

# Storm Water Management Practice Maintenance Agreement

Document Number

Frame Park MF, LLC as “Owner” of the property described below, in accordance with Chapter 32 City of Waukesha Storm Water Management and Erosion Control, agrees to install and maintain storm water management practice(s) on the subject property in accordance with approved plans and Storm Water Management Plan conditions. The owner further agrees to the terms stated in this document to ensure that the storm water management practice(s) continues serving the intended functions in perpetuity. This Agreement includes the following exhibits:

**Exhibit A:** Legal Description of the real estate for which this Agreement applies (“Property”).

**Exhibit B:** Location Map(s) – shows an accurate location of each storm water management practice affected by this Agreement.

**Exhibit C:** Maintenance Plan – prescribes those activities that must be carried out to maintain compliance with this Agreement.

Note: After construction verification has been accepted by the City of Waukesha, for all planned storm water management practices, an addendum(s) to this agreement shall be recorded by the Owner showing design and construction details. The addendum(s) may contain several additional exhibits, including certification by City of Waukesha of Storm Water and Erosion Control Permit termination, as described below.

Name and Return Address

City of Waukesha  
130 Delafield Street  
Waukesha, WI 53188

Tax Key Numbers: WAKC1003046  
WAKC1003950  
WAKC1003047  
WAKC1003050  
WAKC1003049

Through this Agreement, the Owner hereby subjects the Property to the following covenants, conditions and restrictions:

1. The Owner shall be responsible for the routine and extraordinary maintenance and repair of the storm water management practice(s) and drainage easements identified in Exhibit B until Storm Water and Erosion Control Permit termination by the City of Waukesha in accordance with Chapter 32 of the City Code of Ordinances.
2. After Storm Water and Erosion Control Permit termination under 1., the current Owner(s) shall be solely responsible for maintenance and repair of the storm water management practices and drainage easements in accordance with the maintenance plan contained in Exhibit C.
3. The Owner(s) shall, at their own cost, complete inspections of the storm water management practices at the time intervals listed in Exhibit C, and conduct the inspections by a qualified professional, file the reports with the City of Waukesha after each inspection and complete any maintenance or repair work recommended in the report. The Owner(s) shall be liable for the failure to undertake any maintenance or repairs. After the work is completed by the Contractor, the qualified professional shall verify that the work was properly completed and submit the follow-up report to the City within 30 days.
4. In addition, and independent of the requirements under paragraph 3 above, the City of Waukesha, or its designee, is authorized to access the property as necessary to conduct inspections of the storm water management practices or drainage easements to ascertain compliance with the intent of this Agreement and the activities prescribed in Exhibit C. The City of Waukesha may require work to be done which differs from the report described in paragraph 3 above, if the City of Waukesha reasonably concludes that such work is necessary and consistent with the intent of this agreement. Upon notification by the City of Waukesha of required maintenance or repairs, the Owner(s) shall complete the specified maintenance or repairs within a reasonable time frame determined by the City of Waukesha.
5. If the Owner(s) do not complete an inspection under 3. above or required maintenance or repairs under 4. above within the specified time period, the City of Waukesha is authorized, but not required, to perform the specified inspections, maintenance or repairs. In the case of an emergency situation, as determined by the City of Waukesha, no notice shall be required prior to the City of Waukesha performing emergency maintenance or repairs. The City of Waukesha may levy the costs and expenses of such inspections, maintenance or repair

related actions as a special charge against the Property and collected as such in accordance with the procedures under s. 66.0627 Wis. Stats. or subch. VII of ch. 66 Wis. Stats.

- 6. This Agreement shall run with the Property and be binding upon all heirs, successors and assigns. After the Owner records the addendum noted above, the City of Waukesha shall have the sole authority to modify this agreement upon a 30-day notice to the current Owner(s).

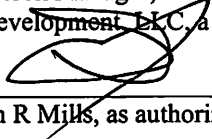
Dated this 26 day of November, 2019.

