



Meeting Date: October 18, 2023
Staff Contact: Kristopher Cadena, Chief Engineer, Utility Development

TITLE: R-23-42 – Authorizing an Agreement for Water and Sewer Service for Santa Monica Water and Sewer Improvements

ACTION: Introduction October 18th – Final Action November 22nd

SUMMARY:

The development is located along the south side of Santa Monica Ave. NE, just east of Eubank Frontage Rd. within the Unincorporated Area of Bernalillo County. The project consists of a new single-family residence seeking to obtain water and sewer service.

Water and wastewater service is contingent on the Developer constructing public water distribution and public sanitary sewer 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
Santa Monica Water & Sewer Improvements

Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision, (“Water Authority”) and Sulekha Krishnan, an individual, (“Developer”) (together, “Parties”), agree as follows:

1. Recitals

- A.** Sulekha Krishnan is the “Developer” and owner of certain real property located at Lot 15, Block 19, North Albuquerque Acres, Tract 3, Unit 2 (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 numbered fifteen (15) in Block numbered Nineteen (19) of TRACT 3, UNIT 2, NORTH ALBUQUERQUE ACRES. 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 home.
- 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 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 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 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 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.

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. **Financial Guarantee** - For any Master Plan Infrastructure required to be constructed by Developer herein, the Developer shall provide a financial guarantee in the form of a property lien that is acceptable to the Water Authority as assurance that the Master Plan Infrastructure will be completed and placed in service.
 5. **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.
 6. **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.
 7. **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.
 8. **Representations and Warranties of Developer.** The Developer represents and warrants that:
 - A. Developer has all the requisite power and authority to enter into this Agreement and bind the Developer under the terms of the Agreement; and

B. The undersigned officer of the Developer is fully authorized to execute this Agreement on behalf of the Developer.

9. 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:

Sulekha Krishnan
Homeowner
7209 Gettysburg Rd NE
Albuquerque, NM 87109

10. 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.

11. 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.

12. 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.

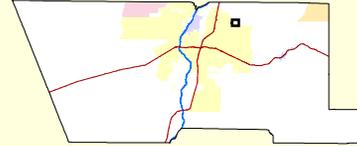
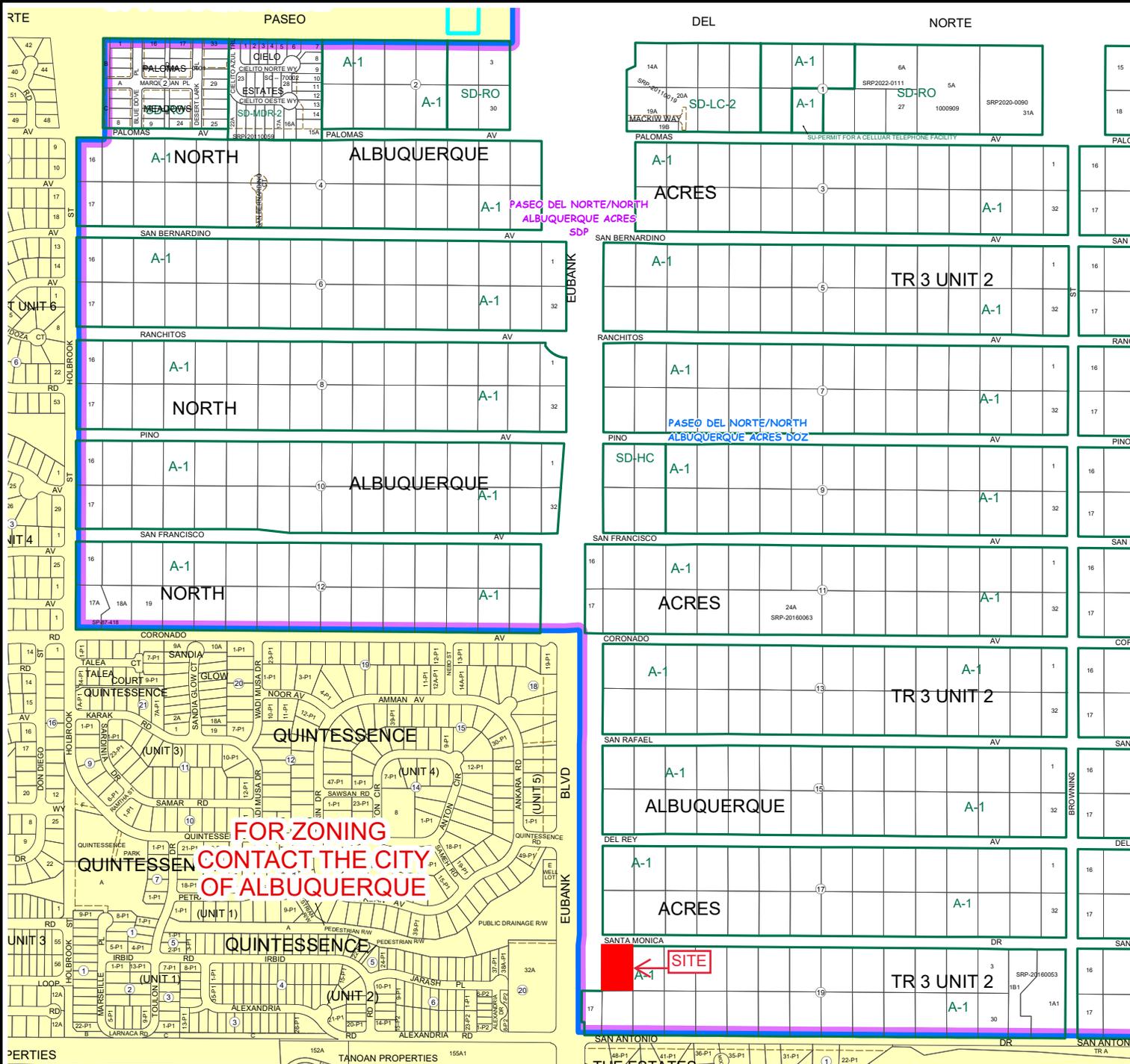
COUNTY OF BERNALILLO)

