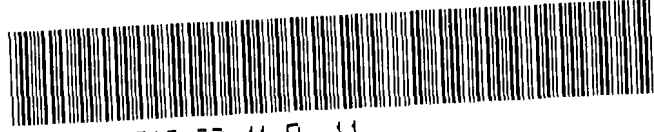





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 FEE 55.50 FB 01-6000  
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 DEL SCAN FV

Received - DIANE L. BATTIATO  
 Register of Deeds, Douglas County, NE  
 7/27/2010 08:41:06.98  
  
 2010065953

THIS PAGE INCLUDED FOR INDEXING  
 PAGE DOWN FOR BALANCE OF INSTRUMENT

Return To: Pelster Const. Inc.  
15902 Josephine St.  
Omaha, NE - 68136

Check Number  
 \_\_\_\_\_

## **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 New Flex building; located in the jurisdiction of the City of Omaha, Douglas County, Nebraska; and,

**WHEREAS**, the Property Owner (whether one or more) is the owner of the West 104.4’ of Tax Lot 16, located in the NW ¼ SE ¼ Section 34 T16N R12E of the 6<sup>th</sup> PM (hereinafter referred to as “the Property”), and,

**WHEREAS**, the City of Omaha (hereinafter referred to as “the City”) requires and the Property Owner, and 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, OPW52003-PCSMP, (hereinafter referred to as “PCSMP”), should 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.
2. The Property Owner must develop and provide the “BMP Maintenance Requirements”, attached here to as 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 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. 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 Property 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 Property Owner harmless from any damage by reason of the City's negligent or intentional acts during such entry upon the property.

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 reasonable time frame agreed to in the response by the Property 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 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. Notwithstanding the foregoing, the City shall indemnify and hold the Property Owner harmless from any damage by reason of the City's negligent acts during such entry upon the property.

The City of Omaha or its designee shall have the right to recover from the Property 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 negligence or intentional 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 Property 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.

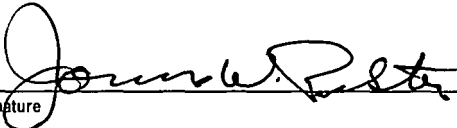
6. The Property Owner shall not obligate the City of Omaha to maintain or repair the facility or facilities, and the City of Omaha shall not be liable to any person for the condition or operation of the facility or facilities.
7. The Property Owner, its administrators, executors, successors, heirs, or 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. 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 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 Property 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 Property Owner shall pay for all costs and expenses in connection herewith except to the extent of the negligent act of the City.

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. 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 or business association and any other successors in interest.

IN WITNESS WHEREOF, the Property Owner (s) has/ have executed this agreement this day of July 27, 2010.

**INDIVIDUAL, PARTNERSHIP and/or CORPORATION**

<u>Pelster Brothers INC.</u> Name of Individual, Partnership and/or Corporation
<u>James W. Pelster</u> Name
<u>Vice President</u> Title
<u></u> Signature

_____ Name of Individual, Partnership and/or Corporation
_____ Name
_____ Title
_____ Signature

_____ Name of Individual, Partnership and/or Corporation
_____ Name
_____ Title
_____ Signature

_____ Name of Individual, Partnership and/or Corporation
_____ Name
_____ Title
_____ Signature

ACKNOWLEDGMENT


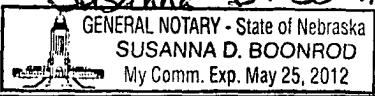
State of Nebraska )  
State

County of Douglas. )  
County

On this 27<sup>th</sup> day of July, 20 10 before me, a Notary Public, in and for said County, personally came the above named:

James W. Pelster, vice president of Pelster Brothers, Inc., a Nebraska corporation,

who is ~~(are)~~ <sup>PROVEN</sup> personally-known <sup>(S)</sup> to me to be the identical person(s) whose name(s) is ~~(are)~~ affixed to the above instrument and acknowledged the instrument to be his, ~~her (their)~~ voluntary act and deed for the purpose therein stated, <sup>on behalf of said corporation.</sup>  
WITNESS my hand and Notarial Seal the day and year last above written.

  
Notary Public  
Susanna D. Boonrod.  


