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Meeting Date: January 27, 2016

Staff Contact: Kristopher Cadena, P.E., Principal Engineer, Utility Development

**TITLE: R-15-16 – Authorizing an Agreement with Juan Tabo Hills West, LLC for the Juan Tabo Hills Estates Subdivision for Water and Sewer Service**

**ACTION: Recommend Approval**

**SUMMARY:**

The development is located between Eubank Blvd. and Juan Tabo Dr. N.E., just north of Kirtland Air Force Base and is within the City Limits. The project consists of 351 individual building lots. The property lies within Pressure Zone 4ER in the Ridgecrest Trunk.

Provision of 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. The developer will also be responsible for the removal and relocation of an existing sanitary sewer interceptor. The Serviceability Statement for this property identifies two alternatives for waterline extensions. The waterline extensions associated with the second alternative and sewer line extensions referenced in this Agreement are not considered Master Plan lines by the Water Authority. Because the extensions are not Master Plan lines, reimbursement of construction costs associated with these extensions will not be available through water and sewer UEC (defined below in Section 3.B) reimbursements. Per previous Design Review Board hearings, the developer has opted to construct the second alternative which includes the alternative waterline layout which utilizes pressure reducing valves.

All services provided within the development will be subject to the Utility Expansion and Water Supply Charges current at the time service is established.

**FISCAL IMPACT:**

The execution of this Development Agreement will not have a fiscal impact on the Water Utility Authority.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. R-15-16

1 **RESOLUTION**

2 **AUTHORIZING AN AGREEMENT WITH JUAN TABO HILLS WEST, LLC FOR THE**  
3 **JUAN TABO HILLS ESTATES SUBDIVISION FOR WATER AND SEWER SERVICE.**

4 WHEREAS, Juan Tabo Hills West, LLC is the developer proposing to construct  
5 351 residential lots located near Juan Tabo and Eubank Boulevards; and

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

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

14 Section 1. Juan Tabo Hills West, LLC will obtain all permits, assurances, and  
15 approvals from the Water Authority and the City of Albuquerque development/design  
16 review process. Construction of water and/or sewer lines shall be in conformance with  
17 the plans approved by the Water Authority and all applicable plans, specifications,  
18 requirements, and standards of the Water Authority.

19 Section 2. The expansion of the System shall incur no net expense to the Water  
20 Authority.

21 Section 3. Juan Tabo Hills West, LLC will be responsible for close coordination  
22 of the project with the Water Authority during the design and construction phases,  
23 including the review of the design details during the design process, and the approval of  
24 specifications and contract documents.

25 Section 4. The Executive Director is authorized to enter into the agreement with  
26 Juan Tabo Hills West, LLC for the provision of water and sewer service.

## **DEVELOPMENT AGREEMENT JUAN TABO HILLS ESTATES**

**Albuquerque Bernalillo County Water Utility Authority**, a New Mexico political subdivision, (“Water Authority”) and Juan Tabo Hills West, LLC, a New Mexico limited liability corporation, (“Developer”) (together, “Parties”), agree as follows:

### **1. Recitals**

- A.** JUAN TABO HILLS WEST, LLC is the “Developer” and owner of a Tract A, Juan Tabo Hills West (collectively, the “Property”). The Property is more particularly described and shown on **Exhibit A** attached hereto and incorporated herein by reference. The Property is located outside the Water Authority’s currently adopted Water Service Area.
- B.** The legal description of the Property is as follows:

A tract of land situated in Section 33, Township10 North, Range 4 East, New Mexico Principal Meridian, City of Albuquerque, New Mexico being all of Tract A, Juan Tabo Hills West, as same is shown and designated on said plat filed for record in the office of the County Clerk of Bernalillo County, New Mexico on June 14, 2007 in Book 2007C, Page 161.
- C.** The Property is located in Pressure Zone 4ER of the Ridgcrest 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 aforementioned Serviceability Statement identifies two alternatives for waterline extensions. The first alternative includes Master Plan lines in which the reimbursement of construction costs associated with these extensions are available through water UEC reimbursements. The waterline extensions associated with the second alternative and sewer line extensions referenced in this Agreement are not considered Master Plan lines by the Water Authority. Because the second alternative extensions are not Master Plan lines, reimbursement of construction costs associated with these extensions will not be available through water and sewer UEC (defined below in Section 3.B) reimbursements. Per previous Design Review Board hearings, the developer has opted to construct the alternative waterline layout which utilizes pressure

reducing valves. This option does not include Master Plan lines; therefore UEC reimbursement is not applicable.

