



Meeting Date: September 21, 2016
Staff Contact: Kristopher Cadena, Principal Engineer, Utility Development

TITLE: R-16-10 - Authorizing an Agreement with Alta Vista Enterprises Ltd for the Mikay Lanna Vistas for Water and Sewer Service

ACTION: Recommend Approval

SUMMARY:

The development is located between Gun Club Rd. and Lisa Rd., just west of Karrol St. within an unincorporated area of Bernalillo County. The project consists of 16 individual building lots.

The property is to be served by Pressure Zone 0W in the Atrisco Trunk.

Water and wastewater service is contingent on the Developer constructing 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 Supply Charges.

FISCAL IMPACT:

None.

**DEVELOPMENT AGREEMENT
MIKAY LANNA VISTAS**

Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision, (“Water Authority”) and **ALTA VISTA ENTERPRISES. LTD. CO.**, a NEW MEXICO limited liability corporation, (“Developer”) (together, “Parties”), agree as follows:

1. Recitals

- A.** ALTA VISTA ENTERPRISES. LTD. CO. is the “Developer” and owner of certain real property located in MIKAY LANNA VISTAS (collectively, the “Property”). The Property is more particularly described and shown on **Exhibit A** attached hereto and incorporated herein by reference. The property will consist of four phases with a total of sixteen lots. The Property is located outside of the Water Authority’s currently adopted Water Service Area.
- B.** The legal description of the Property is as follows: Tract 13 Row One South Town of Atrisco Grant.
- C.** The Property is to be served by Pressure Zone 0W of the Atrisco Trunk.
- D.** 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. The Developer desires to construct, or cause to be constructed, extensions of existing public water and sanitary sewer lines and appurtenant infrastructure (collectively, “Line Extensions”) under all applicable plans, specifications, requirements, and standards of the Water Authority. The Serviceability Statement for the Property reflecting the line extensions and other matters referred to in this Agreement is attached hereto as **Exhibit B** and incorporated herein by reference and made a term of this agreement.
- E.** The waterline and sewer line extensions referenced in this Agreement are not considered Master Plan lines by the Water Authority. As such, reimbursement of construction costs associated with these extensions will not be available through water and sewer UEC (defined below in Section 3.B) reimbursements.

2. Design and Construction of the Waterlines and Sanitary Sewer Line

- A.** The Developer will cause definitive designs and plans of the Line Extensions to be produced which will include estimates of all costs and expenses. The Developer will not connect the extension lines to the existing water and sanitary sewer lines within the Bernalillo County (“County”) public right-of-way or within public easements until the Water

Authority has approved the line extensions. The Developer will convey, at no expense to the Water Authority, all Line Extensions that have been approved and accepted by the Water Authority and all necessary easements for the Line Extensions at locations reasonably acceptable to the Developer, free and clear of all liens, claims, and encumbrances for the construction, operation, and maintenance of the line extension. 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 Line Extensions as approved by the Water Authority and the County, and in conformance with all applicable plans, specifications, and standards of the County and the Water Authority.
- C.** 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.
- D.** 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 "B", as defined in the Subdivision Ordinance and the DPM of the City, will be followed and used for the Line Extensions.

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 Supply Charges (WSCs) 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 waterline extensions and sanitary sewer extensions 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 waterline extensions and sanitary sewer line extensions, water for construction may be obtained from a hydrant designated by the Water Authority as set forth on **Exhibit C** attached hereto and incorporated herein by reference. If economically feasible, the Contractor is encouraged to utilize alternative methods for dust abatement and control including compost from the Water Authority.
- 6. Indemnification.** The Developer will defend, indemnify and hold harmless the Water Authority and its officials, agents, and employees on demand from any claims, actions, suits, or other proceedings arising from the acts or omissions of the Developer, its agents, representatives, contractors, or subcontractors, or arising from the failure of the Developer, its agents, representatives, contractors, or subcontractors to perform any act or duty required of the Developer in this Agreement. The indemnification by the developer will 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 New Mexico.
 - 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:

Alta Vista Enterprises, Ltd. Co.
Attn: Tomas A. Zamora/Managing Member
Address: 1122 Central Ave. SW
Albuquerque, New Mexico 87102

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

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.

