
Meeting Date: June 21, 2017

Staff Contact: Kristopher Cadena, Principal Engineer, Utility Development

TITLE: C-17-22 – Approving Service Connection Agreement for Water and Sewer Service with JMD-McMahon, LLC for McMahon Marketplace

ACTION: Recommend Approval

SUMMARY:

JMD-McMahon, LLC desires to connect to existing water and wastewater infrastructure for property located at the southeast corner of McMahon Blvd. and Unser Blvd. The development is for seven commercial lots that are currently undeveloped. The development is located outside of the Water Authority's Service Area, but within the City of Albuquerque. No additional infrastructure requirements are needed to provide water and wastewater service to this property other than a service agreement approved by the Water Authority Board.

As a condition of service, the owner will be required to comply with:

- Ordinances, resolutions, plans, and regulations of the Water Authority;
- Concurrent water and wastewater service;
- Utility Expansion Charge (UEC) at the rates that are imposed at the time of a service connection; and
- Water Supply Charge.

FISCAL IMPACT:

None

SERVICE CONNECTION AGREEMENT

McMahon Marketplace
JMD-McMahon, LLC
2325 San Pedro NE
Albuquerque, NM
87110

Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision ("Water Authority") and JMD-McMahon, LLC, whose address is 2325 San Pedro NE, Albuquerque, NM, agree as follows:

1. Recitals

- A.** JMD-McMahon, LLC ("Owner") is the owner of 5700 Block of McMahon Blvd, NW (Legal Description: Lots 4, 5, 6a, 9a, 9b, 9c, and 9d of the McMahon Marketplace ("Property"), more particularly described and as shown in the Serviceability Statement for the Property. The Serviceability Letter for the Property reflecting request for service referred to in this Agreement is attached hereto as **Exhibit A** and incorporated herein by reference.
- B.** The property is located outside the Water Authority's Service Area within the region previously serviced by NMUI.
- C.** The Owner desires to connect to existing water and waste water infrastructure with fire lines, water services, and sanitary sewer services.
- D.** Water service to the Property will be taken from the existing 8" water line. Wastewater service to the Property will tie into the existing 8" sanitary sewer.
- E.** 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.

2. Service

- A.** The Owner 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 concurrent sewer service connection to the Water Authority's wastewater system.
- B.** The Owner shall pay Utility Expansion Charges ("UECs") 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.** The Owner shall pay all outstanding Pro Rata assessments in full at the time of service application.

D. Pursuant to Water Authority Resolution No. R-05-13, the Owner agrees that it shall incorporate water conservation guidelines that shall achieve water usage of seventy-five (75) gallons per capita per day.

- 3. Termination.** If construction of the Connection to the waterline and sanitary sewer modifications by the Owner has not been completed and accepted by the Water Authority within seven (7) years of the effective date of this Agreement, this Agreement shall automatically terminate, and the Water Authority and the Owner shall have no further rights, obligations, or liabilities with respect to this Agreement, unless otherwise agreed in writing.
- 4. Indemnification.** The Owner will indemnify and hold harmless the Water Authority and its officials, agents, and employees from any claims, actions, suits, or other proceedings arising from the acts or omissions of the Owner, its agents, representatives, contractors, or subcontractors, or arising from the failure of the Owner, its agents, representatives, contractors, or subcontractors to perform any act or duty required of the Owner herein. The indemnification by the Owner will not extend to the negligent acts of the Water Authority.
- 5. Representations and Warranties of the Owner.** The Owner represents and warrants that:
 - A.** The Owner is a validly existing limited liability corporation under the laws of the State of New Mexico.
 - B.** The Owner has all the requisite power and authority to enter into this Agreement and bind the Owner under the terms of the Agreement; and
 - C.** The undersigned officer of The Owner is fully authorized to execute this Agreement on behalf of the Owner.
- 6. Notices.** Any notice to be given under this Agreement will be in writing and will be deemed to have been given when deposited in the United States Mail postage prepaid addressed:

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 the Owner:

Doug Peterson for
JMD-McMahon, LLc
2325 San Pedro NE
Albuquerque, NM 87110

- 7. Assignment.** This Agreement will not be assigned without the prior written consent of the Water Authority and the Owner.
- 8. 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 Owner 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.
- 9. 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.
- 10. 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.
- 11. 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**

Owner

By: _____
Mark S. Sanchez
Executive Director

By: _____
Doug Peterson for
JMD-McMahon, LLC

Date: _____

Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on this ____ day of _____, by _____ [name] _____, [title] of _____, [company name], a _____ [type of entity], on behalf of said company.

—

Notary Public

My Commission Expires:

COUNTY OF BERNALILLO)

My Commission Expires:

May 26, 2017

Chair

Klarissa J. Peña
City of Albuquerque
Councillor, 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
Councillor, 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
Councillor, District 8

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

Executive Director
Mark S. Sanchez

Website
www.abcwua.org

Martin Grummer
Martin Grummer – Architect
331 Wellesley PI NE
Albuquerque, NM 87106

RE: Water and Sanitary Sewer Serviceability Letter #170117R
McMahon Marketplace
5730 McMahon Blvd. NW
Zone Atlas Map: A-11

Dear Mr. Grummer:

Project Description: The subject site is located on the southeast corner of McMahon Blvd. and Unser Blvd. within the City of Albuquerque. The property consists of approximately 12.1 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 replat the area to include seven new interior lots for seven new commercial buildings. A revision is being completed to serviceability letter #170117 for the purpose of updating the requirements and including two of the seven official fire flow requirements.

Service Connection Agreement: As this development is outside the existing service area, a Service Connection Agreement must be executed between the owner and the Water Authority. The developer shall coordinate with the Utility Development Section of the Water Authority in order to execute this Service Connection Agreement. The Service Connection Agreement shall take into account all lots associated with the development.

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 #26-7772.93-12) within the project location looping from McMahon Blvd to Rio Del Sol Ct. through the site.
- 16 inch ductile iron transmission main (project #NMUI1-008-90) along McMahon Blvd.

Sanitary sewer infrastructure in the area consists of the following:

- Eight inch PVC collector line (project #26-7772.93-12) within the project location.

Water Service: New metered water service to the property can be provided via routine connection to the existing eight inch distribution main within the subject site. In

addition, a developer funded project to relocate a portion of the existing distribution main along the south side of the project location and also loop it to the existing eight inch distribution main along Fineland to eliminate the dead end line. To do so, a new public easement is required for the new and relocated waterline. 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: Sanitary sewer service can be provided via routine connection to the existing eight inch collector line within 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.

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 2,500 gallons-per-minute as provided by the developer. This is the largest fire flow requirement for the site and has been analyzed for the entire site. The developer has now acquired two fire one plans for the entire site that are less than the previously analyzed flow. These flows are acceptable and can be served with the existing and new construction required. Hydrants 305, 174, 175, and 186 were all tested for the entire flow, at the main line only, and as modeled using InfoWater™ computer software, the fire flow can be met. This letter can be utilized to serve any properties that do not exceed the analyzed flow. In the case the analyzed flow requirement is larger, a new letter may be requested for those specific sites to determine the system can meet those demands. 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 Water Authority tapping permit process. 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 service connection agreement must supplement this serviceability, therefore causing this serviceability to be in effect for a period of one year upon approval of the service connection 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.

