



Meeting Date: September 23, 2015

Staff Contact: Kristopher Cadena, Principal Engineer, Utility Development

TITLE: R-15-15 – Authorizing an Agreement with Cruz Corporation for the Cruz Estates Subdivision for Water and Sewer Service

ACTION: Recommend Approval

SUMMARY:

The development is located along the south side of Pajarito Rd., just east of the Arenal Canal within the unincorporated area of Bernalillo County. The project consists of 11 individual building lots. The property lies within Pressure Zone 0W in the Pajarito Trunk.

Water and wastewater service is contingent on the Developer constructing internal distribution and collector lines that tie to the existing infrastructure proximate to the property. All services provided within the development will be subject to current Utility Expansion and Water Supply Charges.

FISCAL IMPACT:

None.

DEVELOPMENT AGREEMENT
Cruz Corporation

Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision, (“Water Authority”) and **Cruz Corporation, a New Mexico Corporation** (together, “Parties”), agree as follows:

1. Recitals

- A. Cruz Corporation** is the developer and owner of certain real property located at the Pajarito road east of Coors SW (collectively, the “Property”). The Property is more particularly described and as shown on **Exhibit A** attached hereto and incorporated herein by reference. The Property is located outside the Water Authority’s service area. Development on The Property will consist of a 11 lot residential subdivision.
- B.** The Legal Description of the Property is as follows: LOTS 1-11 CRUZ ESTATES BEING A REPLAT OF TRACT 96-B-2 MRGCD PROPERTY MAP 53, SECTION 23 T9N,R2E,NMPM BERNALILLO COUNTY NEW MEXICO
- C.** The Property is served by Pressure Zone 0W of the Pajarito 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. **Cruz Corporation** 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 Availability 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.
- E.** The water line extensions referenced in this Agreement are not considered Master Plan waterlines by the Water Authority. As such, reimbursement of construction costs associated with the Line Extensions will not be available through water UEC (defined below in Section 3.B) reimbursements.

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

- A. Cruz Corporation** will cause definitive designs and plans of the Line Extensions to be produced which will include estimates of all costs and expenses. **Cruz Corporation** will not connect the Lines Extensions to the existing water and sanitary sewer lines within the City of Albuquerque (“City”) public right-of-way or dedicated Public Water or Sanitary Sewer Easements until the Water Authority has approved the Line Extensions.

Cruz Corporation 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 **Cruz Corporation**, free and clear of all liens, claims, and encumbrances for the construction, operation, and maintenance of the line extension. **Cruz Corporation** will obtain all necessary permits, assurances, and approvals from the Water Authority and Bernalillo County, and **Cruz Corporation** 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. Cruz Corporation** will complete, or cause to be completed, construction of the Line Extensions as approved by the Water Authority, and in conformance with all applicable plans, specifications, and standards of the County and the Water Authority.
- C. Cruz Corporation** 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. Cruz Corporation** 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. Cruz Corporation** or its successor shall pay Utility Expansion Charges (UECs) 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 seventy-five (75) gallons per capita per day. 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.

4. **Termination.** If construction of the waterline extensions and sanitary sewer extensions by **Cruz Corporation** 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 **Cruz Corporation** 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.** **Cruz Corporation** will 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 **Cruz Corporation**, its agents, representatives, contractors, or subcontractors, or arising from the failure of **Cruz Corporation**, its agents, representatives, contractors, or subcontractors to perform any act or duty required of **Cruz Corporation** in this Agreement. The indemnification by **Cruz Corporation** will not extend to the negligent acts of the Water Authority.
7. **Representations and Warranties of Cruz Corporation.** **Cruz Corporation** represents and warrants that:
 - A. **Cruz Corporation** is a validly existing New Mexico Corporation.
 - B. **Cruz Corporation** has all the requisite power and authority to enter into this Agreement and bind **Cruz Corporation** under the terms of the Agreement; and
 - C. The undersigned officer of **Cruz Corporation** is fully authorized to execute this Agreement on behalf of **Cruz Corporation**.
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 **Cruz Corporation**:

Cruz Corporation
3616 San Ygnacio Rd SW
Albuquerque, NM 87121
A New Mexico Corporation

