



1       WHEREAS, on July 9, 2001, pursuant to a Quitclaim Deed executed by Ann  
2 Simms Clark (the “2001 Quitclaim”), the conditions of the 1997 Quitclaim  
3 reversionary interest were amended; and

4       WHEREAS, the above transactions ceded ownership of the land upon  
5 which the Montañó Bridge sits and land appurtenant to the City of  
6 Albuquerque; and

7       WHEREAS, the City of Albuquerque maps and other documentation do not  
8 accurately reflect the ownership the Montañó Bridge.

9       **BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**  
10 **ALBUQUERQUE:**

11       **SECTION 1.** The City of Albuquerque is directed to update all maps,  
12 information, and documentation to properly reflect the ownership of the  
13 Montañó Bridge by the City of Albuquerque.

14       **SECTION 2.** The Administration shall complete the updates required by  
15 this Resolution no later than 60 days following the effective date of this  
16 Resolution.

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FIFTH COUNCIL 74-1982 (0-89)  
Annexation - Montano Road Right-of-Way

FIFTH COUNCIL

0-89

City of Albuquerque

# City Council

## Enrolling & Engrossing Certificate

**Bill No:** 0-89, Annexing the Montano Road, NW, Right-of-Way

**Sponsored by:** Patrick J. Baca, Councillor, District No. 1

**Certified by:** Fred Burns  
Fred Burns, Councillor, District No. 5

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



RE: 0-89

**CITY OF ALBUQUERQUE**

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE

December 6, 1982

REF. NO. \_\_\_\_\_

**TO:** Patrick J. Baca, City Council President

**FROM:** Carl P. Rodolph, Director, Municipal Development Department

*CRP for CPR*

**SUBJECT:** Addendum Material to AX-82-13/Z-82-92

Attached hereto are the December 2, 1982, Environmental Planning Commission Minutes regarding the above-noted request.

attachment

CPR:ytc

ENVIRONMENTAL PLANNING COMMISSION ACTION, DECEMBER 2, 1982: (Commissioners Present: Hildreth Barker, Chairman; Margaret Gregory; Sallie Martin; Terri Sanchez; Fred Sanchez; Wiley Smith; James Sutton and Robert Wolfe.)

COMMISSIONER T. SANCHEZ ABSTAINED FROM DISCUSSION AND VOTING ON THIS MATTER.

ene Mares, Principal Planner, stated this was a request to annex property located on the Montano Road right-of-way. He explained the issue was whether the Commission felt it was best if the right-of-way was within the City's jurisdiction or not, in order to implement the road plans for that area of the County. Planning feels this area would benefit best by being placed under the jurisdiction of the City of Albuquerque. Mr. Mares asked the Commission to recommend to the City Council approval of the annexation request and establishment of R-1 zoning for the area.

Chairman Barker asked the public contain their comments only to the annexation issue, and not that of the proposed Montano bridge crossing. He read into the record a letter submitted by John M. Eaves, dated November 30, 1982, regarding the question of ownership on the property.

Commissioner Martin asked what degree of continuity this particular tract of land contained.

Mr. Mares replied that it satisfied the annexation requirement, since it was the Middle Rio Grande Conservation District's land which would connect to the City.

Commissioner Sutton asked Legal's opinion as to whether the County and the Middle Rio Grande Conservancy District were the true owners of the land in question.

Wick Estes, Legal Department, replied they clearly were the owners of this land.

Commissioner Gregory asked what would occur, if the land had already been annexed into the Village of Los Ranchos.

Mr. Estes replied that the State's annexation statute provides that in order to annex territory owned by the United States, or by the State, or by a political subdivision of the State, which both the County and the Conservancy District fall under, you must have permission of that governmental entity. He stated the Village of Los Ranchos had not received permission from either of these entities.

Commissioner Wolfe asked if the Commission's determination would be effective, if, in fact, the Village's annexation is found to be non-effective, or will the Commission have to review the request again.

Mr. Estes replied the City's annexation would be effective. He explained the annexation procedure was governed entirely by State statute, and when annexation occurs in contravention of this statute it has no legal effect.

Commissioner Smith asked about the legal requirements for advertising, and whether the Village had met these requirements.

Mr. Estes replied there were no State statutory requirements regarding advertising for annexations. He explained the City imposes one on itself for its own policies.

Persons Speaking in Opposition to the Request: Peggy McDonough, Ranchers Development and Exploration Corporation; Paul Matthews, 1753 Dietz Loop N.W.; Gil E. Cordova, 2431 Dietz Farm Road N.W.; Florencio Baca, 923 Rio Vista Place.

Ms. McDonough stated she was an officer at Ranchers Exploration and Development Corporation located on the south side of Montano Road. She stated Ranchers relocated to this area in 1962 in order to avoid traffic congestion and development which would impair their future growth. She stated Ranchers' currently had plans to expand their office space, compatible with what they currently have, under a Special Use Permit issued by the County.

Ms. McDonough stated Ranchers had three major objections to the City's annexation proposal: 1) They are concerned that the next push by the City would be annexation of their 10 acres; 2) They are concerned that the proposed plan may deny access to their property; and 3) They have already made corporate plans to annex to the Village of Los Ranchos de Albuquerque.

Ms. McDonough felt the City's proposed annexation was ill-conceived, improperly planned, detrimental to ranchers and R-1 zoning is inconsistent with current North Valley development.

Commissioner Martin inquired as to whether she should abstain from the remainder of the hearing, since her husband had, in the past, done some work for Ranchers.

The Commission unanimously agreed that there was no conflict of interest present and there was no reason why Commissioner Martin should abstain.

Paul Matthews stated he lived about 500 feet south of the proposed corridor, and his property was currently located in the County. Mr. Matthews questioned the unseemingly haste with which the City's proceedings were being carried out. He stated signage first appeared in the Rio Grande/Montano area about a week ago. He stated the notice of the Environmental Planning Commission's hearing came jointly with a notice of the City Council meeting which would be held to consider the same question, thereby, indicating that the City Council already knew the outcome of the hearing held this evening.

Mr. Matthews stated this proposal would cause irreparable damage to the Los Poblanos historical sites, would introduce unacceptable levels of air pollution in a largely unpolluted area and will increase the noise levels within the area. Due to these concerns, Mr. Matthews asked the Commission to deny the request.

Commissioner Sutton explained that he had considered the problems of the North Valley bridge crossings for a long time. He stated there are persons in the West Mesa who find it difficult to get to work, since they must go the long route in order to get into town.

Mr. Matthews stated there were several other locations in the Valley which did not have the historic value nor the low level of air pollution that the area in question has and that these areas should be used as the bridge crossing sites.

Gil Cordova felt he was the landowner who would most be affected by the annexation. He felt that annexation of this land would adversely affect the value of his property. Mr. Cordova explained he bought this property 8 years ago and if he had known that this was going to occur, he probably would not have purchased the land.

Commissioner Wolfe explained that in 1965, based on 1962 data, both the City of Albuquerque and the Bernalillo County adopted a major bridge crossing at Montano, long before Dietz Farms existed. He explained all of this was public information. He stated there is a vast majority of people in Albuquerque who paid for and adopted reports based upon what would happen in this area, long before anything was there. Commissioner Wolfe stated the City had not changed anything in regard to the Montano bridge crossing.

