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Meeting Date: November 17, 2021  
Staff Contact: Kristopher Cadena, Chief Engineer, Utility Development

**TITLE: R-21-29 – Authorizing an Agreement for Water and Sewer Service for Mark Otero Property at 10601 San Antonio Drive**

**ACTION: Recommend Approval**

**SUMMARY:**

The development is located at 10601 San Antonio Drive. The property is on the north side of San Antonio Rd. just east of Eubank Blvd. within the Unincorporated Area of Bernalillo County abutting City of Albuquerque Limits. The project consists of developing the undeveloped property for a single-family dwelling unit. The property is outside the adopted service area.

The property lies within Pressure Zone 7E in the Alameda 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 Resource Charges.

**FISCAL IMPACT:**

None.

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. R-21-29

1 **RESOLUTION**

2 **AUTHORIZING AN AGREEMENT FOR WATER AND SEWER SERVICE FOR MARK**  
3 **OTERO PROPERTY AT 10601 SAN ANTONIO DRIVE**

4 WHEREAS, Mark Otero, a private owner, is the developer and owner of real  
5 property to be developed as a single-family residence, located at 10601 San Antonio  
6 Drive Northeast, east of Eubank Boulevard, within the unincorporated area of Bernalillo  
7 County but outside of the Water Authority's Adopted Service Area; and

8 WHEREAS, the property which is located outside the service area of the Water  
9 Authority and requires improvements to be located within a City right-of-way, and the  
10 property will require a development agreement for the extension and/or connection of  
11 water and sewer lines to the Water Authority's water and sewer system; and

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

16 **BE IT RESOLVED BY THE WATER AUTHORITY:**

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

22 Section 2. The expansion of the System shall incur no net expense to the Water  
23 Authority and be subject to current Utility Expansion and Water Resource Charges.

24 Section 3. Mark Otero will be responsible for close coordination of the project  
25 with the Water Authority during the design and construction phases, including the  
26 review of the design details during the design process, and the approval of  
27 specifications and contract documents.

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

**DEVELOPMENT AGREEMENT**  
**Mark Otero Property**

**Albuquerque Bernalillo County Water Utility Authority**, a New Mexico political subdivision, (“Water Authority”) and Mark Otero, Private Owner (“Developer”) (together, “Parties”), agree as follows:

**1. Recitals**

- A.** Mark Otero is the “Developer” and owner of certain real property located in Unit 2 North Albuquerque Acres (collectively, the “Property”). The Property is more particularly described and shown on **Exhibit A** attached hereto and incorporated herein by reference.
- B.** The Property will develop as single-family residence.
- C.** The Property is described as: Lot 21 Block 10 Unit 2 North Albuquerque Acres, Bernalillo County, NM.
- D.** The Property is located in Pressure Zone 7E of the Montgomery Trunk.
- E.** 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. As a condition of such service, the Developer shall construct, or cause to be constructed, extensions of existing public water and sanitary sewer lines and other necessary infrastructure improvements (collectively, “Facility Improvements”) under all applicable plans, specifications, requirements, and standards of the Water Authority. The Serviceability Letter for the Property reflecting necessary Facility Improvements referred to in this Agreement is attached hereto as **Exhibit B** and incorporated herein by reference and made a term of this Agreement.

**2. Design and Construction of the Facility Improvements**

- A.** The Developer will cause definitive designs and plans of the Facility Improvements to be produced which will include estimates of all costs and expenses. The Developer will not connect the Facility Improvements 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 Facility Improvements. 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 Facility Improvements 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. The Water Authority shall provide service to the Property only after the Water Authority has accepted the Facility Improvements. The Water Authority shall accept, operate and maintain the Facility Improvements after the Developer conveys, at no expense to the Water Authority, all the Facility Improvements together with all real and personal property rights which the Water Authority deems reasonably necessary which shall be free and clear of all claims, encumbrances and liens for the construction, operation and maintenance. The provisions of this Agreement constitute covenants running with the referenced Property for the benefit of the Water Authority and its successors and assigns until terminated, and are binding on the Developer and their heirs, successors and assigns.
- C.** The contractor's one (1) year warranty period shall commence upon final project acceptance by the City. The Developer shall be responsible for conducting an 11-month warranty inspection. Developer shall be responsible for correcting any deficiencies found during the inspection to the satisfaction of the Water Authority.
- D.** 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.
- E.** 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 "A", as defined in DPM of the City and Section 14-16-5-4(G) of the City IDO, will be followed and used for the Facility Improvements.
- F.** 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 or any other asset information required of the Water Authority.

