



MISC 2016094770



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2016094770

**POST CONSTRUCTION STORMWATER MANAGEMENT PLAN  
MAINTENANCE AGREEMENT AND EASEMENT  
OMA20160620-3627-P**

**WHEREAS, Lanoha 1207 Cass, L.L.C.,** recognizes that storm water management facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development called **1207 Cass Street** located in the jurisdiction of the City of Omaha, Douglas County, Nebraska; and,

**WHEREAS, Lanoha 1207 Cass, L.L.C.,** is the owner (hereinafter referred to as "the Owner") of the property described on Exhibit A and Exhibit A-1, attached hereto and made a part hereof (hereinafter referred to as "the Property"), and,

**WHEREAS, the City of Omaha** (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 Storm water Management Plan, OMA20160620-3627-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 of Omaha or its designee.
2. The Owner must develop and provide the "BMP Maintenance Requirements", per attached Exhibit "B", which have been reviewed and accepted by the City of Omaha 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.

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 of Omaha or its designee.
4. During construction of the facilities, 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 of Omaha 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 of Omaha or its designee in its sole discretion, the City of Omaha 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 of Omaha or its designee shall have the right to recover from the Owner any and all reasonable costs the City of Omaha 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 of Omaha or its designee all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. The City of Omaha 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 of Omaha to maintain or repair the facility or facilities, and the City of Omaha shall not be liable to any person for the condition or operation of the facility or facilities, unless caused by the City of Omaha 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 of Omaha 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 of Omaha 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 of Omaha 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 of Omaha to enforce any of its ordinances as authorized by law.
11. This Agreement shall be recorded with the Register of Deeds of Douglas 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 7<sup>th</sup> day of September, 2016.

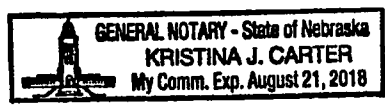
Lanoha 1207 Cass, L.L.C.

By: *Jason P. Lanoha*  
 Jason Lanoha, Managing Member

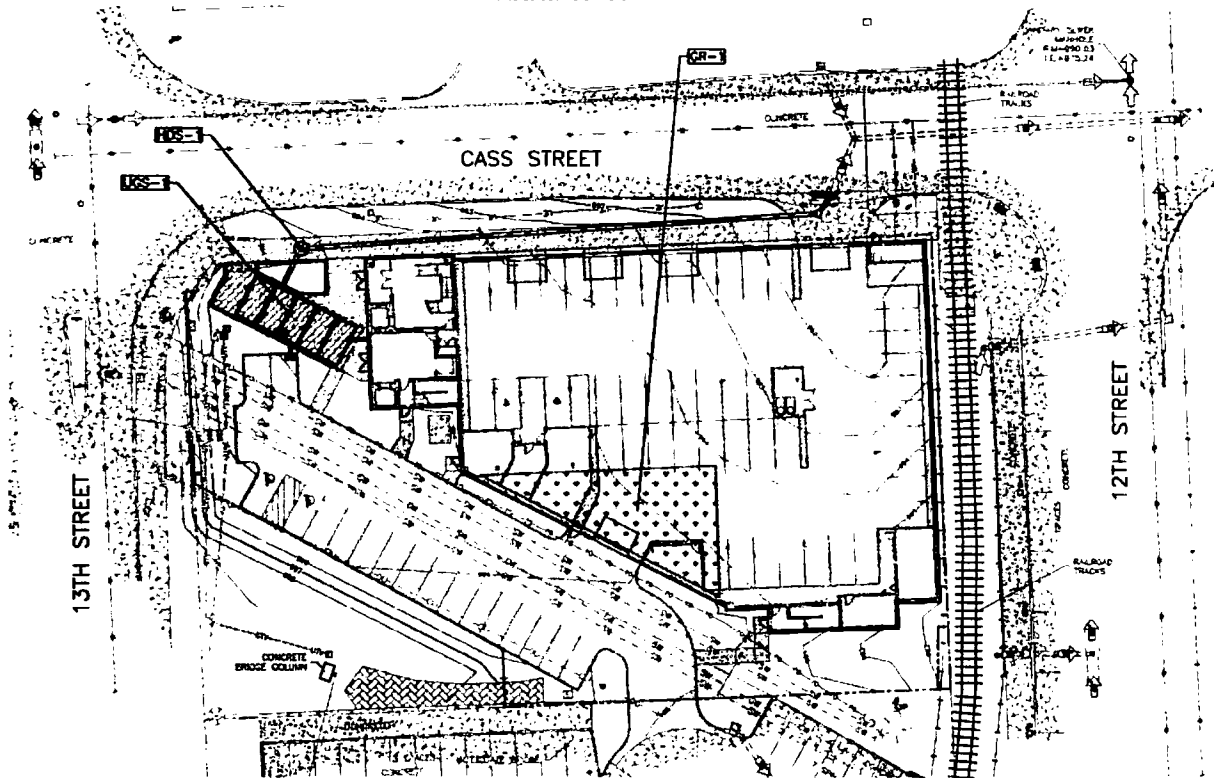
State of Nebraska            )  
   )ss.  
 County of Douglas         )

The foregoing agreement was acknowledged before me this 7<sup>th</sup> day of September, 2016 by Jason Lanoha, Managing Member, of Lanoha 1207 Cass, L.L.C..

