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Register of Deeds, Douglas County, NE  
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AFTER RECORDING, RETURN TO  
Dawn MacKinnon, Esq.  
HOLME ROBERTS & OWEN LLP  
1700 Lincoln, Suite 4100  
Denver, Colorado 80203

**POST CONSTRUCTION STORMWATER MANAGEMENT PLAN  
MAINTENANCE AGREEMENT AND EASEMENT**

WHEREAS, The Property Owner recognizes that stormwater management facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development called Crown Industrial Park, located in the jurisdiction of the City of Omaha, Douglas County, Nebraska; and,

WHEREAS, the Property Owner (whether one of more) is the owner of real property depicted on Exhibit "A" (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 Stormwater Management Plan, Public Works Department project number OPW 51701-PCSMP, (hereinafter referred to as "PCSMP"), be constructed and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns.

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 or facilities shall be constructed by the Property Owner in accordance with the PCSMP, which has been reviewed and accepted by the City of Omaha or its designee. The Property Owner hereby reserves the right to continue to use the land within the easement area for any uses or purposes which do not materially interfere with the use or operation of the facilities or the BMP MAINTENANCE REQUIREMENTS (as defined herein).

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2. The Property Owner must develop and provide the "BMP MAINTENANCE REQUIREMENTS", attached hereto as Exhibit "B", which has 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 qualified professional at least annually to ensure that it is operating properly.
3. The Property 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. The Property 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; provided, however, any such access by the City onto the Property shall be limited to paved areas and any pervious areas around the facilities to the extent reasonably necessary to inspect, repair and maintain the facilities. Whenever possible, the City shall provide notice prior to entry.
5. The Property Owner its administrators, executors, successors, heirs, or assigns, agrees that should it fail to correct any defects in the facility or facilities within time frame allowed in the issuance of written notice, 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 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 repairs, and to perform all maintenance, construction and reconstruction as the City of Omaha or its designee deems necessary. The City of Omaha or its designee shall then recover from the Property Owner any and all costs the City of Omaha expends to maintain or repair the facility or facilities or to correct any operational deficiencies. 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 Property Owner to pay, or foreclose upon the lien hereby authorized by the agreement against the Property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.
6. The Property 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.
7. The Property 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 Property Owner or the City, unless such damages, accidents, casualties, occurrences or claims are caused by the gross negligence or willful misconduct of the City or its authorized agents or employees. In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend at its own expense any

suit based on such claim. If any judgment or claims against the City, its authorized agents or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection herewith, unless such claims are caused by the gross negligence or willful misconduct of the City or its authorized agents or employees.

8. The Property 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.
9. In case the ownership of the Property transfers, the current Property Owner shall, within 30 working days of transfer of ownership, notify the City of Omaha Stormwater Department of such ownership transfer. If the current owner fails to notify the City of Omaha Stormwater Department of ownership transfer, the responsible party in this agreement will remain liable for all stormwater management costs and maintenance.
10. 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 Property Owner, its administrators, executors, successors, heirs, or assigns, including any homeowners association and any other successors in interest.

IN WITNESS WHEREOF, the Property Owner has executed this agreement this 26  
day of February, 2010.

SOUTH 72ND STREET ASSOCIATES, LLC, a Delaware limited liability company

By: 72nd Street Partners, LLC, a Colorado limited liability company, its Managing Member

By: Alliance Real Estate Value Fund III, LLC, a Delaware limited liability company, its Manager

By: AVF Management, LLC, a Colorado limited liability company, its Managing Member

By: David E. Ramsay  
Name: David E. Ramsay  
Title: Voting Member

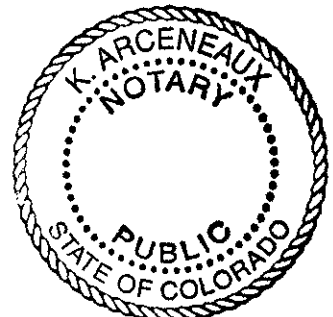
STATE OF COLORADO     )  
  ) ss.  
COUNTY OF JEFFERSON    )

Before me, the undersigned Notary Public in and for said county and state appeared DAVID E. RAMSAY, Voting Member of AVF Management, LLC, a Colorado limited liability company, Managing Member of Alliance Real Estate Value Fund III, LLC, a Delaware limited liability company, Manager of 72<sup>nd</sup> Street Partners, LLC, a Colorado limited liability company, Managing Member of South 72<sup>nd</sup> Street Associates, LLC, a Delaware limited liability company known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed on behalf of said limited liability company.

