

MAR 17 1969

9597

INST. NO. POLK COUNTY, IOWA FILED FOR RECORD

MAR 20 1969

IRENE H. MALEY RECORDER

AVIGATION EASEMENT

This indenture made this 11 day of March, 1969, by and between RACCOON VALLEY INVESTMENT COMPANY of Des Moines, County of Polk, State of Iowa, hereinafter referred to as Grantor, and the City of Des Moines, a municipal corporation organized and existing under the laws of the State of Iowa, hereinafter referred to as Grantee, witnesseth:

WHEREAS, the Grantee is the owner and operator of the Des Moines Municipal Airport, situated in the said County of Polk, State of Iowa, and in close proximity to the land of the Grantor as hereinafter described and the Grantee desires to obtain and preserve for the use and benefit of the public a right of free and unobstructed flight for aircraft landing upon, taking off from, or maneuvering about the said airport.

NOW, THEREFORE, for and in consideration of the sum of Thirty-five Thousand Dollars (\$35,000.00) and other good and valuable consideration, the receipt whereof by the Grantor is hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey unto the Grantee, its successors and assigns, for the benefit of the general public at large, an easement and right of way for the free unobstructed passage of aircraft, by whomsoever owned or operated, in and through the air space over and across those parts of the Grantor's said land which are bounded and described as follows:

All that part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty (20), Township Seventy-eight (78) north, Range Twenty-four (24) west of the Fifth (5) Principal Meridian that lies within the following

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described line. Beginning at a point that is thirty-three (33) feet north of the south line and fifty (50) feet east of the west line of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), thence northerly, along a line parallel to the west line of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), a distance of four hundred seventy-nine and six tenths (479.6) feet; thence northeasterly, a distance of six hundred seventy-nine and five tenths (679.5) feet, along a straight line, if extended, would intersect the north line of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), at a point that is three hundred twenty (320) feet west of the northeast corner thereof; thence southeasterly, a distance of three hundred seventy-eight (378) feet, to a point on the north line of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), said point being one hundred twenty (120) feet east of the northwest corner thereof; thence southerly, along a line that is parallel to the west line of the Southeast Quarter (SE $\frac{1}{4}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), to a point that is fifty-five (55) feet north of the south line thereof; thence southwesterly, along a straight line, to a point thirty-three (33) feet north of the south line and eighty-two and twenty-five hundredths (82.25) feet east of the west line of the Southeast Quarter (SE $\frac{1}{4}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), thence westerly, along a straight line, to the point of beginning, all now included in and forming a part of the City of Des Moines,

provided, however, that the air space in which said easement and

right of way is herein granted shall be that which lies above a

height determined as follows: (All elevations referred to herein

shall apply to and refer to elevations as determined by United

States Geological Survey measurements.) The existing elevation

of the surface of the center of the paved intersection of McKinley

Avenue and Fleur Drive in Des Moines, Iowa, is 913.84 feet. The

Clear Zone Elevation at that point is 956 feet. The Clear Zone

Elevation shall rise from that point as it proceeds in a northeasterly

direction upon a sliding elevation of 2.5 feet per 100 feet, that the easement extends northeasterly along the center line of said Clear Zone and said Clear Zone Elevation shall extend across said property at right angles to the center line of said Clear Zone as shown on the attached map, Exhibit A.

It is understood that the allowable height as compared to present Ground Elevations shall be at least forty (40) feet except that within the South fifty (50) feet of the east three hundred (300) feet of the subject property, the allowable height as compared to the present Ground Elevation shall not exceed thirty-five (35) feet. Nothing shall be construed to prohibit Grantor from lowering the present Ground Elevations, thereby permitting allowable increased height of structures below the Clear Zone area.

The attached map is incorporated herein and made a part hereof.

And in furtherance of the said easement and right of way the Grantor, for the considerations hereinabove set forth, does hereby grant and convey to the Grantee, its successors and assigns, a continuing right to keep the air space above the aforesaid heights clear and free from any and all fences, crops, trees, poles, buildings, and other obstructions of any kind or nature whatsoever which now extend, or which may at any time in the future extend, above the aforesaid heights of land, together with the right of ingress to, egress from, and passage over the land of the Grantor first above described for the purpose of effecting and maintaining such clearances and of removing any and all obstructions which now or may hereafter extend above the said heights.

To have and to hold said easement and all rights pertaining thereto unto the Grantee, its successors and assigns, until said airport shall be abandoned and shall cease to be used for airport purposes.

And for the consideration hereinabove set forth the Grantor hereby covenants, both for himself and his heirs, executors, administrators and assigns, for and during the life of this easement, as follows:

- (a) Grantors shall not hereafter construct nor permit or suffer to remain upon said land any obstruction that extends above the heights aforesaid, and
- (b) Grantor shall not hereafter use or permit or suffer use of the land first above described in such a manner as to create electrical interference with radio communication between the installation upon the Des Moines Municipal Airport and aircraft or as to make it difficult for flyers to distinguish between airport lights and others, or as a result in glare in the eyes of flyers using the said airport, or as to impair visibility in the vicinity of the airport, or as otherwise to endanger the landing, taking-off or maneuvering of aircraft, and the aforesaid covenants and agreements shall run with the land of the Grantor, as hereinabove described, for the benefit of the Grantee, and its successors and assigns in the ownership and operation of the aforesaid Des Moines Municipal Airport.