## **Exhibit "A"**

**Insert Real Property Depiction**

**LEGAL DESCRIPTION FOR THE WEST 104.4' OF TAX LOT 16**

THE WEST 104.4' OF TAX LOT 16 LOCATED IN THE NW 1/4 SE 1/4 SECTION 34 T16N R12E OF THE 6TH PM, DOUGLAS COUNTY, NEBRASKA, FURTHER DESCRIBED AS,

COMMENCING AT THE NORTHEAST CORNER OF A PART OF TAX LOT 18, OWNED BY MICK PICK, LLC., A BEARING OF S 02° 55' 39" E, A DISTANCE OF 167.47 FEET TO THE POINT OF BEGINNING;  
 THENCE A BEARING OF N 80° 47' 25" E, A DISTANCE OF 104.17 FEET;  
 THENCE A BEARING OF S 02° 57' 01" E, A DISTANCE OF 165.14 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF MILITARY AVENUE;  
 THENCE FROM SAID POINT ON SAID RIGHT OF WAY LINE ON A CURVE TO THE RIGHT AN ARC DISTANCE OF 104.06' HAVING A RADIUS OF 963.45', A CHORD LENGTH OF 104.01', AND A CHORD BEARING OF N 87° 57' 39" W;  
 THENCE ON SAID RIGHT OF WAY LINE A CURVE TO THE RIGHT AN ARC DISTANCE OF 3.03' HAVING A RADIUS OF 963.45', A CHORD LENGTH OF 3.03', AND A CHORD BEARING OF N 84° 39' 34" W;  
 THENCE A BEARING OF N 02° 55' 48" W, A DISTANCE OF 48.00 FEET;  
 THENCE A BEARING OF N 01° 08' 31" W, A DISTANCE OF 86.14 FEET TO THE POINT OF BEGINNING;  
 CONTAINING AN AREA OF 0.26 ACRES (16,423.04 SQUARE FEET) MORE OR LESS.

**SURVEYORS NOTE**

THE BASIS OF BEARING FOR THIS SURVEY IS THE NEBRASKA STATE PLANE 2600 (1983) MODIFIED TO GROUND. THE BEARING FOR PURPOSE OF THIS SURVEY ONLY IS S 02° 57' 01" E ON THE EAST LINE OF THE WEST 104.4' OF TAX LOT 16 LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34 TOWNSHIP 16 NORTH RANGE 12 EAST OF THE 6TH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, NEBRASKA.

POINTS A, B, C WERE REESTABLISHED AS DESCRIBED IN AN AGREEMENT LOCATED IN DOUGLAS COUNTY REGISTER OF DEEDS MISCELLANEOUS BOOK 832 PAGE 168. POINT H WAS REESTABLISHED FROM THE INTERSECTION OF LINES D-E & F-G. POINT D USED WAS NOT THE FOUND MONUMENT, IT WAS THE POINT OF BEGINNING AS DESCRIBED IN THE LEGAL DESCRIPTION ABOVE.