Mr. Cordova asked if this was so, why didn't the City annex the property at that time, rather than now when it would cause so much damage to current property owners.

Commissioner Sutton stated under State statutes there are only certain ways that the City can annex land. These are 1) by application of the landowner, in this case the County of Bernalillo, 2) for health and safety reasons as determined by the Courts [for example Adobe Acres, since their water and sewer systems were inadequate], and 3) by mandate of the Boundary Commission. Therefore, it was not a matter of why the City did not annex at that time, since the City did not have either the authority nor the landowner's permission to annex this property into the City.

Florencio Baca stated he was against this request, since the taxpayers of Albuquerque had not been offered any other alternatives regarding the Montano bridge crossing. He stated if there had to be a bridge, why couldn't it be an eight-lane overhead interchange.

Commissioner Smith asked when signage for this area had been posted.

George Meador, Transportation Department, stated the signs had been posted a week and a half prior to this hearing.

COMMISSION COMMENTS AND CONCERNS:

Commissioner Smith felt the Commission should take action and recommend to the City Council approval of this request.

Commissioner Wolfe stated the decision to locate the bridge crossing at Montano was made 20 years ago, when there were no vested interests in the west side, or in Diets Farms, or along the Corridor. Mr. Wolfe stated anything the Commission could do to further the decision that the different governments have come up with, he was in favor of.

Commissioner Gregory stated she did not agree with the annexation request. She explained in terms of land use the Montano corridor makes the least sense. She stated they would be moving persons from R-1 residential to a crowded interstate and/or a high density corridor. As to the annexation question, she stated it did not matter as to whether the City or the County has it under its jurisdiction.

Commissioner Barker stated the question was not whether there should be a bridge crossing at Montano or not. He stated the City has decided where the bridge is to be located and the Commission only needs to determine whether annexation of this tract of land will facilitate development of this crossing by having it under City jurisdiction. By placing it under the City's jurisdiction, the development will have both City Planning's and Traffic Engineering's guidance over the proposed development.

Commissioner Sutton stated the County, by making application for annexation, feels that for future planning it would be better that this land be under the City's jurisdiction. Commissioner Sutton felt that since the decision has been made to have two river crossings in the North Valley, this area should be incorporated as a part of the City of Albuquerque in order to facilitate planning.

Commissioner F. Sanchez felt the City, because of its staff, is better qualified to oversee the development of the Montano bridge crossing. Therefore, he was in favor of the proposed annexation request.

Commissioner Martin stated it would behoove the Commission to acquire whatever rights-of-way they could in order to facilitate the river crossings.

FINDINGS:

1. The annexation will basically further an already accepted procedural doctrine established by both the City of Albuquerque and the County of Bernalillo.
2. The request has been made by both the County of Bernalillo and the Middle Rio Grande Conservancy District who feel the property is within their purview at this time.

**THEREFORE, BE IT RESOLVED** that the Environmental Planning Commission recommends to the City Council approval of AX-82-13/Z-82-92, based on Findings 1 and 2.

**MOVED** by Commissioner Wolfe  
**SECONDED** by Commissioner Sutton

Motion Carried 6-1  
(Commissioner Gregory voted no.  
Commissioner T. Sanchez abstained from  
voting on this item.)

**CITY OF ALBUQUERQUE**

ALBUQUERQUE, NEW MEXICO

*F.K.*

COPY SENT TO:  
*City Council*

INTER-OFFICE CORRESPONDENCE

REF. NO. 74-1982

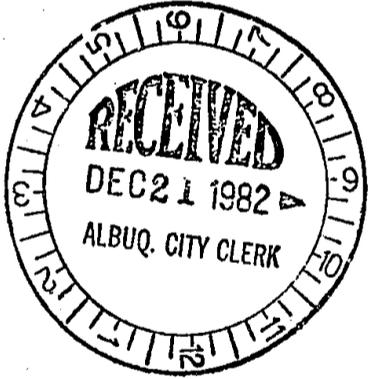
TO: Harry E. Kinney, Mayor  
FROM: Eldon Marr, Director of Council Services  
SUBJECT: TRANSMITTAL OF LEGISLATION

*Eldon Marr*

Transmitted herewith you will find Bill No. 0-89 which was passed by the Council on December 6, 1982.

In accordance with the provisions of the City Charter, your action is respectfully requested.

EM:tc  
Attachment





1 Griegos Lateral Wasteway right-of-way between the east right-of-way line  
2 of the Albuquerque Riverside Drain and the west right-of-way line of the  
3 Griegos Lateral.

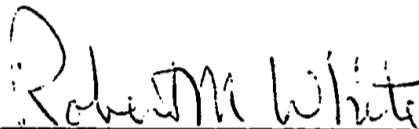
4 Section 2. The zone map adopted by Section 7-14-46.C R.O. 1974, is  
5 hereby amended as follows:

6 A. Establishment of R-1 zoning fro the area described in  
7 Section I-A above.

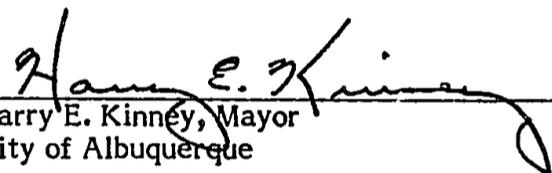
8 Section 3. Effective Date and Publication. This ordinance shall  
9 become effective five days after publication in full.

10  
11 PASSED AND ADOPTED THIS 6TH DAY OF DECEMBER, 1982.  
12 BY A VOTE OF 7 FOR AND 2 AGAINST.

13 Yes: 7  
14 No: Aragon, Hill

15   
16 Robert M. White, President  
City Council

17 APPROVED THIS 20th DAY OF December, 1982.

18   
19 Harry E. Kinney, Mayor  
20 City of Albuquerque

21 ATTEST:

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23 City Clerk

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[Bracketed Material] - Deletion

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CITY OF ALBUQUERQUE  
MUNICIPAL DEVELOPMENT DEPARTMENT  
PLANNING DIVISION

CITY COUNCIL OF THE CITY OF ALBUQUERQUE  
DECEMBER 6, 1982  
AX-82-13/Z-82-92

AX-82-13    The City Council of the City of Albuquerque will consider a request  
Z-82-92    for annexation and simultaneous establishment of R-1 zoning for  
Montano Road N.W. right-of-way extending from the east right-of-way  
line on the Rio Grande east approximately 4,970 feet to the Municipal  
Limits boundary line, and for the Griegos Lateral Wasteway  
right-of-way between the east right-of-way line of the Albuquerque  
Riverside Drain and the west right-of-way line of the Griegos  
Lateral, containing approximately 14.51 acres. The original request  
was submitted by the County of Bernalillo and the Middle Rio Grande  
Conservancy District. (F-13)

APPLICANT'S REASON FOR REQUEST:

"The area proposed for annexation includes the right-of-way for Montano Road. This annexation will place the entire facility within the City limits, thus allowing for development and improvements to the facility to be made without having multijurisdictional contracts."