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

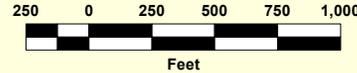
My Commission Expires:

EXHIBIT A
Zone Atlas Map D-21



LEGAL DESCRIPTION
 T11N
 R4E
 SEC 21

UNIFORM PROPERTY CODE
 1-021-063



Map amended through Spring 2023



PLANNING & DEVELOPMENT SERVICES
 GIS TECHNOLOGY SECTION

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 from Bernalillo County and the City of Albuquerque. For current information visit <https://www.bernco.gov/planning/download-zone-atlas.aspx>

D-21-Z

PROPERTIES

TANOAN PROPERTIES

THE STATES

TR A

EXHIBIT B.1
Existing Plat

North Albuquerque Acres Tract 3 Unit
2
Subdivision

1931060831A

GLADYS M. DAVIS, County Clerk, Bernalillo County, New Mexico, do hereby certify that the map on which this certificate is based is a true copy made under my direction and under the authority of Chapter 130 of New Mexico Sessions Laws 1931.

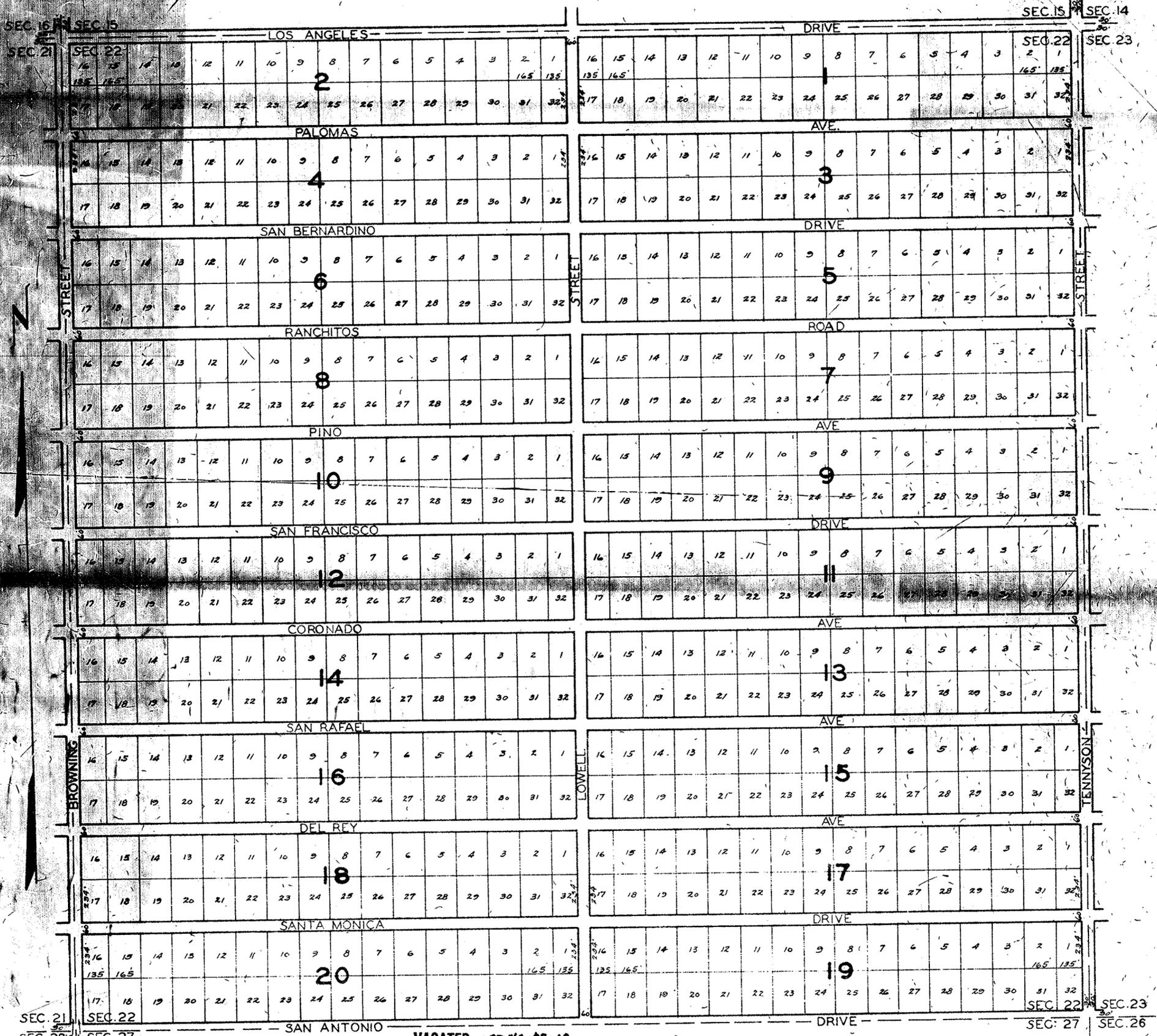
GLADYS M. DAVIS
County Clerk, Bernalillo County
New Mexico

TRACT 2 UNIT 2 NORTH ALBUQUERQUE ACRES

ALBUQUERQUE BERNALILLO COUNTY NEW MEXICO

SCALE: 1 INCH = 400 FEET

EACH LOT INCLUDING TO CENTER OF ADJOINING STREET IS ONE ACRE.



VACATED ORD NO. 88-10

T. J. N., R. 4 E. N. M. P. M.

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 22, Township 11 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 2, 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, 188.

On this _____ day of April, 1931, before me, a Notary Public in and for said County, personally appeared M. Morins and J.W. Dewey, 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 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.
My commission expires _____

151-D
I, _____, Notary Public for the State of California, do hereby certify that the foregoing is a true and correct copy of the original instrument filed in my office on _____ day of _____, 1931.

