
Meeting Date: April 19, 2017

Staff Contact: Kristopher Cadena, Principal Engineer, Utility Development

TITLE: R-17-6 – Authorizing an Agreement for Water and Sewer Service with Buglo Properties, LLC for Paradise View Universal Apartments

ACTION: Recommend Approval

SUMMARY:

The development is for a 12-unit apartment complex. The site is located on undeveloped land located along the south side of Buglo Ave., east of Unser Blvd. The development is located outside of the Water Authority's Service Area, but within both the City of Albuquerque and Bernalillo County.

Water and wastewater service is contingent on the Developer constructing distribution mains 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

BILL NO. R-17-6

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

**DEVELOPMENT AGREEMENT
PARADISE VIEW UNIVERSAL APARTMENTS**

Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision, ("Water Authority") and **BUGLO PROPERTIES, LLC**, a NEW MEXICO limited liability corporation, ("Developer") (together, "Parties"), agree as follows:

1. Recitals

- A.** BUGLO PROPERTIES, LLC is the "Developer" and owner of certain real property located in PARADISE HILLS INVESTMENT PROPERTIES ,UNIT 1 (collectively, the "Property"). The Property is more particularly described and shown on **Exhibit A** attached hereto and incorporated herein by reference. The development is a 12 unit apartment complex. 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 legal description of the Property is as follows: LOT 12A, PARADISE HILLS INVESTMENT PROPERTIES, UNIT 1
- C.** The Property is located in Pressure Zone 3WR of the Corrales 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 Letter for the Property reflecting the line extensions and other matters referred to in this Agreement is attached hereto as **Exhibit B** and incorporated herein by reference and made a term of this agreement.
- E.** The waterline and sewer line extensions referenced in this Agreement are not considered Master Plan lines by the Water Authority. As such, reimbursement of construction costs associated with these extensions will not be available through water and sewer UEC (defined below in Section 3.B) reimbursements.

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

- A.** The Developer will cause definitive designs and plans of the Line Extensions to be produced which will include estimates of all costs and expenses. The Developer will not connect the extension lines to the

existing water and sanitary sewer lines within the City of Albuquerque (“City”) public right-of-way or within public easements until the Water Authority has approved the line extensions. The Developer will convey, at no expense to the Water Authority, all Line Extensions that have been approved and accepted by the Water Authority and all necessary easements for the Line Extensions at locations reasonably acceptable to the Developer, free and clear of all liens, claims, and encumbrances for the construction, operation, and maintenance of the line extension. The Developer will obtain all necessary permits, assurances, and approvals from the Water Authority and 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.
- E.** Upon completion of all Work Order projects, the Developer shall provide to the Water Authority a completed Asset Data Table of the assets installed/constructed.

3. Service

- A.** The Developer shall comply with the Water Authority’s Water and Sewer System Expansion Ordinance, as amended from time to time. Connection for water service shall require the concurrent connection of sanitary sewer service to the Water Authority’s wastewater system.

- B.** The Developer or its successor shall pay Utility Expansion Charges (UEC) and the Water Supply Charges (WSCs) at the rates that are imposed at the time of a service connection, as provided in the Water Authority's Water and Sewer Rate Ordinance, as amended from time to time.
 - C.** Pursuant to Water Authority Resolution No. R-05-13, the Developer agrees that it will incorporate water conservation guidelines that will seek to achieve water usage of no more than 180 gallons per household which is equivalent to seventy-five (75) gallons per capita per day.
- 4. Termination.** If construction of the waterline extensions and sanitary sewer extensions by the Developer has not been completed and accepted by the Water Authority within seven years of the effective date of this Agreement, this Agreement shall automatically terminate, and the Water Authority and the Developer shall have no further rights, obligations, or liabilities with respect to this Agreement, unless otherwise agreed in writing.
- 5. Water for Construction.** During the construction of the waterline extensions and sanitary sewer line extensions, water for construction may be obtained from a hydrant designated by the Water Authority as set forth on **Exhibit C** attached hereto and incorporated herein by reference. If economically feasible, the Contractor is encouraged to utilize alternative methods for dust abatement and control including compost from the Water Authority.
- 6. Indemnification.** The Developer will defend, indemnify and hold harmless the Water Authority and its officials, agents, and employees on demand from any claims, actions, suits, or other proceedings arising from the acts or omissions of the Developer, its agents, representatives, contractors, or subcontractors, or arising from the failure of the Developer, its agents, representatives, contractors, or subcontractors to perform any act or duty required of the Developer in this Agreement. The indemnification by the developer will not extend to the negligent acts of the Water Authority.
- 7. Representations and Warranties of Developer.** The Developer represents and warrants that:
 - A.** Developer is a validly existing limited liability company under the laws of the State of New Mexico.
 - B.** Developer has all the requisite power and authority to enter into this Agreement and bind the Developer under the terms of the Agreement; and
 - C.** The undersigned officer of the Developer is fully authorized to execute this Agreement on behalf of the Developer.
- 8. Notices.** Any notice to be given under this Agreement will be in writing and will be deemed to have been given when deposited with the United States Postal Service, postage prepaid and addressed as follows:

If to the Water Authority:

Mark S. Sanchez
Executive Director
Albuquerque Bernalillo County
Water Utility Authority
One Civic Plaza, Room 5012
Albuquerque, New Mexico 87102

If to Developer:

Buglo Properties, LLC
Attn: David Soule, Managing Member
PO Box 93924
Albuquerque NM 87199

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

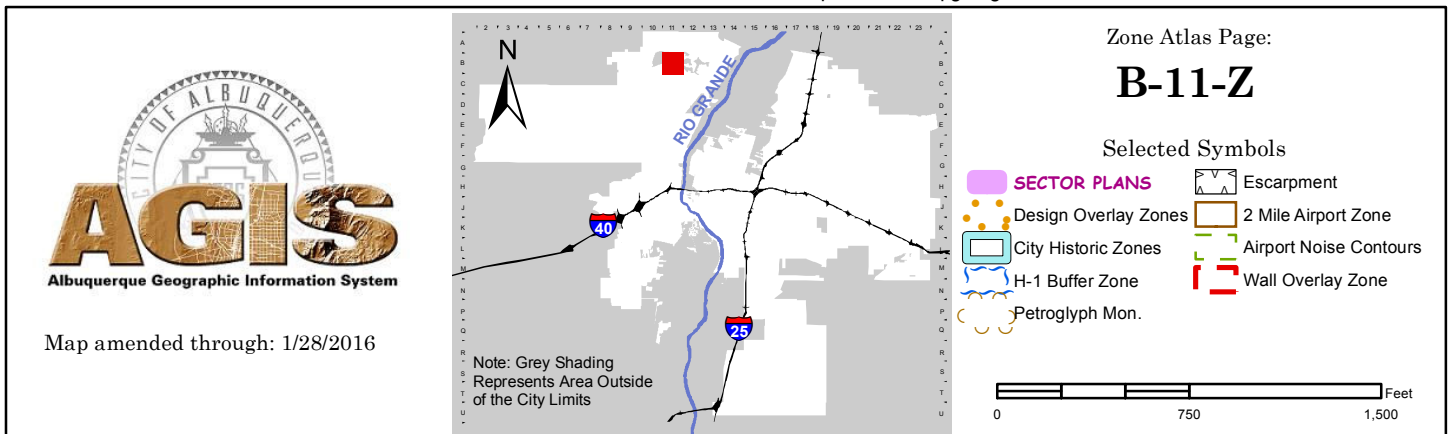
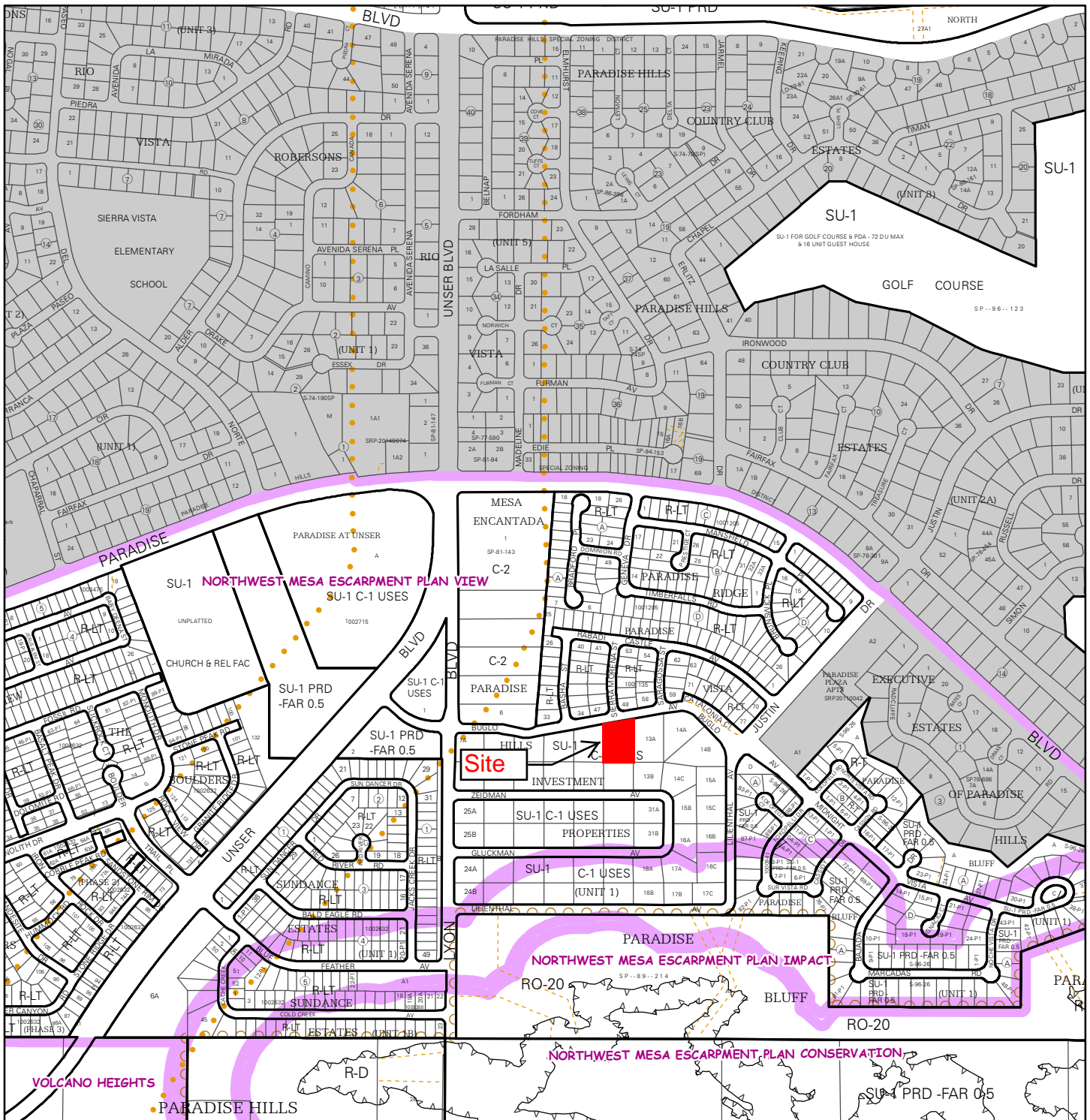
10. Miscellaneous. This Agreement will be governed by and interpreted in accordance with the laws of the State of New Mexico. The headings used in this Agreement are for convenience only and shall be disregarded in interpreting the substantive provisions of the Agreement. This Agreement binds and benefits 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.

Exhibit A



February 1, 2017

Chair

Klarissa J. Peña
City of Albuquerque
Councilor, District 3

Vice Chair

Debbie O'Malley
County of Bernalillo
Commissioner, District 1

Richard J. Berry
City of Albuquerque
Mayor

Pat Davis
City of Albuquerque
Councilor, District 6

Maggie Hart Stebbins
County of Bernalillo
Commissioner, District 3

Wayne Johnson
County of Bernalillo
Commissioner, District 5

Trudy E. Jones
City of Albuquerque
Councilor, District 8

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

Executive Director
Mark S. Sanchez

Website
www.abcwua.org

David Soule
Rio Grande Engineering of New Mexico LLC
P.O. Box 93924
Albuquerque, NM

**RE: Water and Sanitary Sewer Serviceability Letter #170111
Paradise Active Living Apartments
Lot 12A Paradise Hills Investments
Zone Atlas Map: B-11**

Dear Mr. Soule:

Project Description: The subject site is located on Buglo Ave. east of Lyon Blvd. within the City of Albuquerque. The property consists of approximately 0.8 acres and is currently zoned SU-1 for commercial use. The property lies within the Pressure Zone 3WR in the Corrales trunk. The request for information indicates plans to construct a 12 unit townhome.

