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Meeting Date: October 22, 2014  
Staff Contact: Allan Porter, Principal Engineer, Utility Development

**TITLE: R-14-12 - Authorizing an Agreement with Pulte Homes for Montecito West Subdivision for Water and Sewer Service**

**ACTION: Recommend Approval**

**SUMMARY:**

Pulte Homes is the developer of the Montecito West Subdivision, which will consist of 94 residential lots. The Subdivision is located immediately west of the existing Vista Vieja neighborhoods near the intersection of Unser Blvd. and Rainbow Blvd. Water service to Montecito West will be provided from Pressure Zone 4W of the Volcano Trunk. The development is outside of the Water Authority's currently adopted Water Service Area.

Provision of potable water service to the Development will require additional arsenic treatment and water storage capacity within the Pressure Zone 4W distribution system. As such, the Development will be assessed a Facility Fee in the amount of \$145,670.21 for the proportional costs of storage and treatment. This Facility Fee reflects the Development's proportional costs of expanding water production capacity within the existing potable water distribution system. No utility services will be provided within the Development until the Facility Fee is paid in whole.

As the expansion of system capacity is classified as Master Plan Facility Improvements, this Facility Fee will be reimbursable by the Water UEC's collected as services are established for the 94 residential lots within the Development.

This proposed development agreement outlines the final terms and conditions, including the lump sum Facility Fee necessary to provide water and wastewater services to Montecito West Subdivision.

**FISCAL IMPACT:**

None.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

**BILL NO.**           R-14-12      

**RESOLUTION**

**AUTHORIZING AN AGREEMENT WITH PULTE HOMES FOR MONTECITO WEST  
SUBDIVISION FOR WATER AND SEWER SERVICE.**

WHEREAS, Pulte Homes is proposing to construct a 95 residential lot subdivision in the northwest quadrant of Bernalillo County; and

WHEREAS, the property which is located outside the service area of the Water Authority will require a development agreement for the extension and/or connection of water and sewer lines to the Water Authority's water and sewer system; and

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

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

Section 1. Pulte Homes will obtain all permits, assurances, and approvals from the Water Authority and the City of Albuquerque development/design review process. Construction of water and sewer lines shall be in conformance with the plans approved by the Water Authority and all applicable plans, specifications, requirements, and standards of the Water Authority.

Section 2. The expansion of the System shall incur no net expense to the Water Authority. Pulte Homes will be responsible for paying a Water Supply Charge in accordance with Water Authority ordinances.

Section 3. Pulte Homes will be responsible for close coordination of the project with the Water Authority during the design and construction phases, including the review of the design details during the design process, and the approval of specifications and contract documents.

Section 4. The Executive Director is authorized to enter into the agreement with Pulte Homes for the provision of water and sewer service.

**DEVELOPMENT AGREEMENT**  
**Montecito West Subdivision**

**Albuquerque Bernalillo County Water Utility Authority**, a New Mexico political subdivision, (“Water Authority”) and Pulte Homes of New Mexico, Inc., a Michigan corporation, (“Pulte Homes”) (together, “Parties”), agree as follows:

**1. Recitals**

- A.** Pulte Homes is the developer and owner of certain real property located at Montecito West subdivision (collectively, the “Property”). The Property is more particularly described and as shown on **Exhibit A** attached hereto and incorporated herein by reference. The Property at full development will consist of 94 residential lots. The Property is located in the former New Mexico Utilities, Inc. (“NMUI”) service area, outside the Water Authority’s currently adopted Water Service Area.
- B.** The Property is located in Pressure Zone 4W of the Volcano Trunk.
- C.** 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. Pulte Homes 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.
- D.** The expansion of the existing water distribution system to the Property will require additional arsenic treatment and water storage capacity within the Pressure Zone 4W distribution system. As such, the Property will be assessed a Facility Fee that reflects their proportional costs of the required additional system capacities.