PLANNING DIVISION COMMENTS TO THE ENVIRONMENTAL PLANNING COMMISSION, DECEMBER 2, 1982:

The reason for request is self-explanatory. The adopted policy of local elected officials is that Montano Road and river crossing be developed. Three local governing bodies - the City of Albuquerque, the County of Bernalillo and the Middle Rio Grande Conservancy District - recommend annexation of this right-of-way to the City of Albuquerque, in order to expedite implementation of this adopted policy.

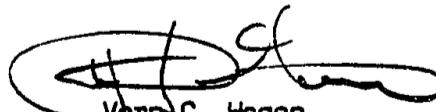
RECOMMENDATION:    APPROVAL OF THE ANNEXATION REQUEST, AND RECOMMENDATION TO THE CITY COUNCIL OF APPROVAL OF THE ESTABLISHMENT OF R-1 ZONING IS RECOMMENDED.

ENVIRONMENTAL PLANNING COMMISSION ACTION, DECEMBER 2, 1982: (THIS MATERIAL WILL BE TRANSMITTED TO THE CITY COUNCIL ON MONDAY AFTERNOON, DECEMBER 6, 1982.)

ADDITIONAL COMMENTS FROM THE PLANNING DIVISION TO THE CITY COUNCIL OF THE CITY OF ALBUQUERQUE, DECEMBER 6, 1982:

The Planning Division has no additional comments at this time.

RECOMMENDATION:    APPROVAL OF THE ANNEXATION REQUEST AND ESTABLISHMENT OF R-1 ZONING IS RECOMMENDED.

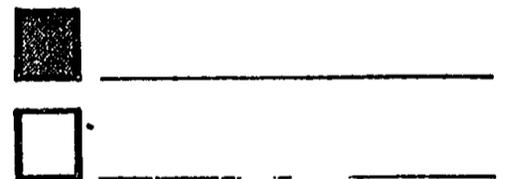
  
Vern C. Hagen  
City Planner

VCH:GM:ytic

cc:    City of Albuquerque's Transportation Department  
      Orlando Vigil, County Manager's Office  
      Solomon Martinez, Middle Rio Grande Conservancy District

**CITY OF  
ALBUQUERQUE  
MUNICIPAL DEVELOPMENT  
DEPARTMENT  
PLANNING DIVISION**

**STUDY AREA**



The City Council of the City of Albuquerque will consider a request for annexation and simultaneous establishment of R-1 zoning for Montano Road N.W. right-of-way extending from the east right-of-way line on the Rio Grande east approximately 4,970 feet to the Municipal Limits boundary line, and for the Griegos Lateral Wasteway right-of-way between the east right-of-way line of the Albuquerque Riverside Drain and the west right-of-way line of the Griegos Lateral, containing approximately 14.51 acres. The original request was submitted by the County of Bernalillo and the Middle Rio Grande Conservancy District. (P-13)

HEARING :	FILE NUMBER
SCALE : <i>No Scale</i>	<i>Ax. 82-13</i>
MAP: <i>F-13</i> ck'd	<i>2-82-92</i>

ANNEXATION AGREEMENT

1. The City is considering annexing a strip of land in Section 31, T11N R3E not presently within the boundaries of the City of Albuquerque through adoption of Council Bill \_\_\_\_\_. This statement and agreement by the applicants is prepared as a means of conforming to the City Annexation Policy.

2. The applicant(s) agrees that services requiring capital expenditures for necessary major streets, water, sanitary sewer, and storm water handling facilities will: (check and complete the correct item)

  x   a. be provided by the City or another public body by 1987 date, or  
       b. be made available at an indefinite time which is a substantial number of years in the future, and it is assumed that there will be a normal distribution of costs between special assessment districts and/or other funding sources, or

       c. be provided and financed by the land owner, with a commitment that the owner(s) or the successors in interest will, in a manner that satisfies City standards, install or cause to be installed any necessary facilities.

3. The City will subsequently work with the annexation applicants and other property owners in the area being annexed for the area's inclusion in the priorities for the City's C.I.P. (i.e., open space, service extension, etc.).

For Mayor :

James A. Klemm 12-2-82  
 Chief Administrative Officer Date

Caro & Rodolph 12-1-82  
 Municipal Development Dept. Date

Reviewed By:

[Signature] 11/23/82  
 Assistant City Attorney Date

[Signature] 11/30/82  
 Water Resources Dept. Date

[Signature] 12/1/82  
 C.I.P. Official Date

The applicants for annexation understand the statement and agree with the content thereof:

Tracts Mantano Road R.O.W. from  
 the Rio Grande east 5057.91 feet to  
 the existing municipal limits.

[Signature] \_\_\_\_\_  
 (Signature) Owner Date

Bernalillo County  
 NAME (PLEASE PRINT)  
 Orlando Vigil, Chairman  
 Board of County Commissioners

Tracts \_\_\_\_\_

(Signature) Owner \_\_\_\_\_ Date  
 Middle Rio Grande Conservancy District  
 NAME (PLEASE PRINT)

Tracts \_\_\_\_\_

[Signature] 11/9/82  
 (Signature) Owner Date

NAME (PLEASE PRINT)

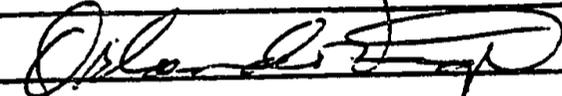
Case Number \_\_\_\_\_

PETITION FOR ANNEXATION

1. OWNER: Bernalillo County PHONE: 766-4700

MAILING ADDRESS: 620 Lomas N.W. ZIP CODE: 87103

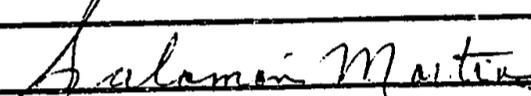
LEGAL DESCRIPTION OF PROPERTY: See Attached

✓ SIGNATURE:  ACREAGE: 11.078

2. OWNER: Middle Rio Grande Conservancy District PHONE: 247-0234

MAILING ADDRESS: 1930 2nd. Street S.W. ZIP CODE: 87102

LEGAL DESCRIPTION OF PROPERTY: \_\_\_\_\_

SIGNATURE:  ACREAGE: 3.43

3. OWNER: \_\_\_\_\_ PHONE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

LEGAL DESCRIPTION OF PROPERTY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ ACREAGE: \_\_\_\_\_

4. OWNER: \_\_\_\_\_ PHONE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

LEGAL DESCRIPTION OF PROPERTY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ ACREAGE: \_\_\_\_\_

5. OWNER: \_\_\_\_\_ PHONE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

LEGAL DESCRIPTION OF PROPERTY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ ACREAGE: \_\_\_\_\_

# CITY OF ALBUQUERQUE

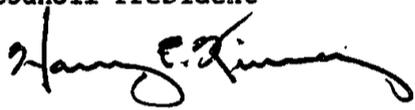
ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE

December 6, 1982

REF. NO. \_\_\_\_\_

TO: Patrick J. Baca, City Council President

FROM: Harry E. Kinney, Mayor 

SUBJECT: Annexation to be Heard at the December 6, 1982, City Council Meeting

The following annexation is submitted herewith for City Council hearing on December 6, 1982.

