



Meeting Date: March 20, 2024
Staff Contact: Kristopher Cadena, Chief Engineer, Utility Development

TITLE: R-23-4 – Authorizing an Agreement for Water Service for 10411 Pino Ave NE - Single Family Residence

ACTION: Recommend Approval

SUMMARY:

The development is located along Pino Avenue, east of Eubank Boulevard within the Unincorporated Area of Bernalillo County. The project consists of a new single family home for residential development. In addition, the developer has indicated that they would like water service only.

Water service is contingent on the Developer constructing public water distribution 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.

**ALBUQUERQUE BERNALILLO COUNTY
WATER UTILITY AUTHORITY**

BILL NO. R-24-4

1 **RESOLUTION**

2 **AUTHORIZING AN AGREEMENT FOR WATER SERVICE FOR 10411 PINO AVE NE**
3 **SINGLE FAMILY RESIDENCE**

4 WHEREAS, Tuan Huynh is the developer and owner of real property to be
5 developed as a single-family residential home located along Pino Avenue; and

6 WHEREAS, the property which is located outside the service area of the
7 Albuquerque Bernalillo County Water Utility Authority (Water Authority) will require a
8 development agreement for the extension and/or connection of water lines to the Water
9 Authority's water system; and

10 WHEREAS, the Water Authority's Water and Wastewater System Expansion
11 Ordinance requires that new service developed outside the Water Authority's service area
12 will incur no net expense to the Water Authority and be subject to provisions of relevant
13 updated planning documents as approved by the City and/or County; and

14 **BE IT RESOLVED BY THE WATER AUTHORITY:**

15 Section 1. Tuan Huynh will obtain all permits, assurances, and approvals from the
16 Water Authority and the Bernalillo County development/design review process.
17 Construction of water lines shall be in conformance with the plans approved by the Water
18 Authority and all applicable plans, specifications, requirements, and standards of the
19 Water Authority.

20 Section 2. The expansion of the System shall incur no net expense to the Water
21 Authority and be subject to current Utility Expansion and Water Resource Charges.

22 Section 3. Tuan Huynh will be responsible for close coordination of the project
23 with the Water Authority during the design and construction phases, including the review
24 of the design details during the design process, and the approval of specifications and
25 contract documents.

26 Section 4. The Executive Director is authorized to enter into the agreement with
27 Tuan Huynh for the provision of water only.

28

DEVELOPMENT AGREEMENT
10411 Pino Ave NE - Single Family Residence

Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision, (“Water Authority”) and Tuan Huynh, an Owner-Builder, (“Developer”) (together, “Parties”), agree as follows:

1. Recitals

- A.** Tuan Huynh is the “Developer” and owner of certain real property located in North Albuquerque Acres (collectively, the “Property”). The Property is shown on **Exhibit A** attached hereto and incorporated herein by reference. The Property is located outside of the Water Authority’s currently Established Service Area.
- B.** The legal description for the property is: Lot 18, Block 7, North Albuquerque Acres Tract 3, Unit 2. The Property is more particularly described and shown on **Exhibit B** attached hereto and incorporated herein by reference.
- C.** The Property will develop as a single-family residence.
- D.** The Property is located in Pressure Zone 7E of the Alameda Trunk.
- E.** The Parties desire to agree upon terms and conditions pursuant to which the Water Authority will provide water 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 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 C** 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 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 County, 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 Water Authority work order process.

- B.** The Developer will complete, or cause to be completed, construction of the Facility Improvements as approved by the County and the Water Authority, and in conformance with all applicable plans, specifications, and standards of the County 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 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 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 will be followed and used for the Facility Improvements.

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 will not require the concurrent connection of sanitary sewer service to the Water Authority's wastewater system given the fulfillment of conditions stipulated within forthcoming Exhibit C.

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:

Tuan Huynh
Owner
8800 Rich Court NE,
Albuquerque, NM 87122

- 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.

