

MISC 2011052405



JUN 21 2011 14:35 P 10

Fee amount: 50.50  
FB: 39-09841  
COMP: AH

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
06/21/2011 14:35:00.00



2011052405

---

THE ABOVE SPACE IS RESERVED FOR THE REGISTER OF DEEDS RECORDING INFORMATION

**THIS PAGE INCLUDED  
FOR INDEXING**

## POST CONSTRUCTION STORMWATER MANAGEMENT PLAN MAINTENANCE AGREEMENT AND EASEMENT

WHEREAS, Piano Building, L.L.C. recognizes that stormwater management facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development called Piano 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 Lot 1, Dougherty Place (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, Piano Building, OMA-20110316-207-P, (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 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 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 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.

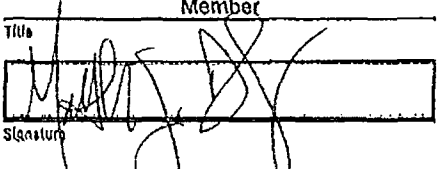
6. The Property Owner shall not obligate the City of Omaha to maintain or repair the facility or facilities, and the City of Omaha shall not be liable to any person for the condition or operation of the facility or facilities.
7. The Property Owner, its administrators, executors, successors, heirs, or 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

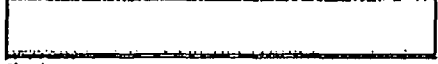
be allowed, the Property Owner shall pay for all costs and expenses in connection herewith except to the extent of the negligent act of the City.


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 10 day of June, 2011.

**INDIVIDUAL, PARTNERSHIP and/or CORPORATION**

Plano Building, L.L.C.	
Name of Individual, Partnership and/or Corporation	
Malt Dougherty	
Name	
Member	
Title	
	
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	

ACKNOWLEDGEMNT OF NOTARY

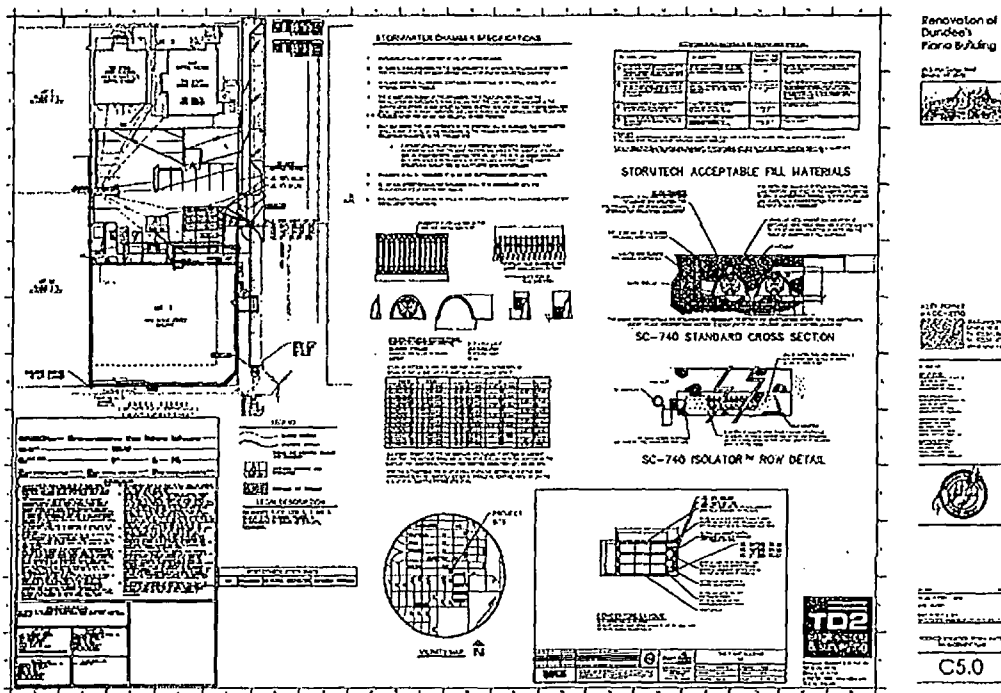
STATE OF NEBRASKA    )  
                                  ) ss.  
COUNTY OF DOUGLAS    )

THE FOREGOING POST CONSTRUCTION STORMWATER MANAGEMENT  
PLAN MAINTENANCE AGREEMENT AND EASEMENT WAS ACKNOWLEDGED  
BEFORE ME THIS 10TH DAY OF JUNE, 2011 BY MATT DOUGHERTY,  
MEMBER OF PIANO BUILDING, L.L.C., A NEBRASKA LIMITED LIABILITY  
COMPANY, ONE BEHALF OF SAID COMPANY.