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

- A.** Pulte Homes will cause definitive designs and plans of the Line Extensions to be produced which will include estimates of all costs and expenses. Pulte Homes will not connect the extension lines to the existing water and sanitary sewer lines within the City of Albuquerque (“City”) public right-of-way until the Water Authority has approved the line extensions. Pulte Homes 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 Pulte Homes, free and clear of all

liens, claims, and encumbrances for the construction, operation, and maintenance of the line extension. Pulte Homes will obtain all necessary permits, assurances, and approvals from the Water Authority and City, and Pulte Homes 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 work order process.

- B.** Pulte Homes will complete, or cause to be completed, construction of the Line Extensions 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.
- C.** Pulte Homes 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.** Pulte Homes 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.** Pulte Homes 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.** Pulte Homes shall pay a Facility Fee to the Water Authority in the amount of \$145,670.21. This fee reflects the proportional costs associated with the increase of arsenic water treatment systems and reservoir capacities associated with providing potable water service to the Property. No utility services will be sold to the Property until the Facility Fee is paid in whole. As the expansion of system capacity is classified as Master Plan Facility Improvements, this Facility Fee is reimbursable by the Water UEC's collected as services are established for the 94 residential lots within the

Property. The UEC reimbursements will total no more than the \$145,670.21 Facility Fee amount. Reimbursement will be on a Fiscal Year basis. The Reimbursement request must be initiated by Pulte Homes or its successor. A detail of the Facility Fee calculation is provided in **Exhibit C**.

**D.** Pursuant to Water Authority Resolution No. R-05-13, Pulte Homes agrees that it will incorporate water conservation guidelines that will seek to achieve water usage of no more than 2180 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 Pulte Homes 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 Pulte Homes 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 D** 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.** Pulte Homes 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 Pulte Homes, its agents, representatives, contractors, or subcontractors, or arising from the failure of Pulte Homes, its agents, representatives, contractors, or subcontractors to perform any act or duty required of Pulte Homes in this Agreement. The indemnification by Pulte Homes will not extend to the negligent acts of the Water Authority.
- 7. Representations and Warranties of Pulte Homes.** Pulte Homes represents and warrants that:
  - A.** Pulte Homes is a validly existing limited liability company under the laws of the State of Michigan.
  - B.** Pulte Homes has all the requisite power and authority to enter into this Agreement and bind Pulte Homes under the terms of the Agreement; and
  - C.** The undersigned officer of Pulte Homes is fully authorized to execute this Agreement on behalf of Pulte Homes.
- 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 Pulte Homes:

Pulte Homes of New Mexico, Inc., a Michigan corporation  
Attn: Garret Price  
7601 Jefferson NE Ste 180  
Albuquerque, NM 87109

- 9. Assignment.** This Agreement will not be assigned without the prior written consent of the Water Authority and Pulte Homes.
- 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 Pulte Homes 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**

**Pulte Homes of New Mexico, Inc.,  
a Michigan corporation**

By: \_\_\_\_\_  
Mark S. Sanchez  
Executive Director

By: \_\_\_\_\_  
Garret Price  
VP Land

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ACKNOWLEDGEMENTS

STATE OF NEW MEXICO     )  
                                       ) ss  
COUNTY OF BERNALILLO   )

This instrument was acknowledged before me on, June 10, 2014 by Garret Price, VP Land of Pulte Homes of New Mexico, Inc., a Michigan corporation, on behalf of said Company.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

STATE OF NEW MEXICO     )  
  ) ss  
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: Montecito Hts. Location Map

