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STATE OF IOWA, Pottawattamie County  
Filed for record this 18<sup>th</sup> day of July  
1977 at 11:20 o'clock A.M. and recorded  
in book 78 page 1094

Donald L. Lemay  
Notary Public  
William Carson  
Deputy

DECLARATION OF EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, GREAT DAY DEVELOPMENT CORPORATION, a corporation, is the owner of record of the following property, hereinafter referred to as "Lots 1 through 4":

✓ Lots 1 through 4, inclusive, Auditor's subdivision of part of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Lot 2 and 4 Auditor's subdivision of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Lot 11 Auditor's subdivision of the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and part of Lot 3 Auditor's subdivision of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 6-T74N-R43W of the 5th P.M., Pottawattamie County, Iowa,

and

WHEREAS, Great Day Development Corporation is the beneficiary of an easement granted by the City of Council Bluffs, Iowa, hereinafter referred to as the "Council Bluffs easement", for the purpose of the construction and maintenance of a roadway and utility right-of-way over and through a portion of relocated Madison Avenue right-of-way, described as:

✓ A road way and utility easement over and through that part of relocated Madison Avenue right-of-way described as follows: Beginning at the most northerly corner of Lot 3, Auditor's Subdivision of part of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Lot 2 and 4, an Auditor's subdivision of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Lot 11, Auditor's Subdivision of the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and part of Lot 3, Auditor's Subdivision of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 6-T74N-R43W of the 5th P.M., Pottawattamie County, Iowa; thence N50°18'19"E (assumed bearing) on the Northeasterly extension of the Northwesterly line of said Lot 3, 53.00 feet; thence S10°51'34"W, 39.34 feet; thence S38°48'44"E on a line 23.00 feet Northeasterly of and parallel to the Northeasterly line of said Lot 3, 297.37 feet to a point of curve; thence Southeasterly on a curve to the right (Radius 192.63 feet, chord bearing S20°38'11"E, chord distance 120.18 feet), an arc distance of 122.22 feet to a point on the Northeasterly line of Lot 4 of said Auditor's Subdivision; thence N30°36'41"W on the Northeasterly line of Lots 4 and 3 of said Auditor's Subdivision, 101.52 feet; thence N38°48'44"W on the Northeasterly line of said Lot 3, 335.72 feet to the point of beginning,

and

WHEREAS, it is prudent and necessary to establish a non-exclusive easement for the purposes of ingress and egress to serve said Lots 1 through 4.

NOW, THEREFORE, Great Day Development Corporation, Grantor herein, for and in consideration of the benefits inuring to it as owner, does hereby covenant and agree, for itself, its successors and assigns, as follows:

1. Great Day Development Corporation, Grantor herein, does hereby establish and create a non-exclusive easement, right and privilege to be used in common with the owners and legal occupants of said Lots 1 through 4 for the purpose of ingress,

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gress and passage upon, over and through any and all portions of the following described property (hereinafter collectively referred to as "Access Easement Area"):

- (a) A roadway easement over that part of Lots 3 and 4, Auditor's Subdivision of part of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Lot 2 and 4, Auditor's subdivision of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  Lot 11, Auditor's subdivision of the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and part of Lot 3, Auditor's Sub-division of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 6-T74N-R43W of the 5th P.M., Pottawattamie County, Iowa, described as follows: Beginning at the most northerly corner of said Lot 3; thence S38 $^{\circ}$ 48'44"E (assumed bearing) on the northeasterly line of said Lot 3, 335.72 feet; thence S30 $^{\circ}$ 36'41"E on the northeasterly line of said Lots 3 and 4, 126.92 feet; thence S00 $^{\circ}$ 59'18"E on the east line of said Lot 4, 109.93 feet; thence S89 $^{\circ}$ 57'38"W on the south line of said Lot 4, 43.50 feet; thence N00 $^{\circ}$ 59'18"W on a line 43.50 feet west of and parallel to the east line of said Lot 4, 126.34 feet to a point of curve; thence northwesterly on a curve to the left (radius 161.63 feet, chord bearing N19 $^{\circ}$ 54'01"W, chord distance 104.77 feet), an arc distance of 106.70 feet to a point of tangency; thence N38 $^{\circ}$ 48'44"W on a line 8.00 feet southwesterly of and parallel to the north-easterly line of said Lot 3, 297.37 feet; thence N78 $^{\circ}$ 21'45"W, 31.40 feet to a point on the north-westerly line of said Lot 3; thence N50 $^{\circ}$ 18'19"E on the northwesterly line of said Lot 3, 28.00 feet to the point of beginning.

and:  
(b) Council Bluffs easement.

Said easements, rights and privileges shall be for the benefit of the owners and occupants of said Lots 1 through 4, inclusive; but the same is not intended nor shall it be construed as creating any rights in and for the benefit of the general public.

2. The easement to Access Easement Area hereinabove granted shall run with the land and shall bind the Grantor herein, and may not be rescinded, altered or modified without the express written consent of the owners of record of Lots 1 through 4, inclusive.

