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SUBMITTED_THOMPSON, DREESSEN, & DOR

FILED SARPY CO. NE. INSTRUMENT NUMBER 2016-14557 2016 Jun 21 02:07:57 PM <i>Sheryl J. Rowland</i> REGISTER OF DEEDS



**POST CONSTRUCTION STORMWATER MANAGEMENT PLAN
MAINTENANCE AGREEMENT FOR LAV-20160428-3573-P**

WHEREAS, Cookaroo Investment, LLC, recognizes that stormwater management facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development called **10711 Chandler Road** located in the jurisdiction of City of La Vista, Nebraska; and,

WHEREAS, Cookaroo Investments, LLC, is the owner (hereinafter referred to as "the Owner") of the property described on Exhibit A-1 and Exhibit B-1, attached hereto and made a part hereof (hereinafter referred to as "the Property"), and,

WHEREAS, City of La Vista (hereinafter referred to as "the City") requires and the Property Owner, or its administrators, executors, successors, heirs, or assigns, agree that the health, safety and welfare of the citizens of the City require that the facilities be constructed and maintained on the property, and,

WHEREAS, the Post Construction Stormwater Management Plan, **LAV-20160428-3573-P,** (hereinafter referred to as "PCSMP"), be constructed and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns, and

NOW, THEREFORE, in consideration of the foregoing premises, the covenants contained herein, and the following terms and conditions, the property owner agrees as follows:

1. The facility shall be constructed by the Owner in accordance with the PCSMP, which has been reviewed and accepted by the City or its designee.
2. The Owner must develop and provide the "BMP Maintenance Requirements", per the attached Exhibit "B", which have been reviewed and accepted by the City or its designee. The BMP Maintenance Requirements shall describe the specific maintenance practices to be performed for the facilities and include a schedule for implementation of these practices. The Plan shall indicate that the facility or facilities shall be inspected by a professional qualified in stormwater BMP function and maintenance at least annually to ensure that it is operating properly. A written record of inspection results and any maintenance work shall be maintained and available for review by the City for a period of three (3) years.

3. The Owner, its administrators, executors, successors, heirs, or assigns, shall construct and perpetually operate and maintain, at its sole expense, the facilities in strict accordance with the attached BMP Maintenance Requirements accepted by the City or its designee.
4. The Owner, its administrators, executors, successors, heirs, or assigns hereby grants permission to the City, its authorized agents and employees, to enter upon the property and to inspect the facilities whenever the City deems necessary. The City shall provide the Owner copies of the inspection findings and a directive to commence with the repairs if necessary. The City will require the Owner to provide, within 7 calendar days, a written response addressing what actions will be taken to correct any deficiencies and provide a schedule of repairs within a reasonable time frame. Whenever possible, the City shall provide notice prior to entry. The City shall indemnify and hold the Owner harmless from any damage by reason of the City's or its employees, contractors or agents negligent acts during such entry upon the property.
5. The Owner its administrators, executors, successors, heirs, or assigns, agrees that should it fail to correct any defects in the facility or facilities within reasonable time frame agreed to in the response by the Owner for corrective actions, or shall fail after 30 days' notice from City to Owner, to maintain the structure in accordance with the attached BMP Maintenance Requirements and with the law and applicable executive regulation or, in the event of an emergency as determined by the City or its designee in its sole discretion, the City or its designee is authorized to enter the property to make all reasonable repairs, and to perform all reasonable maintenance, construction and reconstruction. Notwithstanding the foregoing, the City shall indemnify and hold the Owner harmless from any damage by reason of the City's or its employees, contractors or agents negligence during such entry upon the property.
6. The City or its designee shall have the right to recover from the Owner any and all reasonable costs the City expends to maintain or repair the facility or facilities or to correct any operational deficiencies subject to the provisions of the immediately preceding sentence relating to negligent acts of the City. Failure to pay the City or its designee all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. The City or its designee shall thereafter be entitled to bring an action against the Owner to pay, or foreclose upon the lien hereby authorized by this agreement against the property, or both. Interest, collection costs, and reasonable attorney fees shall be added to the recovery to the successful party.
7. The Owner shall not obligate the City to maintain or repair the facility or facilities, and the City shall not be liable to any person for the condition or operation of the facility or facilities, unless caused by the City or its employees, contractors or agents.
8. The Owner, its administrators, executors, successors, heirs, or assigns, hereby indemnifies and holds harmless the City and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims that may arise or be asserted against the City from the construction, presence, existence or maintenance of the facility or facilities by the Owner unless caused by the City or its employees, contractors or agents. In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Owner and the Owner shall defend at its own expense any suit unless caused by the City or its employees, contractors or agents.