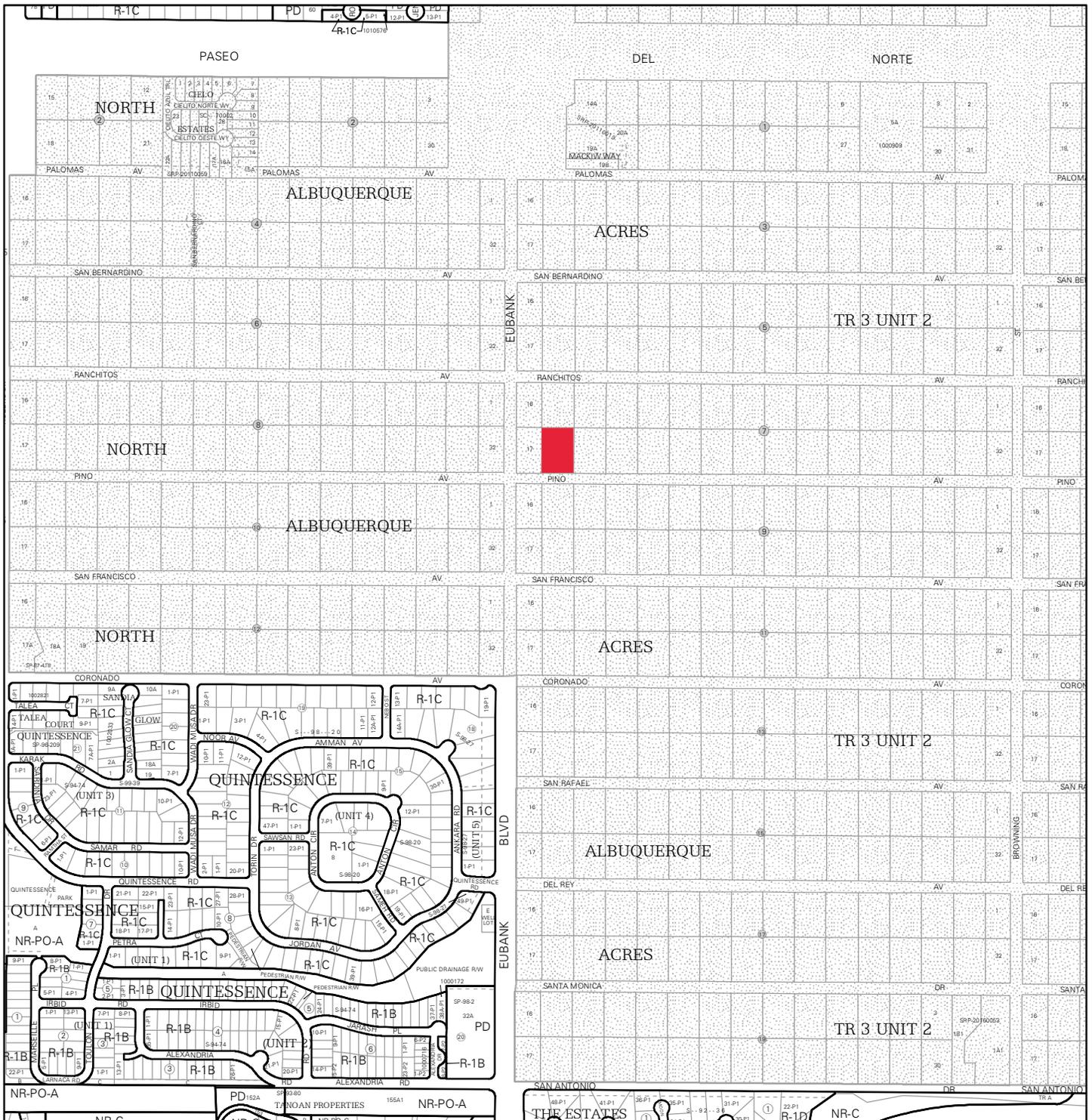
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on _____, 20__ by Mark S. Sanchez, Executive Director of the Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision.

Notary Public

My Commission Expires:

EXHIBIT A
Zone Atlas Map D-21

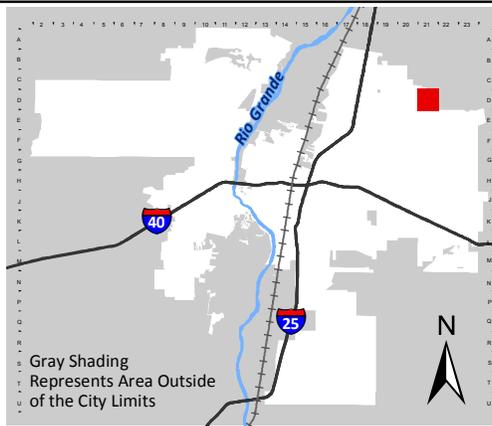


For more details about the Integrated Development Ordinance visit: <http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance>

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:
D-21-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



EXHIBIT B
Existing Plat

North Albuquerque Acres
Subdivision

GLADYS M. DAVIS, County Clerk of Bernalillo County, New Mexico, do hereby certify that the map on which this certificate appears is a true copy, made under my direction and under the provisions of Chapter 130 of New Mexico Session Laws 1931. This map filed for record on the 24th day of June, 1931.

