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NEW MEXICO TITLE CO.
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GRANT OF CHANNEL CROSSING EASEMENT

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY, a political subdivision of the State of New Mexico ("AMAFCA") grants to ACME PARTNERS LIMITED, a New Mexico limited partnership and the successors and assigns of Grantee (collectively, "Grantee"):

1. A permanent, non-exclusive easement (the "Easement") for construction, operation and maintenance of a vehicular and pedestrian bridge and roadway and necessarily related structures (the "Structure," or collectively the "Structures") over, upon and across the air space, described on attached Exhibit A (the "Air Space"), above the property (the "Bridge Property"), also described on attached Exhibit A. The Easement is granted subject to the following terms and conditions:

A. Any Structures may be used for both ingress and egress to the "Lands of Solar Homes" as shown and designated on the Summary Plat of the Lands of Solar Homes, recorded December 31, 1979, in Vol. C16, Folio 34, Bernalillo County, New Mexico records, or other lands.

B. No Structure constructed in or on the Easement will be designed, constructed and maintained so as to interfere with, damage or endanger the AMAFCA channel (the "Channel"), located to the north of the Lands of Solar Homes, or access to the Channel and the related berm roadways and other improvements of AMAFCA. All Structures will be designed, constructed and maintained in accordance with engineering practices acceptable to AMAFCA, and in such manner as will not impair the hydraulic or structural characteristics of the Channel or the operation or maintenance of the Channel.

C. Before construction or alteration of any kind, to include excavating, filling, grading, or tampering with concrete structures on the Bridge Property, the owner of the Lands of Solar Homes will prepare and submit to AMAFCA for the review and written approval of AMAFCA, appropriate plans, drawings, schedules, designs,

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
PUBLIC RECORD

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specifications and proposed contract documents (collectively, the "Plans") for such construction or alteration, which review will be for the purpose of determining compliance with the terms and conditions of this Grant. AMAFCA will also review and approve insurance ("Insurance") obtained by the owner of the Lands of Solar Homes before construction of any Structure, in an amount not less than one million dollars to indemnify AMAFCA against damage to the real property of AMAFCA and against injury to the person or property of others. The approval by AMAFCA of the Plans and the Insurance will not be unreasonably or arbitrarily withheld, delayed or deferred.

2. AMAFCA grants to Grantee and the successors and assigns of Grantee, a permanent easement of access (the "Access Easement") to enter upon so much of the fee simple real property of AMAFCA below and adjacent to the Air Space as is reasonably necessary to perform all work essential to the maintenance, replacement and repair of any Structure or Structural support which is constructed in or on the Easement. The owner of the Lands of Solar Homes will hold AMAFCA harmless from all damages, costs and losses which might arise from the entrance of the owner of the Lands of Solar Homes, or the agents or employees of the owner of the Lands of Solar Homes, upon the real property of AMAFCA to perform maintenance, replacement and repairs. Before any construction, the owner of the Lands of Solar Homes will provide evidence of liability insurance in an amount not less than one million dollars for this purpose.

3. This Grant binds AMAFCA and the successors and assigns of AMAFCA, runs with and burdens the Bridge Property, and benefits "The Lands of Solar Homes," as shown and designated on the Summary Plat of the Lands of Solar Homes, recorded December 31, 1979, in Vol. C16, Folio 34, Bernalillo County, New Mexico, records, now existing or as re-platted after the date of this Grant.

4. AMAFCA reserves the right to use the Structures or permit the Structures to be used for repairing, modifying or reconstructing the Channel, bridges over the Channel, public utilities, and appurtenances. Such use will include the right to remove bridges, structures and pavement, excavate, fill and any other activity deemed reasonably necessary by AMAFCA. Except in emergencies, AMAFCA will notify the owner of the

Lands of Solar Homes at least thirty days in advance of any use that will materially affect access to the Lands of Solar Homes. Additionally, AMAFCA will coordinate with the owner of the Lands of Solar Homes to minimize inconvenience and expense. AMAFCA will be responsible to reconstruct and repair the Structures to their approximate original condition.

DATED: 1 May, 1985.

ALBUQUERQUE METROPOLITAN
ARROYO FLOOD CONTROL
AUTHORITY

By

B. H. Swinburne
Chairman, Board of Directors

(SEAL)

ATTEST:

Frances M. McCoy
SECRETARY

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

The foregoing Grant of Easement was acknowledged before me this First day of May, 1985, by B. H. SWINBURNE, Chairman of the Board of Directors of ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY, a political subdivision of the State of New Mexico, on behalf of the political subdivision.

Progr. Flegal
Notary Public

My commission expires:

24 May 1988

Parcel 3

629

BRIDGE PROPERTY

(X)

Beginning at the northwest corner of the parcel herein described from whence the ACS Brass tablet stamped "STA. I-40-11" (New Mexico State Plane Coordinates $y = 1,493,896.47$; $x = 394,232.04$; 0 Angle $0^{\circ} 12' 12''$; ground to grid factor 0.99966715), located on Carlisle Blvd., in the City of Albuquerque, New Mexico, bears $S 33^{\circ} 57' 58'' W$, 352.26 feet and the 1/4 corner common to Sec. 10 and 11, R3E, T10N, N.M.P.M. bears $N 10^{\circ} 13' 14'' W$, 1005.15 feet; thence

S $81^{\circ} 59' 25'' E$ 49.50' to a point; thence
S $29^{\circ} 42' 00'' E$ 147.58' to a point; thence
S $82^{\circ} 24' 44'' W$ 38.37' to a point; thence
N $29^{\circ} 42' 00'' W$ 136.80' to a point; thence
N $37^{\circ} 26' 05'' W$ 26.86' to the point of
beginning.

Said property contains 5520.60 S.F. (0.1267 Acres).

(C)

Bearings shown are NMSP(C) Grid bearings.

AIR SPACE

The "Air Space" is shown as "Parcel 3" on the Map attached as Exhibit B. The Map is a partial copy of a Certificate of Survey, dated April 3, 1985, prepared by DMJM/Adam, Hamlyn, Anderson. The attached Map is incorporated into and made a part of this Grant of Channel Crossing Easement.

EXHIBIT A

PERMISSIBLE VERTICAL ENCROACHMENTS
INTO THE CHANNEL, IF ANY, TO BE
DETERMINED BY AMAFCA WHEN PLANS
ARE SUBMITTED.