## **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 City of Albuquerque (“City”) public right-of-way or 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 City, 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 City work order process.
- B.** The Developer 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.** 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 Nevada.
  - 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:

Juan Tabo Hills West, LLC  
ATTN: Scott Grady and Rex Wilson  
PO Box 1443 Corrales NM 87048

- 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.



[illegible]

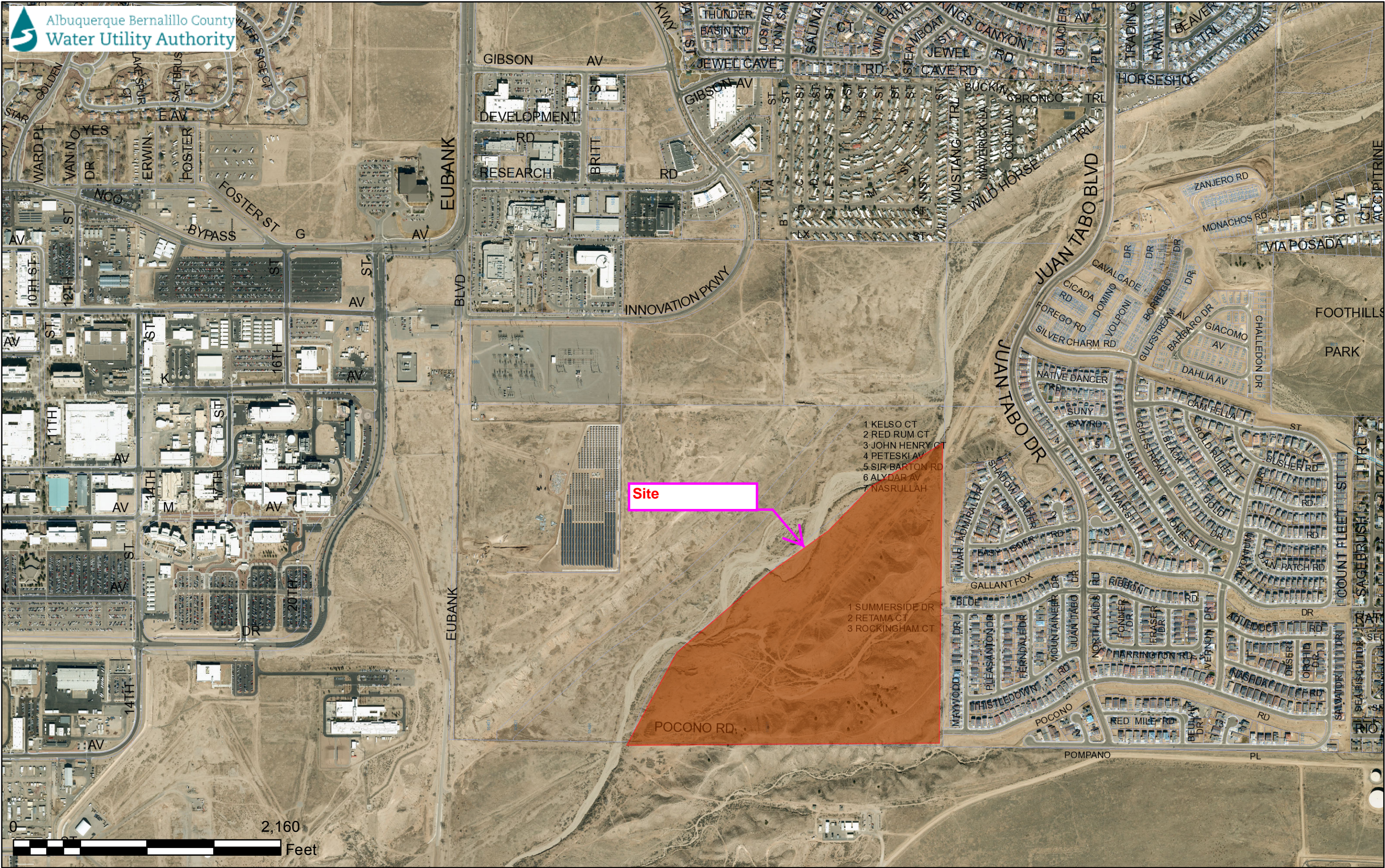
This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_ by Mark S. Sanchez, Executive Director of the Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision.