GLADYS M. DAVIS
County Clerk, Bernalillo County
New Mexico

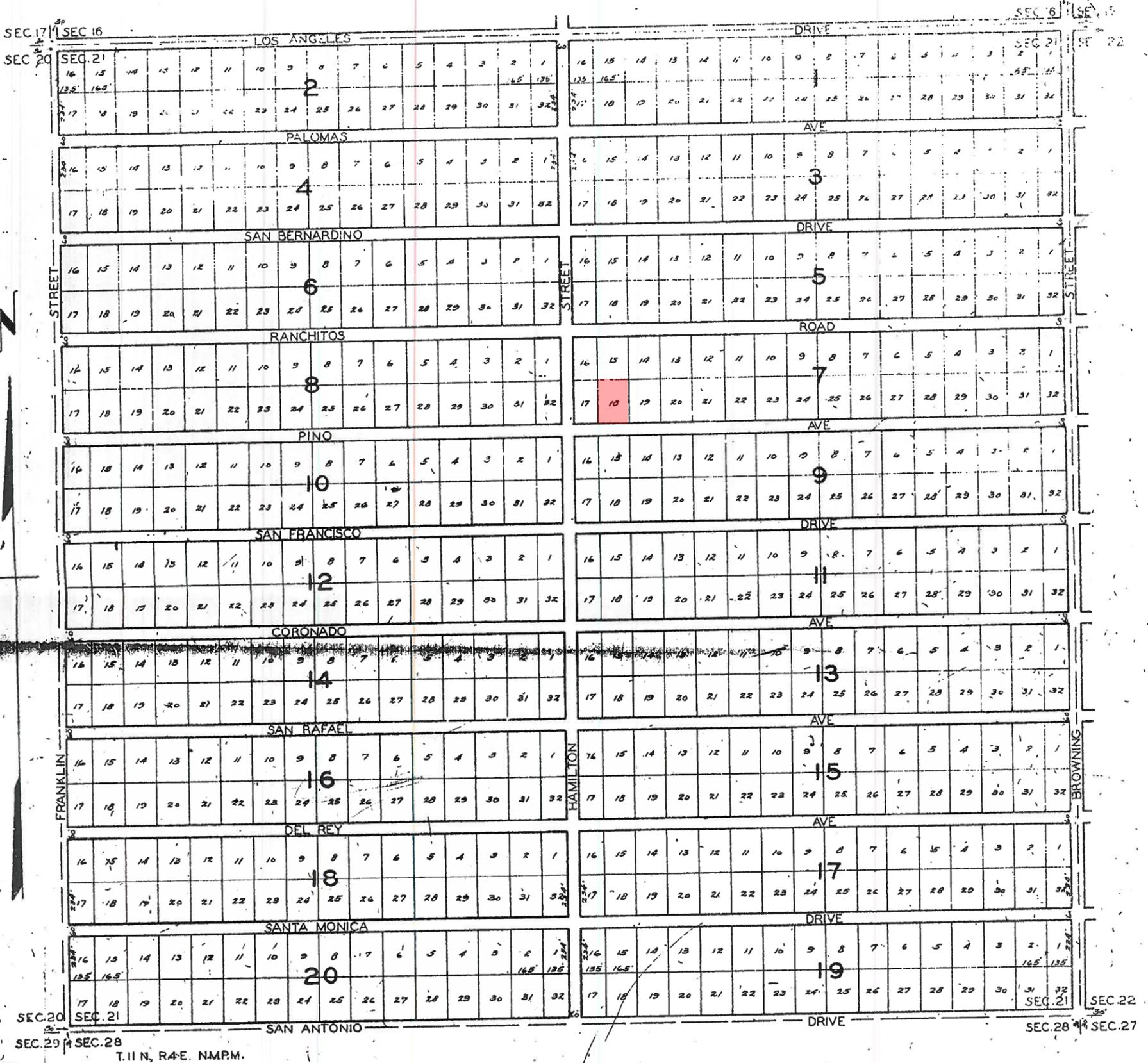
TRACT 3 UNIT 2

NORTH ALBUQUERQUE ACRES

ALBUQUERQUE BERNALILLO COUNTY NEW MEXICO

SCALE: 1"=400 FEET

EACH LOT INCLUDING TO CENTER OF ADJOINING STREET IS ONE ACRE



The above and foregoing subdivision of that certain tract of land in School District No. 22, Bernalillo County, New Mexico, within the Elena Gallegos Grant, being all of Section 21, Township 21 North, Range 4 East, N.M.P.M. (as defined by projection of existing public survey lines), surveyed, platted and subdivided as hereon shown, comprising Blocks 1 to 20, inclusive, of TRACT 3, UNIT 2, NORTH ALBUQUERQUE ACRES, is with the free consent and in accordance with the desire of the undersigned owner and proprietor thereof.