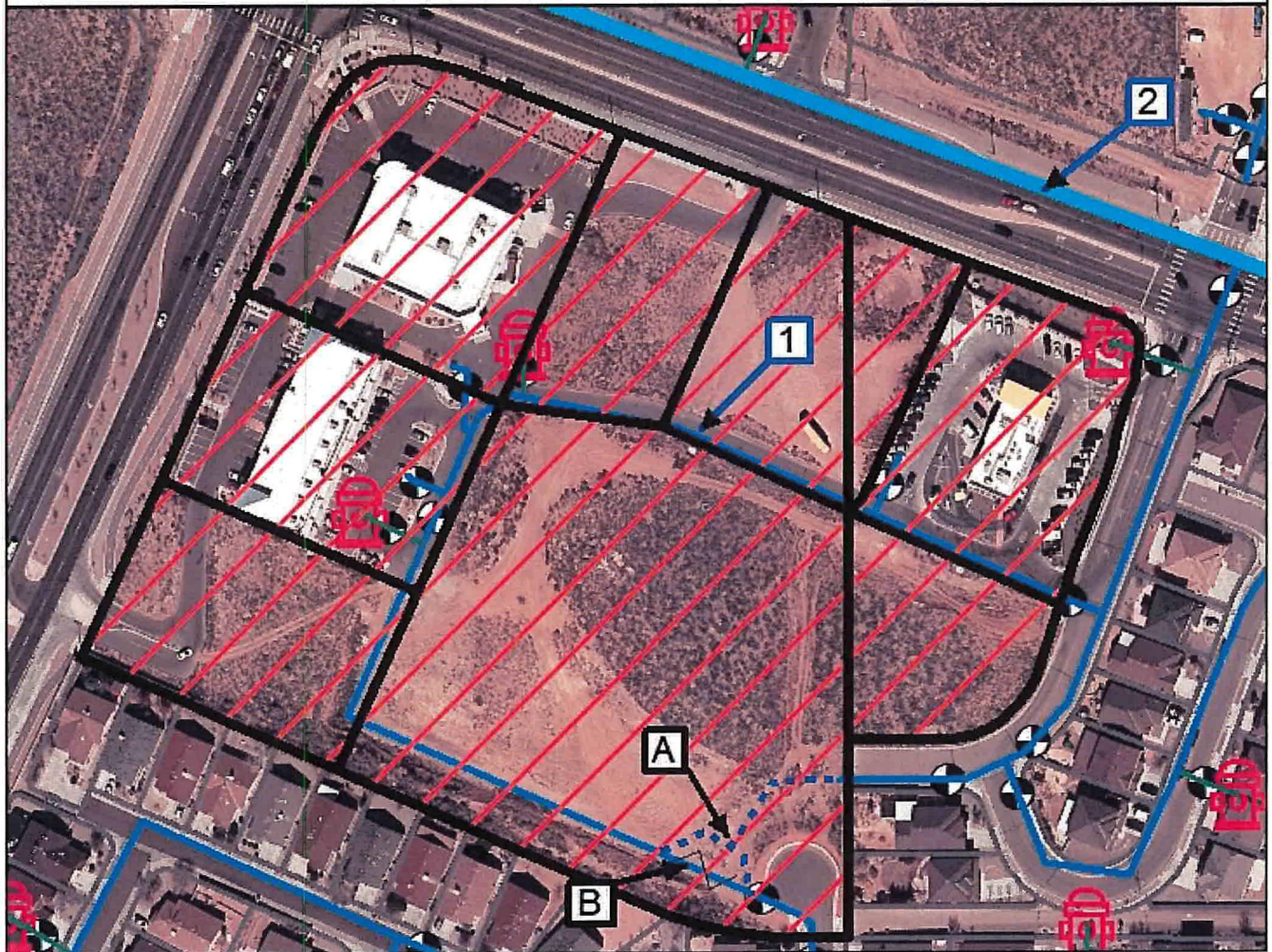
Sincerely,



Mark S. Sanchez
Executive Director

Enclosures: Infrastructure Maps (2)
f/ Serviceability Letter 170117R

170117R



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

2. --- 16" Transmission Main

— General Keyed Notes:

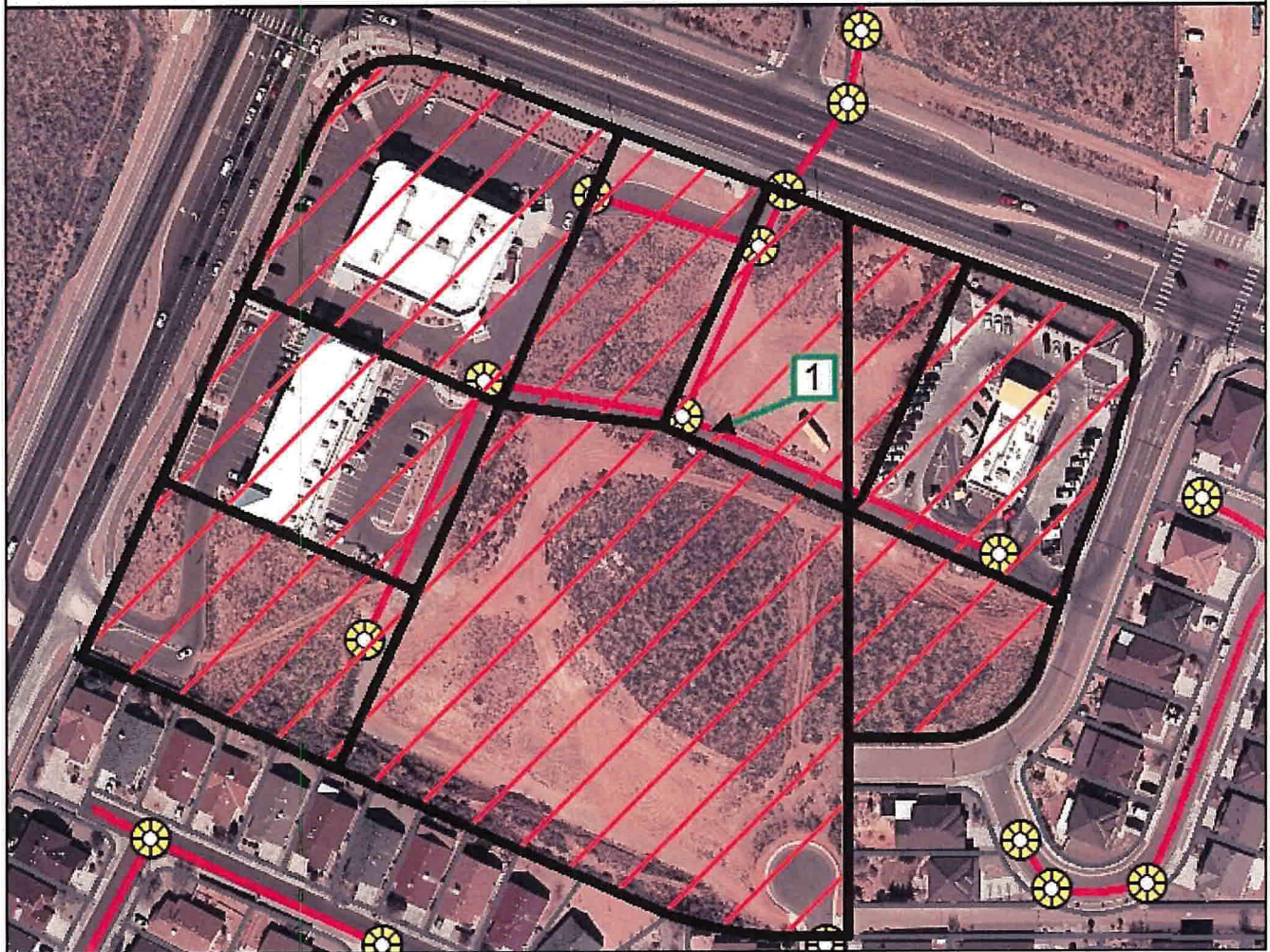
A. --- Proposed Distribution Main

B. --- Portion to be relocated



Water Utility
Authority

170117R



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



Water Utility
Authority