**Owner:**

WHITE ROCK MF, LLC, a Wisconsin limited liability company

By: White Rock Manager, LLC, a Wisconsin limited liability company, its managing member

By: Bear Development, LLC, a Wisconsin limited liability company, its managing member



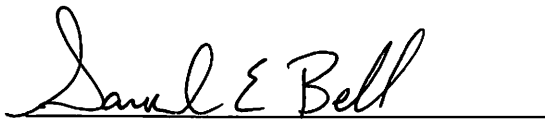
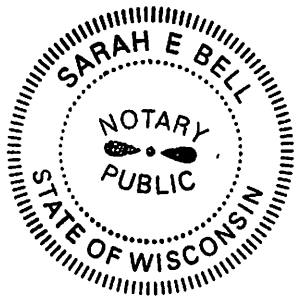
By: Stephen R Mills, as authorized Member

### Acknowledgements

State of Wisconsin:

County of Kenosha

Personally came before me this 26 day of November, 2019, the above named Stephen R Mills to me known to be the person who executed the foregoing instrument and acknowledged the same.

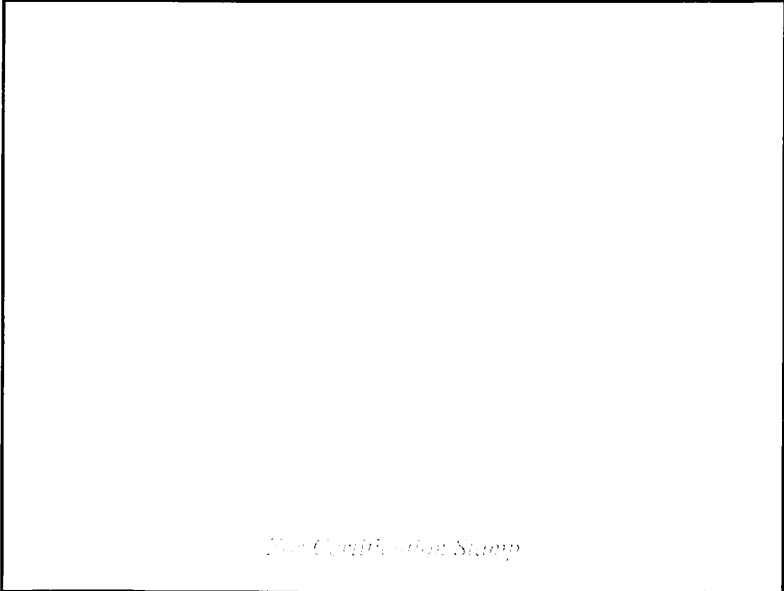


[Name] Sarah E Bell  
Notary Public, Kenosha County, WI  
My commission expires: May 10, 2022

**This document was drafted by:**

\_\_\_\_\_  
\_\_\_\_\_

[Name and address of drafter]



City of Waukesha Common Council Approval

Dated this \_\_\_\_ day of \_\_\_\_\_, 201\_.

\_\_\_\_\_  
Shawn N. Reilly, Mayor

\_\_\_\_\_  
Gina Kozlik, City Clerk

**Acknowledgements**

State of Wisconsin:  
County of Waukesha

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 201\_, the above named Adam Templer to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
[Name]  
Notary Public, Waukesha County, WI  
My commission expires:\_\_\_\_\_.

(Sample)

# Exhibit A – Legal Description

The following description and reduced copy map identifies the land parcel(s) affected by this Agreement. For a larger scale view of the referenced document, contact the Waukesha County Register of Deeds office.