MORINS REALTY COMPANY, INC., owner and proprietor,
by _____ President.

Attest: _____ Secretary.

State of California,
County of Los Angeles) ss.

On this _____ day of April, 1931, before me, a Notary Public in and for said County, personally appeared M. Morins and J.W. Deway, both to me personally known, who being duly sworn by me according to law, did say that they are the President and Secretary, respectively, of the Morins Realty Company, Inc., and that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and said seal affixed thereto in behalf of said corporation by authority of its Board of Directors; and said M. Morins did acknowledge said instrument to be the free act and deed of said corporation.

In Witness whereof I have hereunto set my hand and seal the day and date last above written.

Notary Public.

I, C.B. Beyer, County Surveyor of Bernalillo County, New Mexico, hereby certify that I have examined the plat of Tract 3, Unit 2, North Albuquerque Acres, upon which this certificate appears, and have approved the same this 3rd. day of April, 1931.

County Surveyor.

1931060831

EXHIBIT C
Serviceability Letter
#230303R

February 26, 2024

Chair
Eric C. Olivas
County of Bernalillo
Commissioner, District 5

Vice Chair
Louie Sanchez
City of Albuquerque
Councilor, District 1

Barbara Baca
County of Bernalillo
Commissioner, District 1

Joaquin Baca
City of Albuquerque
Councilor, District 2

Adriann Barboa
County of Bernalillo
Commissioner, District 3

Klarissa Peña
City of Albuquerque
Councilor, District 3

Timothy M. Keller
City of Albuquerque
Mayor

Ex-Officio Member
Gilbert Benavides
Village of Los Ranchos
Board Trustee

Executive Director
Mark S. Sanchez

Website
www.abcwua.org

Tuan Huynh
8800 Rich CT NE,
Albuquerque, NM 87122

RE: Water and Sanitary Sewer Serviceability Letter #230303R
Project Name: Pino and Eubank Single Family Home - Revision
Project Address: Lot 18 NE Corner of Pino and Eubank
Legal Description: 018-007-North Alb Acres Tract 3 Unit 2
UPC: 102106328933210202
Zone Atlas Map: D-21

Dear Mr. Huynh:

Project Description: The subject site is located along the north side of Pino Avenue, east of Eubank Boulevard, within unincorporated Bernalillo County. The proposed development consists of approximately 0.89 acres and the property is currently zoned A-1 for rural agricultural use. The property lies within the Pressure Zone 7E in the Alameda Trunk. The request for availability indicates plans for residential development, namely to develop a new single-family residence on an undeveloped parcel.

Revision: This Revision details requirements for extension of waterlines without sanitary sewer-lines, which the prior Serviceability Letter did not explicitly indicate for the subject property. The previous Serviceability Letter indicated sanitary sewer service could be provided contingent upon significant extensions of sanitary sewer, which the property owner has indicated is not feasible. Given that the Water Authority's Expansion Ordinance requires newly developed properties within 200 feet to connect to existing public waterline, sanitary sewer or non-potable, connection to sanitary sewer is not required. However, as further discussed below, additional approvals are required for the construction of new waterlines without sewer service.

Development Agreement Required: This property is outside of the Water Authority's Established Service Area. Pursuant to the System Expansion Ordinance, service to this property shall be subject to a Development Agreement approved by the Water Authority Board which will establish the conditions for service. Per this ordinance, Board approval shall only be given if the development conforms to the provisions of applicable comprehensive plans and/or planning documents or policies.

Additionally, the subject property is seeking water service without sanitary sewer via the construction of new waterlines without construction of sanitary sewer lines. Per the Expansion Ordinance Policy 15 – "Provision of Water Service without Provision of Sewer Service", "Water service shall only be provided in conjunction with sewer service. Construction of new waterlines for service without sewer service is prohibited unless specifically approved by the Board. Petitioners seeking approval shall submit documentation showing that water service extension alone will not lead to ground water contamination. Such water service without sewer service shall only be allowed as part of a development agreement approved by the Board". Contact Utility Development regarding the Development Agreement process.