[Signature]

EXHIBIT C
Serviceability Letter
#230634R

10/3/2023

Chair

Eric C. Olivas
County of Bernalillo
Commissioner, District 5

Vice Chair

Tammy Fiebelkorn
City of Albuquerque
Councilor, District 7

Barbara Baca
County of Bernalillo
Commissioner, District 1

Adriann Barboa
County of Bernalillo
Commissioner, District 3

Pat Davis
City of Albuquerque
Councilor, District 6

Trudy E. Jones
City of Albuquerque
Councilor, District 8

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

Sulekha Krishnan
Homeowner
7209 Gettysburg Rd NE
Albuquerque, NM 87109

RE: Water and Sanitary Sewer Serviceability Letter #230634R
Project Name: Residential Home -Sulekha Krishnan
Project Address: N/A
Legal Description: Lot numbered fifteen (15) in Block numbered Nineteen (19) of TRACT 3, UNIT 2, NORTH ALBUQUERQUE ACRES
UPC: 102106328903740127
Zone Atlas Map: D-21

Dear Sulekha Krishnan:

Project Description: The subject site is located along the south side of Santa Monica Drive, just 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 agricultural and rural residential use. The property lies within the Pressure Zone 7E in the Alameda Trunk. The request for availability indicates plans to construct a single-family home.

Revision: This revision is to update the water extension requirements. This is due to the abutting properties just west of the subject property being public right-of-way and not developable property. Therefore, a revision is warranted to reduce the need for the property to cover the entire frontage with a new waterline.

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. Contact Utility Development regarding the Development Agreement process.

Existing Conditions:

Water infrastructure in the area consists of the following:

- 16-inch Ductile Iron distribution line (project # 26-5004.91-97) along Santa Monica Drive.

Sanitary sewer infrastructure in the area consists of the following:

- Eight-inch PVC sanitary sewer collector line (project # 26-5206.95-98) along Eubank Boulevard, terminating at manhole D21-947 at the right-of-way for Santa Monica Drive.

Water Service: Per the Albuquerque Bernalillo County Water Utility Authority Water and Wastewater System Expansion Ordinance, section 7-1-5(A): "...connection shall not be made to lines with a nominal diameter of 16 inches or larger." As such a distribution line extension is required for service.

New metered water service to the property can be provided contingent upon a developer-funded project to extend an eight-inch line from the 16-inch line in Santa Monica Drive parallel along Santa Monica Drive. The extension shall begin west of the subject parcel's eastern property line and terminate at its eastern property line to allow for both a new fire hydrant and service connections to the north and south. The proposed waterline extension does not have to continue further west and cover the entire property frontage because there is not any developable property west of the subject property as it is in fact public right-of-way. The extension shall terminate with a cap. A fire hydrant shall be included to meet the Bernalillo County Fire Marshal requirement.

Upon completion of the infrastructure construction, the development may receive service via routine connection to the proposed eight-inch distribution main along Santa Monica Boulevard. 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.

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. Water service will only be sold in conjunction with sanitary sewer service. 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 collar removed.

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

Sanitary Sewer Service: New sanitary sewer service to the property can be provided contingent upon a developer-funded project to extend an eight-inch collector line from manhole D21-947 east along Santa Monica Drive covering the entirety of the property frontage. No property shall share a private sewer service with any other property. The engineer is responsible for sizing the service line(s) upstream of the public sanitary sewer line to serve the proposed development.

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 end of the proposed water 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 the 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 such as pump stations, reservoirs, wells, lift stations, or any other facility that may be owned by the Water Authority.

Required public water and/or sanitary sewer easements shall be for the construction, installation, maintenance, repair, modification, replacement, and operation of public water and sanitary service 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 the use of the easement. No side yard easements are allowed for public Water Authority infrastructure, instead, a separate tract shall be created (owned by a Homeowner's Association) with an easement granted to the Water Authority for the public waterline and/or public sanitary sewer line.

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.

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 New Mexico registered, professional engineer. Construction must be performed by a licensed (GF-9 or GF-98) 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 application for service. 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 UEC's.

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 WRC's.