*Kristina J. Carter*  
 Notary Public



**EXHIBIT 'A'**



**PROJECT INFORMATION**

**Legal Description:** Lot 1, Union Pacific Place, Replat Six in Douglas County, Nebraska

**Property Address:** 1207 Cass Street  
Omaha, NE 68102

**Subdivision Name:** Union Pacific Place, Replat Six

**Section:** SE 15-15-13

**APPLICANT INFORMATION**

**Business Name:** Lanoha 1207 Cass, L.L.C.

**Business Address:** 19111 West Center Road  
Omaha, NE 68130

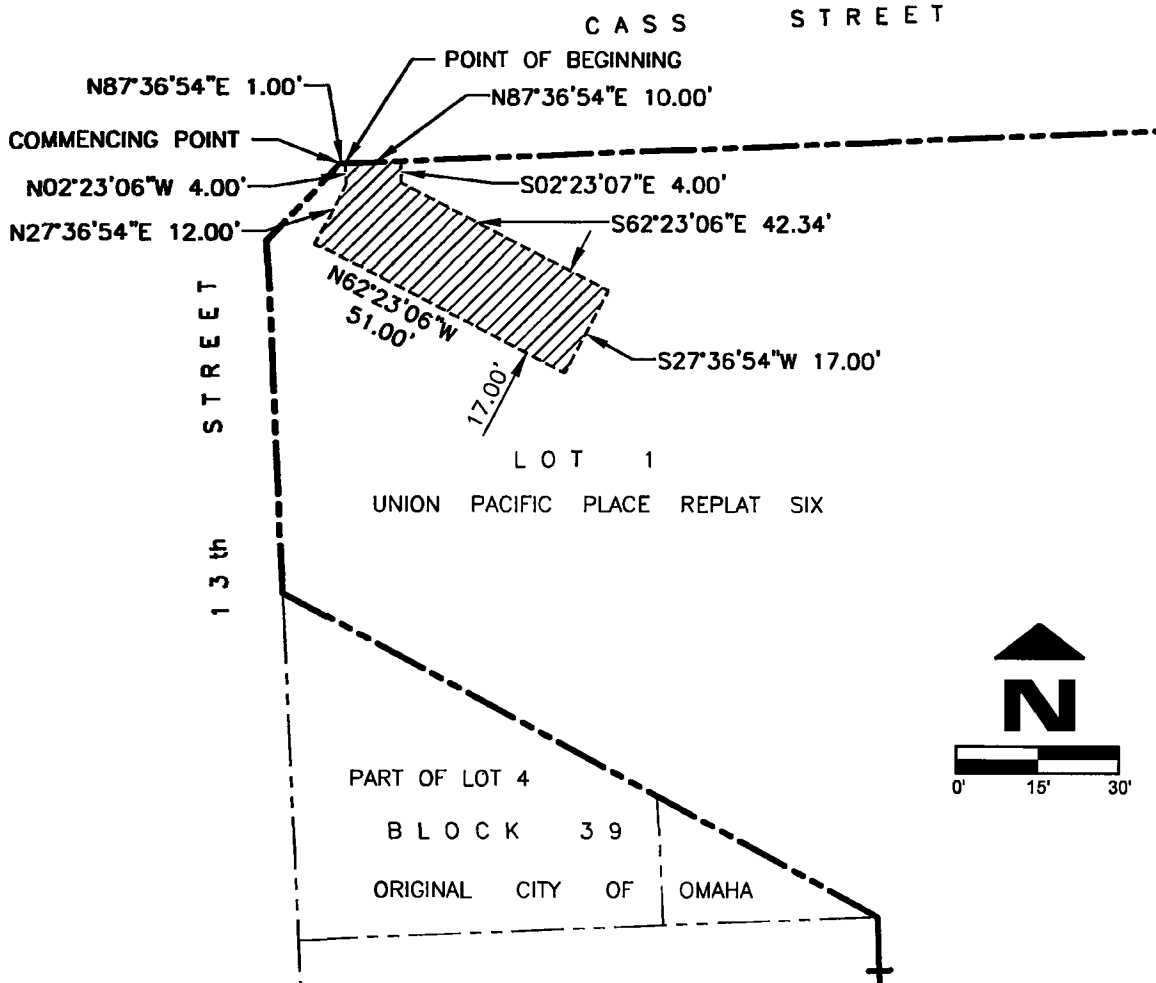
**Representatives Name:** Mr. Jason Lanoha

**Representative's Email:** jlanoha@lanohadevelopment.com

**Representative's Phone:** (402) 289-5528

**BMP INFORMATION**

Name	Description	Latitude/Longitude
HDS-1	Stormceptor 450i	N 41.263620°, W 95.932830°
UGS-1	StormCapture Modules	N 41.263550°, W 95.932830°
GR-1	Green Roof	N 41.263330°, W 95.932430°