3Existing Conditions:

Water infrastructure in the area consists of the following:

- 12-inch dead-end PVC distribution line (project #26-7573.91-12, 7E) along Pino Avenue, east of Eubank.
- 12-inch PVC distribution line (project #26-5976.81-99, 7E) along Eubank Boulevard, south of Pino Avenue.
- 16-inch CCYL distribution line (project #26-5976.81-99, 6E) along Eubank Boulevard south of Pino Avenue.

Sanitary sewer infrastructure in the area consists of the following:

- Eight-inch PVC sanitary sewer collector (project #26-5915.82-IO) along Allande Road and Holbrook Street, approximately 0.60 miles west of the project site.
- Eight-inch PVC sanitary sewer collector (project #26-7573.91-12) along San Francisco Ave., terminating at Eubank Blvd.

Water Service: New metered water service to the property can be provided contingent upon a developer funded project to extend a new 12-inch distribution line from the existing dead-end 12-inch distribution line along Pino Avenue. This extension is required per Policy No. 16 of the Water and Wastewater System Expansion Ordinance due to the property being within 200 feet of the existing water infrastructure. Upon completion of the infrastructure construction, the development may receive service via routine connection to the proposed eight-inch distribution line extension along Pino Avenue. The engineer is responsible for determining pressure losses and sizing the service line(s) downstream of the public water line to serve the proposed development.

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. Fire hydrants shall be on mains when water lines are extended, in conjunction with coordination with the Fire Marshal and according to spacing criteria that vary according to proposed land use adjacent to the water line. Each legally platted property shall have individual, independent water services. No property shall share a water service with any other property.

Existing service lines and fire lines that will not be utilized are to be removed by shutting the valve near the distribution main. For fire lines, the line shall be capped near the public valve and valve access shall be grouted and the collar removed.

Non-Potable Water Service: Currently, there is no non-potable infrastructure available to serve the subject property.

Sanitary Sewer Service: The North Albuquerque Acres Water/Sewer Feasibility Study has identified preliminary alignments and diameter for proposed sanitary sewer lines to serve much of the North Albuquerque Acres. For sanitary sewer service to be provided for properties along Pino Ave., including the subject property, a developer funded project to extend approximately 3,300 feet of sanitary sewer would be required which consists of the following:

1. An eight-inch sanitary sewer collector extension from existing manhole D20396 south along Holbrook Street to the Pino Avenue intersection.

2. An eight-inch sanitary sewer collector extension from the Pino Avenue and Holbrook Street intersection along Pino Avenue terminating at the eastern property line of the project site.

There is currently no sanitary sewer infrastructure available within 200 feet of the development and therefore sanitary sewer extensions are not required by Policy No. 16 of the Water and Wastewater System Expansion Ordinance. The existing collector along San Francisco Ave. is not identified by the North Albuquerque Acres Water/Sewer Feasibility Study to serve properties along Pino Ave.

Per Policy No. 15 of the Water and Wastewater System Expansion Ordinance,

‘Construction of new water lines for service without sewer service is prohibited unless specifically approved by the Board.’

As indicated by the requestor, sanitary sewer service is not desired from the Water Authority and given that the water infrastructure extension is required, Board Approval will be needed. In addition to Board Approval via an approved Development Agreement, the following condition shall be satisfied prior to selling water service without sanitary sewer service:

1. Technical documentation showing that water service extension alone will not lead to ground water contamination shall be submitted during the Water Authority’s Work Order process. This may consist of a valid New Mexico Environmental Department ‘Permit to Operate’ indicating the septic tank and disposal field with surveys showing near-by well locations and drilling logs.

Fire protection: A standard fire hydrant flow of 1,000 gallons per minute has been applied to the proposed infrastructure. As modeled using InfoWater™ computer software, the fire flow can be met. The analysis was performed by simulating the required fire flow at the terminus of the distribution line extension. All new required hydrants as well as their exact locations must be determined through the Bernalillo County Fire Marshal’s Office and verified through the Utility Development Office prior to sale of service.

Cross Connection Prevention: Any residential premises having existing private wells and who desire to connect to the public water system shall have two options as follows:

1. Customers shall permanently abandon the use of private wells by cutting and capping the well line as accepted by the Water Authority prior to connecting to the public water system; or
2. Customers who choose to maintain their private wells for irrigation purposes, shall completely sever the private well from the premises’ potable plumbing system with no valves or means of connecting back into the premises’ potable plumbing system unless a reduced pressure principal backflow prevention assembly approved by the Water Authority is installed at the terminal end of the water service from the public water system (e.g., service connection).

