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Register of Deeds, Douglas County, NE
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**POST CONSTRUCTION STORMWATER MANAGEMENT PLAN
MAINTENANCE AGREEMENT AND EASEMENT**

WHEREAS, Lot 9 LLC (hereinafter referred to as "Owner") recognizes that stormwater management facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development called Lot 9 Apartments located in the jurisdiction of the City of Omaha, Douglas County, Nebraska; and,

WHEREAS, Owner is the owner of the property described on Exhibit 'A', 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 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, OPW51963-PCSMP, (hereinafter referred to as "PCSMP") should be constructed and maintained by the 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 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", attached hereto as 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 BMP Maintenance Requirements 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 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 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 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 a reasonable time frame agreed to in the response by the Owner for corrective actions, or shall fail 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 repairs, and to perform all maintenance, construction and reconstruction as the City or its designee deems necessary. Notwithstanding the foregoing, the City shall indemnify and hold the Owner harmless from any damage by reason of the City's negligent acts 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 this 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 City shall not be obligated 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.
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. 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 based on such claim unless due solely to the negligence of the City in which event the City shall be required to defend any such suit at its own expense.

9. Based on such claim unless due solely to the negligence 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 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.

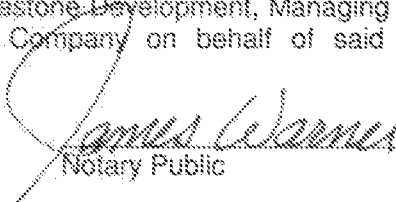
Dated this 3rd day of May, 2011.

Lot 9 L.L.C., A Nebraska Limited Liability Company
By: Bluestone Development, Managing Member

By: 
 Christian Christensen, President

State of Nebraska)
)ss
 County of Douglas)

The foregoing agreement was acknowledged before me this 3rd day of May, 2011 by Christian Christensen, President of Bluestone Development, Managing Member of Lot 9 L.L.C., a Nebraska Limited Liability Company on behalf of said Limited Liability Company.


 Notary Public

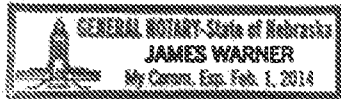
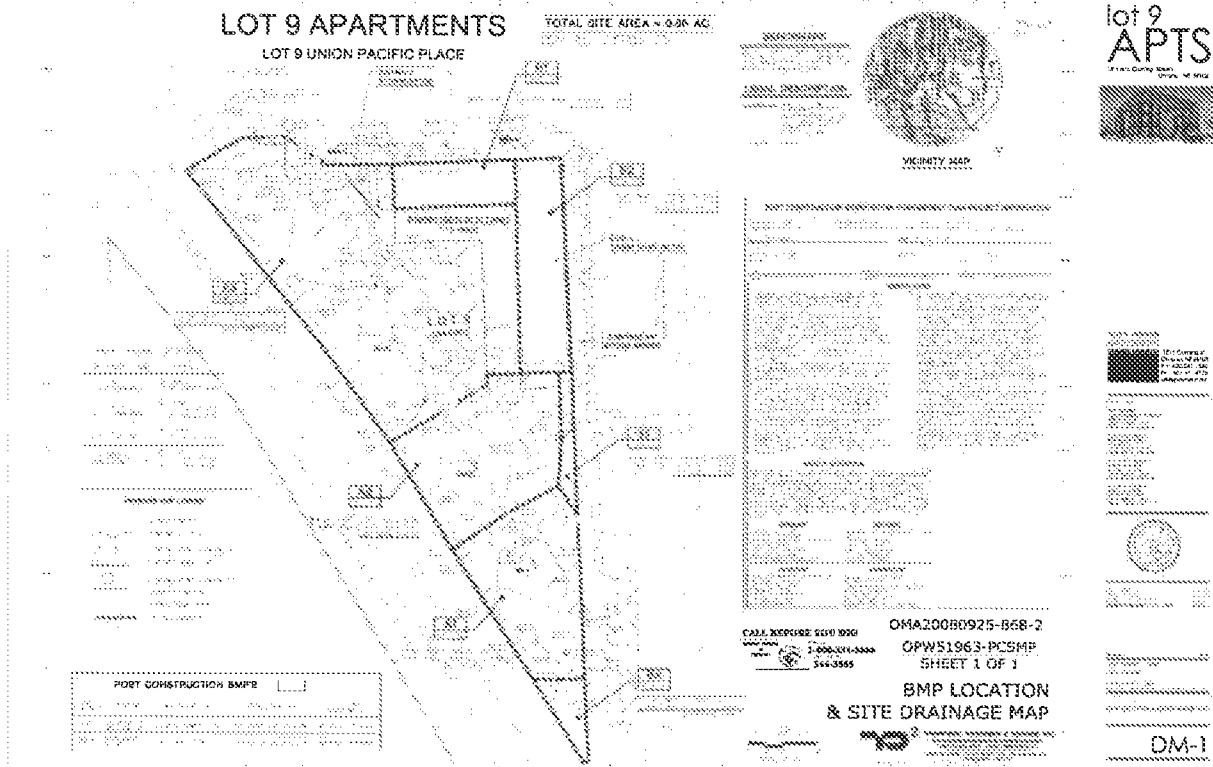


Exhibit "A"



PROJECT INFORMATION

Legal Description: Unit One, Unit Two, Unit Three and Unit Four, Lot 9 Mixed Use Condominium, a condominium created by Condominium Declaration recorded in the office of the Register of Deeds of Douglas County, Nebraska on April 27, 2011 as Instrument No. 2011036340

Property Address: 1313 Cuming Street,
Omaha, Nebraska 68183

Subdivision Name: Union Pacific Place

Section: SE 1/4 15-15-13

APPLICANT INFORMATION

Business Name: Lot 9 L.L.C., C/O Bluestone Development

Business Address: 701 South 15th Street Studio 100
Omaha, NE 68102

Representative's Name: Christian Christensen

Representative's E-mail Address: christian@bluestonedev.com

Representative's Phone Number: (402) 345-2408

Representative's Fax Number: (402) 345-2414

BMP INFORMATION

Name	Identifier	Latitude/ Longitude	State Plane Coords.
SWTM-1	Storm Water Treatment MH	N41°16'03.80", W95°56'01.00"	N548762, E2757544
RIF-1	Roof Inlet Filter	N41°16'03.28", W95°56'00.03"	N548712, E2757620

Exhibit "B"

**BMP Maintenance Plan
 Lot 9 Apartments
 Lot 9 Union Pacific Place
 OMA20080925-868-2
 OPW51963-PCSMF**

I. General BMP Information

BMP ID Name	Location	Location Description
SWTMH-1	See Exhibit 'A'	In Street ROW, NW of Building Corner
RIF-1	See Exhibit 'A'	On Roof, East side

II. BMP Site Location Map (See Exhibit 'A')

III. Routine Maintenance Tasks and Schedule

Stormceptor® Maintenance Tasks and Schedule

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 of.

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 of.

Yearly

- Sediment should be removed from the lower chamber at least once a year to preclude compaction and solidification of the sediment, which makes sediment removal more difficult. Sediment removal should be by a vacuum service provider and legally disposed of.

Roof Inlet Filter Maintenance Tasks and Schedule

Quarterly

- Inspect and clean out filter. Replace filter as necessary.

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. Annual maintenance inspection reports shall be performed by a registered Nebraska professional engineer, architect, or qualified professional.

Maintain a record log of all inspections which should include, at a minimum, the following information;

1. Date the inspection occurred.
2. Name of the inspector.
3. Measurements taken and any observations made.
4. Action taken including any scheduled cleanouts and or filter replacements.