Project Identifier: **Frame Park Commons**

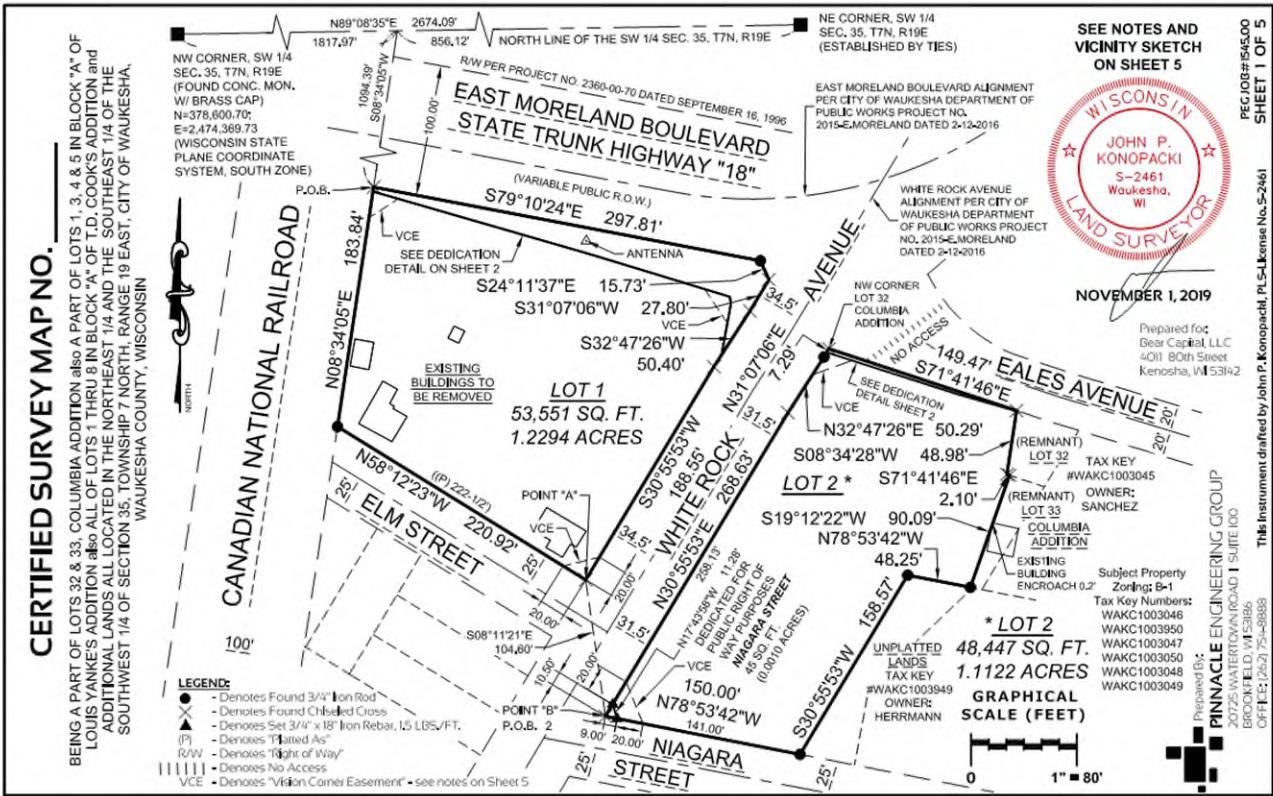
Acres: **2.3**

Date of Recording: **November 1, 2019**

Map Produced By: **Pinnacle Engineering Group, Brookfield, WI**

Legal Description: **PART OF LOTS 32 & 33. COLUMBIA ADDITION, PART OF LOTS 1, 3, 4 & 5 IN BLOCK "A" OF LOUIS YANKE'S ADDITION, ALL OF LOTS 1 THRU 8 IN BLOCK "A" OF T.D. COOK'S ADDITION AND ADDITIONAL LANDS IN THE SE 1/4 OF THE SW 1/4 OF SECTION 35, ALL LOCATED IN THE NE 1/4 AND SE 1/4 OF THE SW 1/4 OF SECTION 35, T7N, R19E, CITY OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN**