Contact Cross Connection at (505) 289-3465, for Gilbert Paris, or (505) 289-3454, for James Baca for more information.

Easements and Property: 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-foot by 35-foot 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. A Warranty Deed shall be required when a property will be transferred to the Water Authority for the installation of facilities to be owned by the Water Authority such as pump stations, reservoirs, wells, lift stations, or any other facility.

The Water Authority shall be granted perpetual, exclusive easement(s) in gross for the construction, installation, maintenance, repair, modification, replacement and operation of public water and sanitary lines, equipment, and facilities reasonably necessary to provide service together with free access on and over the easement and the right to remove trees, shrubs, undergrowth and any other obstacles, modifications, or structures which interfere with use of the easement.

No side yard easements are allowed for public Water Authority infrastructure. Rather a separate tract shall be created (owned by a Home Owner's Association) with an easement granted to the Water Authority for the public water line and/or public sanitary sewer line.

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. As described in this statement, the extension of public water and sanitary sewer lines may be eligible for partial reimbursement through the Pro Rata process as detailed in the Water Authority Water and Wastewater System Expansion Ordinance.

Design and Construction: The design and construction of all required improvements will be at the developer/property owner's expense. Improvements must be coordinated through the Bernalillo County Public Works Division and Water Authority Work Order process. Designs must be performed by a licensed, professional engineer registered in the state of New Mexico. Construction must be performed by a licensed (GF9 or GF98) 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. Contact Customer Service at (505) 842-9287 (option 3) for more information regarding UECs.

Water Resource Charge (WRC): Newly developed properties outside of the Water Authority's Established Service Area that are seeking water service will be assessed a Water Resource Charge(s) (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. Properties that receive only sewer service will not be charged a WRC. Contact Customer Service at (505) 842-9287 (option 3) for more information regarding WRCs.

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.

All new residential development shall be designed to meet the standard water usage of 180 gallons per day per household which is equivalent to 75 gallons per capita per day.

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, an 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,