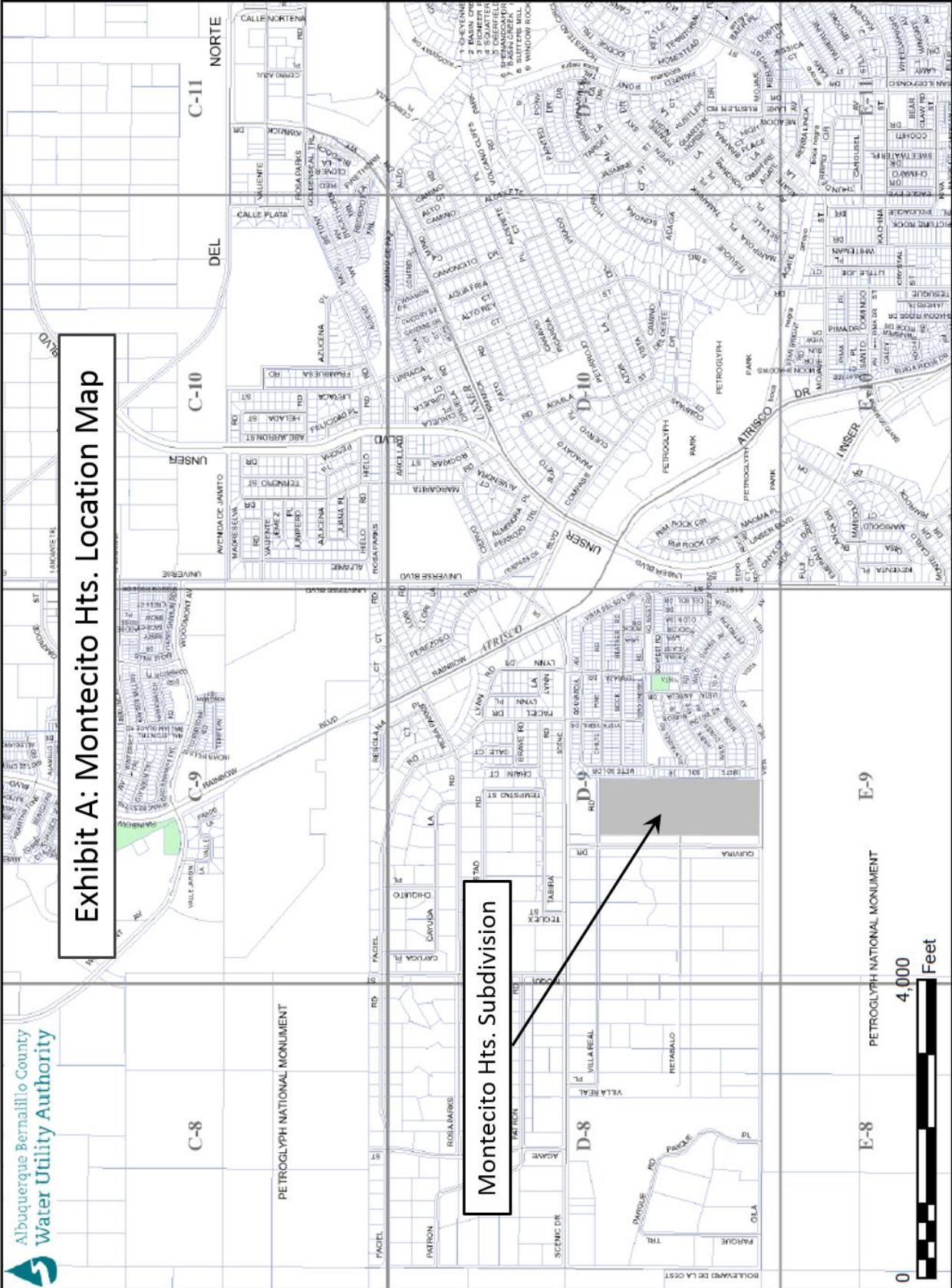


EXHIBIT B - Montecito West Serviceability Statement

April 9, 2013

**Chair**

Art De La Cruz  
County of Bernalillo  
Commissioner, District 2

**Vice Chair**

Rey Garduño  
City of Albuquerque  
Councilor, District 6

Richard J. Berry  
City of Albuquerque  
Mayor

Maggie Hart Stebbins  
County of Bernalillo  
Commissioner, District 3

Trudy E. Jones  
City of Albuquerque  
Councilor, District 8

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](http://www.abcwua.org)