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

**Albuquerque Bernalillo County
Water Utility Authority**

By: _____
Mark S. Sanchez
Executive Director

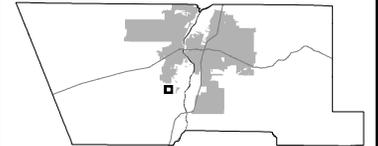
Date: _____

**Developer
Alta Vista Enterprises, Ltd. Co,
a New Mexico limited liability
corporation**

By: _____
Tomas A. Zamora
Managing Member

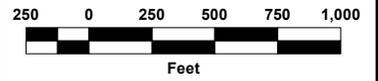
Date: _____

Exhibit A



LEGAL DESCRIPTION
T9N
R2E
SEC 16

UNIFORM PROPERTY CODE
1-009-052



Map amended through January 2016



PUBLIC WORKS DIVISION
GIS PROGRAM

This information is for reference only. Bernalillo County assumes no liability for errors associated with the use of these data. Users are solely responsible for confirming data accuracy when necessary. Source data are from Bernalillo County and the City of Albuquerque. For current information visit www.bernco.gov/gis-program.

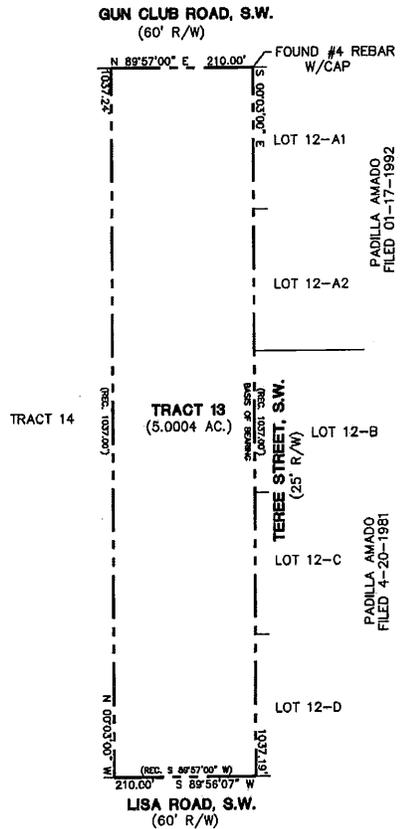
Q-9-Z

SANDIA LAND SURVEYING LLC
 16 CASA TERRENOS
 PLACITAS, N.M. 87043
 (505)867-1241

BOUNDARY SURVEY
TRACT 13
ROW ONE SOUTH TOWN OF ATRISCO GRANT
BERNALILLO COUNTY
BERNALILLO COUNTY, NEW MEXICO

JOB NO.: 159-12 DATE: 7-13-2012 SCALE: 1"=200'

- NOTE: 1) BEARING BASE FOR THIS SURVEY IS LEGAL DESCRIPTION OF RECORD.
 2) UNLESS OTHERWISE NOTED CORNERS ARE SET #4 REBAR W/CAP "SLS 12649".
 3) FT000107181



LEGAL DESCRIPTION
 SEE ATTACHED LEGAL

FLOOD CERTIFICATE:
 IT IS HEREBY CERTIFIED THAT THE ABOVE DESCRIBED PROPERTY IS NOT LOCATED WITHIN A 100 YEAR FLOOD HAZARD BOUNDARY IN ACCORDANCE WITH HUD FEDERAL ADMINISTRATION FLOOD HAZARD BOUNDARY MAP DATED SEPTEMBER 26, 2008. ZONE "X", COMMUNITY PANEL NO. 350001 0139G.

