

Contract No. 6-LM-53-01082

MRGCD Map # 32, S. 32, T. 11 N., R. 3 E.
33, S. 5, T. 10 N., R. 3 E.
34, S. 6, T. 10 N., R. 3 E.
35, S. 7, T. 10 N., R. 3 E.
38, S. 13, T. 10 N., R. 2 E.
38, S. 18, T. 10 N., R. 3 E.
40, S. 19, T. 10 N., R. 3 E.
41, S. 29 & 30, T. 10 N., R. 3 E.
44, S. 31 & 32, T. 10 N., R. 3 E.
45, S. 6, T. 9 N., R. 3 E.
49, S. 7, T. 9 N., R. 3 E.
51, S. 18, T. 9 N., R. 3 E.
51, S. 13, T. 9 N., R. 2 E.
54, S. 24, T. 9 N., R. 2 E.
55, S. 25, T. 9 N., R. 2 E.
58, S. 36, T. 9 N., R. 2 E.
59, S. 1, T. 8 N., R. 2 E.
61, S. 12, T. 8 N., R. 2 E.

Albuquerque Riverside Drain

Station 0+00+ to 638+27+

Alameda Drain

Station 0+85+ to 271+90+

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

MIDDLE RIO GRANDE PROJECT, NEW MEXICO

INTERIM JOINT-USE AGREEMENT WITH THE CITY OF ALBUQUERQUE FOR
CONSTRUCTION AND OPERATION OF STORM DRAINAGE SYSTEMS WITHIN THE
RIGHT-OF-WAY OF THE ALAMEDA AND ALBUQUERQUE RIVERSIDE DRAINS
IN CONJUNCTION WITH THE MIDDLE RIO GRANDE PROJECT, NEW MEXICO

THIS INTERIM JOINT-USE AGREEMENT, made this _____ day of _____,
19____, pursuant to the Act of June 17, 1902, ch. 1093, 32 Stat. 388 (1902)
(commonly cited as "The Reclamation Act"), and acts amendatory thereof and
supplementary thereto, including particularly the Act of August 4, 1939, ch.
418, 53 Stat. 1187 (1939) (commonly cited as "Reclamation Project Act of
1939"), between the UNITED STATES OF AMERICA, hereinafter styled "United States,"
represented by the officer executing this agreement, hereinafter termed
"Contracting Officer," the MIDDLE RIO GRANDE CONSERVANCY DISTRICT, hereinafter
styled "District," and the CITY OF ALBUQUERQUE, NEW MEXICO, hereinafter styled
"City."

WITNESSETH THAT:

WHEREAS, the City at its sole cost and expense desires to construct,
operate, and maintain storm drainage systems in the area of a Federally bene-
fitted facility of the District; and

WHEREAS, the Interim Joint-Use Agreement on the lands hereinafter described in the manner and under the conditions set forth herein will not be incompatible with the requirements of the United States and the District for the operation and maintenance of the irrigation and drainage facilities of the District; and

WHEREAS, the Interim Joint-Use Agreement must be subject to the use of the land for the purposes of the District, as set forth in Exhibit "A", attached hereto and by this reference made a part hereof.

NOW THEREFORE, the parties hereto agree as follows:

1. For and upon the payment of the consideration hereinafter stated the United States and the District hereby authorize the City to the extent possible, permission for an interim period of not more than five years from the date hereof to construct, operate, and maintain storm drainage systems within the right-of-way of the Alameda Drain and Albuquerque Riverside Drain, and the use of facilities to convey storm drainage waters, in Bernalillo County, New Mexico, as more specifically located and shown on Exhibit "B," attached hereto and by this reference made a part hereof and in accordance with the terms and conditions hereinafter set forth.