Brian Patterson, P.E.  
Bohannan Huston  
7500 Jefferson St. NE, Courtyard I  
Albuquerque, NM 87109

**RE: Water and Sanitary Sewer Serviceability Statement #130110  
Montecito West - City Zone Atlas Map: D-09**

Dear Mr. Patterson:

**Project Information:** The subject site is a portion of a vacant land, located just west of the Vista Vieja sub-division, which is southwest of the Rainbow and Unser intersection, within the city limits. The site is currently zoned R-D and lies in the 4W pressure zone of the Volcano Trunk. The site is also outside of the current Water and Sanitary Sewer service boundary. The request for availability indicated development plans are to subdivide the site into a multiple single family residential lots.

**Existing Sewer & Water Lines:** Service is not available to the site. Presently, there are public water or sanitary sewer lines proximate to the site. There appears to be both water and sanitary sewer tie-in points which were left via Projects: #7633.83 and #7633.84. Water tie-in points are a 12 inch line in Vista Vieja Ave, an eight inch line in Hawk Eye Rd and 12 inch line in Groundsel Rd. Sanitary sewer tie in points are an eight inch line in Hawk Eye Rd. and a 10 inch line in Groundsel Rd.

**Service Requirements:** Due to the site lying outside of the Water and Sewer Service boundaries, a development agreement will be required between the Water Authority and the developer prior to service availability. Metered water and sanitary sewer service will also require substantial on and off-site infrastructure improvements to the current system to enable service to the site. This may include, but is not limited to, design analysis reports, basin studies, and amendments to the current water system Master Plan.

**Easements:** Water Authority public water and sewer easements are required for all lines to be constructed outside of dedicated rights-of-way. The minimum easement width for a public water and sewer line shall be 25-feet. Acceptable easements must be procured and documented prior to sale of service.

**Utility Expansion Charges:** In addition to installation and construction costs, both sanitary sewer and water services will be subject to Utility Expansion Charges (UEC) payable at the time of service application. Any outstanding pro rata assessments must be paid in full prior to site plan approval. All charges and rates will be based on the ordinances and policies in effect at the time service is actually requested and authorized.

**Water Supply Charges:** 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.

**Design and Construction** of all required improvements and amendments to the Water Supply Master Plan will be at the developer / property owner's expense, with no net expense to the Water Authority. All required improvements must be coordinated through the City of Albuquerque Design Review process. Designs must be by a New Mexico Licensed Professional Engineer. Construction must be by a licensed, bonded, public utility contractor.

**Water Use:** All new development shall be required to meet the standard water usage of 180 gallons per household per day which is equivalent to 75 gallons per capita 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. All new commercial developments shall be subject to the requirements for water usage and water conservation requirements as defined by the Water Authority.

**Closure:** This statement of serviceability will remain in effect for a period of one year from the date of issue and applies only to the development identified herein. Its validity is, in part, contingent upon the continuing accuracy of the information supplied by the developer. Changes in the proposed development may require reevaluation of availability and should be brought to the attention of the Utility Development Section of the Water Authority as soon as possible.

Please feel free to contact the Utility Development Office at (505) 924-3987, or by fax at (505) 924-3864 if you have questions regarding the information presented herein or need additional information.