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 the 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,

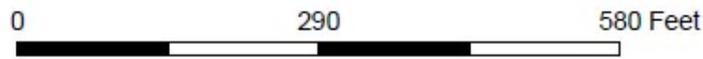
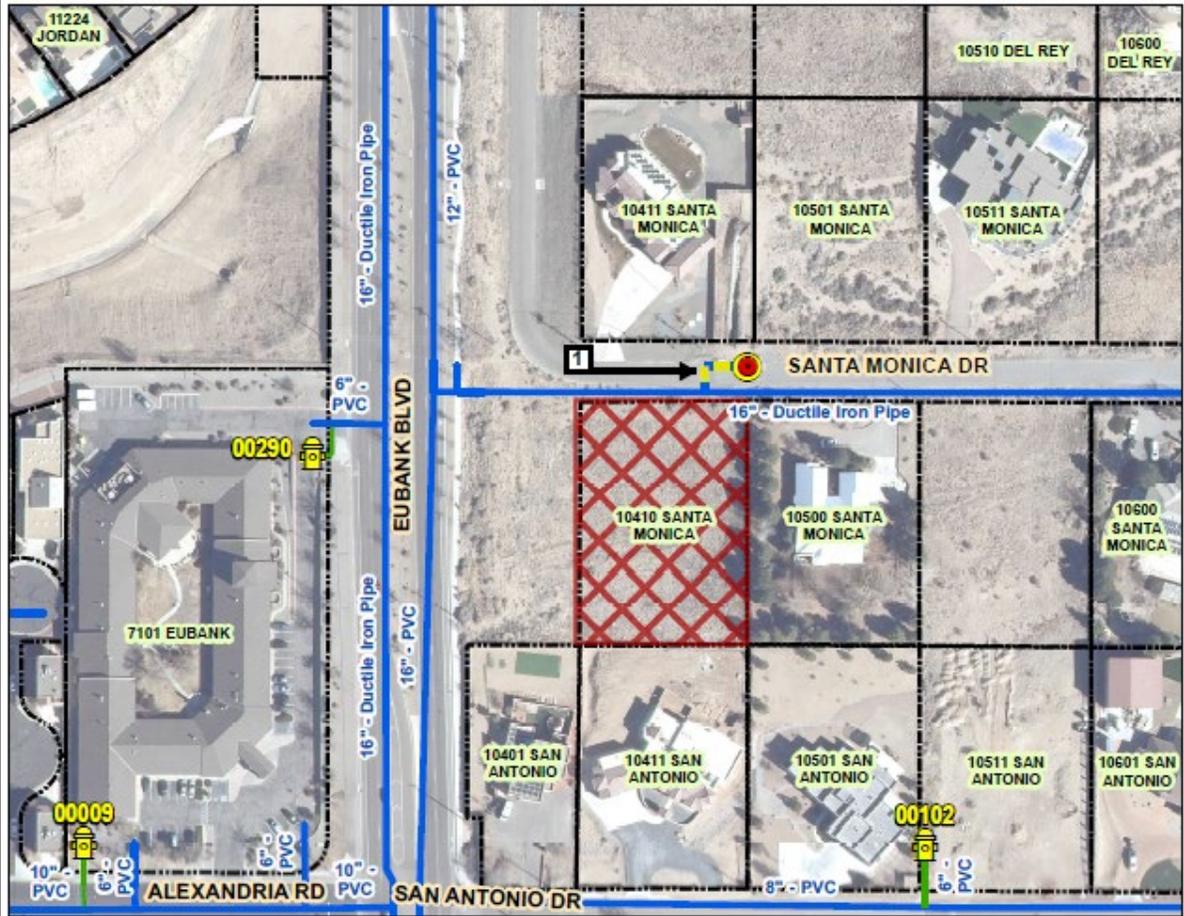