9. Based on such claim unless due solely to the negligence or wrongful act of the City in which event the City shall be required to defend any such suit at its own expense. Notwithstanding the foregoing, if any claims are made against both the City and the Owner, each will be required to defend any such suit or claim against it at its own expense. Each shall be responsible for payment of any recovery to the extent determined in such suit. If any judgment or claims against the City, its authorized agents or employees shall be allowed, the Owner shall pay for all costs and expenses in connection herewith except to the extent of the negligent or wrongful act of the City.
10. The Owner shall not in any way diminish, limit, or restrict the right of the City to enforce any of its ordinances as authorized by law.
11. This Agreement shall be recorded with the Register of Deeds of Sarpy County, Nebraska and shall constitute a covenant running with the land and shall be binding on the Owner, its administrators, executors, successors, heirs, or assigns, including any homeowners or business association and any other successors in interest.

Dated this 16 day of June, 2016.

Cookaroo Investments, LLC.
 A Nebraska Limited Liability Company,
 Its Member

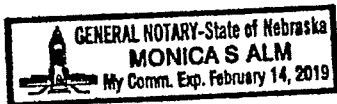
By: **AMC Industrial, LLC.**

By: _____

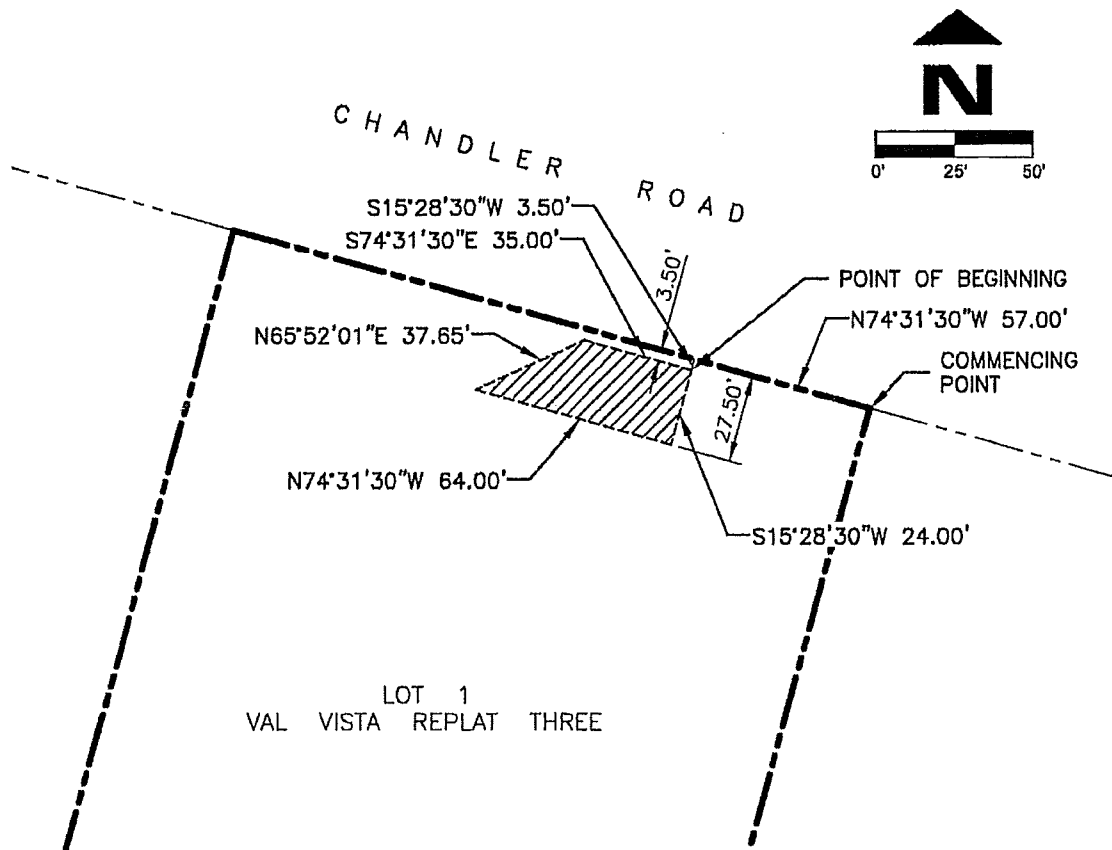
Andy Mallory, Member of AMC Industrial, LLC.