- 9. Assignment.** This Agreement will not be assigned without the prior written consent of the Water Authority and **Cruz Corporation**.
- 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 **Cruz Corporation** and their successors, assigns and transferees. Time is of the essence of each term of this Agreement. If any provision of this Agreement is determined by a court of competent jurisdiction to be void, invalid, illegal, or unenforceable, that portion will be severed from this Agreement and the remaining parts will remain in full force as though the invalid, illegal, or unenforceable portion had never been a part of this Agreement.
- 11. Integration; Interpretation.** This Agreement contains or expressly incorporates by reference the entire agreement of the parties with respect to the matters contemplated by this Agreement and supersedes all prior negotiations. This Agreement may only be modified in writing executed by both parties.
- 12. Approval.** This Agreement is subject to the approval of the Board of Directors of the Water Authority and will not become effective until approved by the Water Authority.
- 13. Effective Date.** The effective date of this Agreement is the date last entered below.

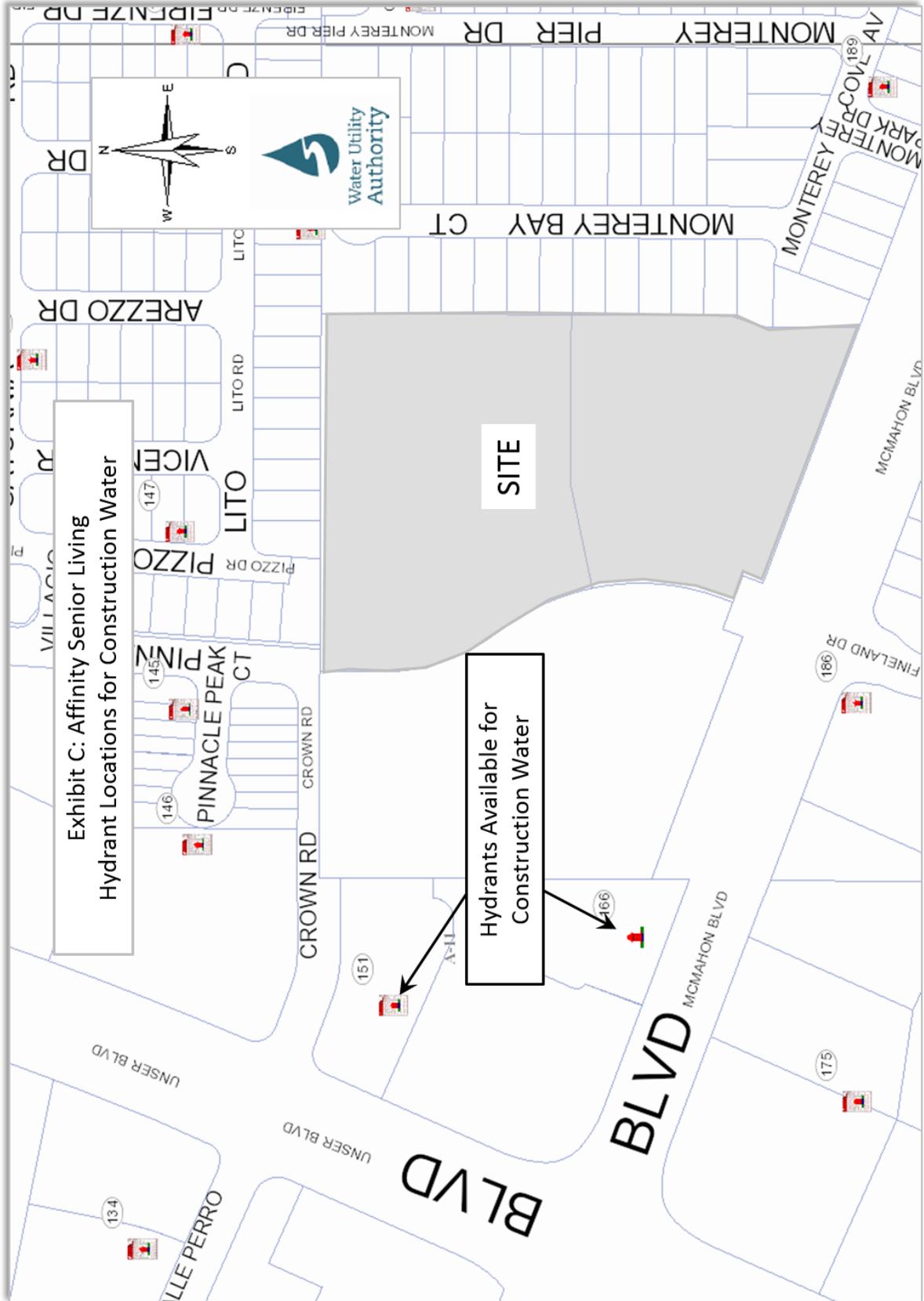


EXHIBIT A - Project Location

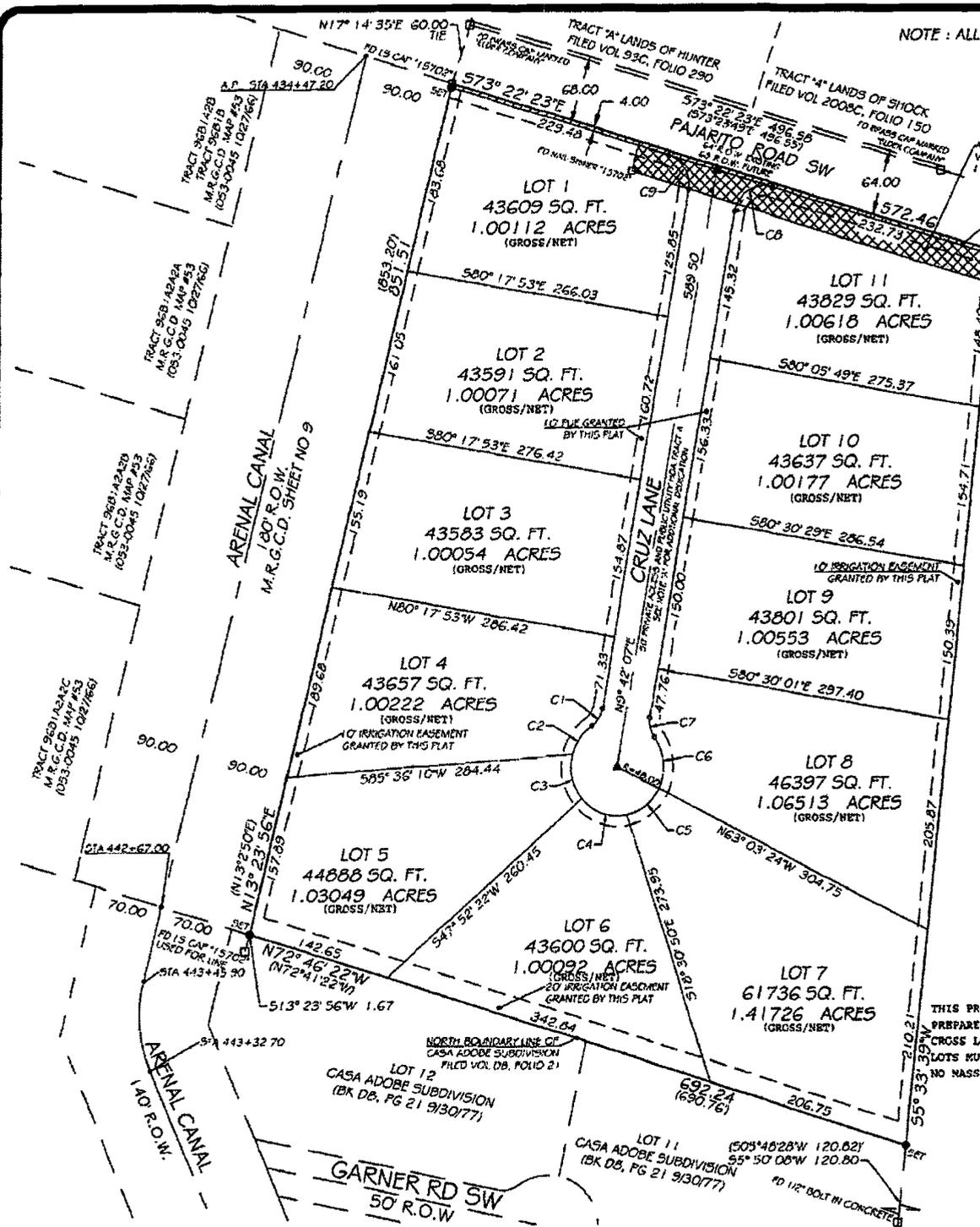


Project Location

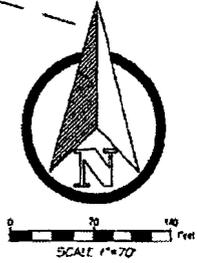
0 6133 Feet

NOTE: ALL LOT AREAS ARE NET-GROSS

PLAT OF
 LOTS 1-11
 CRUZ ESTATES
 BEING A RE-PLAT OF TRACT 96-B-2
 M.R.G.C.D. PROPERTY MAP NO 53
 SITUATED WITHIN SECTION 23
 TOWNSHIP 9N, RANGE 2 EAST, N.M.P.M.
 BERNALILLO COUNTY, NEW MEXICO
 JANUARY 2015



A.C.S CONTROL STATION
 5-R111
 N 145.0878.156
 E 1506640.460
 Z 4914.793
 NAD 1983
 NAD83 1988
 NEW MEXICO STATE PLANE
 CENTRAL ZONE
 GGM = 0.999689329
 DELTA ALPHA = 00°15'21.96"



- MONUMENT LEGEND**
- FOUND MONUMENT 'AS NOTED'
 - △ ALBUQUERQUE CONTROL 'AS DESIGNATED'
 - SET 1" PLASTIC CAP STAMPED 'S 21082'
 - ▲ CENTERLINE MONUMENT 3-1/2" ALUMINUM CAP STAMPED '21082'
 - ANGLE POINT/POINT OF CURVATURE, OR POINT OF TANGENCY SET 1" PLASTIC CAP STAMPED 'S 21082'