AX-82-13  
Z-82-92

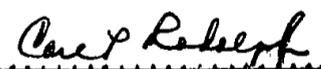
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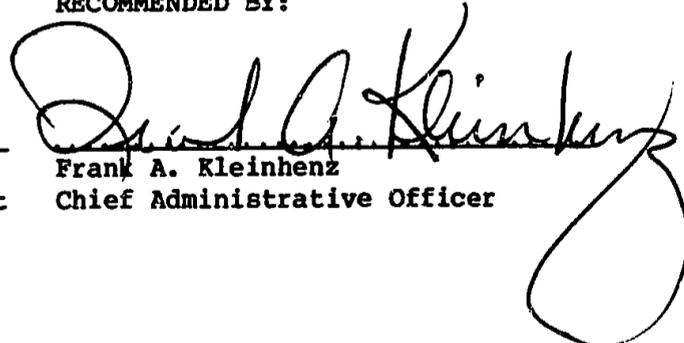
The attached ordinance and material are transmitted herewith for consideration and action by the City Council.

attachments

REVIEWED BY:

RECOMMENDED BY:

  
\_\_\_\_\_  
Carl P. Rodolph, Director  
Municipal Development Department

  
\_\_\_\_\_  
Frank A. Kleinhenz  
Chief Administrative Officer

**CITY OF ALBUQUERQUE**  
ALBUQUERQUE, NEW MEXICO

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Commissioner Sutton explained that he had considered the problems of the North Valley bridge crossings for a long time. He stated there are persons in the West Mesa who find it difficult to get to work, since they must go the long route in order to get into town.

Mr. Matthews stated there were several other locations in the Valley which did not have the historic value nor the low level of air pollution that the area in question has and that these areas should be used as the bridge crossing sites.

Gil Cordova felt he was the landowner who would most be affected by the annexation. He felt that annexation of this land would adversely affect the value of his property. Mr. Cordova explained he bought this property 8 years ago and if he had known that this was going to occur, he probably would not have purchased the land.

Commissioner Wolfe explained that in 1965, based on 1962 data, both the City of Albuquerque and the Bernalillo County adopted a major bridge crossing at Montano, long before Dietz Farms existed. He explained all of this was public information. He stated there is a vast majority of people in Albuquerque who paid for and adopted reports based upon what would happen in this area, long before anything was there. Commissioner Wolfe stated the City had not changed anything in regard to the Montano bridge crossing.

Mr. Cordova asked if this was so, why didn't the City annex the property at that time, rather than now when it would cause so much damage to current property owners.

Commissioner Sutton stated under State statutes there are only certain ways that the City can annex land. These are 1) by application of the landowner, in this case the County of Bernalillo, 2) for health and safety reasons as determined by the Courts [for example Adobe Acres, since their water and sewer systems were inadequate], and 3) by mandate of the Boundary Commission. Therefore, it was not a matter of why the City did not annex at that time, since the City did not have either the authority nor the landowner's permission to annex this property into the City.

Florencio Baca stated he was against this request, since the taxpayers of Albuquerque had not been offered any other alternatives regarding the Montano bridge crossing. He stated if there had to be a bridge, why couldn't it be an eight-lane overhead interchange.

Commissioner Smith asked when signage for this area had been posted.

George Meador, Transportation Department, stated the signs had been posted a week and a half prior to this hearing.

COMMISSION COMMENTS AND CONCERNS:

Commissioner Smith felt the Commission should take action and recommend to the City Council approval of this request.

Commissioner Wolfe stated the decision to locate the bridge crossing at Montano was made 20 years ago, when there were no vested interests in the west side, or in Dietz Farms, or along the Corridor. Mr. Wolfe stated anything the Commission could do to further the decision that the different governments have come up with, he was in favor of.

Commissioner Gregory stated she did not agree with the annexation request. She explained in terms of land use the Montano corridor makes the least sense. She stated they would be moving persons from R-1 residential to a crowded interstate and/or a high density corridor. As to the annexation question, she stated it did not matter as to whether the City or the County has it under its jurisdiction.

Commissioner Barker stated the question was not whether there should be a bridge crossing at Montano or not. He stated the City has decided where the bridge is to be located and the Commission only needs to determine whether annexation of this tract of land will facilitate development of this crossing by having it under City jurisdiction. By placing it under the City's jurisdiction, the development will have both City Planning's and Traffic Engineering's guidance over the proposed development.

Commissioner Sutton stated the County, by making application for annexation, feels that for future planning it would be better that this land be under the City's jurisdiction. Commissioner Sutton felt that since the decision has been made to have two river crossings in the North Valley, this area should be incorporated as a part of the City of Albuquerque in order to facilitate planning.

Commissioner F. Sanchez felt the City, because of its staff, is better qualified to oversee the development of the Montano bridge crossing. Therefore, he was in favor of the proposed annexation request.

Commissioner Martin stated it would behoove the Commission to acquire whatever rights-of-way they could in order to facilitate the river crossings.

- FINDINGS:
1. The annexation will basically further an already accepted procedural doctrine established by both the City of Albuquerque and the County of Bernalillo.
  2. The request has been made by both the County of Bernalillo and the Middle Rio Grande Conservancy District who feel the property is within their purview at this time.

THEREFORE, BE IT RESOLVED that the Environmental Planning Commission recommends to the City Council approval of AX-82-13/Z-82-92, based on Findings 1 and 2.

MOVED by Commissioner Wolfe  
SECONDED by Commissioner Sutton

Motion Carried 6-1  
(Commissioner Gregory voted no.  
Commissioner T. Sanchez abstained from  
voting on this item.)



1 for the Griegos Lateral Wasteway right-of-way between the east  
2 right-of-way line of the Albuquerque Riverside Drain and the west  
3 right-of-way line of the Griegos Lateral.

4 Section 2. The zone map adopted by Section 7-14-46.C R.O.  
5 1974, is hereby amended as follows:

6 A. Establishment of R-1 zoning for the area described in  
7 Section 1-A above.

8 Section 3. Effective Date and Publication. This ordinance  
9 shall become effective five days after publication in full.

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AGREEMENT

- 514

8952881

THIS AGREEMENT is made and entered into this 15<sup>th</sup> day of <sup>June</sup> ~~May~~, 1989, by and between the CITY OF ALBUQUERQUE, a New Mexico municipal corporation, (referred to as the "City"), and MRS. ANN SIMMS CLARK, joined by her husband ROBERT ERNET CLARK, (collectively referred to as "Simms").

1. As used in this Agreement:

A. "Commencement of Construction" means the issuance by the City to its contractor of a Notice to Proceed directing the contractor to commence performance of a construction contract for the Project.

B. "Effective Date" means 8:00 A.M., New Mexico time on the date this Agreement is signed by the Chief Administrative Officer of the City or by the Simms, whichever date occurs last.

C. "Plans" means the construction plans for the Project.

D. "Project" means the City's Montano River Crossing project between Coors Boulevard NW and Rio Grande Boulevard NW.

E. "Right-of-way" means the right-of-way of the Project which is described on the Plans.

F. "Roadway" means the median, driving lanes and shoulders of the Montano Road as shown on the Plans.

G. "Station" means the survey stations as shown on the Plans.

2. After Commencement of Construction, Simms shall convey to the City by quitclaim deed all of Simms' rights of access to and from that part of the Right-of-way described on Exhibits A-1 and A-2, and all of the rights of access granted in that certain Judgement filed on August 28, 1967, in Bernalillo County Cause No. A22505, entitled County of Bernalillo, New Mexico v. Mrs. John Field Simms, Sr., et. al. (collectively, the "Access Rights").