Notary Public

My Commission Expires:



EXHIBIT A







**EXHIBIT B**

May 18, 2015

**Chair**Maggie Hart Stebbins  
County of Bernalillo  
Commissioner, District 3**Vice Chair**Trudy E. Jones  
City of Albuquerque  
Councilor, District 8Richard J. Berry  
City of Albuquerque  
MayorArt De La Cruz  
County of Bernalillo  
Commissioner, District 2Rey Garduño  
City of Albuquerque  
Councilor, District 6Debbie O'Malley  
County of Bernalillo  
Commissioner, District 1Ken 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)James D. Hughes, PE  
Mark Goodwin & Associates, PA  
PO Box 90606  
Albuquerque, NM 87199**RE: Water and Sanitary Sewer Serviceability Statement #150307**  
**Project Name: Juan Tabo Hills Estates - Project Location: Between Juan Tabo Hills Unit 1 & 2 and Tijeras Arroyo - Zone Atlas Map: M-21**

Dear Mr. Hughes:

**Project Information:** The subject site is located on just west of Juan Tabo Hills Unit 1 & 2 within the City. The property consists of approximately 85 acres and is currently zoned R-D for residential use. The property lies within the Pressure Zone 4ER in the Ridgecrest trunk. The request for information indicates plans to develop a residential subdivision.

**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:

- Ten inch PVC Distribution Main (Project #26-7561.85-09) in Pocono Rd.
- Eight inch PVC Distribution Main (Project #26-7561.85-09) in Blue Ribbon Rd.
- Eight inch PVC Distribution Main (Project #26-7561.83-10) east of the project location between Gallant Fox Rd. and Blue Ribbon Rd.

Sanitary sewer infrastructure in the area consists of the following:

- Eight inch PVC Collector Line (Project #26-7561.85-09) in Pocono Rd.
- Eight inch PVC Collector Line (Project 26-7561.85-09) in Blue Ribbon Rd.
- Eight inch PVC Collector Line (Project #26-7561.83-10) east of the project location between Gallant Fox Rd. and Blue Ribbon Rd. This line continues north along the east boundary of the proposed project and discharges into the existing 21 inch interceptor.
- 21 inch VCP Interceptor Line (Project #07-001-78) along the Tijeras Arroyo which is along the western project boundary.

**Water and Sewer Service:** New metered water service to the property cannot currently be served by the 5E pressure zone that is east of the project location due to existing elevations. The developer has the option to grade the site so the finished floor elevations of the subdivision are at least 5480 feet, which will cause the site to be within the 5E Pressure Zone. The 1982 Master Plan identifies this area as being within the 5E Pressure Zone. This will allow the project to acquire service contingent upon a developer funded project to extend the ten inch Distribution Main along the south border of the project location as well as along the Tijeras Arroyo per the 1982 Master Plan. The project shall also include a looped system internal to the subject site to include connections to the proposed ten inch Distribution Main and the eight inch Distribution Main east of the property near Gallant Fox Rd. This option will eliminate the requirement for pressure reducing valves (PRVs) due to zone crossings.

An alternative to the above mentioned option would be to grade the site to a maximum elevation of 5,480 feet which will place the site in the 4ER Pressure Zone. In doing so, there would be a requirement to install PRVs at the connections to the 5E Pressure Zone.

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 sanitary sewer infrastructure that will connect to the eight inch Collector Line in Blue Ribbon and the eight inch Collector Line east of the project location near Gallant Fox Rd. The site plan is proposing to eliminate the 21 inch Interceptor line and replace it with a 24 inch Interceptor that will align along the northern portion of the project location. Also, the plan proposes to remove the eight inch Collector Line located east of the project location and runs north/south. This existing line serves the properties to the east and currently discharges into the existing 21 inch interceptor. A new connection to the new infrastructure for the development would take place to continue this discharge.

**Fire Protection:** The instantaneous fire flow requirements for the subject property were not submitted in this request and will be required in the availability request prior to 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. 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. 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 ABCWUA 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 City of Albuquerque 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.

**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 Water Utility Development Office at (505) 289-3307, or by fax at (505) 289-3303 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 M-21

