GRANT OF TEMPORARY EASEMENT

FOR

BERM AND DESILTING BASIN

AFFILIATED MORTGAGE AND DEVELOPMENT COMPANY, a New Mexico corporation, the Grantor herein, for good and valuable consideration paid, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, and convey unto the CITY OF ALBUQUERQUE, NEW MEXICO, the Grantee herein, and its successors and assigns:

(A) the right and easement to construct, operate, repair, reconstruct, and maintain the Spain Road Berm and related desilting basin, as designed and shown on construction plans prepared by BOHANNAN HUSTON, INC., on, in, under, over, and across the following-described real estate, including the right to excavate the desilting basin and to incorporate such excavated materials into the berm, and

(B) the right and easement to prohibit and prevent the Grantor and all other persons from interfering with the construction, operation, repair, reconstruction, and maintenance of the berm and related desilting basin upon the following-described real estate, and

(C) the right and easement of ingress, egress, and passage to and from the following-described real estate for the purposes of constructing, operating, repairing, reconstructing, and maintaining the berm and related reservoir.

The land on, under, over, and across which the foregoing rights and easements are granted is located in the County of Bernalillo and State of New Mexico, and is more particularly described in Exhibit A, attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the aforesaid rights and easements for the uses and purposes aforesaid unto the Grantee, its successors and assigns, until the Grantor develops the real estate described in Exhibit A into a residential subdivision and provides the Grantee with written notice of such development. The Grantor herein has agreed, and does hereby agree, that it shall provide written notice of its development of the real estate described in Exhibit A to the Grantee herein, and upon the furnishing of such written notice, this Grant of Temporary

Enclosure O

Easement for Berm and Desilting Basin shall terminate immediately and automatically. The filing in the office of the County Clerk of Bernalillo County, New Mexico, of the certification of the Grantor herein that it has provided such written notice to the Grantee herein, and that this Grant of Temporary Easement for Berm and Desilting Basin has terminated, shall constitute conclusive proof of the termination of this Grant of Temporary Easement for Berm and Desilting Basin for all purposes.

THERE IS RESERVED to the Grantor, its successors and assigns, the right to use the land described in Exhibit A for recreation, open space, and other purposes which will not interfere with the rights and easments hereby granted, provided that such use shall be exercised in such a manner as will not damage or interfere with the construction, operation, and maintenance of the Grantee's flood control facilities.

THERE IS RESERVED to the Grantor, its successors and assigns, the right to remove all silt and sediment that may be washed into the reservoir or against the berm. This right shall not be interpreted as a liability or responsibility of the Grantor to remove any or all silt and sediment, but rather as the right to remove and keep this material at no cost to the Grantor, its successors and assigns. However, if the Grantor fails to remove such material when requested to do so by the Grantee, the Grantee may remove and dispose of such material free of any royalty to the Grantor.

THERE IS FURTHER RESERVED to the Grantor, its successors and assigns, the right, but not the duty, to landscape the berm and related desilting basin by the placement of vegetation thereon; provided, however, that plans and specifications therefor are first submitted to the Grantee for its review and approval; such approval shall not be withheld if the berm and related desilting basin and their operation and maintenance will not be endangered or impaired by such landscaping work of the Grantor.

THE GRANTEE FURTHER AGREES to protect, defend, hold harmless, and indemnify the Grantor, its successors and assigns, from any and all claims, actions, judgments, damages, and other liabilities whatsoever to others arising from the construction, operation, repair, reconstruction, and maintenance of the berm and related desilting basin and from the effect of such facilities upon drainage from, over, across, and thro

the lands of the Grantee, its successors and assigns. Provided, however, that nothing contained in this provision shall be construed to grant any right or remedy to anyone not a party to this agreement or to waive any immunity which the Grantee now has or may hereafter acquire from suit or claims by anyone other than the Grantor, its successors and assigns.

In the event the use of the above-described real estate by the Grantee for flood control purposes is abandoned for a period of five (5) years, the rights and easements herein granted shall revert to the Grantor, its successors and assigns.

WITNESS its hand and seal this 10 day of January, 1980.

AFFILIATED MORTGAGE AND DEVELOPMENT COMPANY
a New Mexico corporation

By James D. Smith
James D. Smith
Vice President

ACKNOWLEDGMENT

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

OFFICIAL SEAL
VIRGINIA PERKINS
NOTARY PUBLIC - NEW MEXICO
Notary Bond Filed with Secretary of State
My Commission Expires: 8-10-83

The foregoing instrument was acknowledged before me this 11th day of January, 1980, by JAMES D. SMITH, Vice President of AFFILIATED MORTGAGE AND DEVELOPMENT COMPANY, a New Mexico corporation, for and on behalf of said corporation.

My commission expires:
8-10-83

Virginia Perkins
Notary Public