3. After Commencement of Construction, the City shall pay Simms the sum of Seventy Three Thousand and Seven Hundred Dollars and no/100 (\$73,700.00) (the "Cash Payment") for the Access Rights and the easements and the rights-of-entry provided in Paragraph 4. If, however, the date of Commencement of Construction occurs on or after the first anniversary date of the Effective Date, the City shall pay the Simms an additional payment equal to ten percent (10%) times the Cash Payment, compounded annually, computed from the first anniversary date (the "Additional Payment").

4. After Commencement of Construction and during construction of the Project, the City shall incorporate the following features into the Project to the extent possible:

A. The City shall construct a noise wall between the north edge of the Roadway and the north Right-of-way line as provided by the specifications for the Project and as shown on the Sheets 5, 6, 7, 8, and 16 (attached hereto as Exhibits 8-1 through 8-5) of the Plans. The wall shall extend from the eastern end of the Albuquerque Riverside Drain Bridge to the Griegos Lateral, being approximately between Stations 49+80 and 69+00. A solid wooden gate in the noise wall will be permitted at approximately Station 56+00 for use by the City in maintaining trees, landscaping, and performing other maintenance activities. The gate shall not be used by the general public.

The height of the wall shall be no less than six feet above existing ground level, except that between Stations 56+00 and 68+50 where the top of the wall will be built a minimum of 8 feet above existing ground level. For the section of the wall between 56+00 and 68+50, the intent is to construct the wall 6 feet above the Roadway surface and this may be done by placing the wall on an earthen berm or by simply raising the wall height. Simms' shall grant to the City a permanent slope easement and temporary construction easement as may be necessary to permit the City to construct, maintain and use a berm upon which to construct, maintain and use the noise wall and permit any necessary removal of trees.

In the area in which the Roadway rises in order to cross the Albuquerque Riverside Drain, the wall will rise commensurate with the increase in grade of the Roadway. The City shall make every effort to insure that the top of the wall is as high above the Roadway surface as possible, but not to exceed a maximum of six feet above the Roadway surface. The City may, if necessary, step the segments of the noise wall because of the approximate 5% grade of the Roadway. The western 40 to 50 feet of the noise wall shall transition to match the height of the railing on the Albuquerque Riverside Drain Bridge.

B. To prevent damage to trees or other private property adjacent to the Right-of-way the City shall construct:

(i) a permanent woven V-mesh wire fence along the north Right-of-way line between the Albuquerque Riverside Drain and Rio Grande Boulevard, being between approximately Stations 49+80 and 73+50. This section of fence shall cross the Griegos Lateral at approximately Station 68+50 and shall prohibit access by the general public from the Roadway to the Griegos Lateral and the Simms' property. Access to the Griegos Lateral by the Middle Rio Grande Conservancy District, however, shall not be prohibited; and

(ii) a segment of V-mesh wire fence along the southern Right-of-way line being between approximately between Stations 70+50 and 73+50.

Simms shall grant to the City a temporary construction easement as may be necessary to permit the City to construct the fences and to permit any necessary removal of trees and shrubs. The overall height of the fences shall be a minimum of 6 feet and shall be mounted on steel posts set in concrete; however, if Simms agree, the fences may be of a lower height in locations where constraints such as overhanging tree limbs exist. The fences shall meet the following minimum manufacturers' specifications:

CF&I Steel Corporation specification 1-2 V-mesh lawn fence; height of 72 inches; horizontal wire gauge of 12 1/2 and vertical wire gauge of 14; vertical wire spacing of 2 inches; or equivalent.

The City shall erect the fences as soon as possible after commencement of construction to help prevent the contractor from encroaching onto Simms' property adjacent to the Right-of-way.

C. It is agreed by both parties that some clearing of tree branches and/or roots may be necessary in order to construct the noise wall and the V-mesh fences. During construction, the City shall minimize removal of branches and also minimize impacts to root systems of trees with trunks located on Simms' property which extend into the Right-of-way.

D. The City shall require the contractor to prevent access by the general public to work areas between the Griego Lateral and the Albuquerque Riverside Drain during non-working hours and prior to any construction activity within the area. Access to this area shall be restricted by using locked gates or similar methods.

E. Access to Simms' residence (the "John F. Simms House") through the Project shall be maintained as necessary through the construction phase of the Project.

F. The City shall plant cottonwood trees along the northern edge of the Right-of-way from the Albuquerque Riverside Drain to a point approximately 900 feet to the east of the Albuquerque Riverside Drain, being approximately between Stations 49+80 and Station 59+00. Simms shall grant to the City a landscaping easement to encompass a parcel of land measuring approximately 20 feet north/south by 620 feet east/west and being located immediately adjacent to the north Right-of-way line between approximately Station 49+80 and 56+00.

If irrigation of the cottonwood trees by taking water directly from the Griego Wasteway is not practical, Simms shall grant the City the right to enter upon Simms' property during normal working

hours for a period of up to three years to irrigate the cottonwood trees. The three year time period shall commence when the planting of the cottonwood trees has been completed.

The City shall replace any cottonwood tree planted pursuant to this Agreement a minimum of one time if the tree dies within three years after having been planted. Simms shall grant the City the right to enter upon Simms' property to replace cottonwood trees that are planted pursuant to this Agreement and that die within the first three years following the initial plantings.

G. The irrigation system located at Station 60+00 shall be modified so that water may be conveyed under and across the Right-of-way to the Simms' land north of the Right-of-way. Simms may, at the option of Simms, grant the City a construction easement allowing the city to extend the culvert north of the Right-of-way onto Simms' property. If Simms grants the City the necessary easements, the City shall instruct the City's contractor to extend the culvert approximately 5 to 10 feet north of the Right-of-way. Disruption of use of the irrigation system shall be minimized.

The parties acknowledge the mutual benefits of planted trees and other landscaping along the Roadway and agree that the irrigation system shall be used jointly by the City and Simms, provided that such use by the City does not unreasonably interfere with the use of the irrigation system by Simms.

5. The City shall use it's best efforts to minimize any interruptions to utility service to the Simms' property during construction of the Project. This shall include the irrigation system located at approximately Station 60+00. Relocation of all utilities shall be at the expense of the City.

6. Simms agree to not object if the City determines there is a public benefit to the removal of undesirable elm trees and other plant growth along the southern Right-of-way line between the Albuquerque Riverside Drain and the Griegos Lateral.

7. Simms may elect to grant to the City additional landscaping easements or other easements to enhance the character of the Roadway in the vicinity of the Simms' property and the City shall make efforts to landscape the Right-of-way and the area surrounding the Montano Road/Rio Grande Boulevard grade separation.