NOTE: 'A' HOA TRACT A FOR THE BENEFICIAL USE OF LOTS 1-11. SAID TRACT IS A PRIVATE ACCESS, PUBLIC WATERLINE AND SANITARY EASEMENT GRANTED TO THE ABOVE BY THIS PLAT. MAINTENANCE OF SAID HOA TRACT 'A' IS THE RESPONSIBILITY OF THE CRUZ ESTATES HOME OWNER ASSOCIATION. SAID TRACT CONTAINS AN AREA OF 34864 SQ FT (0.80037 ACRES)

Curve Table

Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	20.41	25.00	46.77	N33°05'13"E	19.85
C2	34.66	48.00	41.57	N35°47'18"E	33.91
C3	45.62	48.00	54.46	N12°07'21"W	43.92
C4	52.70	48.00	62.31	N70°48'19"W	50.10
C5	43.03	48.00	52.32	S51°34'40"W	42.33
C6	52.35	48.00	62.48	N5°49'34"W	49.79
C7	20.41	25.00	46.77	N13°40'59"W	19.85
C8	50.73	30.00	96.92	S58°09'52"W	44.91
C9	43.50	30.00	83.08	N31°50'08"W	39.79

TRACT 95A
 M.R.G.C.D. MAP #53
 (053-0045 1027166)
 BOOK 92 PAGE 14

THIS PROPERTY IS SUBJECT TO BERNALILLO COUNTY CODE CHAPTER 38 FLOODS. A GRADING AND DRAINAGE PLAN PREPARED BY A NEW MEXICO REGISTERED ENGINEER MAY BE REQUIRED WITH FUTURE DEVELOPMENT OF LOTS. CROSS LOT DRAINAGE MUST NOT BE INCREASED OR IMPACTED BY DEVELOPMENT OF THESE LOTS. LOTS MUST ACCEPT HISTORICAL STORM WATER RUNOFF FROM ADJACENT ROADWAY AND PROPERTIES. NO MASS GRADING, CLEARING, GRUBBING IS ALLOWED WITHOUT AN APPROVED GRADING AND DRAINAGE PLAN.