## Frame Park Commons

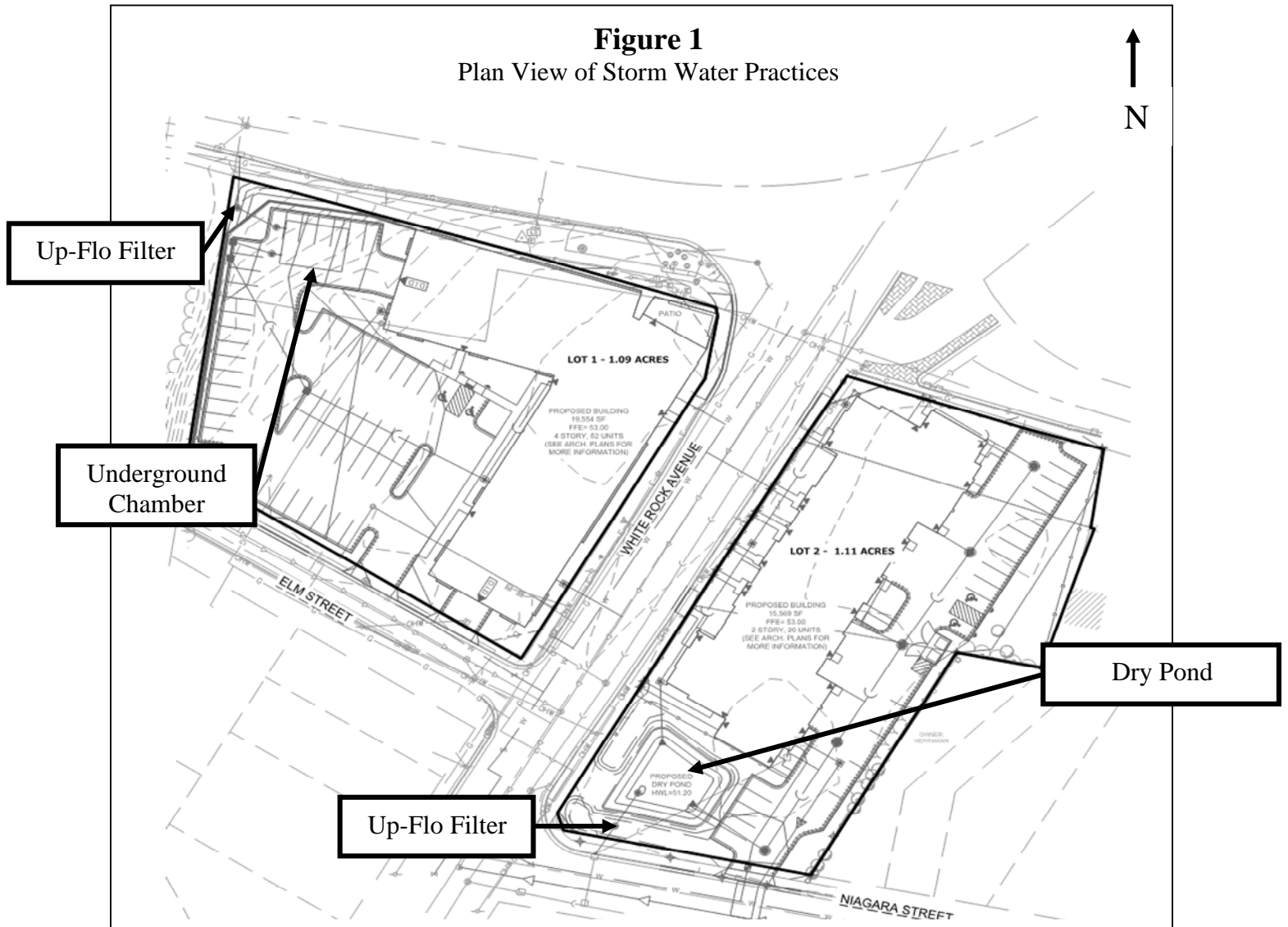


## Exhibit B - Location Map

### Storm Water Management Practices Covered by this Agreement

The storm water management practices covered by this Agreement are depicted in the reduced copy of a portion of the construction plans, as shown below. The practices include one underground chamber, one dry pond, two Up-Flo filters, and all associated pipes, and other components of these practices. All of the noted storm water management practices are located within Lot 1 and Lot 2, as noted in Exhibit A.

**Project Name:** Frame Park Commons  
**Storm water Practices:** Underground Chamber ADS MC-4500, Dry Pond, Up-Flo Filter (2)  
**Location of Practices:** Northwest corner of Lot 1 & Southwest corner of Lot 2  
**Owner:** Frame Park MF, LLC

