SANITARY SEWER EASEMENT NOTICE OF ENCROACHMENT

The Albuquerque Bernalillo County Water Utility Authority, a political subdivision of the State of New Mexico ("Water Authority"), hereby gives notice of an encroachment upon its waterline easement, more fully described below:

RECITALS

- A. WHEREAS, the Water Authority holds a twenty-foot Waterline Easement across Tract 4-B1 of the Horne Development Addition (the "Property") as depicted on that certain Plat of Land as recorded with the County of Bernalillo on June 17, 1987, in Volume C33 of the records of Bernalillo County Folio 187 (the "Easement"); and
- B. **WHEREAS**, the Water Authority presently maintains a 36-inch waterline within the Easement; and
- C. **WHEREAS**, there exist two unauthorized encroachments into the easement at the locations and to the degrees depicted within exhibits "A", "B", and "C" as attached hereto; and
- D. WHEREAS, TC SPE 2, LLC has granted two supplemental easements on the Property in the vicinity of the encroachments as granted by Document Number 2024084453 of the Records of Bernalillo County that will help preserve reasonable access to the existing water line, but that do not eliminate the need for the Easement in its entirety; now
 - E. THEREFORE, TC SPE 2 LLC, and its successors and assigns, (the "Encroacher") is hereby notified:

NOTICE

- 1. The Water Authority has not granted and does not grant Encroacher the right to encroach upon its Easement, and nothing contained herein shall be construed to constitute such permission.
- 2. The Water Authority will hold the Encroacher responsible for all damages to the Water Authority's facilities, improvements, and other property caused by the Encroacher, its employees, agents, or contractors.
- 3. The Water Authority will require the Encroacher to remove or relocate its improvements if the Water Authority determines, in its sole discretion, that the Encroacher's improvements must be removed or relocated to accommodate work by the Water Authority on the Water Authority's improvements, including, without limitation, work to maintain, repair, replace its improvements or construct new improvements.
- 4. The Water Authority does not waive or relinquish any powers, authority, rights, or benefits that it may have, either expressed or implied, as a New Mexico political subdivision under the laws of New Mexico, including, without limitations, the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 et seq. NMSA 1978.

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- 5. The Water Authority does not waive or relinquish any rights or benefits that it may have, either expressed or implied, under or by reason of the Water Authority's easement, including, without limitation, the right to build, rebuild, construct, reconstruct, locate, relocate, change, remove, replace, modify, renew, operate, and maintain its water and wastewater pipelines, facilities, equipment, fixtures, appurtenances, and structures that are now located or that may in the future be located within, on, over, beneath, through, and across the Water Authority easement.
- 6. The Water Authority shall not be liable for any damage caused to the facilities, equipment, structures, improvements, or other property of the Encroachers within the Water Authority's easement if damaged by reason of the Water Authority's exercise of its rights under the easement.

Albuquerque Bernalillo County Water Utility Authority
By:
Mark S. Sanchez, Executive Director
Date: 2/6, 2025
STATE OF NEW MEXICO)
) ss COUNTY OF BERNALILLO)
This instrument was acknowledged before me on <u>February 6</u> , 20 <u>25</u> by Mark S. Sanchez, Executive Director of the Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision.
Notary Public
My commission expires: $5/15/2027$

STATE OF NEW MEXICO
NOTARY PUBLIC
HEIDI HILLAND
COMMISSION # 1004574
COMMISSION EXPIRES 05/15/2027