### **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 Resource Charges (WRCs) 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. Financial Guarantee** - For any Master Plan Infrastructure required to be constructed by Developer herein, the Developer shall provide a financial guarantee in the form of a property lien that is acceptable to the Water Authority as assurance that the Master Plan Infrastructure will be completed and placed in service.
- 5. Termination.** If construction of the Facility Improvements 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.
- 6. Water for Construction.** During the construction of the Facility Improvements, 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.
- 7. Indemnification.** Until final acceptance of the Facility Improvements by the Water Authority, the Developer shall be solely responsible for the condition and maintenance of the Facility Improvements and the premises upon which the Facility Improvements are constructed. The Developer agrees to indemnify and hold harmless the Water Authority and its officials, agents, and employees from and against all suits, actions or claims of any character brought because of any injury or damage arising out of the design or construction of the Facility Improvements, or by reason of any act or omission, or misconduct of the Developer, its agents, employees or the Engineer or Contractor or its agents or employees. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement. Nothing herein is intended to impair any right or immunity under the laws of the State of New Mexico. The indemnification by the Developer herein does not extend to the negligent acts of the Water Authority.

**8. 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.

**9. 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:

Company: Mark Otero, Compass Engineering & Consulting Services, LLC  
Attn: Mark Otero, Owner  
Address: 11128 Orr Ave. NE  
Albuquerque, NM 87111

**10. Assignment.** This Agreement will not be assigned without the prior written consent of the Water Authority and the Developer. If so assigned, this Agreement shall extend to and be binding upon the successors and assigns of the parties hereto.

**11. 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.



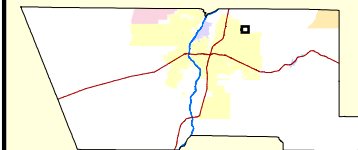
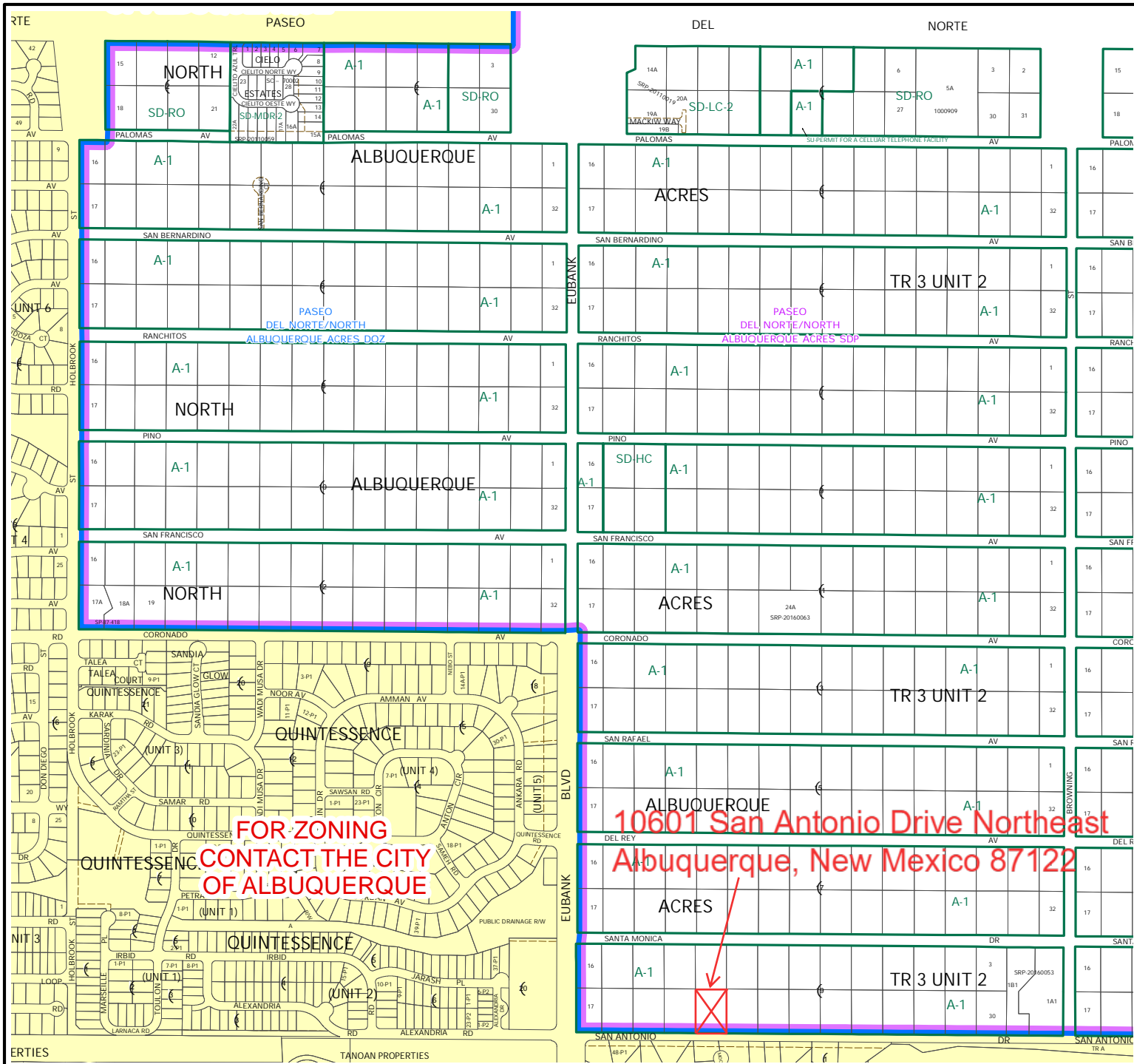


