

DRAINAGE AND UTILITY EASEMENT

THIS AGREEMENT is made Oct. 22, 2002 between OTERO COUNTY (Grantor) and the CITY OF ALAMOGORDO, a New Mexico municipal corporation (City).

Grantor is the fee owner of certain real estate situated in the City of Alamogordo, County of Otero, State of New Mexico, which is legally described on Exhibit A attached hereto and incorporated herein by reference and which includes a portion referred to hereinafter as the "easement premises"; and

The parties hereto have determined that it is in their best interest for the Grantor to grant and the City to accept an easement in and along the easement premises for drainage and utility purposes;

Therefore, in consideration of the foregoing, the parties hereto mutually agree as follows:

1. The Grantor hereby grants and conveys to the City a perpetual easement of the easement premises for drainage and utility purposes only, subject to the terms and conditions set forth, in, along, and upon the easement premises.
2. The City agrees that the use hereby granted shall be limited exclusively to drainage and utility purposes and uses incidental to drainage purposes. As used herein, the term "drainage" shall connote the flow of normal and excess rainwater across the easement premises.
3. The City agrees that it will indemnify the Grantor from all claims and causes of action whatsoever in law and in equity which may arise out of, or as a consequence of the negligence of the City, or its authorized agents, servants or employees, in utilizing the drainage facilities.
4. The City agrees that the Grantor shall have the right to grant other nonexclusive easements over, along, or upon the easement premises; provided, however, that any such other easements shall be subject to the easement hereby granted; and provided, further, that the City of Alamogordo shall have first consented in writing to the terms, nature and location of any such other easements as not interfering with the rights granted under this agreement.
5. Grantor hereby reserves the right to use the easement premises in any manner that will not prevent or interfere with the exercise by the City of the rights granted under this agreement.
6. Grantor hereby reserves the right to modify and change the location of the easement premises providing that such relocated easement shall be of the same

character and subject to the same uses as herein established in favor of the City and equally suitable for the purposes pursuant to which this easement is created.

7. All rights, title and privileges herein granted, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors, assigns and legal representatives.

OTERO COUNTY BOARD OF COMMISSIONERS

By: *Richard Zierlein*
Richard Zierlein, Chairman



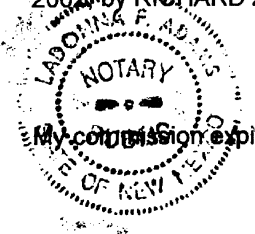
Mary D. Quintana
Mary D. Quintana, County Clerk
Chief Deputy

APPROVED AS TO FORM:

Daniel A. Bryant
Daniel A. Bryant, County Attorney

STATE OF NEW MEXICO)
) ss.
COUNTY OF OTERO)

SUBSCRIBED AND SWORN TO before me this 22nd day of October 2002, by RICHARD ZIERLEIN, Chairman of the Otero County Board of Commissioners.