GREAT DAY DEVELOPMENT CORPORATION

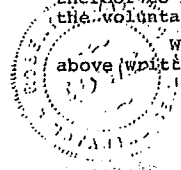
Attest:  
[Signature]  
Secretary

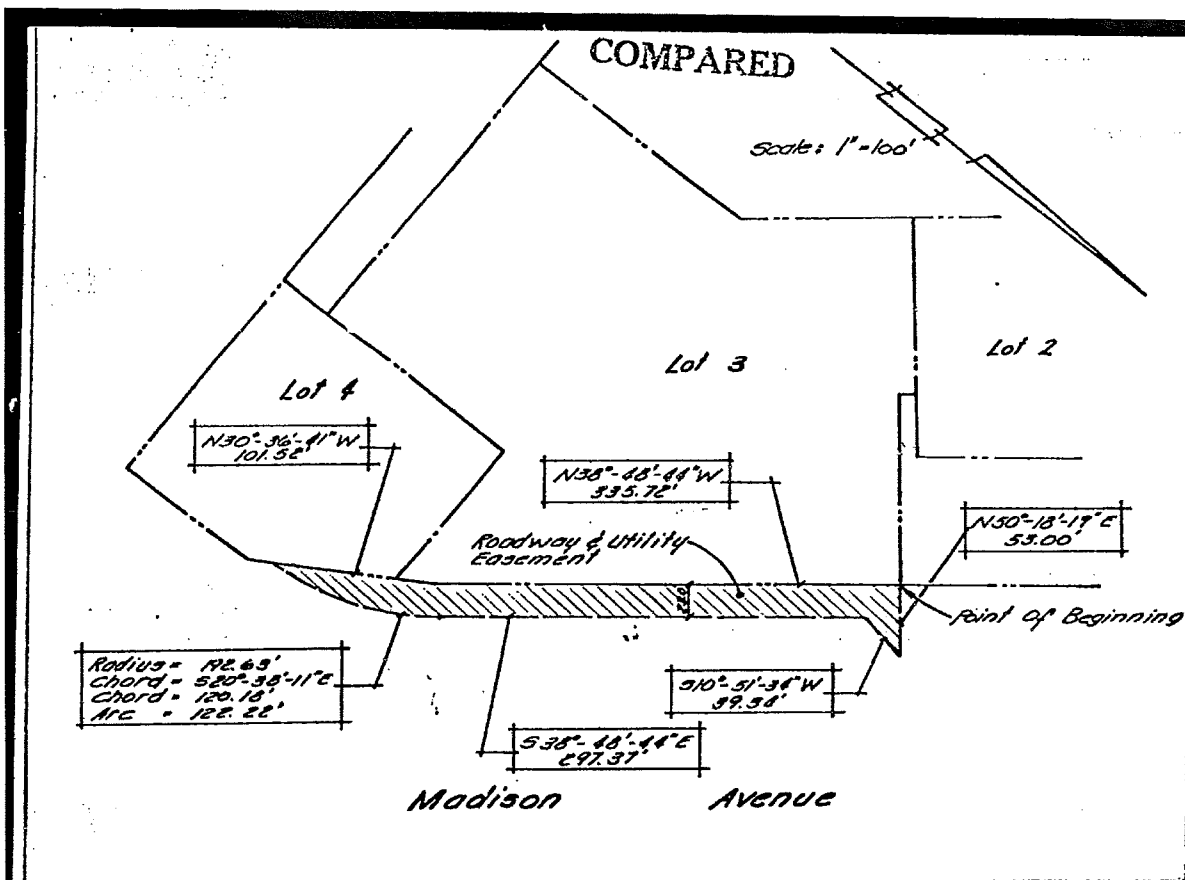
By [Signature]  
President

STATE OF ~~NEBRASKA~~ IOWA )  
POTTAWATTAMIEs. )  
COUNTY OF ~~BOWLER~~ )

On this 24 day of June, 1977, before me, a Notary Public in and for said county, personally appeared [Signature] President, and [Signature] Secretary, of GREAT DAY DEVELOPMENT CORPORATION, to me known to be the identical persons and such officers of said corporation, whose names are affixed to the above and foregoing instrument, and they acknowledged the execution thereof to be their voluntary act and deed as such officers, and the voluntary act and deed of said corporation.

Witness my hand and Notarial Seal the day and year last above written.  
[Signature]  
Notary Public





**LEGAL DESCRIPTION**

✓ A road way and utility easement over and through that part of relocated Madison Avenue right of way described as follows: Beginning at the most northerly corner of Lot 3, Auditor's subdivision of part of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Lot 2 and 4, a Auditor's subdivision of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , Lot 11, Auditor's subdivision of the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and part of Lot 3, Auditor's subdivision of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 6-T74N-R43W of the 5th P.M., Pottawattamie County, Iowa; thence N 50° 18' 19" E (assumed bearing) on the northeasterly extension of the northwesterly line of said Lot 3, 53.00 feet; thence S 10° 51' 34" W, 39.34 feet; thence S 38° 48' 44" E on a line 23.00 feet northeasterly of and parallel to the northeasterly line of said Lot 3, 297.37 feet to a point of curve; thence southeasterly on a curve to the right (Radius 192.63 feet, chord bearing S 20° 38' 11" E, chord distance 120.18 feet), an arc distance of 122.22 feet to a point on the northeasterly line of Lot 4 said Auditor's subdivision; thence N 30° 36' 41" W on the northeasterly line of Lots 4 and 3 said Auditor's subdivision, 101.52 feet; thence N 38° 48' 44" W on the northeasterly line of said Lot 3, 335.72 feet to the point of beginning.