[illegible]

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:

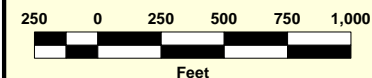


#### LEGAL DESCRIPTION

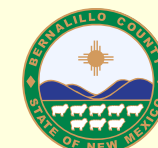
T11N  
R4E  
SEC 21

#### UNIFORM PROPERTY CODE

1-021-063



Map amended through Spring 2020



PLANNING & DEVELOPMENT SERVICES  
GIS TECHNOLOGY SECTION

This information is for reference only. Bernalillo County assumes no liability for errors associated with the use of these data. Users are solely responsible for confirming data accuracy when necessary. Source data from Bernalillo County and the City of Albuquerque. For current information visit <https://www.bernco.gov/planning/download-zone-atlas.aspx>

**D-21-Z**  
**Exhibit A.1**

I, GLADYS M. DAVIS, County Clerk of Bernalillo County, New Mexico, do hereby certify that the map on which this certificate appears is a true copy, made under my direction and under the provisions of Chapter 130 of New Mexico Session Laws 1939. My map filed for record on the 24th day of June, 1931.

31945 M. DAVIS  
County Clerk, Bernalillo County  
New Mexico

## Exhibit A.2.

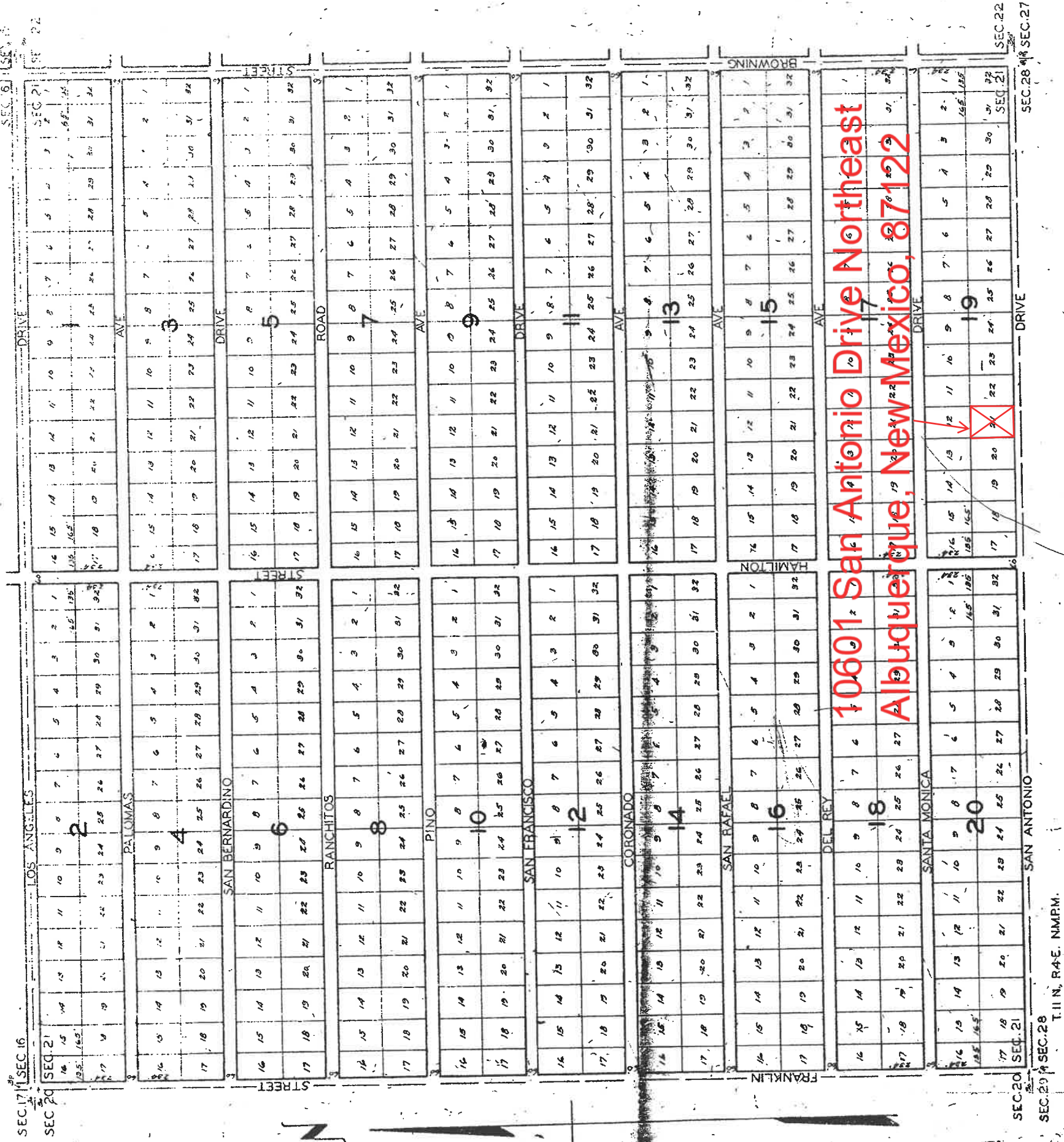
### TRACT 3 UNIT 2

# NORTH ALBUQUERQUE ACRES

ALBUQUERQUE BERNALILLO COUNTY NEW MEXICO

SCALE: 1"=400 FEET

EACH LOT INCLUDING TO CENTER OF  
ADJOINING SECTION ONE ACRE



The above and foregoing subdivision of that certain tract of land in School District No. 22, Bernalillo County, New Mexico, within the Elena Gallagos Grant, being all of Section 21, Township 1 North, Range 4 East, N.M.P.M. (as defined by projection of existing public survey lines), surveyed, plat- ted and subdivided as hereon shown, comprising Blocks 1 to 20, inclusive, of TRACT 3, UNIT 2, NORTH ALBUQUERQUE ACRES, is with the free consent and in accordance with the desire of the undersigned owner and proprietor thereof.

MORINS REALTY COMPANY, INC., owner and proprietor,  
by \_\_\_\_\_ President.

attest: \_\_\_\_\_ Secretary.

State of California,  
County of Los Angeles ) ss.

I, J.W. Dewey, both to me personally known, who being duly sworn by me according to law, did say that they are the President and Secretary, respectively, of the Morins Realty Company, Inc., and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and said seal affixed thereto in behalf of said corporation by authority of its Board of Directors; and said M. Morins did acknowledge said instrument to be the free act and deed of said corporation.

In Witness whereof I have hereunto set my hand and seal the day and date last above written.

Notary Public.