I, ANDREW S. MEDINA, NEW MEXICO REGISTERED PROFESSIONAL SURVEYOR NUMBER 12649, DO HEREBY CERTIFY THAT THE SURVEY AND PLAT SHOWN HEREON WERE PERFORMED, AND EXECUTED UNDER MY SUPERVISION AND MEETS THE "MINIMUM STANDARDS FOR LAND SURVEYS IN NEW MEXICO" AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

IN, WITNESS WHEREOF, this certificate is executed at Albuquerque, New Mexico on this 13TH day of JULY..... 20 12..



AS Medina
 Surveyor, Andrew S. Medina
 SANDIA LAND SURVEYING

N.M.P.S. No. 12649

A certain tract of land situated on Gun Club Road, S. W., South of Coors Road, S. W., being Tract numbered 13 in Row One South within the Atrisco Grant and Section 16, Township 9 North, Range 2 East, bounded by Gun Club Road on the North, Teree Street on the East and Lisa on the South, Bernalillo County, and being more particularly described as follows:

BEGINNING at the Northeast corner of the land herein described, a point on the South line of Gun Club Road, S.W., a 3/4 " Iron Pipe, and running thence South 0 deg. 03' East, 1037.00 feet to the Southeast Corner, a point on the North line of Lisa Road, S. W., a 3/4 " Iron pipe set;
Thence following said line of Lisa Road, S.W., South 89 deg. 57' West, 210.00 feet to the southwest corner, a 3/4" iron pipe;
Thence North 0 deg. 03' West, 1037.00 feet the Northwest corner, a 3/4" iron pipe, a point on the south line of said Gun Club Road, S.W. ;
Thence, following said line North 89 deg. 57' East, 210.00 feet to the Northeast corner, being the point of beginning.

May 31, 2016

Chair

Trudy E. Jones
City of Albuquerque
Councilor, District 8

Vice Chair

Art De La Cruz
County of Bernalillo
Commissioner, District 2

Richard J. Berry
City of Albuquerque
Mayor

Pat Davis
City of Albuquerque
Councilor, District 6

Maggie Hart Stebbins
County of Bernalillo
Commissioner, District 3

Debbie O'Malley
County of Bernalillo
Commissioner, District 1

Ken Sanchez
City of Albuquerque
Councilor, District 1

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

Executive Director
Mark S. Sanchez

Website
www.abcwua.org

Tomas A. Zamora
Alta Vista Enterprises, LLC.
1122 Central Ave. SW
Albuquerque, NM 87102

**RE: Water and Sanitary Sewer Serviceability Statement #160412
Mikay Lanna Vistas - 3410 Gun Club Rd. SW - Zone Atlas Map: Q-9**

Dear Mr. Zamora:

Project Information: The subject site is located on Gun Club Rd., two lots west of Ward Rd., in an unincorporated area of Bernalillo County. The property consists of approximately 5.0 acres and is currently zoned R-1 for residential use. The property traditionally lies within the Pressure Zone 1W in the Pajarito trunk but can be served by the Pressure Zone 0W as stated below. The request for information indicates plans to plat the property for residential use.

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.

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.

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

- Six inch PVC distribution main (Pressure Zone 0W) (project #26-6402.06-01) along Teree St.

Sanitary sewer infrastructure in the area consists of the following:

- Eight inch PVC collector line (project #26-4686.91-96) along Teree St.

Water and Sewer Service: New metered water service to the property can be provided via routine connection to the existing six inch distribution main (Pressure Zone 0W) along Teree St. The maximum elevation that can be served on the property is 5,000 feet (NAV 27/29). The aforementioned waterline provides Pressure Zone 0W pressure which is supplied from Leavitt Reservoir (overflow elevation of 5,115 feet NAV 27/29). Properties that do not have direct frontage to Teree St. shall obtain service via private water service easements across properties with property frontage. Further extension of Pressure Zone 0W waterlines along the property frontage are not needed and all properties west of the subject property will be required to install infrastructure to support Pressure Zone 1W service. Service is also contingent upon compliance with

the Fire Marshal's instantaneous fire flow requirements. Water service will not be sold without adequate fire protection. Water service will only be sold in conjunction with sanitary sewer service.