This Interim Joint-Use Agreement shall continue so long as in the opinion of the United States and the District, it is considered to be expedient and not detrimental to the public interest or the Middle Rio Grande Project, and shall be revocable by the United States and the District upon thirty (30) days written notice to the City. Upon such revocation all structures and accessories shall be removed by the City without delay at the expense of the City and any rights which the City may have under this agreement are revoked or the District may remove at the City's expense. Revocation shall not release the City from any liability or obligation, whether of indemnity or otherwise, which may have attached, accrued, or was accruing at the time of such revocation. Notice of revocation shall be sufficient if mailed to City of Albuquerque, Public Works Department, Engineering Division; P. O. Box 1293; Albuquerque, New Mexico, 87103.

The City understands that the United States and the District may not have sufficient interest in the lands being used for the construction, operation and maintenance of the storm drainage system to authorize the proposed uses as against the claims of others in the land. The United States and District are by this agreement only authorizing the Joint-Use to the extent they have the authority to do so.

2. When total charges are not known in advance due to extraordinary inspections, environmental considerations, or other requirements yet to be determined, an estimated amount will be paid in advance after billing, subject to later adjustment, as required, or billing of total fees and charges will be made at the completion of the job.

3. In the erection of the aforesaid structure or structures the following specifications and conditions must be complied with:

a. Construction shall be accomplished at such time or times and in such a manner as will not interfere with the use or maintenance of the Middle Rio Grande Project facilities as determined by the Projects Superintendent or his authorized representative or the District prior to commencement of construction.

b. The character, type, method, and time of construction shall be as determined by and subject to the approval of the United States and the District.

c. Twenty-four (24) hour advance notice must be given to the District and Bureau of Reclamation, Projects Superintendent or his representative of the construction or installation.

d. Construction for this interim agreement shall be in accordance with Exhibit "C" attached hereto and made a part hereof.

e. The storm drainage systems shown on Exhibit "B" shall be controlled such that they will not exceed the following discharge rates during the 100 year storm:

<u>LOCATION OF STORM DRAINAGE DISCHARGE</u>	<u>INTERIM PEAK STORM DISCHARGE DURING THE 100 YEAR STORM</u>
Alameda Drain at Montano Rd. (Sys. A)	25.3 cfs
Alameda Drain at Griegos Rd. Flow from West (Sys. B)	35.1 cfs
Alameda Drain at Griegos Rd. Flow from East (Sys. C)	22.0 cfs

Only the peak storm water discharge rates shown above will be authorized under this agreement. At such time as future investigations by the District and the United States show that improvements made or agreed to be made by the City to the drains are or will be adequate to safely increase the discharge rates, then a new agreement will be issued.

f. As consideration for this Interim Joint-Use Agreement and as part of the City's annual storm drainage maintenance program, the City shall continue to assume all the operation and maintenance costs of the Alameda Drain from Station 0+85+, the confluence of Alameda Drain with the Albuquerque Riverside Drain, to Station 271+90+, the Alameda Drain at Montano Road, N.W., until such time as a mutually agreeable permanent operations and maintenance agreement between the City and the District is executed. The District and the City agree to

complete negotiations within two years of the date of execution of this agreement. These costs shall include, but not be limited to, the cost of removing silt and other debris entering said drains through storm drains and other structures and culverts installed by the City, the cost of weed control, and the cost of maintaining and cleaning crossing structures.

Also, the City's interim responsibility shall include any extra costs of the operation and maintenance of the Albuquerque Riverside Drain from Station 0+00+ on the Rio Grande within Isleta Pueblo, to Station 638+27+ at its confluence with Alameda Drain as shown on Exhibit "B", demonstrated by The District to result from the City's introduction of storm flows to the Alameda Drain.

4. If the District or the United States is required to bring suit in any court for the purposes of enforcing this agreement or any provisions or portions thereof, the City shall be liable for all costs incurred and for reasonable attorney's fees.

5. The City shall be liable for any and all damages to the property of the District, United States, or any third party or parties by reason of the construction, maintenance or repair of any structures or accessories authorized by this agreement or by the exercise of the privilege conferred by this agreement. In addition, the City agrees to indemnify and hold harmless the District and/or the United States, their agents and employees from any and all claims, demands, actions, or suits of any nature which arise as a result of this agreement including, but not limited to, those which result from the construction, maintenance, use, state of repair, presence of any structures, accessories or exercise of the privilege conferred by this agreement.