I, C.B. Beyer, County Surveyor of Bernalillo County, New Mexico, hereby certify that I have examined the plat of Tract 3, Unit 2, North Albuquerque Acres, upon which this certificate appears, and have approved the same this 3rd day of April, 1931.

C.B. Beyer County Surveyor.

1931060831



June 16, 2020

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City of Albuquerque  
Councilor, District 3

**Vice Chair**

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County of Bernalillo  
Commissioner, District 1

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City of Albuquerque  
Mayor

Charlene Pyskoty

County of Bernalillo  
Commissioner, District 5

Steven Michael Quezada

County of Bernalillo  
Commissioner, District 2

**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)

Mark Otero  
Compass Engineering  
3815 Academy Parkway North, NE  
Albuquerque, New Mexico 87109

**RE: Water and Sanitary Sewer Serviceability Letter #200504**

**Project Name: Otero Residence**

**Project Address: SAN ANTONIO DR NE**

**Legal Description: \* 021 019NORTH ALBQ ACRES TR3 UNIT #2**

**UPC: 102106333801440105**

**Zone Atlas Map: D-21**

Dear Mr. Otero:

**Project Description:** The subject site is located on San Antonio east of the intersection of Eubank Blvd. in an unincorporated area of Bernalillo County. The property consists of approximately 0.89 acres and is currently zoned A-1 for rural agricultural – 1 – acre minimum. The property lies within the Pressure Zone 7E in the Alameda trunk. The request for information indicates plans to construct a new single family dwelling.

**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 Resource Charge:** All developments located outside of the Water Authority's Adopted Service Area will be assessed a Water Resource Charge (WRC) 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 WRC 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 #26-7573.82-14) along San Antonio Dr. terminating west of the site.
- Eight inch PVC distribution main (project #26-4678.90-94) along Moon Glow Ct. and terminating south of the site.

Sanitary sewer infrastructure in the area consists of the following:

- Eight inch PVC collector line (project #26-7573.82-14) along San Antonio Dr. terminating west of the site.

**Water Service:** New metered water service to the property can be provided contingent upon a developer funded project to extend an eight inch distribution main, from the existing infrastructure, the length required to cover the properties frontage. The proposed extension shall also connect to the existing distribution main stub along Moon

Glow Ct. This looped connection will allow for improved water quality and system redundancy.

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 contingent upon a developer funded project to extend a collector line, from the existing infrastructure, the length required to cover the properties frontage.

**Fire Protection:** A standard fire hydrant flow of 1,000 gallons-per-minute has been applied to the proposed extension and can currently be met. Analysis was performed by simulating the desired flow from the terminus of the proposed extension. All new required hydrants as well as their exact locations must be determined through the Bernalillo County Fire Marshal's Office and verified through the Utility Development Office prior to sale of service.

**Cross Connection Prevention:** Any residential premises having existing private wells and who desire to connect to the public water system shall have two options as follows: 1) Customers shall permanently abandon the use of private wells by plugging the wells as accepted by the Water Authority prior to connecting to the public water system; or 2) Customers who choose to maintain their private wells shall completely sever the private well from the premises' potable plumbing system and shall install a reduced pressure principle backflow prevention assembly approved by the Water Authority at the terminal end of the water service from the public water system (e.g., service connection).

**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. Side yard easements are not acceptable for either water or sanitary sewer. 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 Water Authority 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 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 Use:** When metered water service becomes available to this site, 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, all new development utilizing Water Authority services are subject to the requirements for water usage and water conservation requirements as defined by the Water Authority. Where available, outdoor water usage shall utilize reclaimed water. All new residential development outside of the Water Authority water service should be designed to meet the standard water usage of 180 gallons per day per household which is equivalent to 75 gallons per capita per day.