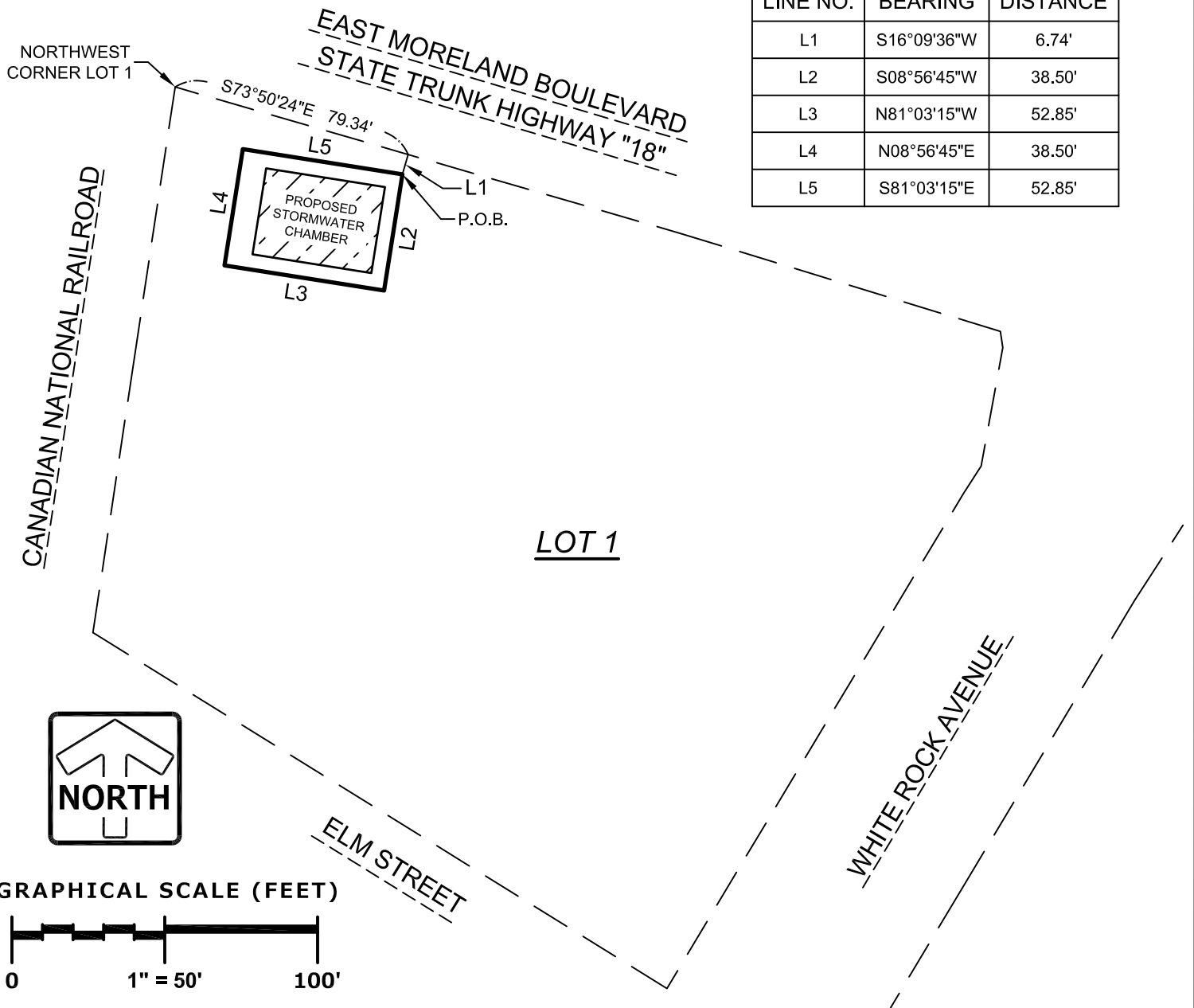


**LEGAL DESCRIPTION:**

Part of Lot 1 of Certified Survey Map No. \_\_\_\_\_, located in the Northeast 1/4 of the Southwest 1/4 of Section 35, Township 7 North, Range 19 East, City of Waukesha, Waukesha County, Wisconsin, more particularly described as follows:

Commencing at the northwest corner of said Lot 1; Thence South 73°50'24" East along the north line of said Lot 1, 79.34 feet; Thence South 16°09'36" West, 6.74 feet to the Point of Beginning; Thence South 08°56'45" West, 38.50 feet; Thence North 81°03'15" West, 52.85 feet; Thence North 08°56'45" East, 38.50 feet; Thence South 81°03'15" East, 52.85 feet to the Point of Beginning.

