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Meeting Date: May 17, 2017

Staff Contact: Kristopher Cadena, Principal Engineer, Utility Development

**TITLE: R-17-11 – Authorizing an Agreement for Water and Sewer Service with Eagle Vista LLC for Eagle Ranch Plaza**

**ACTION: Recommend Approval**

**SUMMARY:**

The development is located between Irving Blvd. and Eagle Ranch Rd., south of the Calabacillas Arroyo. The undeveloped property is within the City Limits, but outside of the Adopted Service Area. The project consists of a retail development.

The property lies within Pressure Zone 1W in the Corrales 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.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. R-17-11

1 **RESOLUTION**

2 **AUTHORIZING AN AGREEMENT FOR WATER AND SEWER SERVICE WITH**  
3 **EAGLE VISTA LLC FOR EAGLE RANCH PLAZA**

4 WHEREAS, Eagle Vista LLC is the developer and owner of real property to be  
5 developed as retail between Irving Blvd. and Eagle Ranch Rd., south of the Calabacillas  
6 Arroyo; and

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

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

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

20 Section 2. The expansion of the System shall incur no net expense to the Water  
21 Authority and be subject to current Utility Expansion and Water Supply Charges.

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

26 Section 4. The Executive Director is authorized to enter into the agreement with  
27 Eagle Vista LLC for the provision of water and sewer service.

**DEVELOPMENT AGREEMENT**  
**Eagle Ranch Plaza**

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

**1. Recitals**

- A. Eagle Vista, LLC is the “Developer” and owner of certain real property located in UNIT/SUBDIVISION (collectively, the “Property”). The Property is more particularly described and shown on **Exhibit A** attached hereto and incorporated herein by reference. 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: Tract C of Cottonwood Point Subdivision
- C. The Property is located in Pressure Zone 1W 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, 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 Line Extensions, 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.
- 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:

Eagle Vista, LLC  
c/o of Allen Sigmon Real Estate Group, LLC  
Attn: Brad B. Allen  
9201 Montgomery Blvd. NE, Bldg. #1  
Albuquerque, NM 87111

**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.

In Witness Whereof, the parties hereto have executed this Agreement on the dates entered below.

**Albuquerque Bernalillo County  
Water Utility Authority**

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

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

**Developer  
Eagle Vista, LLC  
a New Mexico limited liability  
corporation**

By: \_\_\_\_\_  
Brad B. Allen  
Principal

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

## ACKNOWLEDGEMENTS

[illegible]

This instrument was acknowledged before me on, \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_ a \_\_\_\_\_, on behalf of said Company.

Notary Public

My Commission Expires:

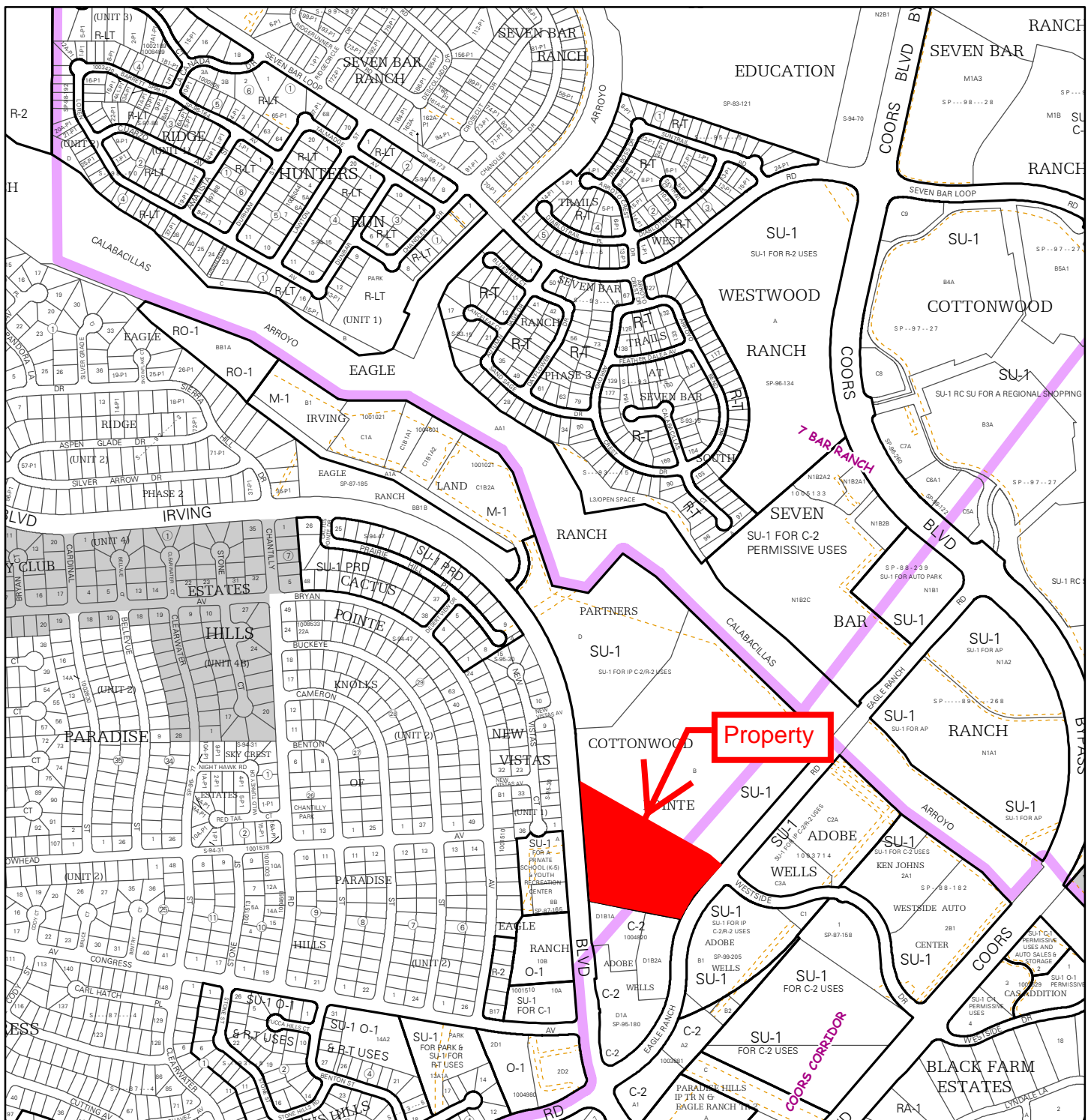
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This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_ by Mark S. Sanchez, Executive Director of the Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision.

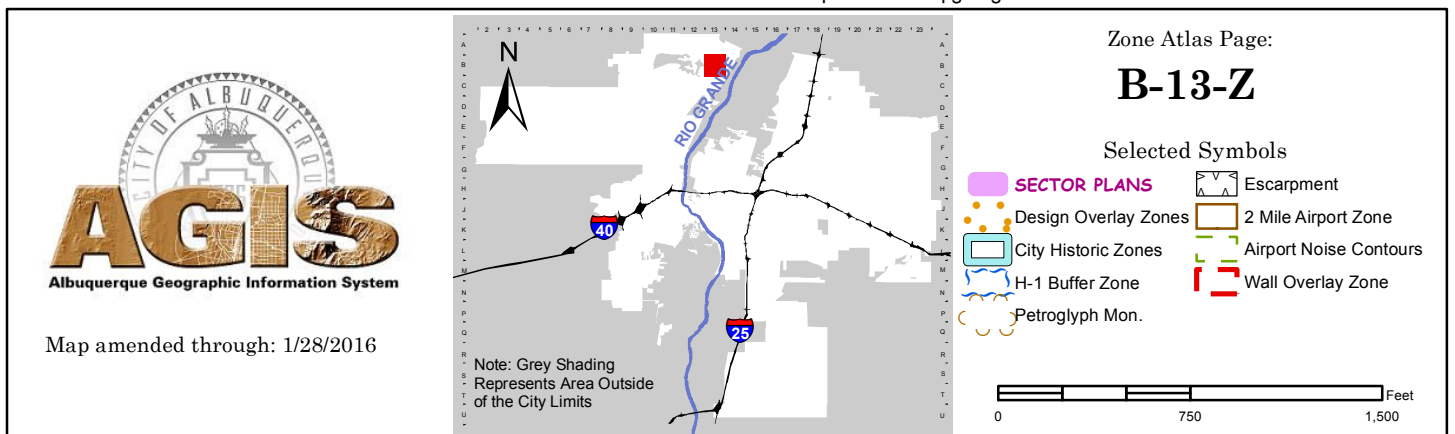
Notary Public

My Commission Expires:

# Exhibit A



For more current information and details visit: <http://www.cabq.gov/gis>





April 11, 2017

**Chair**

Klarissa J. Peña  
City of Albuquerque  
Councilor, District 3

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County of Bernalillo  
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*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)

Dennis A Lorenz  
Lorenz Design & Consulting LLC  
2501 Rio Grande Blvd NW Suite A  
Albuquerque, NM 87104

**RE: Water and Sanitary Sewer Serviceability Letter #170402**  
**Eagle Ranch Retail - Eagle Ranch Rd NW on the 4400 block of Irving between**  
**Eagle Ranch Rd and Irving - Zone Atlas Map: B-13**

Dear Mr. Lorenz:

**Project Information:** The subject site is located between Eagle Ranch Rd. and Irving Blvd. on the 4400 block of Irving within the City. The property consists of approximately 6.8 acres and is currently zoned SU-1 for industrial, wholesale, or manufacturing uses. The property lies within the Pressure Zone 1W in the Corrales trunk. The request for information indicates plans to construct a retail space that will include a health club, MVD, and two other retail buildings. The previous letter #160214, reflects the same information as this one but is expired.

**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. There is an existing development agreement completed March 23, 2012 for the project location that is authorizing service for a proposed apartment complex with resolution number R-12-12. The currently proposed use differs from the use in the approved development agreement, either a new agreement is required or the executed development agreement can be amended. 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 #26-3202-87) along Eagle Ranch Rd.
- Eight inch PVC distribution main (project #26-6667.81-04) stubbed into the project location.
- Eight inch PVC distribution main (project #26-6667.91-04) crossing Irving Blvd., just north of the subject site.
- 16 inch PVC distribution main (project #26-3202-87) along Irving Blvd.

Sanitary sewer infrastructure in the area consists of the following:

- Eight inch PVC collector line (project #26-3202-87) along Eagle Ranch Rd near the southeast corner of the subject site.
- Eight inch PVC collector line (project #26-6667.81-04) on the northeast portion of the project location.

- Eight inch PVC collector line (project #26-3202-87) along Irving Blvd.

**Water and Sewer Service:** New metered water service to the property can be provided contingent upon a developer funded project to extend a public eight inch distribution main along the north side of the subject site. This line will loop the existing eight inch distribution main stub at the northeast portion of the subject site to the 16 inch distribution main along Irving (option 1) or, potentially, the eight inch distribution main crossing the north bound lanes of Irving just north of the project location given there is adequate access in the right-of-way to that infrastructure (option 2). 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 private sanitary sewer which discharges to the existing public sanitary sewer located near the northeast corner of the subject site. All food service establishments must install a grease trap upstream of the domestic private sewer connection prior to discharge into the public sanitary sewer lines.

**Fire Protection:** From the request for availability the instantaneous fire flow requirements for the project are 3,000 gallons-per-minute. As modeled using InfoWater™ computer software, the fire flow can be met utilizing the proposed eight inch distribution main. 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.

**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 installed at each domestic service connection to the customer's water system or at a location approved by the Water Authority. The developer may request a variance in writing from the cross connection manager. 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.

**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.

**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 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.

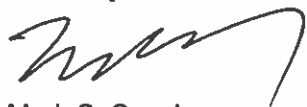
**Costs and Fees:** In addition to installation and construction costs, any new metered water services will be subject to both water and sanitary sewer Utility Expansion Charges (UEC) payable at the time of service application. All charges and rates collected will be based on the ordinances and policies in effect at the time service is actually requested and authorized.

**Water Use:** All new 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, particularly the Water Waste Ordinance (O-07-13), Water Conservation Large Users Ordinance and Water Conservation Water by Request Ordinance.