WITNESS my hand and Notarial Seal this 26 day of February, 2010.

K. Arceneaux  
Notary Public

My commission expires: 4/7/10



**LENDER CONSENT AND SUBORDINATION**

The undersigned, as the current beneficiary of the Deed of Trust, Security Agreement and Financing Statement (With Assignment of Rents) dated June 20, 2007, from SOUTH 72<sup>ND</sup> STREET ASSOCIATES, LLC, a Delaware limited liability company, to Fidelity National Title Insurance Company, for the benefit of PNC BANK, NATIONAL ASSOCIATION, successor to National City Bank recorded in the real property records of Douglas County, Nebraska on July 10, 2007, Instrument No. 2007077417 (the "Deed of Trust"), hereby consents to the foregoing Post Construction Stormwater Management Plan Maintenance Agreement and Easement (the "Agreement") and agrees that the lien of the Deed of Trust shall be subject and subordinate thereto as if the Agreement had been executed and recorded prior to the Deed of Trust (provided, however, that the undersigned is not subordinating the lien of its Deed of Trust to any Statement of Lien that may hereafter be recorded pursuant to the Agreement).

PNC BANK, NATIONAL ASSOCIATION

By: James Harman  
Name: James A. Harman  
Title: Vice President

STATE OF OHIO )  
 ) ss.  
COUNTY OF HAMILTON )

The foregoing instrument was acknowledged before me this 25<sup>TH</sup> of February, 2010 by James A Harman, as Vice President of PNC Bank, National Association.

Witness my hand and official seal.

(Notarial Seal) Judy T. Meader  
Notary Public

My commission expires: 8-16-2013



**JUDY T. MEADER**  
Notary Public  
State of Ohio  
My Commission Expires August 16, 2013

**Exhibit "A"**  
**Real Property Depiction**

PARCEL ID	0124370000	SEC-TWN-RNG	01-14-12
OWNER NAME	South 72 <sup>nd</sup> Street Associates	ADDITION	Lands
CITY	Omaha	Lot	
ZIP	68127	LEGAL 1	-EX IRREG PTS FOR RWYS & IRREG N85
OWNER ADDRESS	c/o Alliance Commercial Prtshp	LEGAL 2	W 1188.93 FT & IRREG E 250 S 611.5
OWNER ADDRESS 2	185 S. Union Blvd.	LEGAL 3	FT TRACT - NW 1/4 NW 1/4
OWNER CITY	Lakewood	LEGAL 4	SEC 01-14-12
OWNER STATE	CO	ZIP	80228

THE ABOVE DESCRIBED PROPERTY ALSO BEING KNOWN AS CROWN INDUSTRIAL PARK AS SHOWN ON THE PLAT AND DEDICATION FILED DECEMBER 29, 2008 AS INSTRUMENT NO. 2008121679 IN THE OFFICE OF THE REGISTER OF DEEDS OF DOUGLAS COUNTY, NEBRASKA.

*Lots 1, 2 and 3 AKD*

**Exhibit "B"**  
**Storm Water and Retention Basin Improvements**

I. General BMP Information:

BMP ID NAME	STREET	PARCEL TAX ID
Basin #1	4115 S. 72 <sup>nd</sup> Street	0124370000