# u

**Legend**

COUNTY/Asst. Parcel, 2014 selection

**WATER/PIPE**

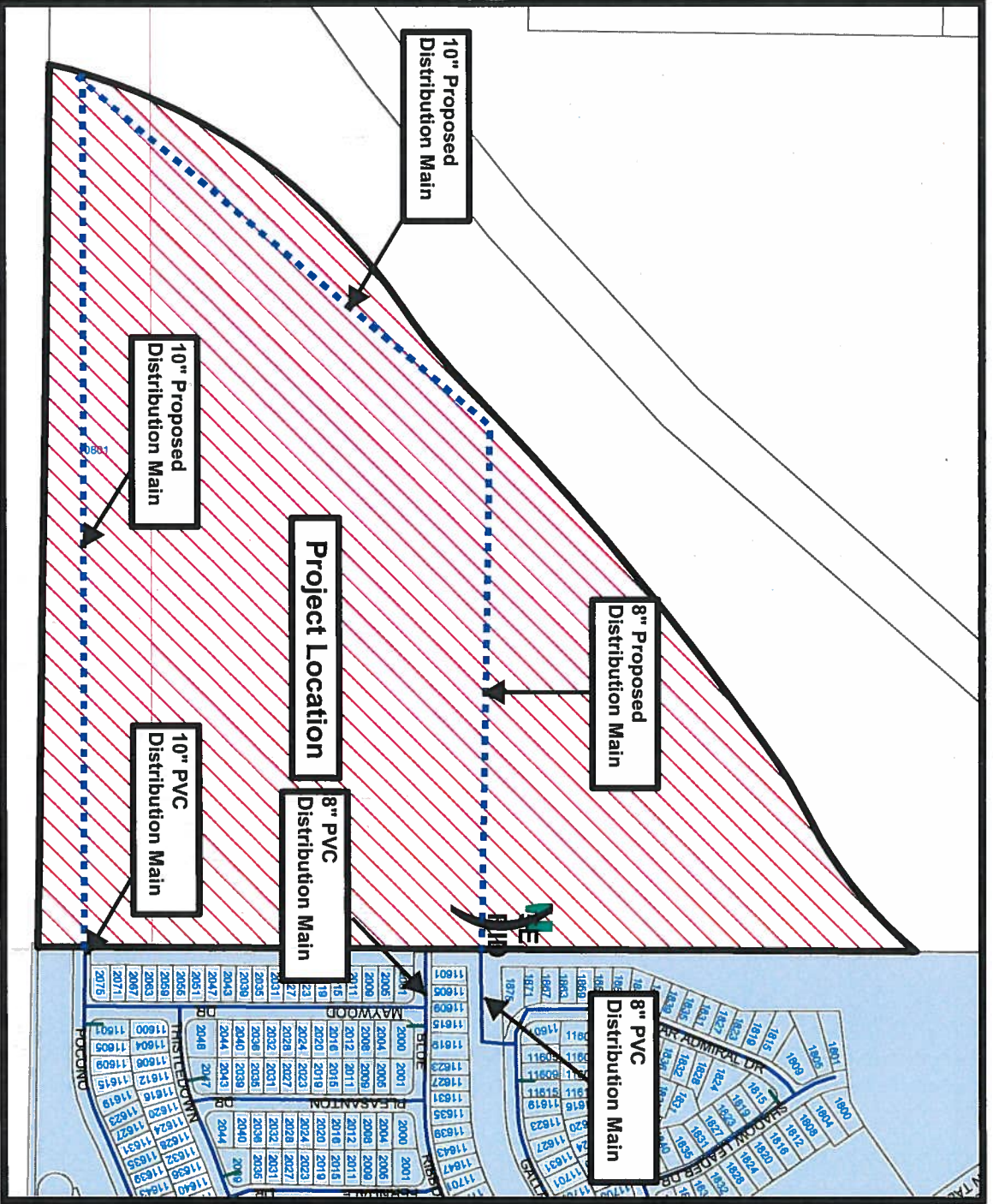
"all other valves"

**SUBTYPE**

- Distribution Main
- Drain Line
- Hydrant Line
- In Zone Transmission
- Out Zone Transmission
- S&C Transmission
- Sewer
- Water Collector Line
- Water Main Line
- "all other valves"