Mark S. Sanchez
Executive Director

Enclosures: Infrastructure Maps

f/ **Serviceability Letter #230634R**

230634R - Water

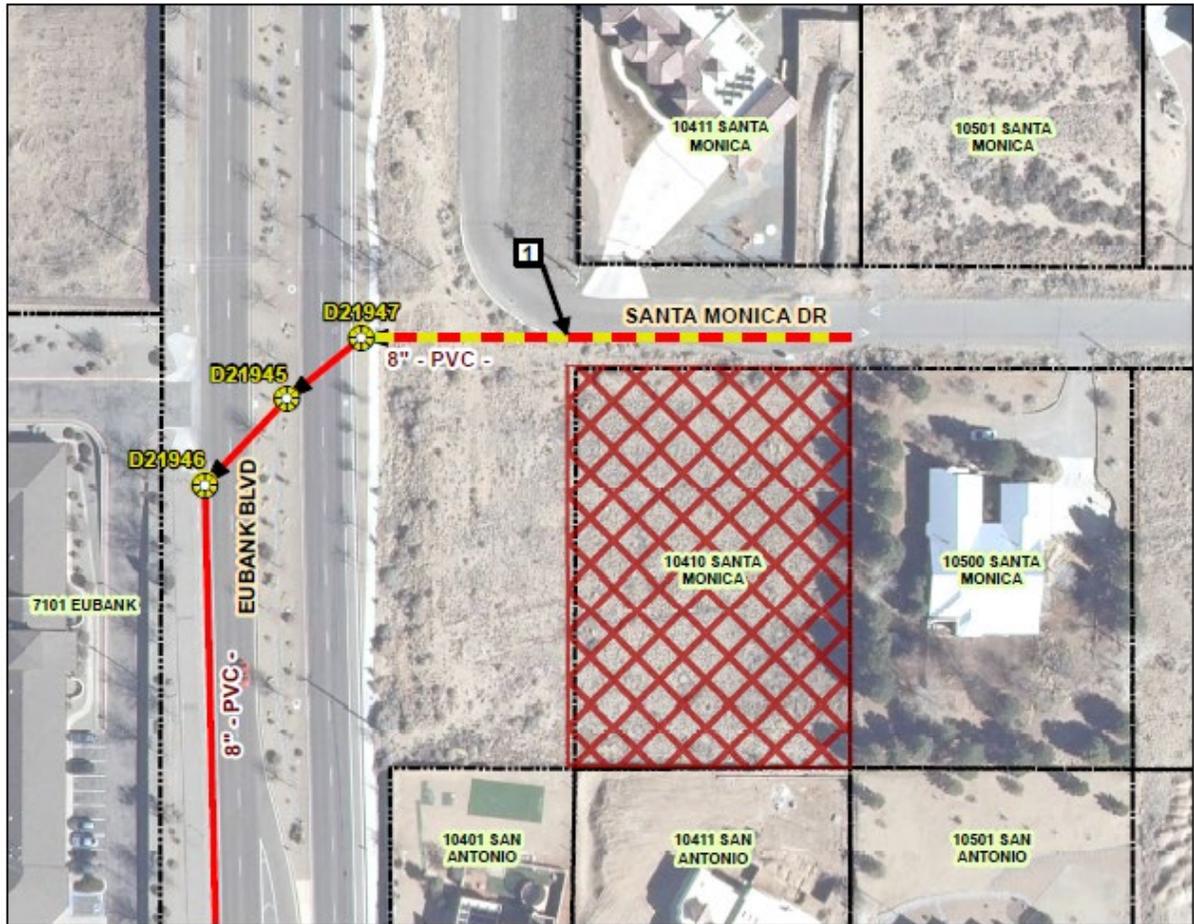


Legend

- | | |
|-------------------|----------------------------------|
| Hydrant | Project Location |
| Water Pipe | Fire Flow Analysis Points |
| Subtype | Analysis Point (1) |
| Distribution Line | --- General Map Keyed Notes |
| Hydrant Leg | 1 - Extend an 8" Water Line |