Sincerely,

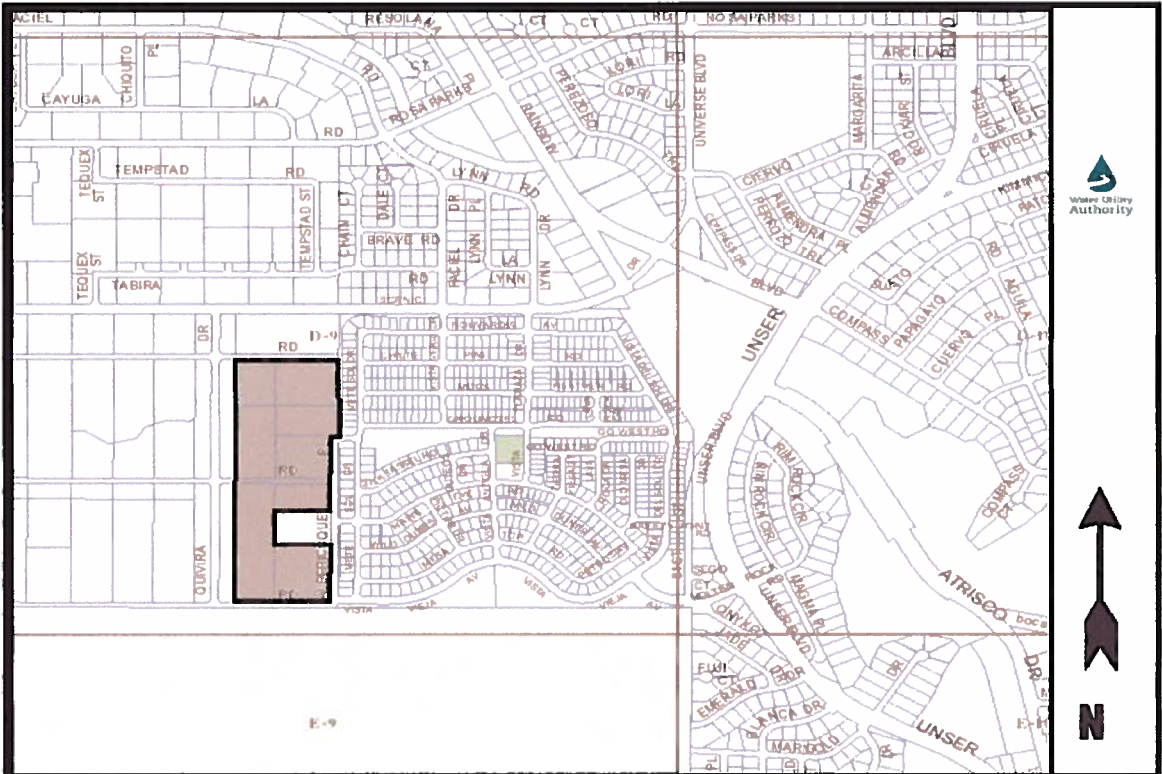


Mark S. Sanchez  
Executive Director

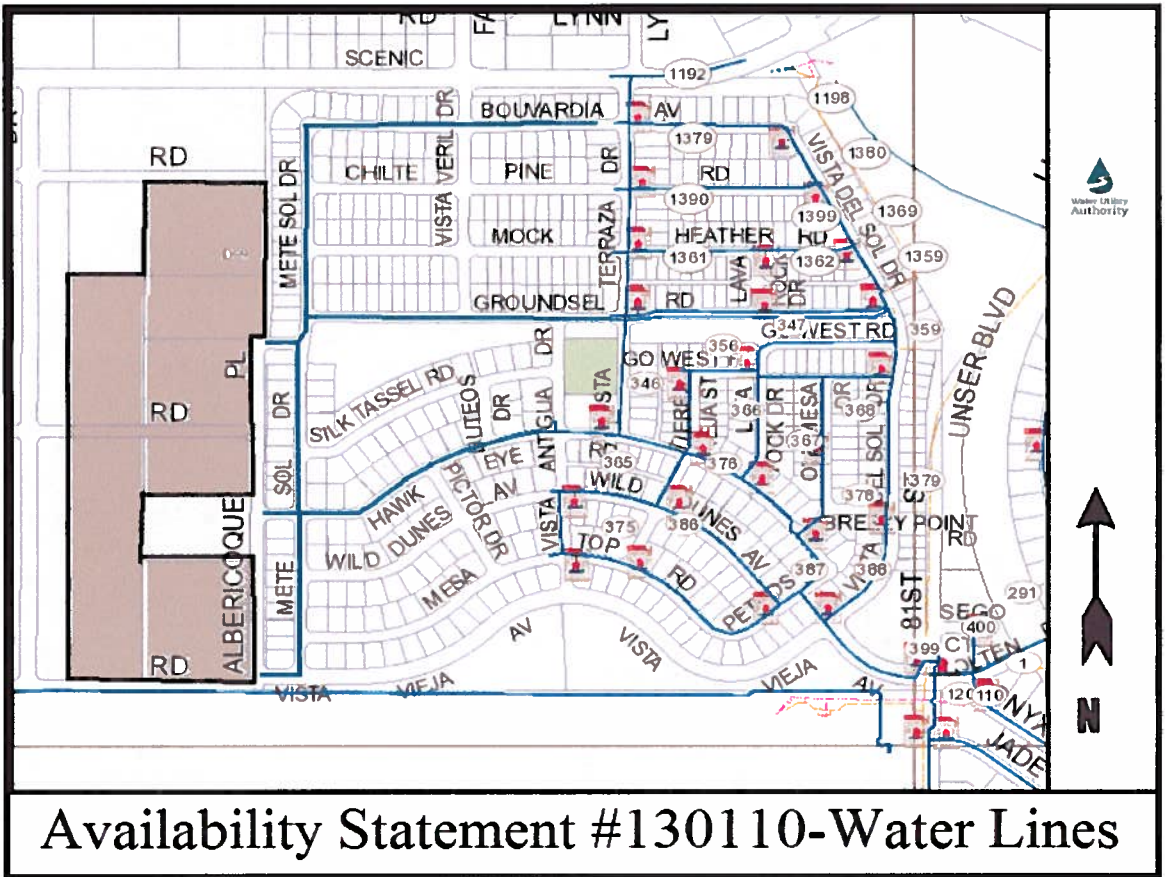
Encl: Maps