**Type**

- Hydrant
- "all other valves"
- COUNTY/Asst. Parcel, 2014



Availability Statement # 150307  
Water Infrastructure





# u

**Legend**

COUNTY\Asset\_Parcels\_2014 selection

Type

- Hydrant
- all other valves

2

Sewer Mainline

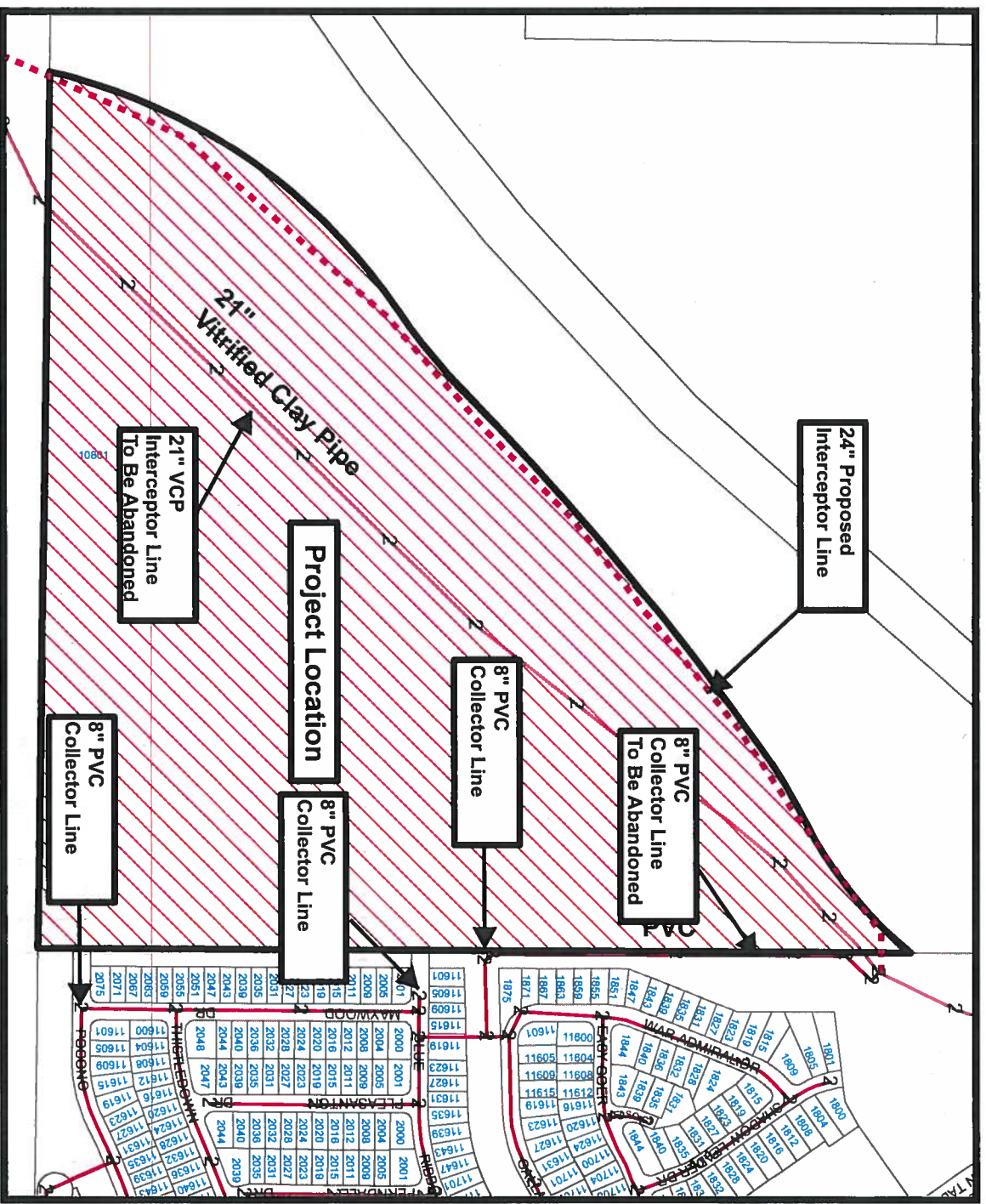
Sewer Pipe

all other valves

SUBTYPE

- COLLECTOR
- INTERCEPTOR
- FORCE MAIN
- VACUUM LINE

COUNTY\Asset\_Parcels\_2014



Availability Statement # 150307  
Water Infrastructure



























Hydrants #356, #366 & #396  
are available for construction  
water









Legend

Water Pipes

-  <all other values>
-  Active - other
-  Abandoned Line
-  Distribution Main, Not Imaged
-  Distribution Main, As-Built Image Exist
-  Hydrant Leg, Not Imaged
-  Hydrant Leg, As-Built Image Exist
-  Transmission, Not Imaged
-  Transmission, As-Built Image Exist
-  Over Flow Drain Line, Not Imaged
-  Over Flow Drain Line, As-Built Image Exist
-  Sleeve,Not Imaged
-  Sleeve, As-Built Image Exist
-  Well Collector Line, Not Imaged
-  Well Collector Line, As-Built Image Exist
-  Well Wash Line, Not Imaged
-  Well Wash Line, As\_Built Image Exist

-  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


ABCWUA\_Facilities

-  ABCWUA\_Facilities


Airports

-  Airports

Runways

-  Runways

Base Map

-  Base Map



Parks

-  Parks


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

Transmission Mains

-  In Zone Transmission
-  Out Zone Transmission

San Juan-Chama Pipes

-  <all other values>
-  Treated, Y
-  Treated, NO
-  Treated, <Null>