**Closure:** This serviceability letter does not provide a commitment from the Water Authority to provide services to the development. It only provides details of infrastructure that is available and potential precursors for the proposed development. For service to be provided, a Board approved development agreement must be supplemented by this serviceability letter. The serviceability letter 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) 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 Letter 170402

170402



**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

0 495 990 Feet



— Water Infrastructure Map Keyed Notes:

1. --- 8" Distribution Main

2. --- 16" Distribution Main

— General Keyed Notes:

A. --- Option 1

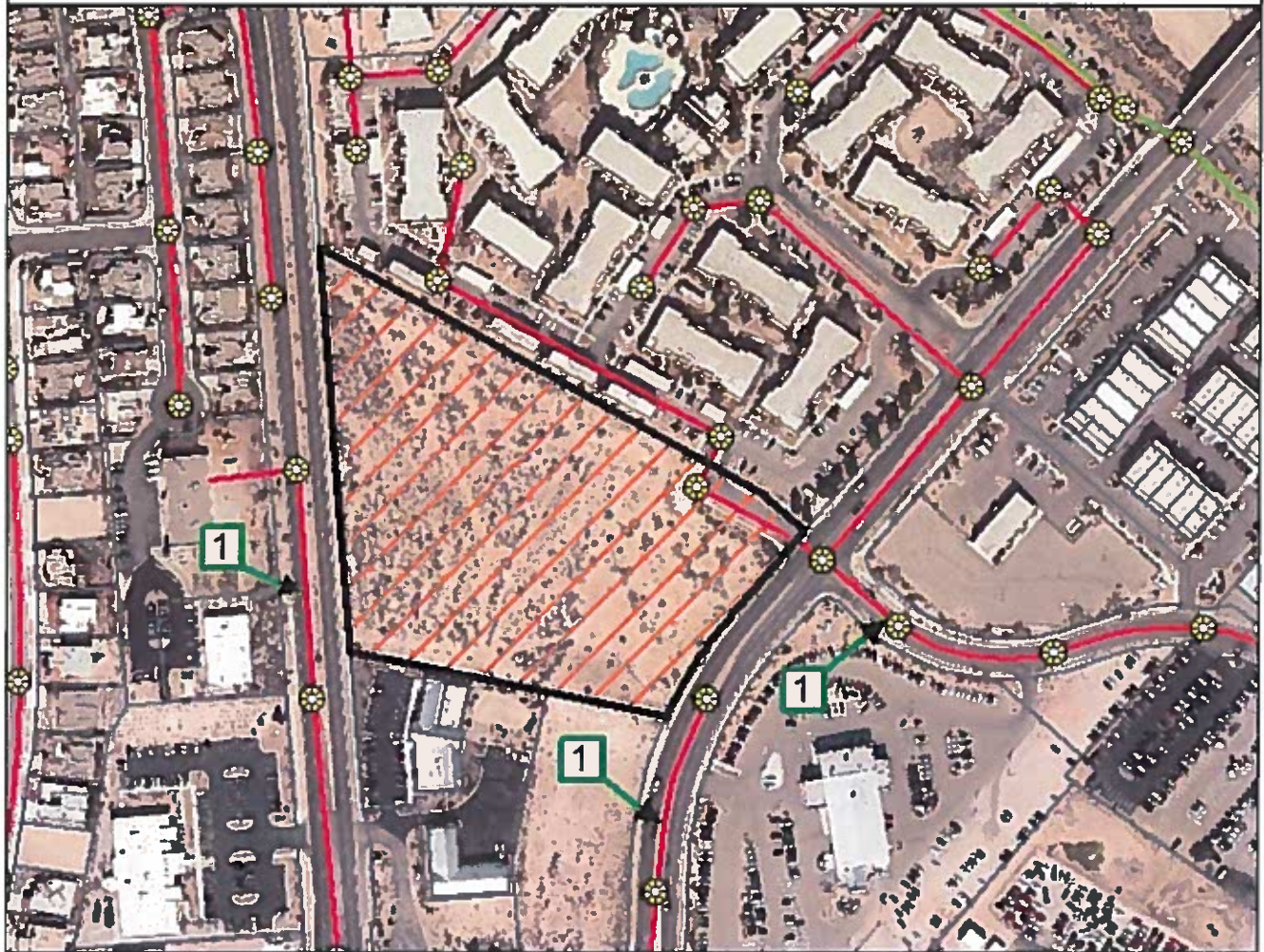
B. --- Option 2



**Water Utility  
Authority**



170402



**Legend**

 Project Location

**Sewer Pipe**

— <all other values>

**SUBTYPE**

— COLLECTOR

--- FORCE MAIN

— INTERCEPTOR

— VACUUM LINE

0 495 990 Feet



 --- Sanitary Sewer Infrastructure Map Keyed Notes:

1. --- 8" Collector Line



Water Utility  
Authority