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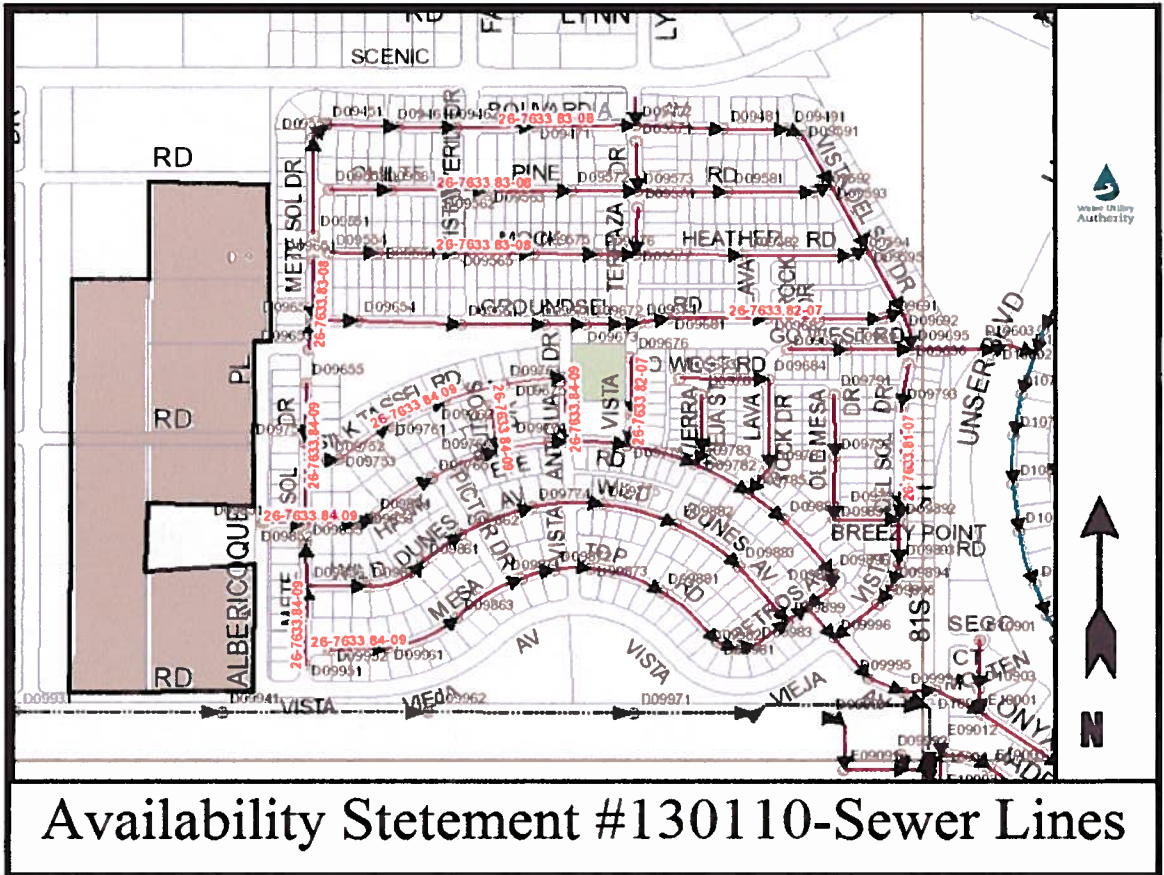
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Availability Statement #130110-Site Map