CONSTRUCTION SURVEY TECHNOLOGIES, INC
 1606 CENTRAL AVE SE, SUITE 101, ALBUQUERQUE, NM 87106
 (505) 263-9221
 INFO@CVTDR.COM

EXHIBIT A

November 5, 2014

Chair

Klarissa J. Peña
City of Albuquerque
Councilor, District 3

Vice Chair

Maggie Hart Stebbins
County of Bernalillo
Commissioner, District 3

Richard J. Berry
City of Albuquerque
Mayor

Art De La Cruz
County of Bernalillo
Commissioner, District 2

Rey Garduño
City of Albuquerque
Councilor, District 6

Trudy E. Jones
City of Albuquerque
Councilor, District 8

Debbie O'Malley
County of Bernalillo
Commissioner, District 1

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

Executive Director
Mark S. Sanchez

Website
www.abcwua.org

David Soule, PE
Rio Grande Engineering
PO Box 93924
Albuquerque, NM 87199

RE: Water and Sanitary Sewer Availability Statement #141002
Project Location: 2508 Pajarito Rd SW - Zone Atlas Map: R-11

Dear Mr. Soule:

Project Information: The subject site is located on Pajarito Rd. east of the Arenal Canal, in an unincorporated area of Bernalillo County. The proposed development consists of approximately +/- 12.85 acres and the property is currently zoned A-1 for residential use. The property lies within the Pressure Zone 0W in the Pajarito trunk. The request for availability indicates plans to subdivide the property into eight residential lots.

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

- 36 inch CC In Zone Transmission Line (Project #26-7565.81-08) in Pajarito Rd.
- Ten inch DI Distribution Main (Project #26-7565.81-08) in Pajarito Rd.

Sanitary sewer infrastructure in the area consists of the following:

- Six inch Vacuum Line (Project #26-5367.93-06) in Pajarito Rd. with buffer tank in project site.

Water and Sewer Service: New metered water service to the property can be provided contingent upon a developer funded design and construction of a looped Distribution Line within the project site connecting to the existing ten inch Distribution Main in Pajarito Rd. Connection to the 36 inch Transmission Line is not allowable. 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

New private sanitary sewer service can be provided contingent upon a developer funded design and construction of a new gravity fed Collector Line connecting to the existing Buffer Tank and six inch Vacuum Line located at the north end of the project site. Service taps for the new lots may be made to the new Collector Line via routine connections. In accordance to Bernalillo County Waste Water Ordinance, all plumbed structures on this site must tie into the municipal sanitary sewer system.

Fire Protection: The instantaneous fire flow requirements for the subject property were not submitted in the request for availability; therefore, this statement may not be complete and/or valid at the time of future construction. 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. 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 service agreement, as part of a Home Owners Association, will be necessary for ongoing infrastructure maintenance and repairs.

Design and Construction of all required improvements will be at the developer / property owner's expense and 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 Supply Charge: Newly developed properties outside the Water Authority's water service area but within the South Valley Drinking Water Project (SVDWP) area will be assessed a Water Supply Charge (WSC) as provided in the Water Authority's Water and Sewer Rate Ordinance and the SVDWP Water Service Policies 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

Water Use: 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, and regardless of the maximum annual requirement, all new residential development will be required by the Water Authority to meet the standard water usage of 180 gallons per day per household which is equivalent to 75 gallons per capita 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, particularly the Water Waste Ordinance (O-07-13), Water Conservation Large Users Ordinance and Water Conservation Water by Request Ordinance.

Closure: This statement of service availability 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 Water 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,