8. The City shall give Simms written notice of the Commencement of Construction within 10 days after the date of Commencement of Construction. The written notice shall specify a time, date and place

for the closing of this Agreement which date shall not be more than 30 days or less than 10 days after written notice is given to Simms. At the closing, the City shall pay Simms the Cash Payment and any Additional Payment and Simms shall execute and deliver to the City the quitclaim deed to convey the Access Rights to the City and the documents necessary to convey the easements and rights-of-entry provided in Paragraph 4 to the City. If, however, the City determines that Simms cannot convey merchantable title to the Access Rights or to the easements and rights-of-entry provided for in Paragraph 4, the City may terminate this Agreement by giving Simms written notice of termination. Upon mailing or delivering notice of termination to Simms, this Agreement shall be terminated and the parties shall have no further rights or obligations between them as provided in this Agreement.

9. If the date of Commencement of Construction has not occurred before the sixth anniversary of the Effective Date, this Agreement shall automatically terminate on the sixth anniversary date and the City and Simms shall have no rights or obligations between them as provided in this Agreement.

10. This Agreement shall be binding and inure to the benefit of the parties and their heirs, personal representatives, successors and assigns as of the Effective Date.

SINIS

513

Ann Simms Clark      5-25-89  
Ann Simms Clark      Date

Robert Emmet Clark      5-25-89  
Robert Emmet Clark      Date

CITY OF ALBUQUERQUE

Clarence V. Lithgow      6/15/89  
Clarence Lithgow, Chief  
Administrative Officer      Date

STATE OF NEW MEXICO )  
                                  )ss  
COUNTY OF BERNALILLO )

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of May, 1989, by Robert Emmet Clark and Ann Simms Clark, his wife.

[Signature]

Notary Public

My commission expires: 4-4-92

STATE OF NEW MEXICO )  
                                  )ss  
COUNTY OF BERNALILLO )

The foregoing instrument was acknowledged before me this 15 day of June, 1989, by Clarence Lithgow, Chief Administrative officer of the City of Albuquerque, a municipal corporation on behalf of said corporation.

[Signature]

Notary Public

My commission expires: 11-31-92



LEGAL DESCRIPTION OF ACCESS CONTROL

Ann Clark Simms Property

521

North Right-of-Way Access Control Line

A right-of-way line situated within Section 31, Township 11 North, Range 3 East, New Mexico Principal Meridian, Bernalillo County, New Mexico and being identified as the north right-of-way line for Montano Road between Rio Grande Boulevard and Albuquerque Riverside Drain and being more particularly described as follows:

Beginning at a point where the Montano north right-of-way line intersects the west right-of-way line of Rio Grande Boulevard, said point being a 1/2-inch rebar, whence an ACS Brass Cap marked "12-F13" bears S 18°19'26" W, a distance of 55.26 feet;

Thence, N 73°41'59" W, a distance of 388.43 feet;

Thence, S 76°57'01" W, a distance of 35.89 feet to a point on the north line of the Griegos Lateral;

Thence, S 80°08'24" W, a distance of 42.06 feet to a point on the south line of the Griegos Lateral;

Thence, N 89°44'04" W, a distance of 48.17 feet;

Thence, N 76°41'04" W, a distance of 1,902.99 feet to a point on the east right-of-way line of the Albuquerque Riverside Drain, said point being the west end of the north right-of-way access control line.

South Right-of-Way Access Control Line

A right-of-way line situated within Section 31, Township 11 North, Range 3 East, New Mexico Principal Meridian, Bernalillo County, New Mexico and being identified as the south right-of-way line of Montano Road between Rio Grande Boulevard and the Griegos Lateral and being more particularly described as follows:

Beginning at a point where the Montano south right-of-way line intersects the west right-of-way line of Rio Grande Boulevard, said point being a 1/2-inch rebar, whence an ACS Brass Cap marked "12-F13" bears N 14°28'06" E, a distance of 50.92 feet;

Thence, N 73°41'59" W, a distance of 300.96 feet to a point on the north line of the Griegos Lateral, said point being the west end of the south right-of-way access control line.

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
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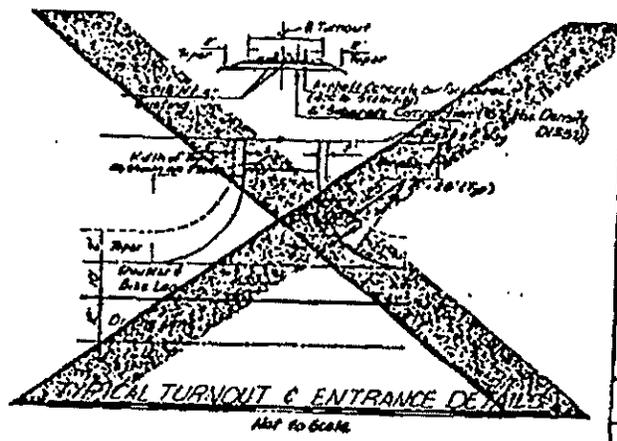
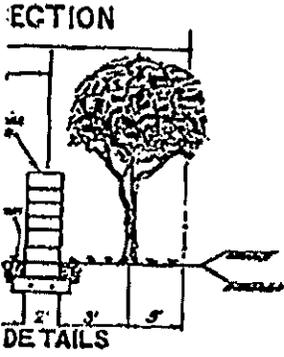
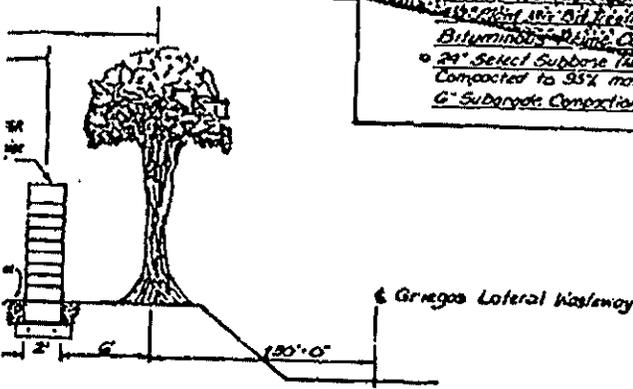
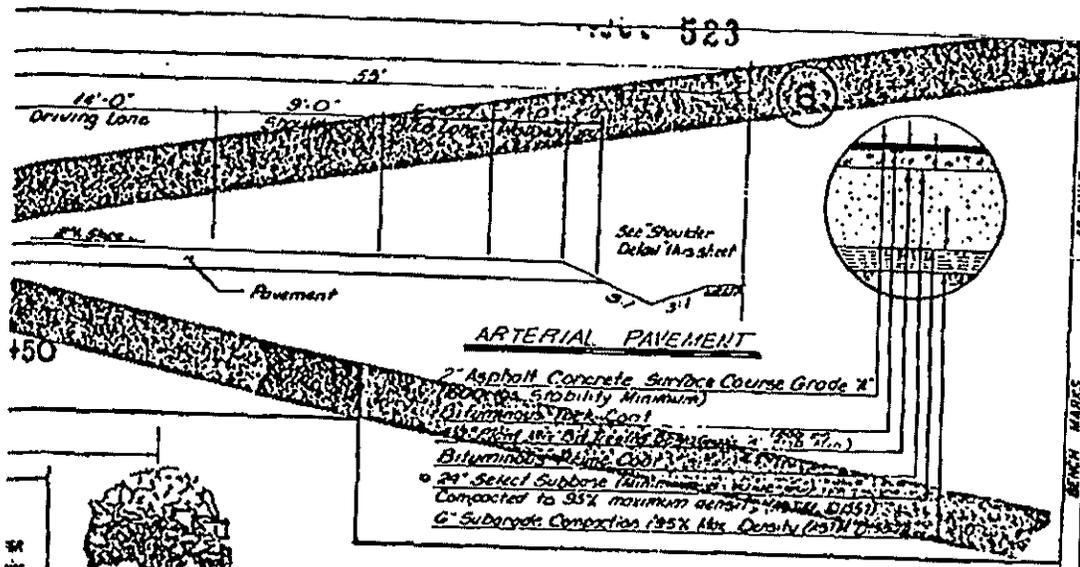
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GLADYS M. CAVIS  
CO. CLERK & RECORDER