Sanitary sewer service can be provided contingent upon a developer funded project to extend the existing 12 inch collector line west along Gun Club Rd. to cover the north property frontage. Upon completion, the property can connect via routine connection to the existing eight inch collector line along Teree St., eight inch collector line along Lisa Rd., or the newly proposed collector line along Gun Club Rd.

Cross Connection Prevention: Approved dual check valves shall be installed on all water services within pressure zones 0W, 1W and 1E. 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 plugging the wells as accepted by the Water Authority prior to connecting to the public water system; or 2) Customers who choose to maintain their private wells shall completely sever the private well from the premises' potable plumbing system and shall install a reduced pressure principle backflow prevention assembly approved by the Water Authority at the terminal end of the water service from the public water system (e.g., service connection). Any multi-family dwelling including a clubhouse and/or office is required to have a reduced pressure backflow prevention device for containment. If metered separately, the building that includes a clubhouse and/or office shall have a reduced pressure backflow prevention device.

Fire Protection: All new required hydrants as well as their exact locations must be determined through Bernalillo County Fire Marshal's Office and verified through the Utility Development Office prior to sale of service.

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 water meters need to be five feet by five feet and include the length of the water service if located on private property. Actual easement widths may vary depending on the depth of the lines to be installed. Side yard easements are not acceptable for either water or sanitary sewer. Acceptable easements must be documented prior to approval of service.

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

Design and Construction of all required improvements will be at the developer / property owner's expense. Improvements must be coordinated through the Bernalillo County Department of Public Works and Water Authority 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, any new metered water services will be subject to both water and sanitary sewer Utility Expansion Charges (UEC) payable at the time of service application. All charges and rates collected will be based on the ordinances and policies in effect at the time service is actually requested and authorized.

Water Use: 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 residential development outside of the Water Authority water service should 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. 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 only provides details of infrastructure that is available and potential precursors to development for the proposed development. For service to be provided, a Board approved development agreement must supplement this serviceability, therefore causing this serviceability to be in effect for a period of one year upon approval of the development agreement. Under no circumstances does this serviceability commit to service without the above mentioned conditions. Changes in the proposed development may require reevaluation 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 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 (2)

f/ Serviceability 160412



Legend

Project Location

WATER/WATER_PIPE

Well other/valve

SUBTYPE

- Distribution Main
- Drain Line
- Hydrant Leg
- In Zone Transmission
- Out Zone Transmission
- SUC Transmission
- Sewer
- Well Collector Line
- Well Wash Line
- Well other/valve