II. BMP Site Location Map [**See attached**].

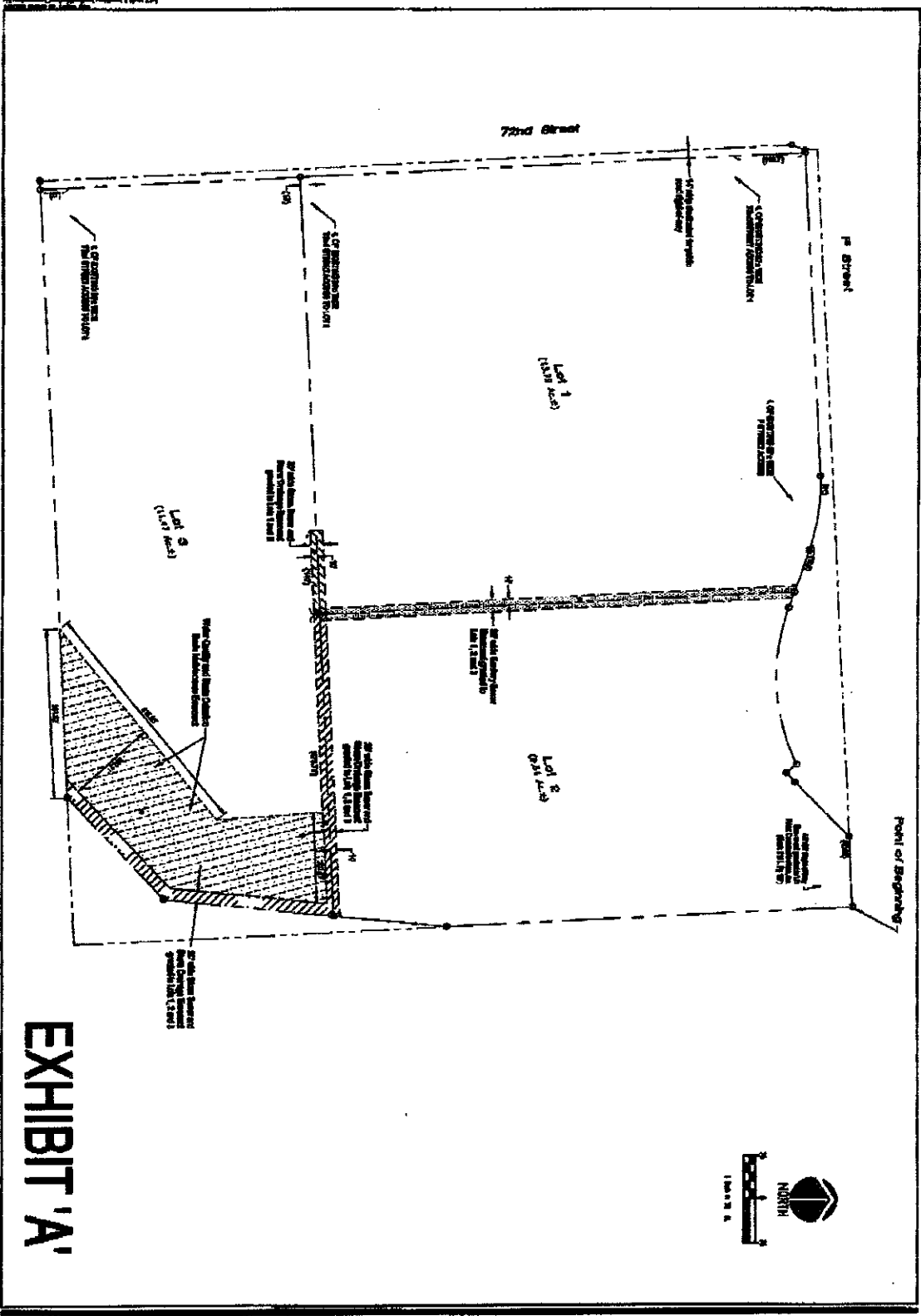
III. Routine Maintenance Tasks and Schedule

<b>Dry Detention Basin/Pond Maintenance Tasks and Schedule</b>	
Task	Schedule
Remove Debris and Trash from Trash Rack and Side Slopes	Monthly
Outlet/Inlet Inspection and Cleanout	Monthly
Bank Mowing and Inspection/Stabilization of Eroded Areas	Monthly
Forebay Inspection and Cleanout	Monthly – Remove sediment every 7 years or when sediment volume exceeds 50% of storage volume
Check Pond Depth	Annually – remove sediment as needed
Remove Woody Vegetation Along Embankment	Annually
Inspect for Structural Damage	Annually
Inspect, Exercise all Mechanical Devices	Annually
Repair Broken Pipes	As Needed
Replace Rip Rap that has been Choked with Sediment	As Needed
Security	As Needed

IV. In case the ownership of the property transfers, the current owner shall, within thirty (30) working days of transfer of ownership, notify the City of Omaha Public Works Department of such ownership transfer. If the current owner fails to notify the City's Public Works Department of ownership transfer, the responsible party in this agreement will remain liable for all Post Construction Stormwater Management Plan costs and maintenance.

V. Maintenance Inspection Reports:

Annual maintenance inspection reports must be commissioned by the Property Owner and provided to the City of Omaha 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 (5) years. Annual maintenance inspection reports shall be performed by a registered Nebraska professional engineer, architect, or qualified professional.