*[Handwritten Signature]*



523



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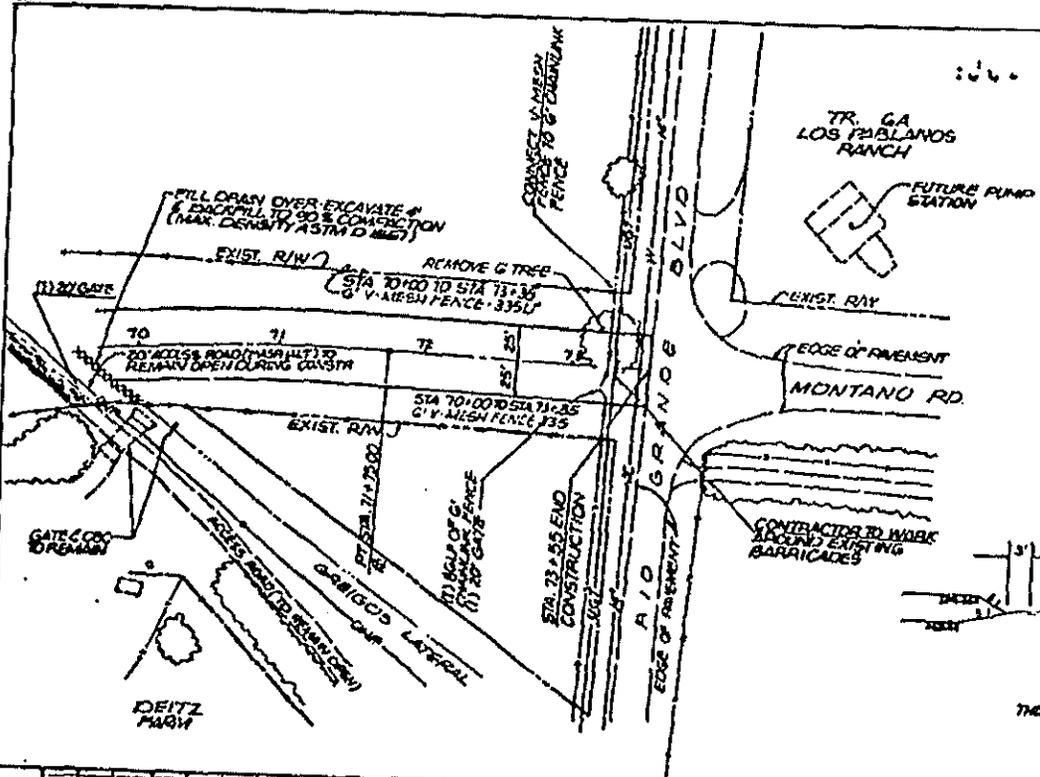
CITY OF ALBUQUERQUE  
TRANSPORTATION DEPARTMENT

**MONTANO ROAD  
TYPICAL SECTIONS**

APPROVALS	ENGINEER	DATE	APPROVALS	ENGINEER	DATE

DRAWING 3320 MAP NO. SHEET 6 OF 80

523



TYPICAL  
 STA. 67+01 TO  
 THIS SECTION STA. 67+01.2

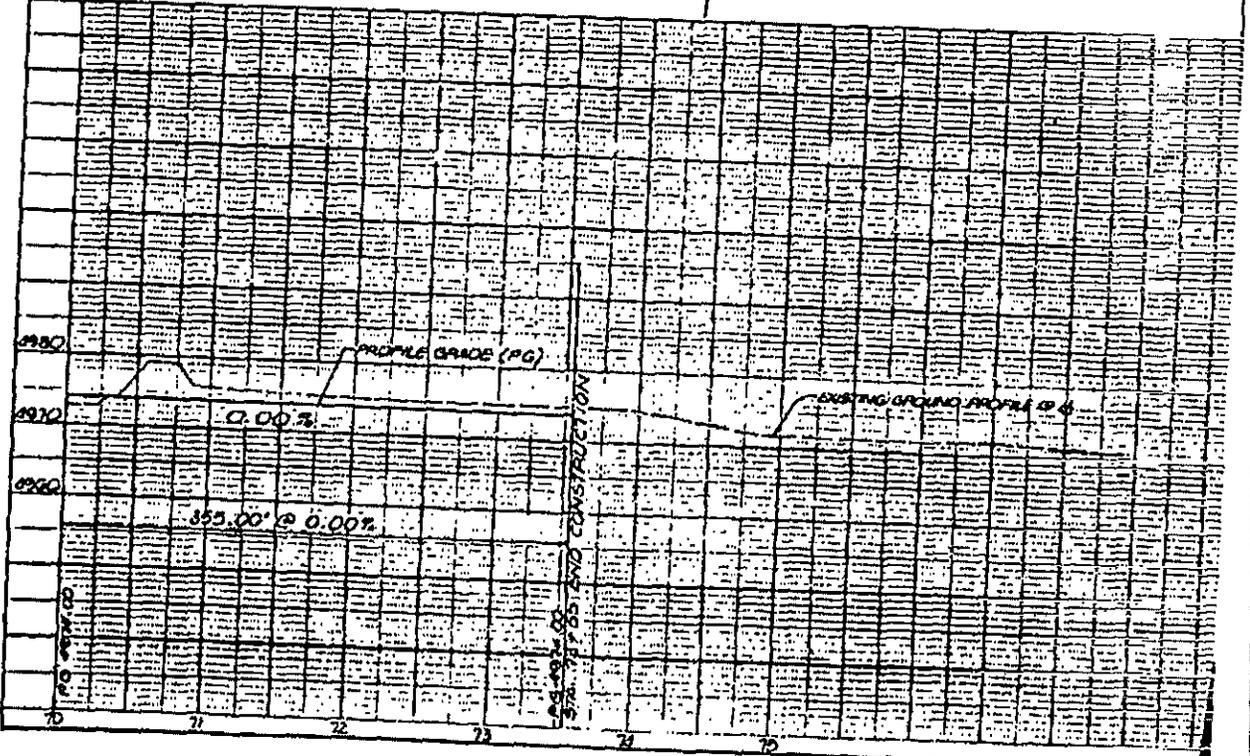


EXHIBIT B-4

95122515

QUITCLAIM DEED

1217

MRS. ANN SIMMS CLARK, individually, joined by her husband, ROBERT EMMET CLARK, and as the sole heir-at-law and devisee of Mrs. John Field Simms, Sr., deceased, and BOSQUE VERDE LTD., a New Mexico limited partnership, for consideration paid, quitclaim to the CITY OF ALBUQUERQUE, a New Mexico municipal corporation, whose address is P. O. Box 1293, Albuquerque, New Mexico 87103, any and all rights of access to and from the real estate in Bernalillo County, New Mexico described on Exhibits A-1 and A-2 attached hereto, including, without limitation, access to and from any public road improvements constructed on the real estate. It is the intention of the Grantors to convey and to relinquish any and all rights of access to and from the above described real estate which were retained in that certain Judgment filed on August 28, 1967, in Bernalillo County Cause No. A22505, entitled County of Bernalillo, New Mexico v. Mrs. John Field Simms, Sr., et al.