**LEGAL DESCRIPTION**

PART OF LOT 1, UNION PACIFIC PLACE REPLAT SIX, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA. DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID LOT 1;

THENCE N87°36'54"E (ASSUMED BEARING) 1.00 FEET ON THE NORTH LINE OF SAID LOT 1 TO THE POINT OF BEGINNING;

THENCE CONTINUING N87°36'54"E 10.00 FEET ON THE NORTH LINE OF SAID LOT 1;

THENCE S02°23'07"E 4.00 FEET; THENCE S62°23'06"E 42.34 FEET;

THENCE S27°36'54"W 17.00 FEET; THENCE N62°23'06"W 51.00 FEET;

THENCE N27°36'54"E 12.00 FEET; THENCE N02°23'06"W 4.00 FEET TO THE POINT OF BEGINNING.



Job Number: 748-539-EX1  
 thompson, dreessen & dornier, inc.  
 10836 Old Mill Rd  
 Omaha, NE 68154  
 p.402.330.8860 f.402.330.5866  
 td2co.com

Date: AUGUST 5, 2016  
 Drawn By: RJR  
 Reviewed By: DHN  
 Revision Date:

**EXHIBIT "A-1"**

ALLEY POYNER MACCHIETTO

Book  
 Page

**Exhibit "B"**

**BMP Maintenance Plan  
1207 Cass Street  
Lot 1, Union Pacific Place, Replat Six  
OMA20160620-3627-P**

**I. GENERAL BMP INFORMATION**

<b>BMP ID Name</b>	<b>Location</b>	<b>Legal Description</b>
HDS-1	See Exhibit 'A'	In Cass Street R.O.W.
UGS-1	See Exhibit 'A'	See Exhibit 'A-1'
GR-1	See Exhibit 'A'	Not Applicable

**II. Routine Maintenance Tasks and Schedule**

**STORMCEPTOR 450i**

**Monthly**

- Remove Manhole Cover and visually inspect upper chamber fiberglass insert weir and inlet for floatable objects capable of plugging the inlet to lower chamber. Remove and legally dispose of any debris present in the upper chamber.
- Open 6" Oil Inspection/Cleanout Pipe and visually inspect lower chamber water surface for oil sheen. Remove accumulation of free oil as needed. Free oil removal should be accomplished by a vacuum service provider and legally disposed.

**Quarterly**

- In addition to the Monthly tasks, inspect the lower chamber for sediment accumulation. Depth of sediment may be measured from the surface with a dipstick tube equipped with a ball check. Sediment should be removed from the lower chamber once the sediment depth reaches 8". Sediment removal should be accomplished by a vacuum service provider and legally disposed.

**Yearly**

- Sediment should be removed from the lower chamber once the sediment depth reaches 8" or once every three (3) years, whichever occurs first. Sediment removal should be performed by a vacuum service provider and legally disposed.

**STORMCAPTURE MODULES**

**Monthly**

- Enter StormCapture Modules through access manhole and visually inspect for debris and sediment. Remove any debris and wash sediment to downstream StormCeptor Manhole. Check weir to ensure openings are not blocked with debris.

## **GREEN ROOF**

### **Short-Term: Installation to Year 1**

1. A goal of 90% vegetated coverage should be achieved within 6 months for Green Roofs installed at the beginning of the growing season (Spring).
2. Temporary irrigation may be required in order to establish vegetation. A permanent irrigation system may be needed, depending on vegetation selection in the Green Roof system.
3. Monthly weeding of the Green Roof during Year 1 is recommended to deter weed seedlings and saplings from establishing.
4. All drainage outlets and/or overflows should be inspected after any rain event exceeding 0.50 inches during the first year of installation. The purpose of this inspection is to ensure the flow of excess stormwater from the roof surface. During vegetation establishment, these outlets are more susceptible to clogging.

### **Long-Term: Year 1 to Later**

1. Biannual weeding of the Green Roof is recommended to deter weed seedlings and saplings from establishing.
2. Conduct annual surveys to verify that the waterproofing system remains watertight below the vegetated cover.
3. All drainage outlets and/or overflows should be inspected at least two times per year. The purpose of this inspection is to ensure the flow of excess stormwater from the roof surface.
4. After vegetation is well established, it is recommended to fertilize the system only as needed, and not at an interval more frequent than every other year. Fertilization at this interval allows the content of nutrient in the substrate to become exhausted, and can therefore enhance vegetation growth and appearance. Attention should be paid to the impact any fertilization will have to the overall water quality of stormwater runoff from the Green Roof system.

### **III. Maintenance Inspection Reports.**

The Property Owner shall perform maintenance and inspection in accordance with the above table. A written report of all maintenance and inspections shall be prepared annually and kept on file by the Owner. The first report shall be prepared within 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. Annual maintenance inspection reports shall be performed by a registered Nebraska professional engineer, architect, or qualified professional. Upon request of the City, the Owner shall provide copies of the annual maintenance inspection reports.