# EXHIBIT 'A'

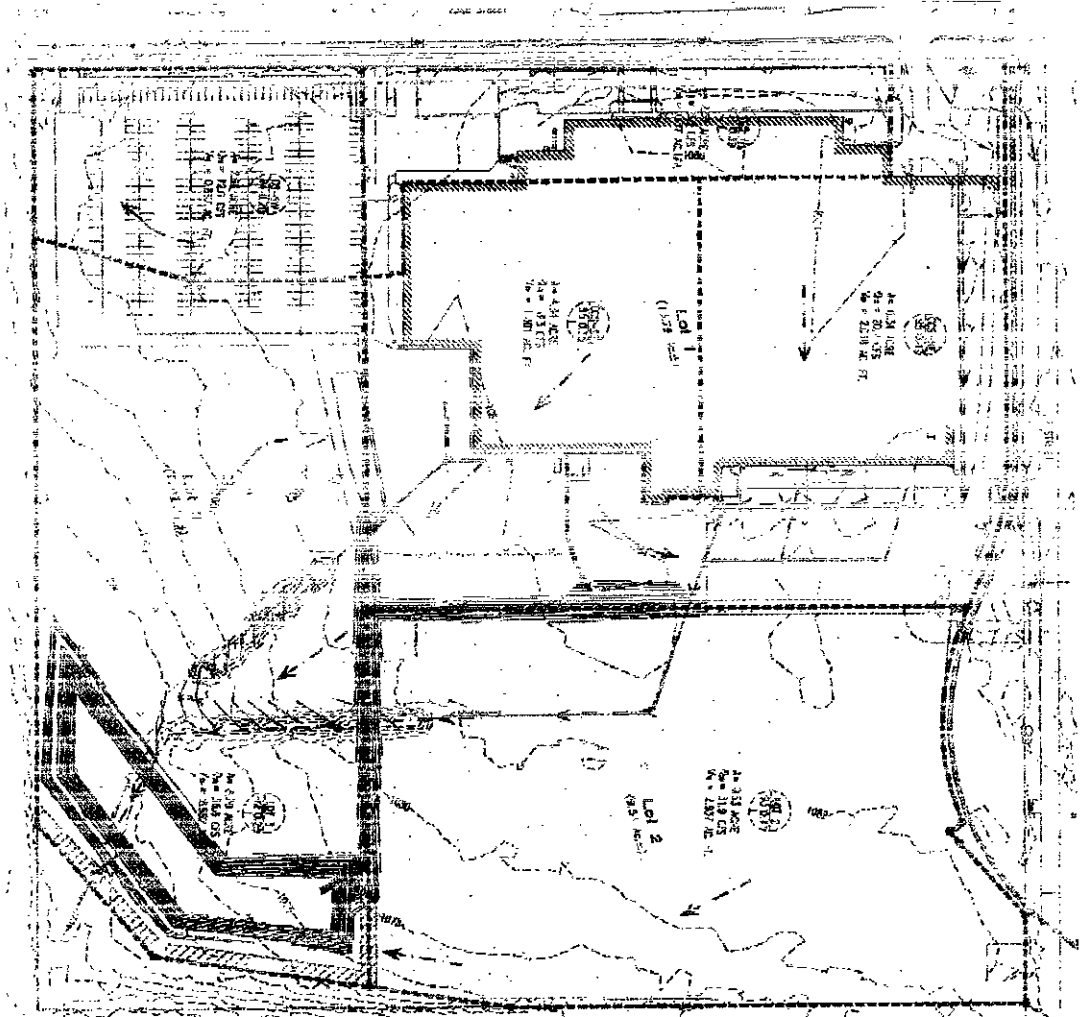
**CROWN INDUSTRIAL DEVELOPMENT  
STORM SEWER AND DETENTION  
BASIN IMPROVEMENTS  
4133 SOUTH 72ND STREET OMAHA, NEBRASKA**

OWNER: CROWN INDUSTRIAL DEVELOPMENT  
DESIGNER: SCHEMMER ASSOCIATES, INC.  
PROJECT NO.: 08-13-12-116

**SCHEMMER**  
ASSOCIATES, INC.  
ARCHITECTS & ENGINEERS & PLANNERS

NO.	DATE	DESCRIPTION
1	10/15/11	ISSUED FOR PERMITS
2	11/15/11	ISSUED FOR PERMITS
3	12/15/11	ISSUED FOR PERMITS
4	01/15/12	ISSUED FOR PERMITS
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APPROXIMATE BEARINGS AND DISTANCES

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