*James Warner*  
\_\_\_\_\_  
NOTARY PUBLIC

## Exhibit "A"



### Project Information

Legal Description:

Lot 1, Dougherty Place, A Subdivision in Douglas County, Nebraska.

Property Address:

4900 Dodge Street  
Omaha, NE 68125

Subdivision Name:

Dundee Place

Section:

NE ¼ of 19-15-13

### Applicant Information

Business Name:

Piano Building, L.L.C.

Business Address:

4644 Dodge Street  
Omaha, NE 68132

Representatives Name:

Mr. Matt Dougherty

Representative's Email:

matt.dougherty.nktd@statefarm.com

Representative's Phone:

(402) 553-0518

Representative's Fax:

### BMP Information

Name	Identifier	Nebraska State Plane Coordinates
StormTech	ST1	N545253, E2742726

## Exhibit "B"

BMP Maintenance Plan  
The Piano Building  
4900 Dodge Street  
Omaha, NE 68132

OMA-20110316-207-P

### I. GENERAL BMP INFORMATION

BMP ID Name	Location	Legal Description
ST-1	See Exhibit 'A'	See Exhibit 'B2'

### II. BMP SITE LOCATION MAP See Exhibit 'A'

### III. ROUTINE MAINTENANCE TASKS AND SCHEDULE

#### ST1: StormTech® Isolator™ Row

##### Inspection and Cleaning Cycle:

Inspections shall begin immediately after construction is completed and thereafter on a bi-annual basis until an understanding of the sites characteristics is developed whereas the inspection manager and owner can then revise the inspection schedule based on experience or local requirements.

##### Inspection and Maintenance Instructions:

To inspect the StormTech® Isolator™ Row for sediment, first remove the cover from the manhole at the end of the Isolator Row (note that there is a manhole located at either end of the Isolator Row). Using a flashlight, inspect down Isolator Row through the outlet pipe. Mirrors on poles or cameras may be used to avoid confined space entry. If entering the manhole, follow OSHA regulations for confined spaces. Visually inspect the sediment depth, and, if the sediment is at or above the lower row of sidewall holes (approximately 3"), follow the maintenance procedures listed below. If the sediment is at an acceptable level, replace all caps, lids and covers. Inspect and clean all inlets, catch basins, and manholes upstream of the StormTech system.

##### Maintenance Instructions:

Perform JetVac maintenance if sediment has been collected to an average depth of 3" inside the Isolator Row. The JetVac process utilizes a high pressure water nozzle to propel itself down the Isolator Row while scouring and suspending sediments. As the nozzle is retrieved, a wave of suspended sediments is flushed back into the manhole for vacuuming. Use a JetVac nozzle designed for culverts or large diameter pipe cleaning. Rear facing jets with an effective spread of at least 45" are best. Dispose of the polluted water, oils, sediment, and trash at an approved facility.

- Local regulations prohibit the discharge of solid material into the sanitary sewer system.
- It is the responsibility of the person providing the maintenance to the StormTech Chambers to dispose of the pollutants in accordance with local, state, and federal regulations.

*Note: The current StormTech Isolator Rom O & M Manual can be viewed at: [http://www.stormtech.com/download\\_files/pdf/OperationMaintenanceManual.pdf](http://www.stormtech.com/download_files/pdf/OperationMaintenanceManual.pdf)*

#### 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 according to Section III of Exhibit 'B' (Routine Maintenance Tasks and Schedule) as noted above, and each year thereafter. All maintenance activities and inspection reports must be kept on file with the property owner for a minimum of five years. The maintenance and inspection reports shall at a minimum include the following information;

- Date and time inspection was performed.
- Visual inspection of Isolator Row.
- Sediment depths.
- Date and time routine maintenance was performed on StormTech Isolator.

The following is a sample maintenance log which may be used to record this information;