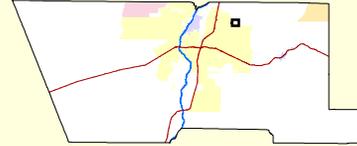
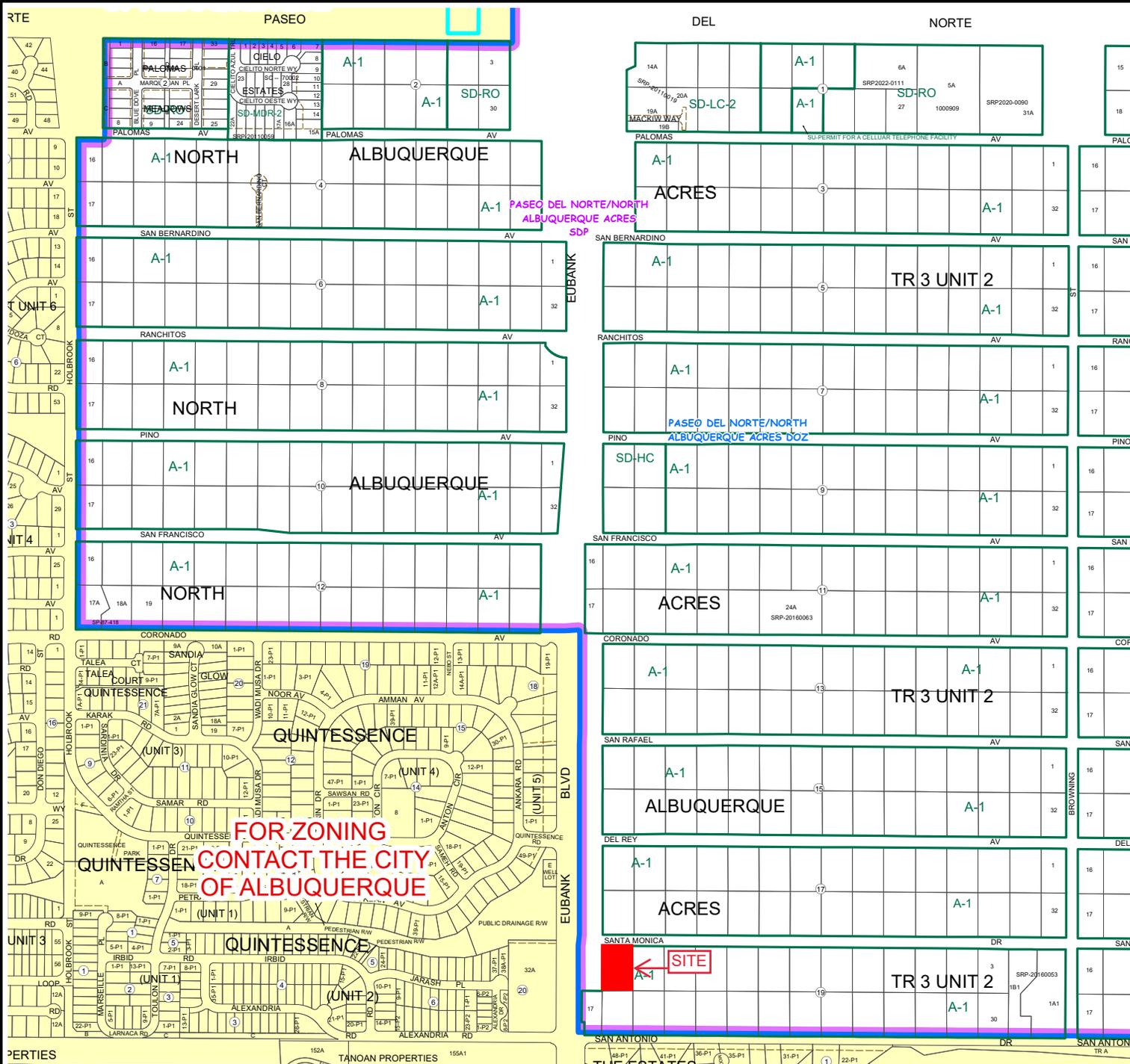
230634R - Sanitary Sewer



Legend

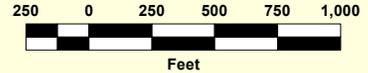
-  Sewer Manhole
-  Project Location
- Sewer Pipe**
- Subtype**
-  COLLECTOR
-  --- General Map Keyed Notes
- 1 - Extend an 8" Collector Line 





LEGAL DESCRIPTION
 T11N
 R4E
 SEC 21

UNIFORM PROPERTY CODE
 1-021-063



Map amended through Spring 2023



PLANNING & DEVELOPMENT SERVICES
 GIS TECHNOLOGY SECTION

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D-21-Z