Type

- Hydrant
- Well other/valve

Valve

- Valve
- Hydrant

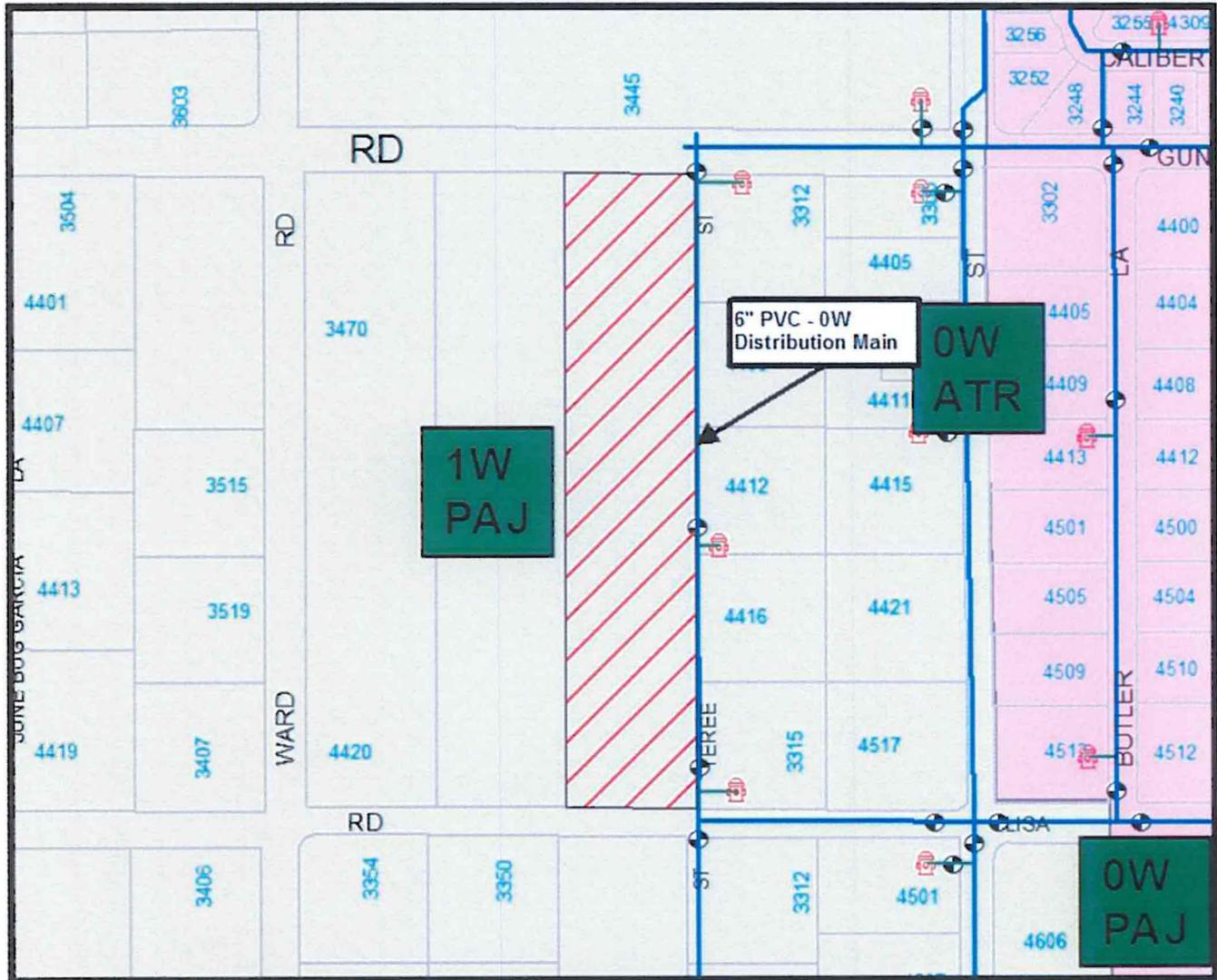
Water Pipe

SUBTYPE

- In Zone Transmission
- Out Zone Transmission
- COUNTY Assessor 2014



Water Utility
Authority



Statement # 160412
Water Infrastructure