6. The City shall use, occupy, and maintain said facilities with all reasonable diligence and precaution to avoid damage to or obstruction of the irrigation and drainage facilities or other structures of the Middle Rio Grande Project, or any interference in any way with the operation and maintenance of the same.

7. This agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

8. The City shall, comply fully with all applicable Federal laws, orders, and regulations, and the laws of the applicable State, all as administered by appropriate authorities, concerning the pollution of streams, reservoirs, ground water, or watercourses with respect to thermal pollution or the discharge of refuse, garbage, sewage effluent, industrial waste, oil, mine tailings, mineral salts, or other pollutants, and concerning the pollution of the air with respect to radioactive materials or other pollutants. No raw sewage shall be discharged into the Alameda Drain or the Albuquerque Riverside Drain by the City.

9. The City shall comply with applicable State and Federal water quality standards as established by the New Mexico Environmental Improvement Division (EID) and the Federal Environmental Protection Agency (EPA). Proof of compliance shall consist of evidence that applicable State and Federal permits have been applied for by the City as required by the permitting agencies and that evidence substantiating that the discharge waters meet or exceed the applicable State and Federal water quality standards shall be supplied to the District and the United States in accordance with the timetable prescribed by the State EID and Federal EPA. The City will be responsible for water quality of discharge emanating from City introductions from the northern most point of City discharge into the Alameda Drain, and for any water quality degradation resulting from such introductions downstream to the confluence with the Riverside Drain.

The City will be responsible for coordinating with the State EID and Federal EPA during the permitting process. Neither the District or the United States will have the responsibility of administering the permit or assuring that the regulations set forth by the State EID or Federal EPA are adhered to. If at the end of the interim period the City fails to agree to comply with the requirements set forth by the State EID or the Federal EPA then the District and United States reserve the right to revoke this agreement upon thirty (30) days written notice to the City. Upon such revocation the District retains the right to have all structures and accessories removed by the City without delay at the expense of the City and any rights which the City may have under this agreement are revoked or the District may remove at the City's expense. If the City comes into compliance with the requirements of the State EID and Federal EPA, then the rights granted to the City herein shall be reinstated. The City shall also supply the United States and the District, within ninety (90) days of the execution of this agreement, a copy of the City's Emergency Response Plan addressing the City's containment and cleanup procedures for hazardous materials introduced into District facilities through City facilities.

10. The City reserves the right to withdraw from this agreement if the facilities of the United States and District are no longer required for the City's use. If the City withdraws from this agreement for this reason, then the obligations imposed on the City by this agreement are no longer binding. Upon withdrawal by the City, the District retains the right to have any or all of the City's facilities removed at the City's expense. The District will decide within ninety (90) days from the date the City withdraws from this agreement whether or not the City must remove any or all of its facilities.

11. The City will make necessary improvements to the Alameda and/or Albuquerque Riverside Drains covered by this interim agreement from the date of this agreement, to meet approved engineering design standards.

The City agrees to pay to the District any expenses incurred by the District in the operation and maintenance of the facilities which are a direct or indirect result of the use of the facilities by the City and which are not otherwise herein provided for.

IN WITNESS WHEREOF, the parties hereto have caused this Joint-Use Agreement to be executed as of the day and year first hereinabove written.

UNITED STATES OF AMERICA

By: _____
Project Superintendent
Middle Rio Grande Project
Bureau of Reclamation

Date: _____

ATTEST:

(SEAL)

By: _____
The City of Albuquerque

Date: _____

CONCUR:
MIDDLE RIO GRANDE CONSERVANCY DISTRICT

BY: _____
General Manager

Date: _____

FINAL CONSTRUCTION APPROVAL:

BY: _____

DATE: _____