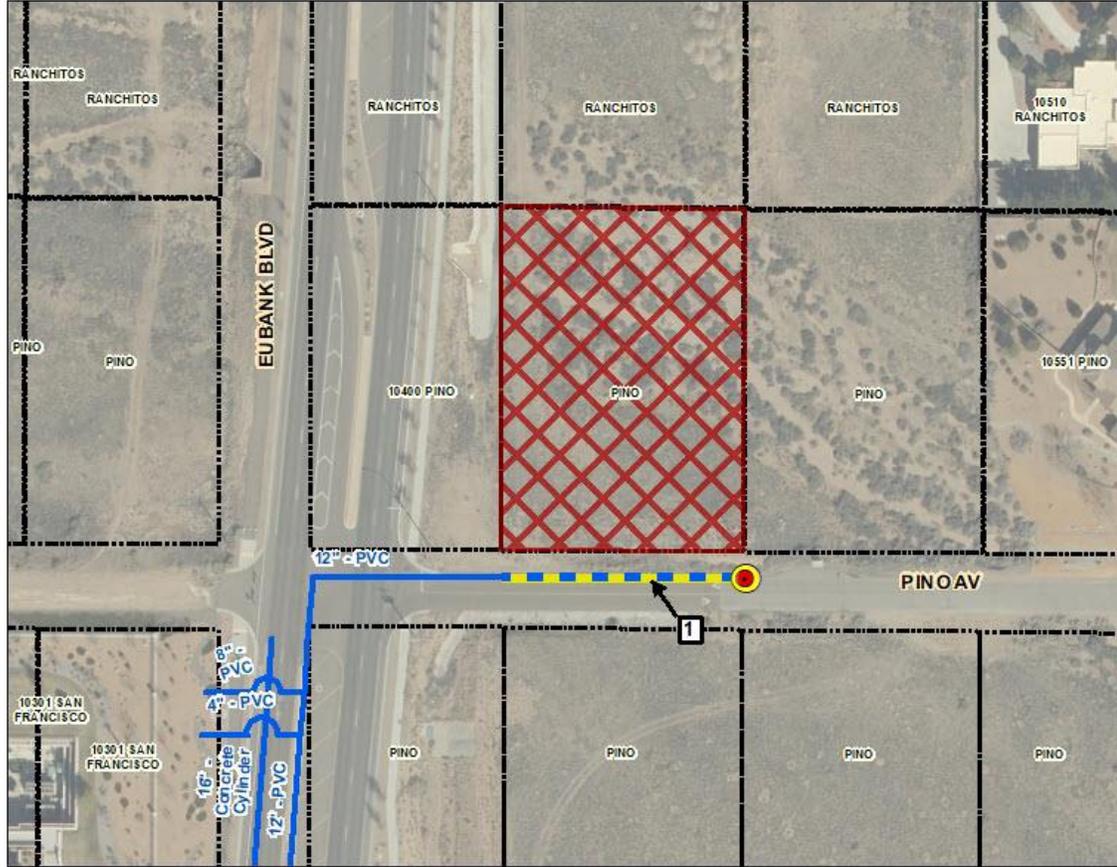


Mark S. Sanchez
Executive Director

Enclosures: Infrastructure Maps

f/ **Serviceability Letter #230303R**

230303R - Water



Legend

Water Pipe

Subtype

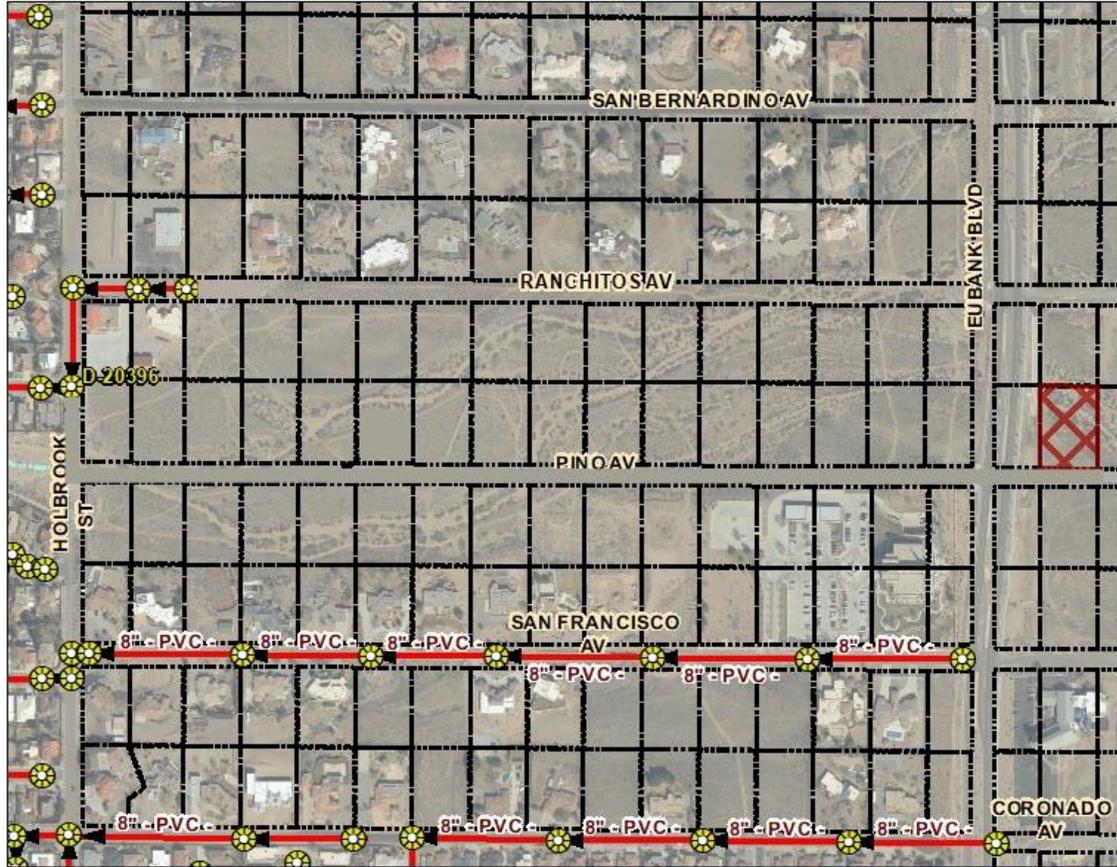
-  Distribution Line
-  Base Map County
-  Project Location

Fire Flow Analysis Points

-  Analysis Point (1)
-  --- General Map Keyed Notes
- 1 - Proposed Distribution Line Extension 