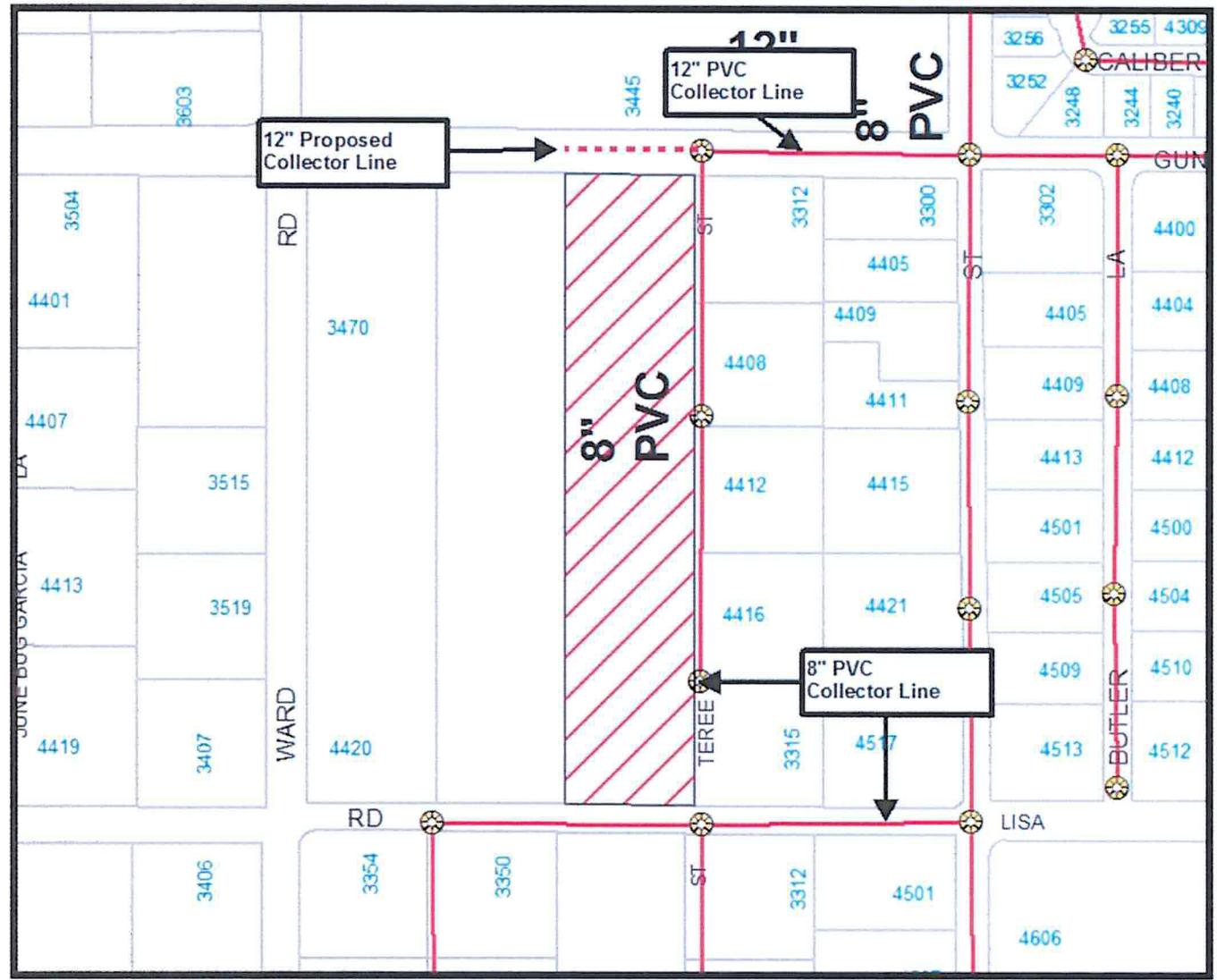
Legend

- Project Location
- Well other valve
- Type
 - Hydrant
 - Well other valve
 - Service Manhole
- Sewer Pipe
 - Well other valve
- SUBTYPE
 - COLLECTOR
 - TRUNK MAIN
 - INTERCEPTOR
 - VACUUM LINE
 - COUNTRY