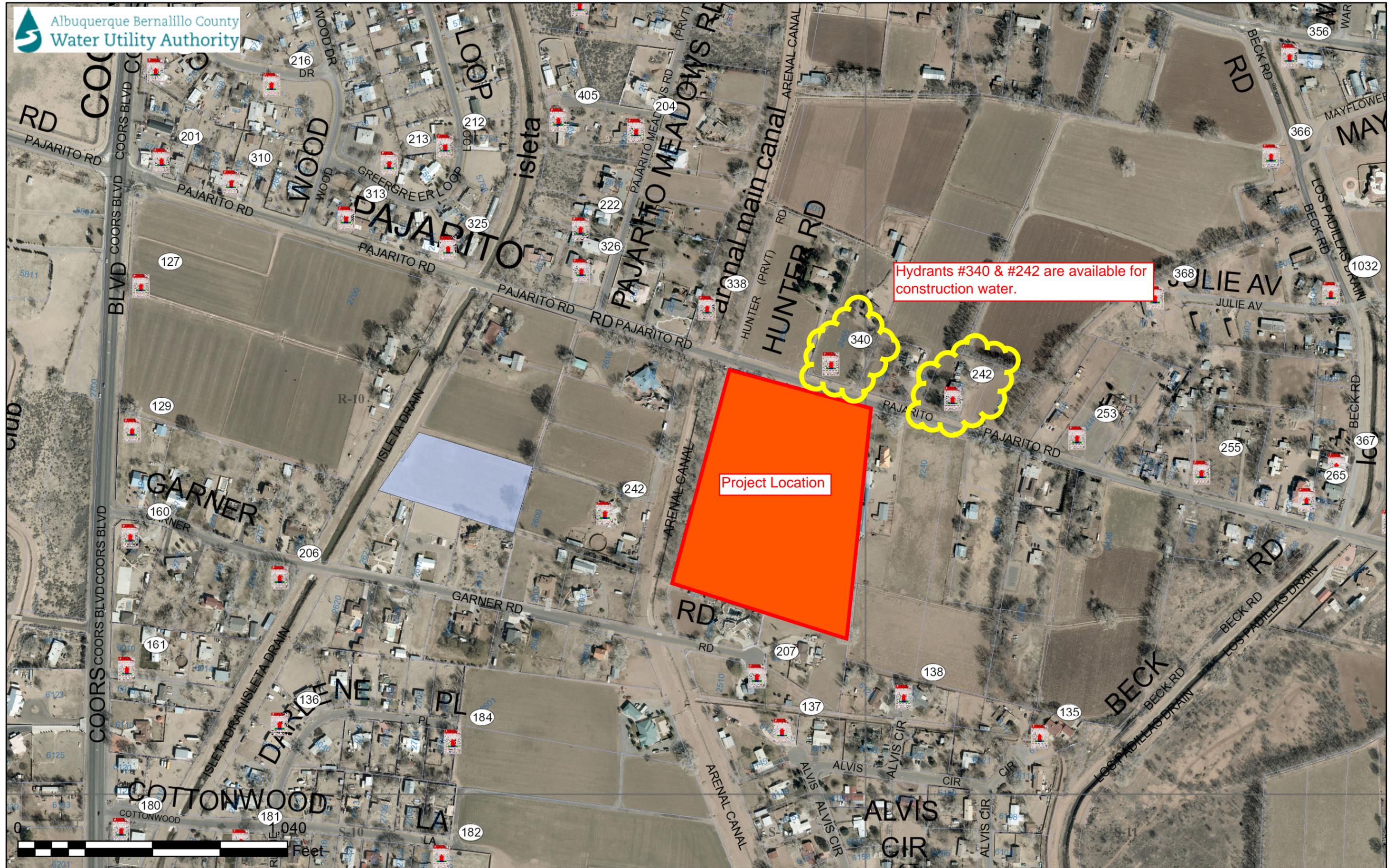


Mark S. Sanchez
Executive Director

Enclosures: Infrastructure Maps (2)

f/ Availability R-11

Exhibit C - Water for Construction



Hydrants #340 & #242 are available for construction water.

Project Location



Legend

Water Hydrants

-  <all other values>
-  Air Release Hydrant, <Null>
-  Air Release Hydrant, NO
-  Air Release Hydrant, Y
-  Standard Hydrant, <Null>
-  Standard Hydrant, NO
-  Standard Hydrant, Y

Municipal Limits

-  ALBUQUERQUE
-  CORRALES
-  EDGEWOOD
-  LOS RANCHOS
-  RIO RANCHO
-  TIJERAS
-  UNINCORPORATED AREAS

Availability Statements

-  Availability Statements

San Juan-Chama Pipes

-  <all other values>
-  Treated, Y
-  Treated, NO
-  Treated, <Null>
-  Raw Transmission Lines, Y
-  Raw Transmission Lines, <Null>
-  Drain Line, Y
-  Drain Line, NO
-  <Null>, Y

Non-Potable Pipe

-  <all other values>
-  Distribution Main
-  Hydrant Leg
-  Over Flow Drain Line
-  Sleeve
-  Well Wash Line

Base Map

-  Base Map

Parks

-  Parks

Rivers

-  Rivers

Page Grid

-  Page Grid