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:

- Eight inch PVC distribution main (project #26-6678.81-03) along Buglo Ave.

Sanitary sewer infrastructure in the area consists of the following:

- Eight inch PVC collector line (project #26-6678.81-03) along Sierra Morena St.

Water Service: New metered water service to the property can be provided contingent upon a developer funded project to extend the eight inch distribution main west of Sierra Morena Street to cover the entire subject site's property frontage. 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 an eight inch collector line from the existing eight inch collector line along Sierra Morena St. The extension will be from manhole B11651 and extend into Buglo

Ave. with a new manhole in front of the project location and extend west to the west of the subject site with a stub for future extension along Buglo Ave.

Cross Connection Prevention: Per the Cross Connection Ordinance, all new non-residential premises must have a reduced pressure principle backflow prevention assembly approved by the Water Authority and installed at each domestic service connection at a location accessible to the Water Authority. All new fire line services to fire protection systems shall be equipped with a reduced pressure principal backflow prevention assembly approved by the Water Authority and Fire Marshal having jurisdiction at each service connection. A double check valve assembly approved by the Water Authority and Fire Marshal having jurisdiction may be installed instead of a reduced pressure backflow prevention assembly provided the fire protection system contains ANSI/NSF Standard 60 or 61 water piping throughout the entire fire protection system, the fire sprinkler drain discharges into atmosphere, and there are no reservoirs, fire department connections, connections from auxiliary water supplies, antifreeze nor other additives. The Water Authority requests that all backflow (containment) devices be located above ground just outside the easement or roadway right-of-way. Contact Cross Connection at 289-3439 for more information.

Fire Protection: From the request for availability the instantaneous fire flow requirements for the project are 1,500 gallons-per-minute. As modeled using InfoWater™ computer software, the fire flow can be met. The flow was tested at hydrant 250 just north of the project location. Any changes to the proposed connection points shall be coordinated through Utility Development. All new required hydrants as well as their exact locations must be determined through the City of Albuquerque 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 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 feet by 35 feet 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.

Pro Rata is not owed and the property can utilize the services available upon completion of the requirements of this letter 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 via the Work Order process. Designs must be by a licensed, New Mexico registered professional engineer. Construction must be by a licensed, bonded, public utility contractor.

Costs and Fees: In addition to installation and construction costs, any new metered water services will be subject to both water and sanitary sewer Utility Expansion Charges (UEC) payable at the time of service application. All charges and rates

collected will be based on the ordinances and policies in effect at the time service is actually requested and authorized.

Water Use: 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 letter only provides details of infrastructure that is available and potential precursors to development for the proposed development. For service to be provided, a Board approved development agreement must supplement this serviceability, therefore causing this serviceability to be in effect for a period of one year upon approval of the development agreement. Under no circumstances does this serviceability commit to service without the above mentioned conditions. Changes in the proposed development may require reevaluation and should be brought to the attention of the Utility Development Section of the Water Authority as soon as possible.

Please feel free to contact the Mr. Kristopher Cadena in our Utility Development Section at (505) 289-3301 or email at kcadena@abcwua.org if you have questions regarding the information presented herein or need additional information.