State of Nebraska)
)ss.
 County of Sarpy)

The foregoing agreement was acknowledged before me this 16 day of June, 2016 by Andy Mallory, Member of AMC Industrial, LLC.



Monica S Alm
 Notary Public



LEGAL DESCRIPTION

THAT PART OF LOT 1, VAL VISTA REPLAT THREE, A SUBDIVISION IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS; COMMENCING AT THE NE CORNER OF SAID LOT 1;

THENCE N74°31'30"E (ASSUMED BEARING) 57.00 FEET ON THE NORTH LINE OF SAID LOT 1;

THENCE S15°28'30"W 3.50 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING S15°28'30"W 24.00 FEET;

THE THENCE N74°31'30"W 64.00 FEET ON A LINE 27.50 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID LOT 1;

THENCE N65°52'01"E 37.65 FEET;

THENCE S74°31'30"E 35.00 FEET ON A LINE 3.50 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID LOT 1 TO THE POINT OF BEGINNING.



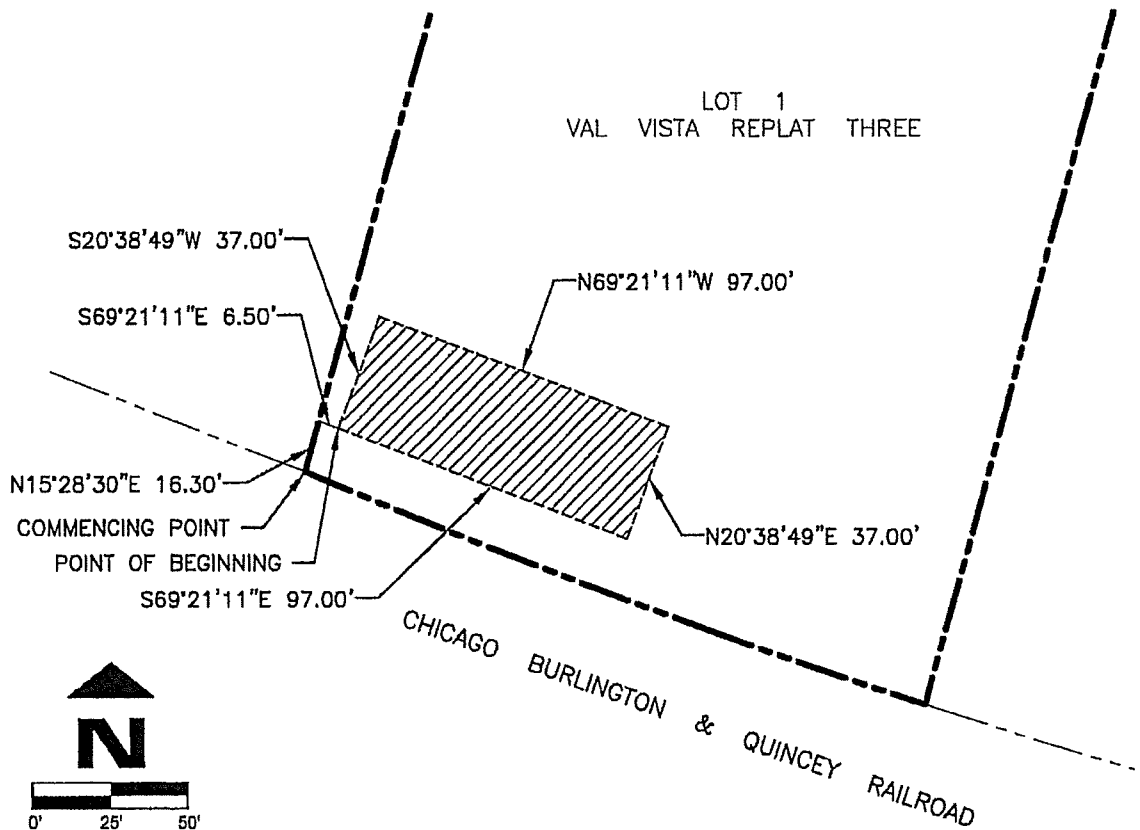
Job Number: 1691-105-EXA
 thompson, dreessen & dornier, inc.
 10836 Old Mill Rd
 Omaha, NE 68154
 p.402.330.8860 f.402.330.5866
 td2co.com