NORTH 90TH STREET

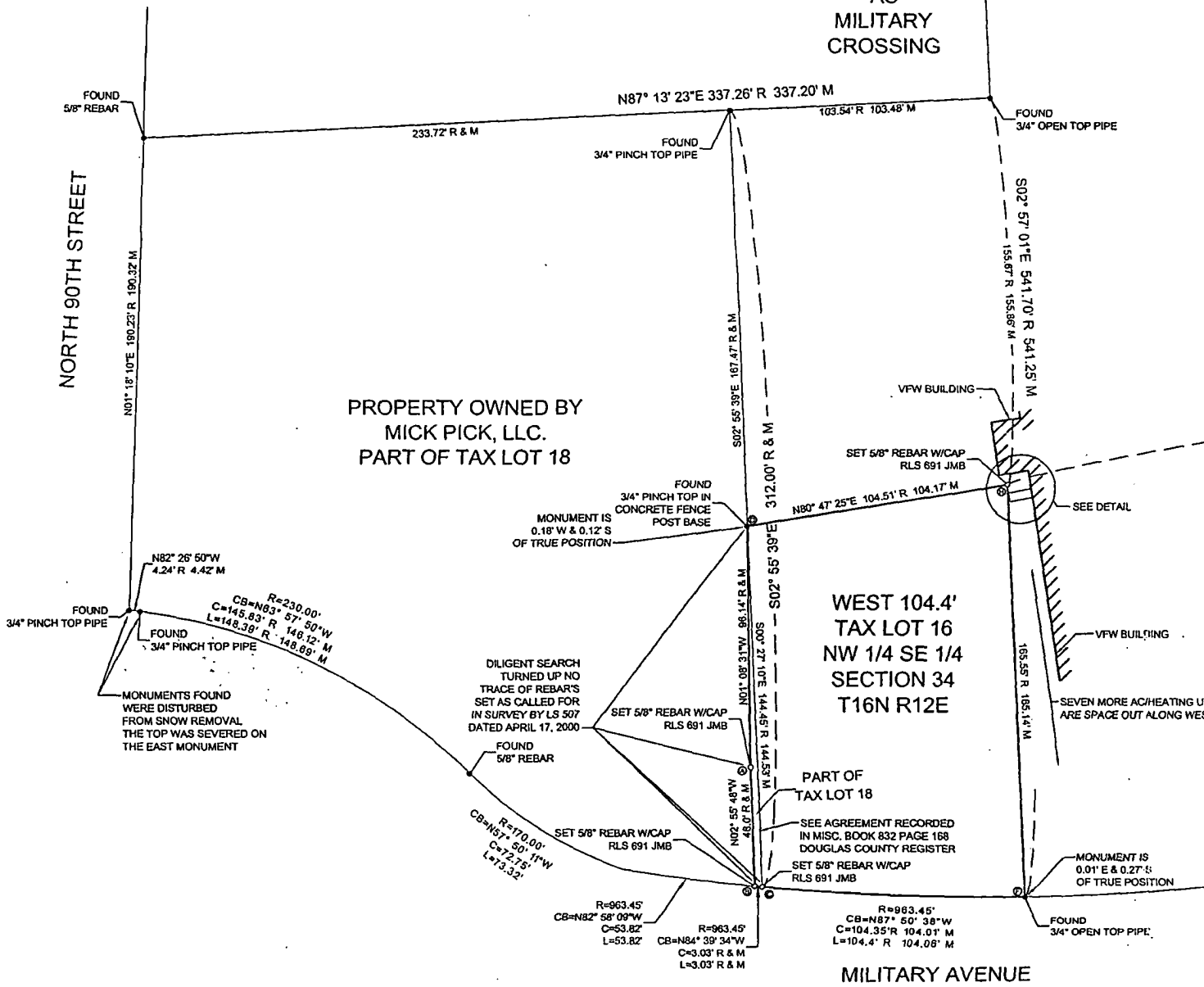
AREA PLATTED AS MILITARY CROSSING

PROPERTY OWNED BY MICK PICK, LLC. PART OF TAX LOT 18

WEST 104.4' TAX LOT 16 NW 1/4 SE 1/4 SECTION 34 T16N R12E

PART OF TAX LOT 18

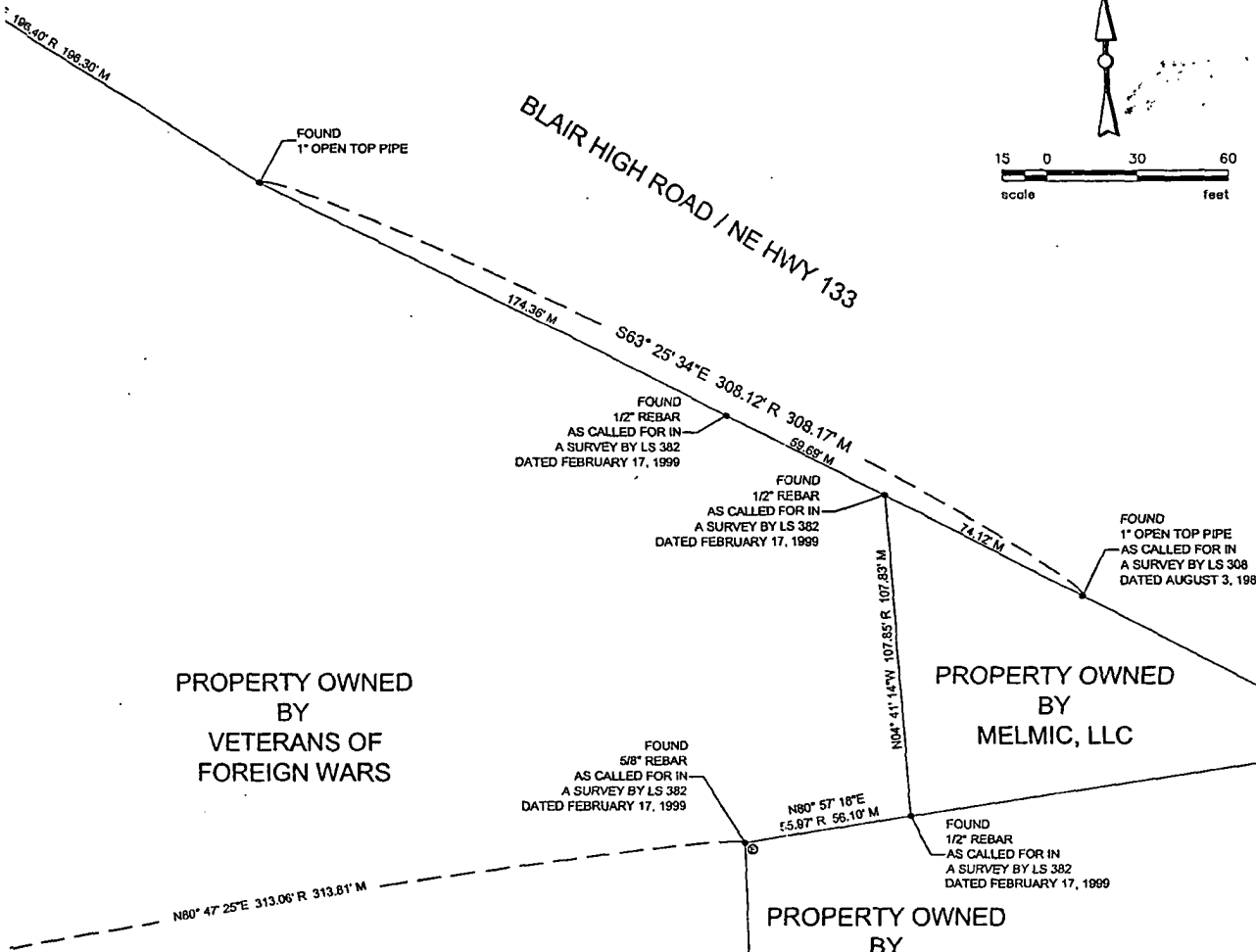
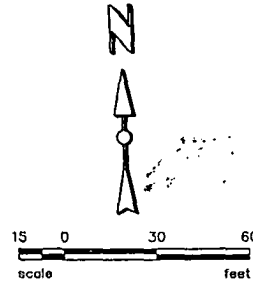
MILITARY AVENUE



4/26/2010 4:44 PM  
 P:\PROJECTS\1019\1019.DWG  
 BETH & MILITARY BOUNDARY (04/26/2010).DWG

**LEGEND**

- FOUND CORNER
- SET CORNER 5/8" REBAR w/CAP RLS 691 JMB - UNLESS OTHERWISE SPECIFIED
- M MEASURED DISTANCE
- R RECORD DISTANCE

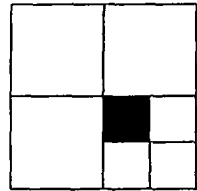


PROPERTY OWNED BY VETERANS OF FOREIGN WARS

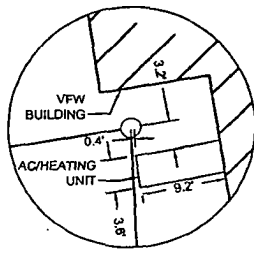
PROPERTY OWNED BY MELMIC, LLC

PROPERTY OWNED BY MELMIC, LLC

**VICINITY MAP**  
SECTION 34 T16N R12E  
DOUGLAS COUNTY, NEBRASKA  
SIXTH PRINCIPAL MERIDIAN



**DETAIL**  
SCALE: 1" = 10'



NEBRASKA REGISTERED LAND SURVEYOR  
JEREMY M. BENDER #691

MAY 2010 RECEIVED DOUGLAS COUNTY ENGINEER'S OFFICE

4/30/2010

SIGNATURE OF LAND SURVEYOR

I HEREBY CERTIFY THAT THIS PLAT, MAP, SURVEY OR REPORT WAS MADE BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NEBRASKA.

**UNITED ENGINEERING**  
Surveying & Engineering Services

20307 NICHOLAS CIRCLE • OMAHA, NE 68122 • (402) 783-9475

SE 34-16-12

NO.	DATE	REVISION DESCRIPTION	DRAWN	DESIGN	CHECK
1	4/28/2010	SURVEY	JMB		RRL

WEST 104.4' TAX LOT 16, SECTION 34 T16N R12E  
6TH PM, DOUGLAS COUNTY, NEBRASKA  
SURVEY FOR PELSTER CONSTRUCTION

PROJECT # 10010  
SHEET 1



## **Exhibit “B”**

**Insert BMP Maintenance Requirements**  
(See Guidance Document for Information Needed)

## Appendix A

### BMP Maintenance Requirements

The project designer shall include the following information as part of Exhibit B of the Maintenance Agreement.