Sincerely,



Mark S. Sanchez
Executive Director

Enclosures: Infrastructure Maps (2)
f/ Serviceability Letter 170111

170111



Legend

 Project Location

Water Pipe

— <all other values>

SUBTYPE

— Distribution Main

— Drain Line

— Hydrant Leg

— In Zone Transmission

— Out Zone Transmission

— SJC Transmission


— Sleeve

— Well Collector Line


— Well Wash Line

0 310 620 Feet



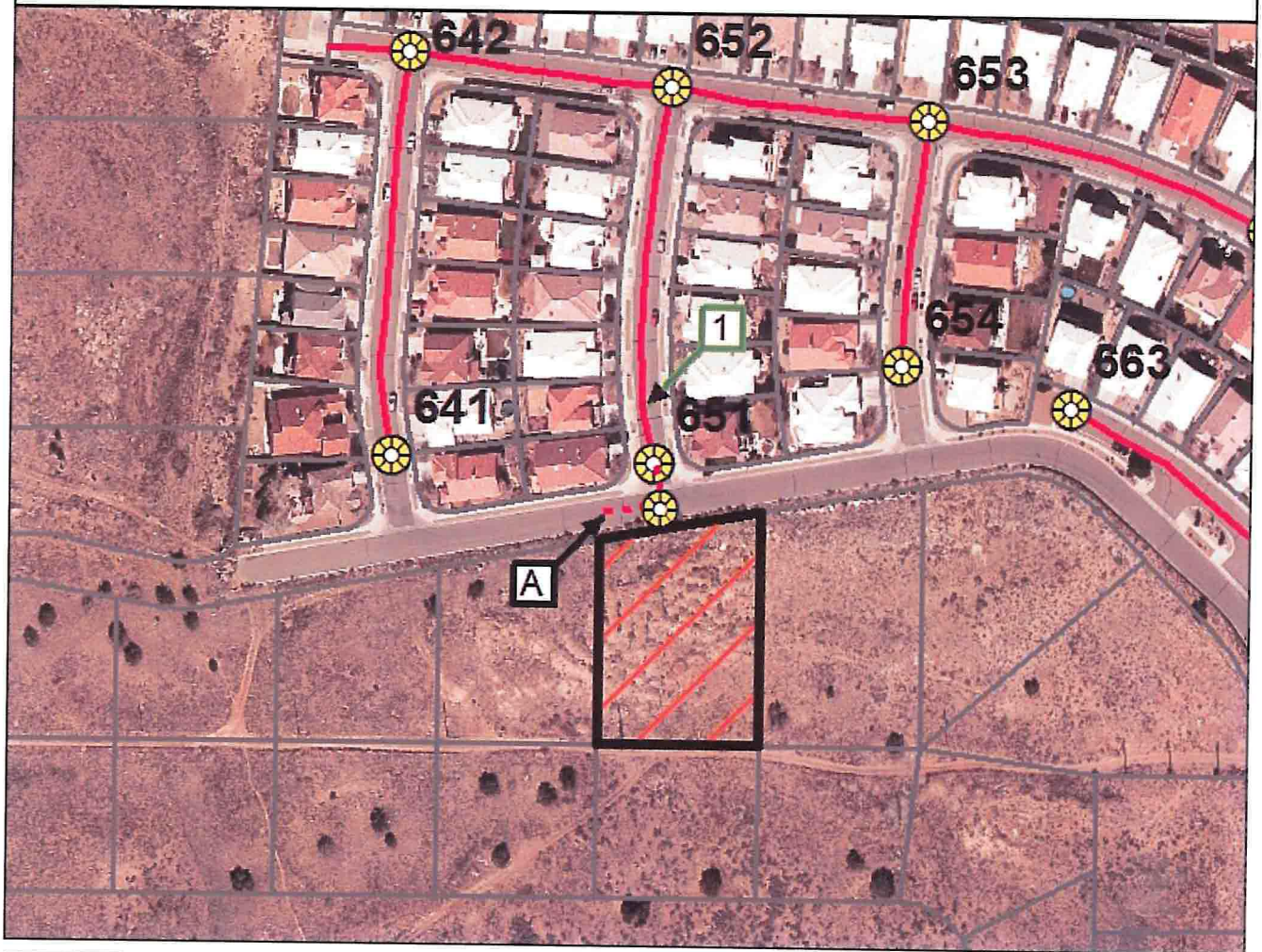
 --- Water Infrastructure Map Keyed Notes:

1. --- 8" Distribution Main


 --- General Keyed Notes:

A. --- Proposed Distribution Main

170111



Legend

 Project Location

Sewer Pipe

— <all other values>

SUBTYPE

— COLLECTOR


--- FORCE MAIN

— INTERCEPTOR


— VACUUM LINE

0 310 620 Feet



 --- Sanitary Sewer Infrastructure Map Keyed Notes:

1. --- 8" Collector Line

 --- General Keyed Notes:

A. --- Proposed Collector Line



**Water Utility
Authority**

Exhibit C - Hydrants Available for Construction