COURTESY OF BAKER 2014



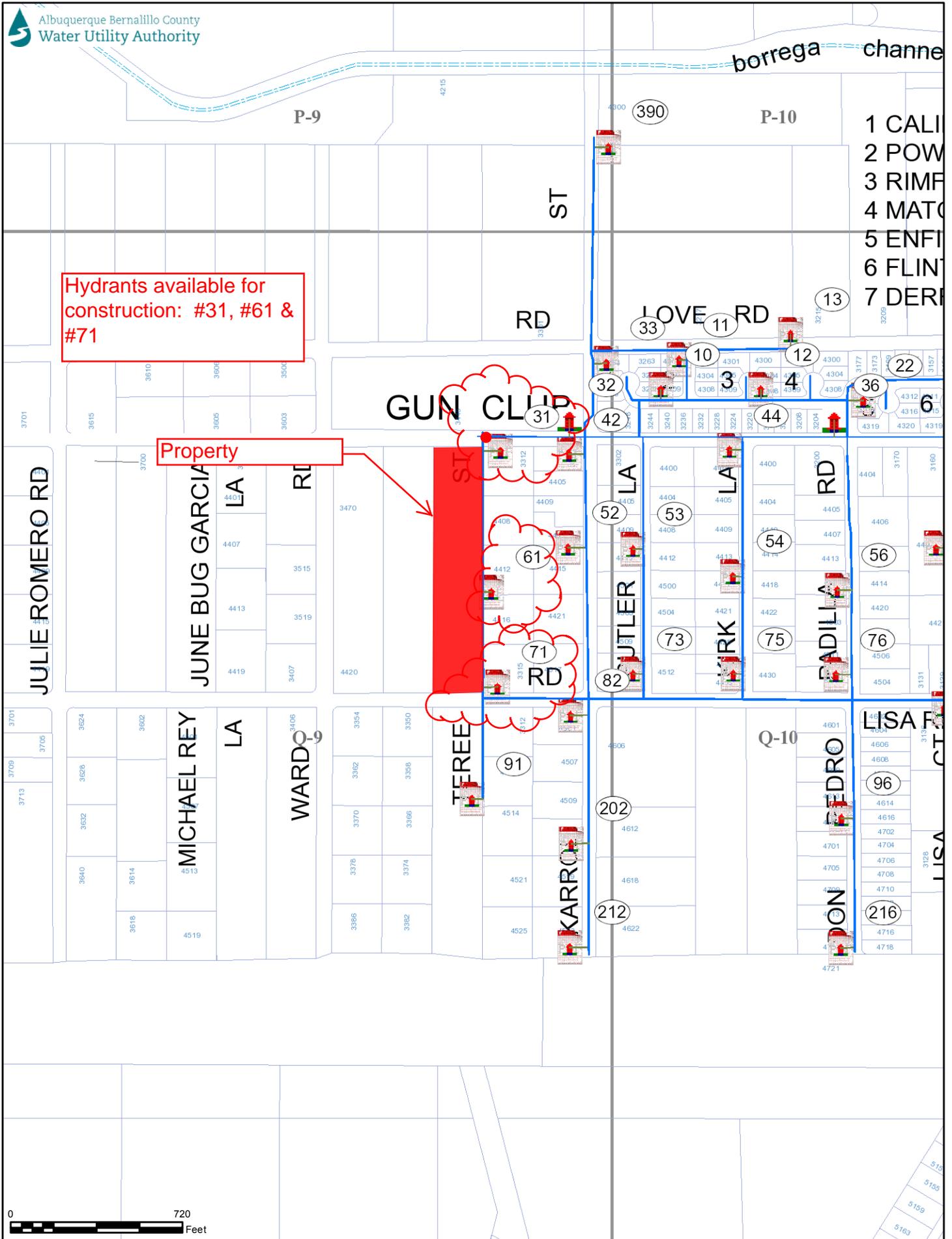
**Water Utility
Authority**



**Statement # 160412
Sanitary Sewer Infrastructure**



Exhibit C - Hydrants Available for Construction Water



Hydrants available for construction: #31, #61 & #71

Property

- 1 CALI
- 2 POW
- 3 RIMF
- 4 MATC
- 5 ENFI
- 6 FLIN
- 7 DER