Name & Location

Project Name: New Flex Building  
 Address: 8910 Military Road  
 PCWP Project Number: OPW52003-PCSMP  
 PWD Grading Permit #: NA

Site Data

Total Site Area: 0.38 Acres  
 Total Disturbed Area: 0.38 Acres  
 Total Undisturbed Area: 0.00 Acres  
 Impervious Area Before Construction: 35.6%  
 Impervious Area After Construction: 39.5%

BMP Information

The designer shall provide, on the PCSMP plan set, the following information on post-construction stormwater BMPs:

BMP ID	TYPE OF BMP	State Plane Coordinates (N/E)	Longitude/Latitude
StormTech SC-310	Chamber Detention Cell	NA	-96.051136 / 41.310624

Note: Use the same naming convention for the BMPs that are used on the accepted plans and add rows if needed. Use either state plane coordinates or longitude/latitude.

Routine Maintenance and Tasks Schedule

All inspections shall be completed by a qualified professional and the inspection reports should be kept on file with the inspector or owner.

The isolator row should be inspected every 6 months for the first year of operation. After the first year, the isolator row should be inspected annually or more often if conditions require. When the average depth of sediment exceeds 3 inches throughout the length of the isolator row, maintenance shall be performed. Maintenance shall be performed as specified by StormTech and outlined on the attached exhibit entitled isolator row step by step maintenance procedures.

## 3.0 Isolator Row Step By Step Maintenance Procedures

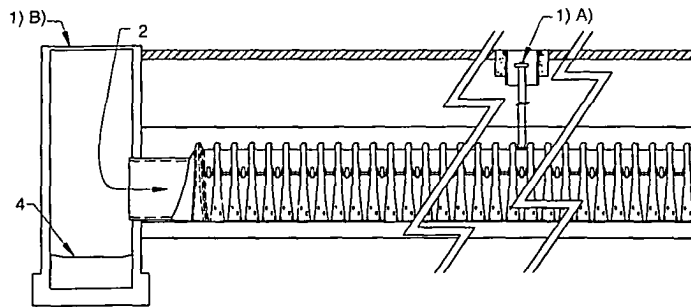
### Step 1) Inspect Isolator Row for sediment

- A) Inspection ports (if present)
- Remove lid from floor box frame
  - Remove cap from inspection riser
  - Using a flashlight and stadia rod, measure depth of sediment and record results on maintenance log.
  - If sediment is at, or above, 3 inch depth proceed to Step 2. If not proceed to step 3.

B) All Isolator Rows

- Remove cover from manhole at upstream end of Isolator Row
- Using a flashlight, inspect down Isolator Row through outlet pipe
  - Mirrors on poles or cameras may be used to avoid a confined space entry
  - Follow OSHA regulations for confined space entry if entering manhole
- If sediment is at or above the lower row of sidewall holes (approximately 3 inches) proceed to Step 2. If not proceed to Step 3.

StormTech Isolator Row (not to scale)



### Step 2) Clean out Isolator Row using the JetVac process

- A fixed culvert cleaning nozzle with rear facing nozzle spread of 45 inches or more is preferable
- Apply multiple passes of JetVac until backflush water is clean
- Vacuum manhole sump as required

### Step 3) Replace all caps, lids and covers, record observations and actions

### Step 4) Inspect & clean catch basins and manholes upstream of the StormTech system

### Sample Maintenance Log

Date	Stadia Rod Readings		Sediment Depth (1) - (2)	Observations/Actions	Inspector
	Fixed point to chamber bottom (1)	Fixed point to top of sediment (2)			
3/15/01	6.3 ft.	none		New installation. Fixed point is CI frame at grade	djm
9/24/01		6.2	0.1 ft.	Some grit felt	sm
6/20/03		5.8	0.5 ft.	Mucky feel, debris visible in manhole and in Isolator row, maintenance due	rv
7/7/03	6.3 ft.		0	System jetted and vacuumed	djm



# StormTech®

Detention • Retention • Recharge

Subsurface Stormwater Management<sup>SM</sup>

20 Beaver Road, Suite 104 | Wethersfield | Connecticut | 06109  
 860.529.8188 | 888.892.2694 | fax 866.328.8401 | www.stormtech.com