It is agreed by the parties hereto that this aviation easement shall take precedence over any previous aviation easements

*g.c.*

entered into by and between the parties hereto and it is specifically understood and agreed that one certain avigation easement dated March 29, 1966, signed between these parties as recorded in the Polk County Recorder's office, Book 3762, Pages 1-4 inclusive is cancelled and terminated and that this easement is being substituted and executed in lieu thereof.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal the day and year first above written.

RACCOON VALLEY INVESTMENT COMPANY  
[Signature] (L.S.)  
E. C. Coppola, President  
\_\_\_\_\_  
(L.S.)

STATE OF IOWA )  
COUNTY OF POLK ) ss:

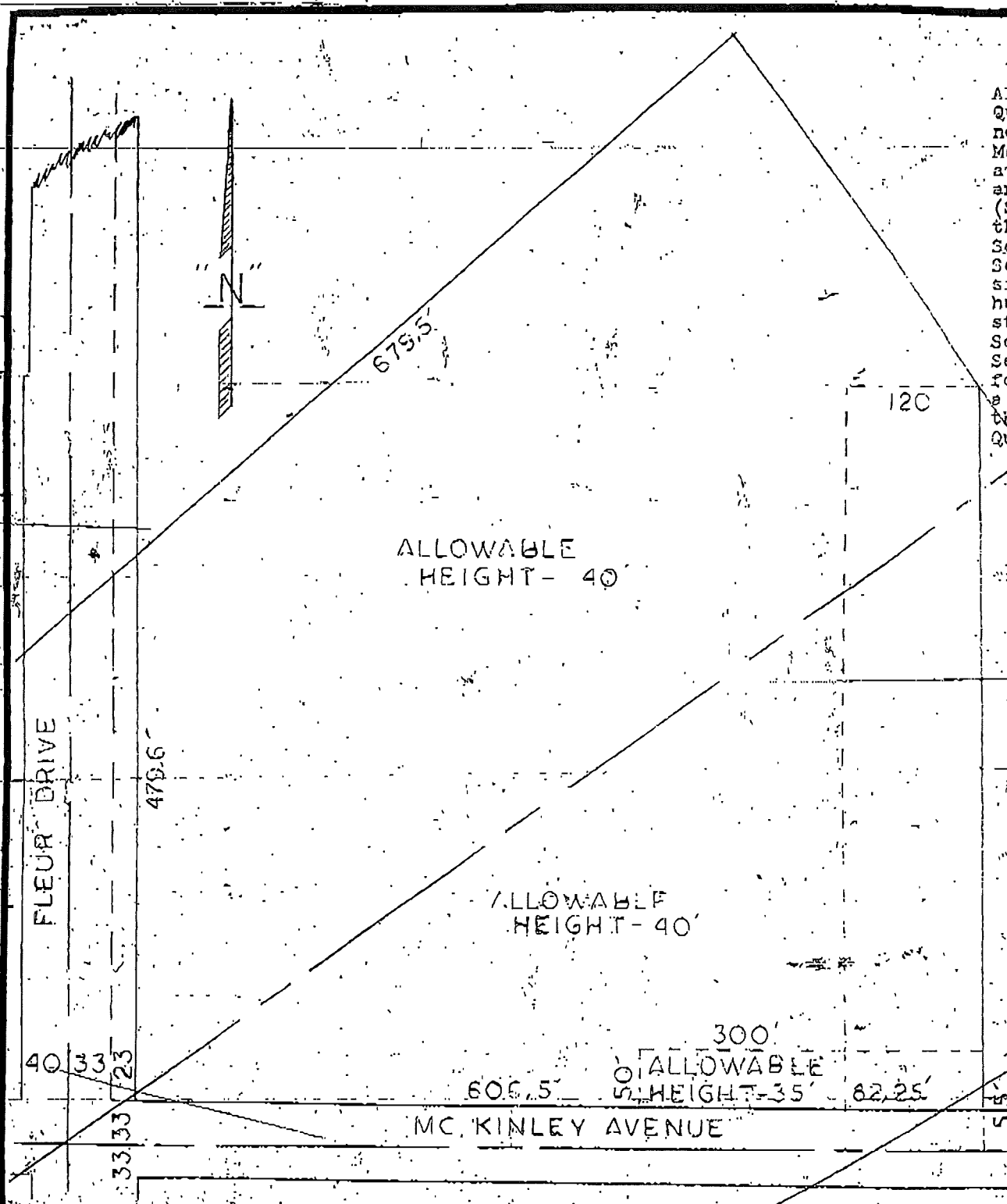
BE IT REMEMBERED, that on this 11 day of March A.D. 1969, before me, John Connolly, a notary public within and for said county personally appeared E. C. Coppola, President and Raccoon Valley Investment Co. known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed for the purpose therein set forth.