Witness our hands and seals this 11-27 day of November, 1995.

Ann Simms Clark

Ann Simms Clark, individually and as sole heir-at-law and devisee of Mrs. John Field Simms, Sr., deceased

Robert Emmet Clark

Robert Emmet Clark

Ann Simms Clark, General Partner 11-27-95

Ann Simms Clark, General Partner of Bosque Verde, Ltd., a New Mexico limited partnership

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO

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95-29-1217-1221

M. Weber

1218

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

This instrument was acknowledged before me on this 27 day of November, 1995, by ANN SIMMS CLARK, individually and as sole heir-at-law and devisee of Mrs. John Field Simms, Sr., deceased.

*Jay L. Moore*  
Notary Public

My Commission Expires:

OCTOBER 4, 1999

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

This instrument was acknowledged before me on this 27<sup>th</sup> day of November, 1995, by ROBERT EMMET CLARK.

*[Signature]*  
Notary Public

My Commission Expires:

April 8, 1998



1220

A tract of land situate in Section 31, T11N, R3E, NMPM, being Tract 8 and a portion of Tract 5 as same are designated on the MRGCD Property Map 31, Bernalillo County, New Mexico, and more particularly described as follows:

**BEGINNING** at the southeasterly corner of said tract, a point on the westerly right of way line of the Griegos Lateral, whence the northwest corner of Lot 13, Block 2, Unit No. 1, Dale J. Bellanah's DIETZ FARMS, a subdivision, Bernalillo County, New Mexico, plat thereof, filed May 31, 1962, bears S16°31'30"E, 127.20 feet distant.

**THENCE** N88°26'30"W, 39.40 feet; thence S76°53'W, 57.28 feet;

**THENCE** N77°01'W, 1984.09 feet to the southwesterly corner of said tract, a point on the easterly ROW line of the Albuquerque Riverside Drain.

**THENCE** N25°39'E, 108.64 feet along the easterly ROW line of the Albuquerque Riverside Drain to the northwesterly corner of said tract.

**THENCE** S77°01'E, 1402.90 feet;

**THENCE** N89°56'E, 48.17 feet to the northeasterly corner of said tract, a point on the westerly ROW line of the Griegos Lateral.

**THENCE** S37°10'E, 130.87 feet along the westerly ROW line of the Griegos Lateral to the point of beginning.

**Contains:** 4.911 acres, more or less.  
**Bounded:** On the north by land of Mrs. John Simons, Sr.  
On the east by the Griegos Lateral  
On the south by the Griegos Lateral wasteway.  
On the west by the Albuquerque Riverside Drain.

EXHIBIT

A-1

1221

A tract of land situate in Section 31, T11N, R3E, NMPM, being a portion of Tract 3-b, Los Poblanos Ranch Subdivision as designated on the MRGCD Property Map 31, Bernalillo County, New Mexico, and more particularly described as follows:

**BEGINNING** at the southwesterly corner of said tract, a point on the easterly ROW line of the Griegos Lateral, whence the northwest corner of Lot 13, Block 2, Unit No. 1, Dale J. Bellman's DIETZ FARMS, a subdivision, Bernalillo County, New Mexico, plat thereof filed May 31, 1962, bears S6°14'40"W, 116.18 feet distant.

**THENCE** N37°10'W, 148.25 feet along the easterly ROW line of the Griegos Lateral to the northwesterly corner of said tract.

**THENCE** N76°53'E, 35.86 feet;

**THENCE** S73°46'E, 388.45 feet to the northeast corner of said tract, a point on the west ROW line of Rio Grande Boulevard, NW.

**THENCE** S16°08'W, 106.0 feet along the west ROW line of Rio Grande Boulevard, NW to the southeast corner of said tract.

**THENCE** N73°46'W, 300.96 feet to the point of beginning.

Contains: 0.894 acres, more or less.

EXHIBIT  
A-2



AMENDED QUITCLAIM DEED

ANN SIMMS CLARK, a married woman dealing with her sole and separate property, quitclaims to THE CITY OF ALBUQUERQUE, a New Mexico municipal corporation, whose address is Post Office Box 1293, Albuquerque, New Mexico, 87103, the following described real property located in Bernalillo County, New Mexico:

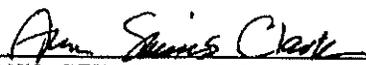
Tracts "C" and "D," as shown and designated on the Plat of Lands of Ann Simms Clark, filed of record in the Office of the Bernalillo County Clerk on May 29, 1986, in Vol. C-30, Folio 118, being and comprising Tract 3A1C, 3A2, 3B1, 3B2, 4 and 5, MRGCD Map 31.

The purpose of this conveyance of title by this Amended Quitclaim Deed is to amend the conditions of the reversionary interest retained by the Grantor in that certain Quitclaim Deed covering the same tracts, which was dated September 25, 1997, and recorded with the Bernalillo County Clerk on September 25, 1997, as Document No. 97-100073.

The conveyance of title to Tract "C" is subject to and conditional on the continued use in perpetuity of said tract by the Grantee, The City of Albuquerque, for city park and recreational purposes and/or for use by The City of Albuquerque of said tract as a pumping station for the City of Albuquerque's sewer and waste water system, and for vehicular parking related to one or more of such specific uses of the tract, and for no other purposes. In the event that at any time or for any reason, said Tract "C" is not used for park and recreational purposes, or as a pumping station for the City of Albuquerque's sewer and waste water system, and related vehicular parking, title to said tract shall revert to the Grantor, Ann Simms Clark, or if she is deceased, to her legal heirs.

The conveyance of title to Tract "D" is subject to and conditional on the continued use in perpetuity of said tract by the Grantee, The City of Albuquerque, for city park and recreational purposes only. In the event that at any time or for any reason, said Tract "D" is not used for park and recreational purposes, title to said tract shall revert to the Grantor, Ann Simms Clark, or if she is deceased, to her legal heirs.

WITNESS MY HAND AND SEAL this 9<sup>th</sup> day of July, 2001.

  
ANN SIMMS CLARK



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Page: 1 of 2  
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STATE OF NEW MEXICO     )  
                                  ss.  
COUNTY OF BERNALILLO    )

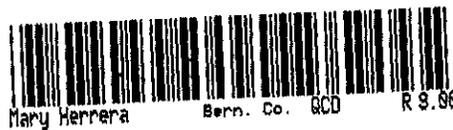
This instrument was acknowledged before me this 9<sup>th</sup>  
day of July, 2001, by ANN SIMMS CLARK, a married woman dealing  
with her sole and separate property.



\_\_\_\_\_  
Notary Public

My Commission Expires:

April 8, 2002



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