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

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



EXHIBIT B1

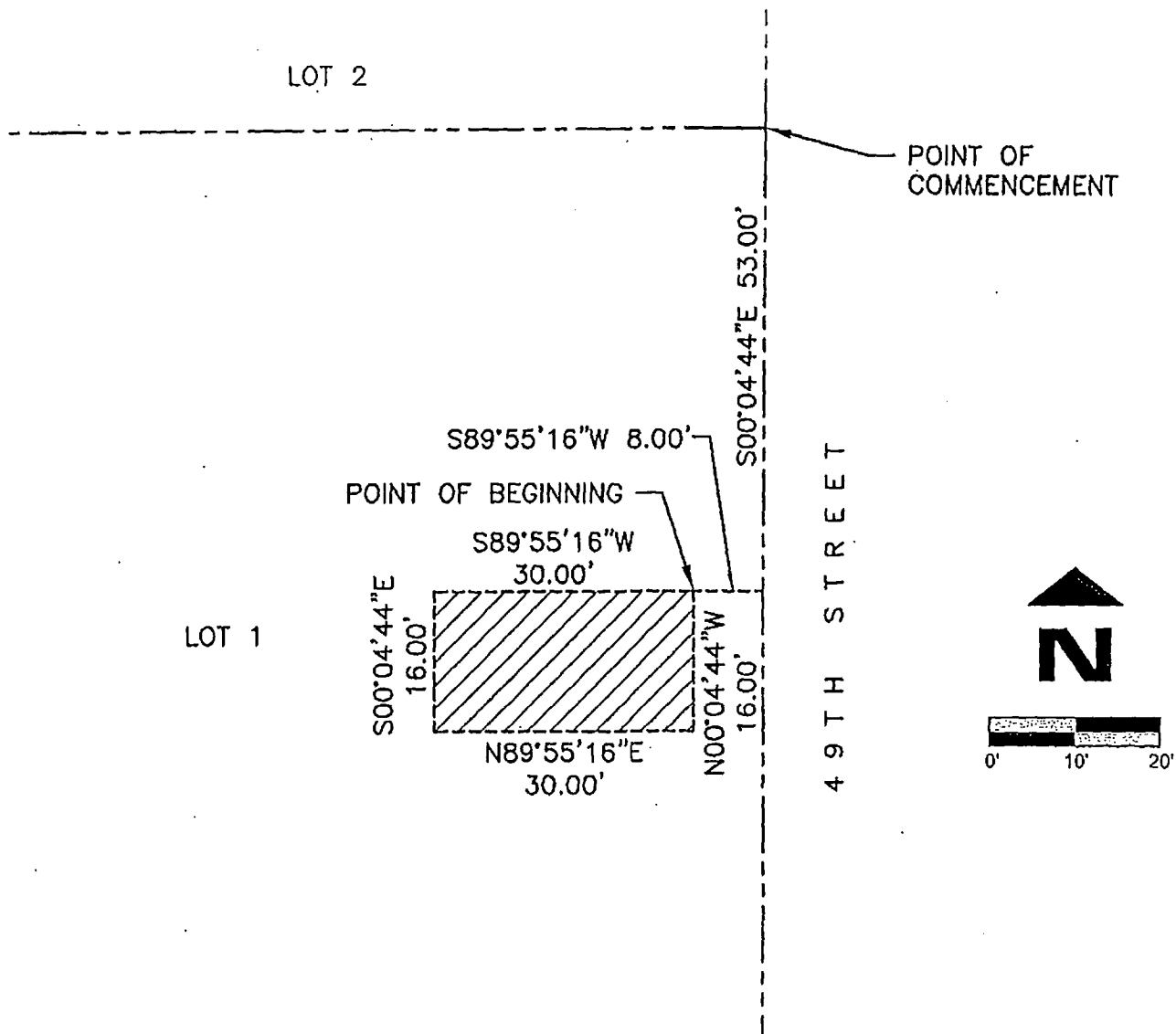
**BMP Maintenance Plan**  
**Lot 1, Dougherty Place**  
**A Subdivision in Douglas County, Nebraska**

I. General BMP Information

BMP ID Name	Parcel Tax ID
Stormtech Detention Subsurface Storage	Lot 1, Dougherty Place, A Subdivision in Douglas County, Nebraska.

II. BMP Site Location Map (attached)

- III. 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 of receiving the Certificate of Occupancy. Upon request of the City, the Owner shall provide copies of the annual maintenance inspection reports within three (3) business days.



## LEGAL DESCRIPTION

THAT PART OF LOT 1, DOUGHERTY PLACE, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA,  
 DESCRIBED AS FOLLOWS:  
 COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1;  
 THENCE S00°04'44"E (ASSUMED BEARING) 53.00 FEET ON THE EAST LINE OF SAID LOT 1;  
 THENCE S89°55'16"W 8.00 FEET TO THE POINT OF BEGINNING;  
 THENCE CONTINUING S89°55'16"W 30.00 FEET;  
 THENCE S00°04'44"E 16.00 FEET;  
 THENCE N89°55'16"E 30.00 FEET;  
 THENCE N00°04'44"W 16.00 FEET TO THE POINT OF BEGINNING.



Job Number: 748-328 EX  
 thompson, dreessen & dörner, Inc.  
 10836 Old Mill Rd  
 Omaha, NE 68154  
 p.402.330.8860 f.402.330.5866  
 td2co.com

Date: 6/20/2011  
 Drawn By: MRS  
 Reviewed By: DHN  
 Revision Date:

## EXHIBIT B2

Book  
 Page