**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 (1) 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 Mr. Kristopher Cadena in our Utility Development Section at (505) 289-3301 or email at [kcadena@abcwua.org](mailto: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 200504

## 200504 - Water



### Legend

- Valve
- Pressure Reducing
- Hydrant

### Pipe

#### SUBTYPE

- Distribution Line
- Hydrant Leg
- Project Location

0 285 570 Feet

### General Map Keyed Notes

- 1 --- Proposed Extension
- 2 --- Waterline Loop

### Fire Flow Analysis Points

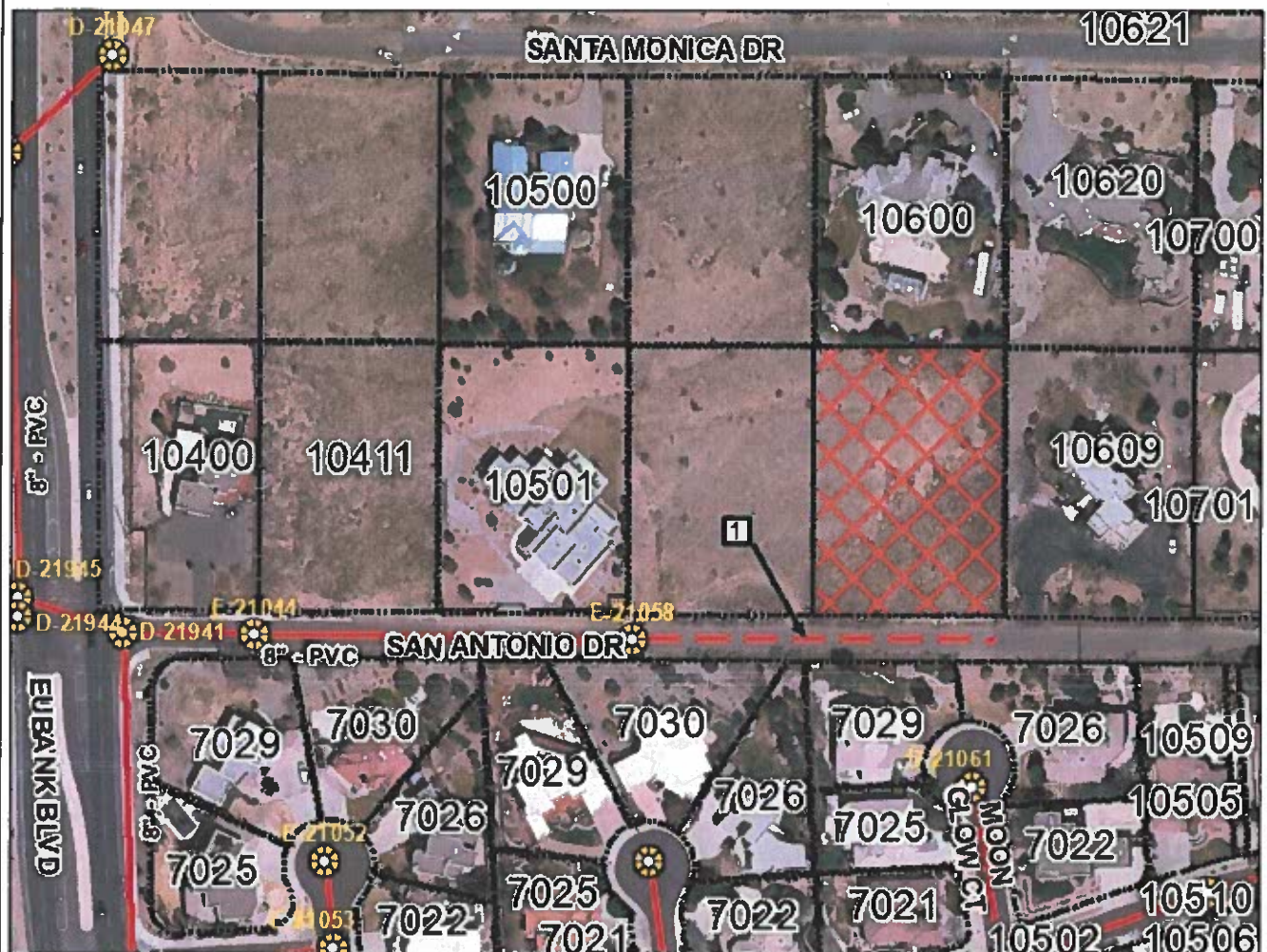
- 1 --- Analysis Point



Water Utility  
Authority



## 200504 - Sanitary Sewer



### Legend



Sewer Manhole

### Sewer Pipe

#### SUBTYPE



COLLECTOR



Project Location

0

285

570 Feet



--- General Map Keyed Notes

1. --- Proposed Extension



Water Utility  
Authority