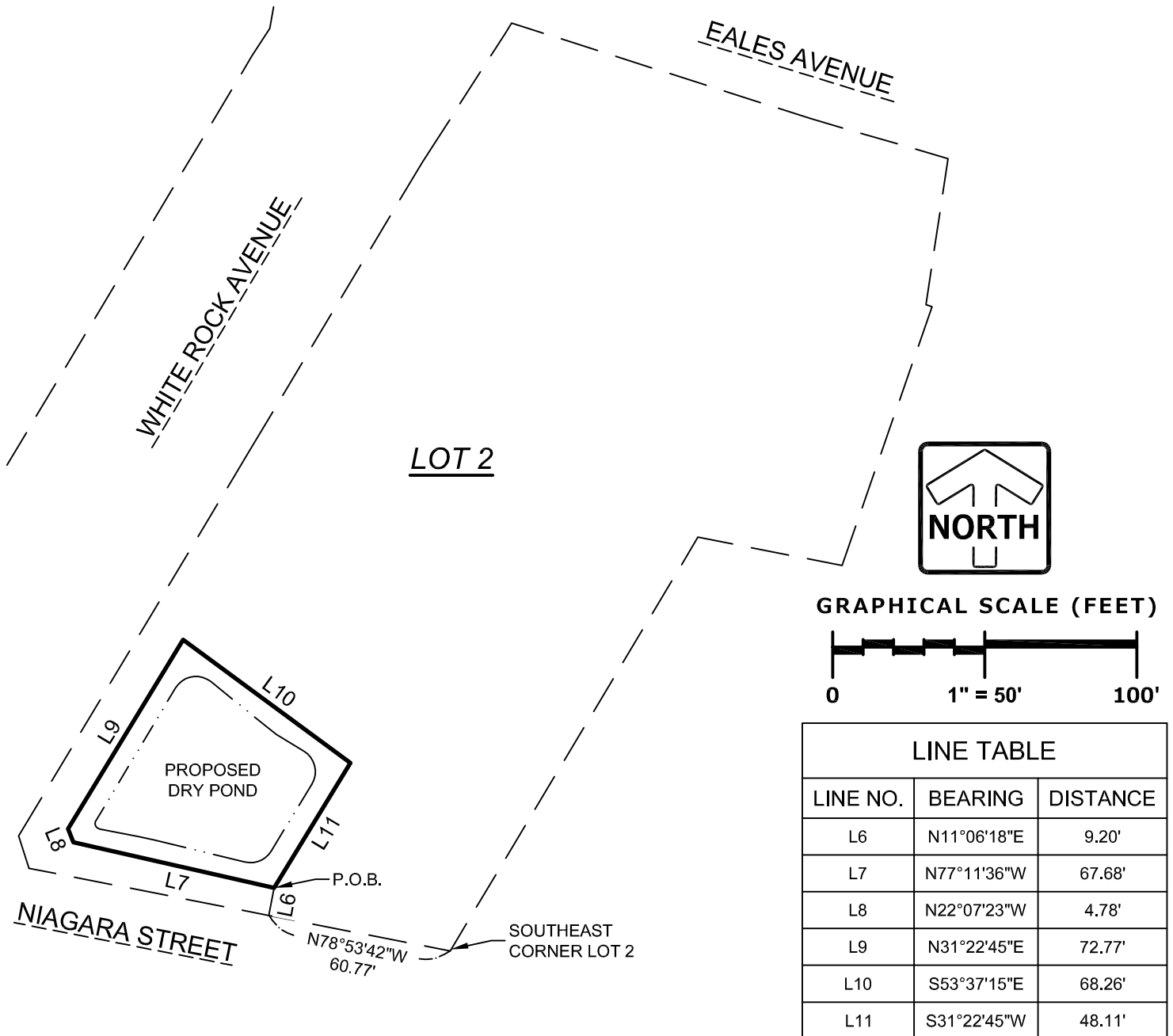
LINE TABLE		
LINE NO.	BEARING	DISTANCE
L1	S16°09'36"W	6.74'
L2	S08°56'45"W	38.50'
L3	N81°03'15"W	52.85'
L4	N08°56'45"E	38.50'
L5	S81°03'15"E	52.85'



**LEGAL DESCRIPTION:**

Part of Lot 2 of Certified Survey Map No. \_\_\_\_\_, located in the Southwest 1/4 of Section 35, Township 7 North, Range 19 East, City of Waukesha, Waukesha County, Wisconsin, more particularly described as follows:

Commencing at the southeast corner of said Lot 2; Thence North  $78^{\circ}53'42''$  West along the south line of said Lot 2, 60.77 feet; Thence North  $11^{\circ}06'18''$  East, 9.20 feet to the Point of Beginning; Thence North  $77^{\circ}11'36''$  West, 67.68 feet; Thence North  $22^{\circ}07'23''$  West, 4.78 feet; Thence North  $31^{\circ}22'45''$  East, 72.77 feet; Thence South  $53^{\circ}37'15''$  East, 68.26 feet; Thence South  $31^{\circ}22'45''$  West, 48.11 feet to the Point of Beginning.