Date: MAY 3, 2016
 Drawn By: RJR
 Reviewed By: DHN
 Revision Date:

EXHIBIT "A-1"

ELITE GLASS

Book
 Page



LEGAL DESCRIPTION

THAT PART OF LOT 1, VAL VISTA REPLAT THREE, A SUBDIVISION IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS; COMMENCING AT THE SW CORNER OF SAID LOT 1;

TENCE N15°28'30"E (ASSUMED BEARING) 16.30 FEET ON THE WEST LINE OF SAID LOT 1;

TENCE S69°21'11"E 6.50 FEET TO THE POINT OF BEGINNING;

TENCE CONTINUING S69°21'11"E 97.00 FEET;

THE TENCE N20°38'49"E 37.00 FEET;

TENCE N69°21'11"W 97.00 FEET;

TENCE S20°38'49"W 37.00 FEET TO THE POINT OF BEGINNING.



Job Number: 1691-105-EXA
 thompson, dressen & dornier, inc.
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EXHIBIT " B-1 "

ELITE GLASS

Book
 Page

Exhibit "B"
BMP Maintenance Plan
Elite Glass
10711 Chandler Road
Omaha, Ne 68164
OMA-20160428-3573-P

I. GENERAL BMP INFORMATION

BMP ID Name	Location	Legal Description
BRB-1	See Exhibit 'A-1'	See Exhibit 'A-1'
BRB-2	See Exhibit 'B-1'	See Exhibit 'B-1'

II. BMP SITE LOCATION MAP
 See Exhibit 'A'

III. ROUTINE MAINTENANCE TASKS AND SCHEDULE

BMP Type (Bio-Retention Basin)	
Task	Schedule
Inspect for accumulation of trash, leaves, and other debris and remove as required	Weekly during mowing season (March – October)
Inspect after rainfall events to determine if the system is draining properly	After rainfall events of 1" per 24 hour period or greater
Remove weeds and maintain plantings	Monthly during mowing season (March – October)
Remove and replace amended soil	As Needed (When evidence of plugging is apparent)

IV. MAINTENANCE INSPECTION REPORTS

Annual maintenance inspection reports must be commissioned by the property owner and provided to the City upon request. The first report shall be conducted one year following the final acceptance date of the Post Construction Stormwater Management Plan and each year thereafter on or before the acceptance anniversary date. All maintenance activities and inspection reports must be kept on file with the property owner for a minimum of five years.

Note: Per City of Omaha requirements, annual maintenance inspection reports shall be performed by a registered Nebraska professional engineer, architect, or qualified professional.