SEAL  
Notary Public in and for Polk County, Iowa  
John Connolly  
CITY OF DES MOINES, IOWA  
By \_\_\_\_\_ Mayor

Notary Public in and for Polk County, Iowa  
John Connolly  
CITY OF DES MOINES, IOWA  
By \_\_\_\_\_ Mayor

Form Approved:  
[Signature]  
City Solicitor  
APPROVED:  
[Signature]  
City Manager

Approved:  
\_\_\_\_\_  
Auditor  
Approved:  
[Signature]  
Aviation Director



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ALLOWABLE  
HEIGHT - 40'

ALLOWABLE  
HEIGHT - 40'

300'  
ALLOWABLE  
HEIGHT - 35'

FLEUR DRIVE

MC KINLEY AVENUE

Exhibit "A"

BOOK 4021 PAGE 71



AVIGATION EASEMENT DESCRIPTION

All that part of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section Twenty (20), Township Seventy-eight (78) north, Range Twenty-four (24) west of the fifth (5) Principal Meridian that lies within the following described line: Beginning at a point that is thirty-three (33) feet north of the south line and fifty (50) feet east of the west line of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), thence northerly, along a line parallel to the west line of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), a distance of four hundred seventy-nine and six tenths (479.6) feet; thence northeasterly, a distance of six hundred seventy-nine and five tenths (679.5) feet, along a straight line, if extended, would intersect the north line of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), at a point that is three hundred twenty (320) feet west of the northeast corner thereof; thence southeasterly, a distance of three hundred seventy-eight (378) feet, to a point on the north line of the Southeast Quarter (SE $\frac{1}{4}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), said point being one hundred twenty (120) feet east of the northwest corner thereof; thence southerly, along a line that is parallel to the west line of the Southeast Quarter (SE $\frac{1}{4}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), to a point that is fifty-five (55) feet north of the south line thereof; thence southwesterly, along a straight line, to a point thirty-three (33) feet north of the south line and eighty-two and twenty-five hundredths (82.25) feet east of the west line of the Southeast Quarter (SE $\frac{1}{4}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section Twenty (20), thence westerly, along a straight line, to a point of beginning, all now included in and forming a part of the City of Des Moines.

20

25'

5'

EXHIBIT "A"

DES MOINES MUNICIPAL AIRPORT DES MOINES, IOWA	
AVIGATION EASEMENT RACCOON VALLEY INVESTMENT CO.	
Date 3-3-69	Job No. 5906
Scale 1" = 100	Sheet 1 of 1

Roll Call Number

★ 10271  
Date March 17, 1969

BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa;  
That the attached AVIGATION EASEMENT from RACCOON VALLEY INVESTMENT COMPANY dated March 11, 1969, granting and conveying to the City of Des Moines an easement and right of way for the free unobstructed passage of aircraft, in and through the air space over and across those parts of the Grantor's land which are bounded and described as follows:

All that part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty (20), Township Seventy-eight (78) north, Range Twenty-four (24) west of the Fifth (5) Principal Meridian that lies within the following described line: Beginning at a point that is thirty-three (33) feet north of the south line and fifty (50) feet east of the west line of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section Twenty (20), thence northerly, along a line parallel to the west line of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section Twenty (20), a distance of four hundred seventy-nine and six tenths (479.6) feet; thence northeasterly, a distance of six hundred seventy-nine and five tenths (679.5) feet, along a straight line, if extended, would intersect the north line of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section Twenty (20), at a point that is three hundred twenty (320) feet west of the northeast corner thereof; thence southeasterly, a distance of three hundred seventy-eight (378) feet, to a point on the north line of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section Twenty (20), said point being one hundred twenty (120) feet east of the northwest corner thereof; thence southerly, along a line that is parallel to the west line of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section Twenty (20), to a point that is fifty-five (55) feet north of the south line thereof; thence southwesterly, along a straight line, to a point thirty-three (33) feet north of the south line and eighty-two and twenty-five hundredths (82.25) feet east of the west line of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section Twenty (20); thence westerly, along a straight line, to the point of beginning, all now included in and forming a part of the City of Des Moines,

(Continued)



Roll Call Number

1027

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Date March 17, 1969

be and the same is hereby approved and the Mayor and City Clerk are authorized and directed to execute said Avigation Easement on behalf of the City of Des Moines, Iowa, and payment of the consideration of \$35,000.00 to be made upon notification to the City of Des Moines, Iowa that the Federal Aviation Agency has approved said Avigation Easement.

Moved by Grothe to adopt.

Form approved:

City Solicitor

COUNCIL ACTION:	YEAS	NAYS	PASS	ABSENT
GROSS	✓			
GROTHE	✓			
OLSON	✓			
SCOTT	✓			
VANDER LINDEN	✓			
WOODS	✓			
URBAN	✓			
TOTAL	7			

MOTION CARRIED APPROVED

THOMAS N. URBAN Mayor

CERTIFICATE

I, DONALD H. GERDOM, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Donald H. Gerdon City Clerk