Labonna F. Adams
Notary Public

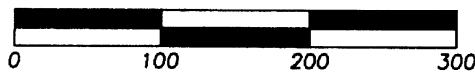
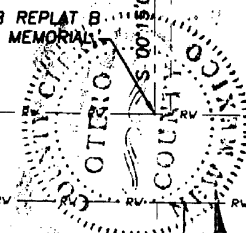
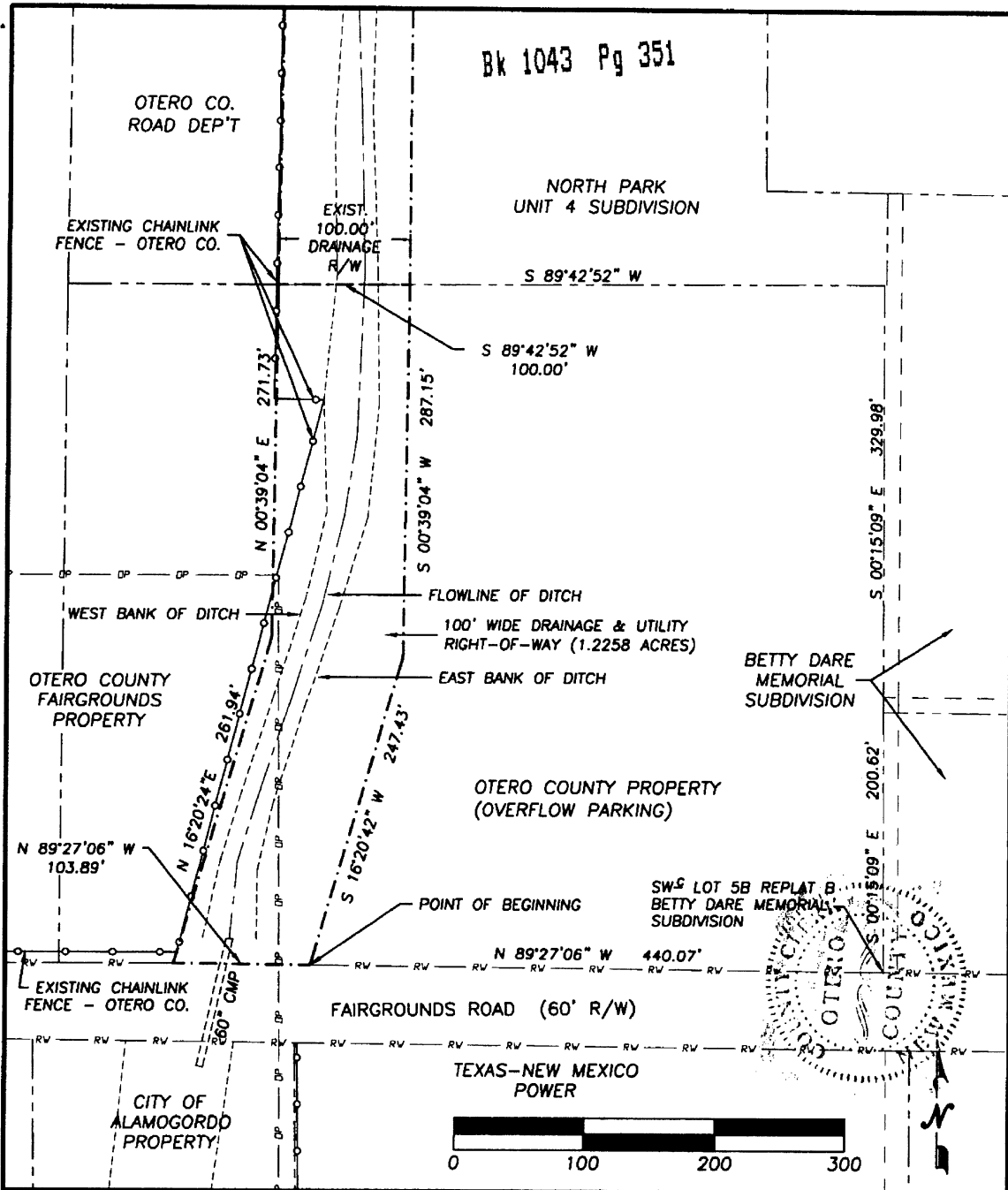
My commission expires: 3/6/2003


Description: 100 foot wide Right-of-Way

A tract of land for a drainage and utility right-of-way in the Southwest Quarter of the Southeast Quarter of the Northeast Quarter of Section 7, T16S, R10E, N.M.P.M. and being more particularly described by metes and bounds as follows:

Starting at the Southwest corner of Lot 5B, Replat B, Betty Dare Memorial Subdivision as filed for record in the Office of the Otero County Clerk and Ex-Officio Recorder on the 18th day of July, 1996 and going N 89° 27' 06" W along the North right-of-way line of Fairgrounds Road (said right-of-way being 60 feet wide) a distance of 440.07 feet to the place of beginning of the 100 foot wide right-of-way herein described; thence continuing N 89° 27' 06" W along said Fairgrounds Road right-of-way a distance of 103.89 feet; thence leaving last said right-of-way line and going N 16° 20' 24" E a distance of 261.94 feet; thence N 00° 39' 04" E a distance of 271.73 feet to the South line of North Park Unit 4 as filed for record in the Office of the Otero County Clerk and Ex-Officio Recorder on the 30th day of July, 1996; thence N 89° 42' 52" E along said South line a distance of 100.00 feet to the East side of the "Dedicated Drainage Right-of-Way" shown on said North Park Unit 4 plat; thence S 00° 39' 04" W a distance of 287.15 feet; thence S 16° 20' 42" W a distance of 247.43 feet to the place of beginning and containing 1.2258 acres, more or less.

Bk 1043 Pg 351



 <p>CITY OF ALAMOGORDO ENGINEERING DEPARTMENT</p> <p>1376 E. HERRI STREET ALAMOGORDO NEW MEXICO OFFICE (505) 438-4226 FAX (505) 438-4343</p>		<p>OTERO CO. FAIRGROUNDS DRAINAGE & UTILITY RIGHT-OF-WAY</p>	
Project Manager:	Drawn By:	Date:	Sheet No.:
C. Mether	K. Heberle	08/05/02	1 of 1
		Scale:	
		1" = 100'	

STATE OF NEW MEXICO, County of Otero, ss, Filed for record in my office this 28th day of October, 2002, at 11:30 O'clock A, and duly recorded in Book 1043 Page 348 of the Records of said county. Mary D. Quintana by Robyn Silva County Clerk Deputy

351 #11302