230303R - Sanitary Sewer



Legend

 Sewer Manhole

Sewer Pipe

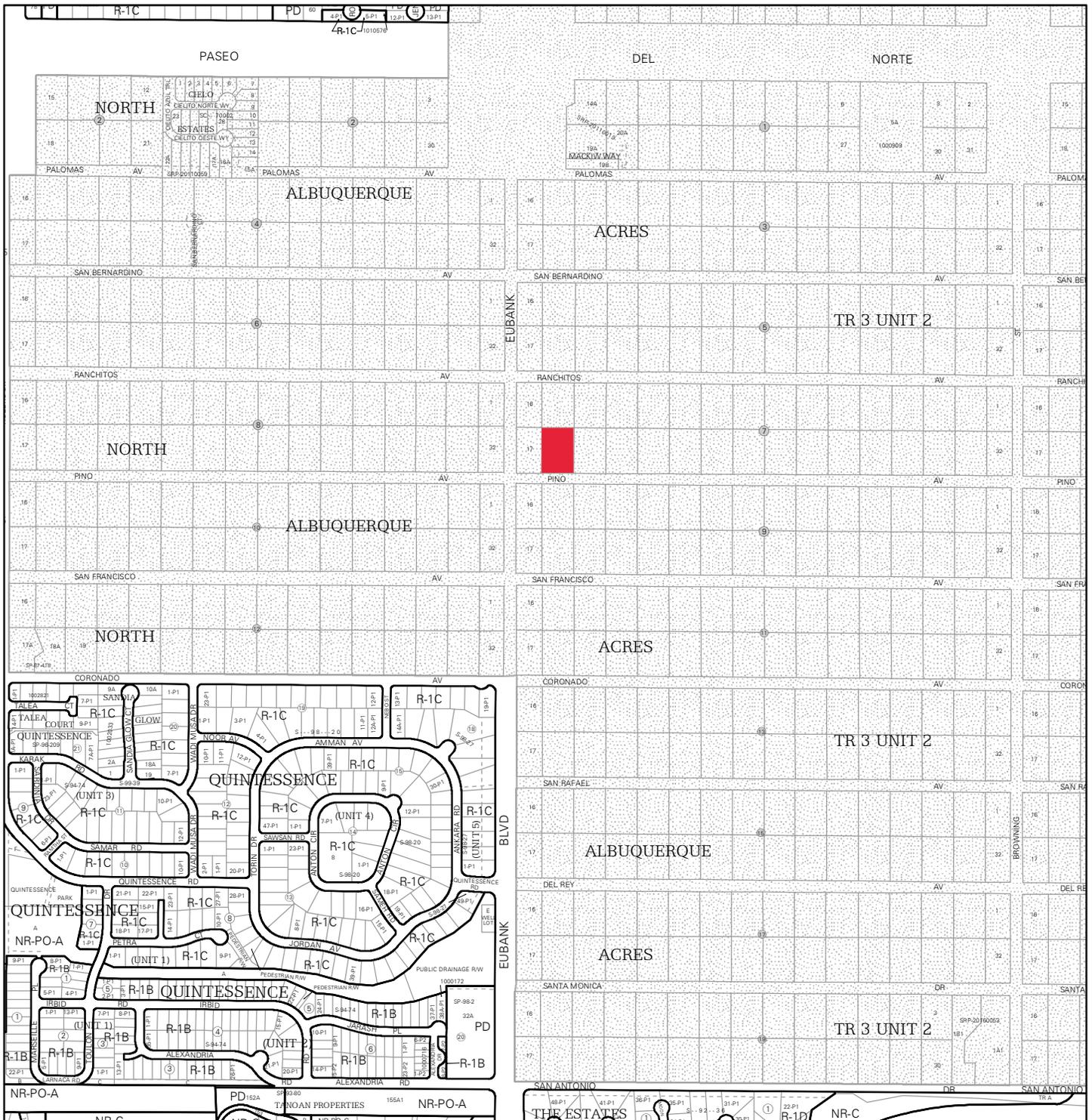
Subtype

 COLLECTOR

 Base Map County

 Project Location



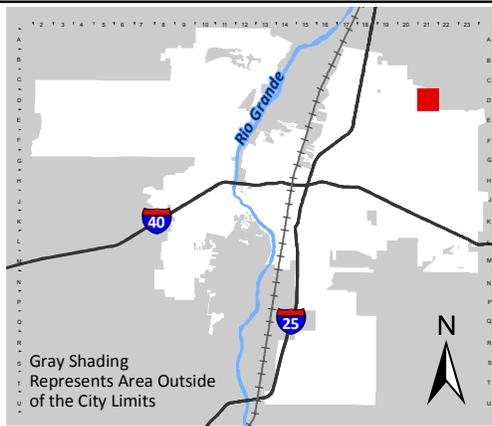


For more details about the Integrated Development Ordinance visit: <http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance>

IDO Zone Atlas May 2018



IDO Zoning information as of May 17, 2018
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- 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

