Map Keyed Notes

1. --- Proposed Waterline Extension 