Availability Statement #130110-Water Lines



Availability Statement #130110-Sewer Lines

# Exhibit C: Montecito West Franchise Fees

| Montecito West Expected Water Demand  |   |                                |   |  |                                |
|---|---|--------------------------------|---|--|--------------------------------|
|   | Residential Development                       |                                | Mixed Use Area DU's<br>(based on 10/acre) | Mixed Use Areas                              |                                |
|   | Expected Avg Demand (gpd based on 180 gpd/du) | Peak Day (gpd) (1.8 * Avg Day) |   | Expected Avg Demand (gpd based on 90 gpd/du) | Peak Day (gpd) (1.8 * Avg Day) |
| Montecito West  | 94  | 16,920                         | 30,456                                    | -  | -                              |
| <b>Sub-Totals</b>   | <b>94</b>                                     | <b>16,920</b>                  | <b>30,456</b>                             | -  | -                              |
| <b>TOTAL AVG DEMAND (GPD) 16,920</b><br><b>TOTAL PEAK DEMAND (GPD) 30,456</b> |   |                                |   |  |                                |

| Corrales W2 to W3 Transmission Line and Arsenic Treatment |                                   | Reservoir Requirements                                       |                        |
|---|-----------------------------------|--|------------------------|
| Well Production Capacity                                  | 3000 gpm                          | Required Fire Volumes (1000gpm for 2 hours)                  | 120,000 gallons        |
| Expected Pumping Duration                                 | 10 hrs./day                       | 2 days storage (avg. demand)                                 | 33,840 gallons         |
| <b>Total Volume Pumped</b>                                | <b>1.8 MGD</b>                    | <b>TOTAL</b>   | <b>153,840 gallons</b> |
| Volume Required   | 30,456 gpd (Expected Peak Demand) | Reservoir Cost (per gallon) * \$                             | 0.58                   |
| Proportioned Volume Pumped                                | 0.01692                           | <b>PROPORTIONED COST</b> \$                                  | <b>89,227.20</b>       |
| Expected Pump Station Cost * \$                           | 3,335,875.00                      | * Cost based on new 7W 3.0 MG Steel Reservoir (from 10/2013) |                        |
| <b>PROPORTIONED COST</b> \$                               | <b>56,443.01</b>                  |  |                        |

\* Cost based on estimate for Corrales W2 to Corrales W3 transmission line and arsenic treatment plant.

| Total Proportioned Costs |                   |
|--------------------------|-------------------|
| Arsenic Treatment \$     | 56,443.01         |
| Reservoir Storage \$     | 89,227.20         |
| <b>TOTAL COST \$</b>     | <b>145,670.21</b> |