## **Exhibit C**

### **Storm Water Practice Maintenance Plan**

This exhibit explains the basic function of each of the storm water practices listed in Exhibit B and prescribes the minimum maintenance requirements to remain compliant with this Agreement. The maintenance activities listed below are aimed to ensure these practices continue serving their intended functions in perpetuity. The list of activities is not all inclusive, but rather indicates the minimum type of maintenance that can be expected for this particular site. Access to the stormwater practices for maintenance vehicles is shown in Exhibit B. Any failure of a storm water practice that is caused by a lack of maintenance will subject the Owner(s) to enforcement of the provisions listed on page 1 of this Agreement by the City of Waukesha.

#### **System Description:**

The underground chamber system is designed to maintain pre-development downstream peak flows and to trap 40% of sediment in the runoff in conjunction with the Up-Flo filter system for Lot 1. The underground chamber system is comprised of 3 rows with 21 chambers total. The chambers are each 5 feet deep. The underground chamber system will trap coarse sediments in runoff, such as road sands, thus reducing maintenance of the Up-Flo filter. The Up-Flo filter will trap the finer suspended sediment. To do this, the underground chamber system, outlet structure and Up-Flo filter must be maintained as specified in this Agreement (see Figures 1 and 2).

The underground chamber system receives runoff from a 1.09-acre drainage area. During rainfall or snow melt events, the water level will temporarily rise and slowly drain down due to the control structure. The water level is controlled by an outlet control structure (see Figure 1). On the outlet structure, there is metal plate with a 7-inch drilled hole (orifice). This orifice controls the water level and causes the chamber to temporarily rise during small runoff events. A 9-inch drilled hole (orifice) is also in the plate that will serve to control larger runoff events. Higher flows may enter the structure and overtop the plate elevation at a controlled discharge. "As-built" construction drawings showing actual dimensions, elevations, outlet structures, etc. will be recorded as an addendum(s) to this agreement within 60 days after City of Waukesha accepts verification of construction from the project engineer.

The Dry pond is designed to maintain pre-development downstream peak flows and an Up-Flo filter is designed to trap 40% of sediment in the runoff for Lot 2. Discharge from the Dry Pond that leaves the outlet control structure will be conveyed by a 12-inch reinforced concrete pipe to the Up-Flo filter. To do this, the dry pond, outlet structure and Up-Flo filter must be maintained as specified in this Agreement (see Figures 3, 4 and 5).

The dry pond receives runoff from a 1.11-acre drainage area. During rainfall or snow melt events, the water level will temporarily rise and slowly drain down to the elevation of the control structure. The water level is controlled by an outlet control structure (see Figure 5). On the outlet control structure face there is an 8-inch drilled hole (orifice) with prefabricated trash grate in front of it. This orifice controls the water level and causes the pond to temporarily rise during small runoff events. A 36-inch opening with a grate on the top of the outlet structure will serve to control larger runoff events. High flows may enter the grated opening and be discharged at a controlled rate. "As-built" construction drawings of the pond, showing actual dimensions, elevations, outlet structures, etc. will be recorded as an addendum(s) to this agreement within 60 days after City of Waukesha accepts verification of construction from the project engineer.

#### **Minimum Maintenance Requirements:**

To ensure the proper long-term function of the storm water management practices described above, the following activities must be completed:

1. All outlet pipes must be checked monthly to ensure there is no blockage from floating debris or ice, especially the washed stone in front of the 3-inch orifice and the trash rack on the riser in the main basin. Any blockage must be removed immediately. The washed stone must be replaced when it becomes clogged.
2. Grass swales shall be preserved to allow free flowing of surface runoff in accordance with approved grading plans. No buildings or other structures are allowed in these areas. No grading or filling is allowed that may interrupt flows in any way.



3. Grass swales, inlets and outlets must be checked after heavy rains (minimum of annually) for signs of erosion. Any eroding areas must be repaired immediately to prevent premature sediment build-up in the downstream forebays or basin. Erosion matting is recommended for repairing grassed areas.
4. NO trees are to be planted or allowed to grow on the earthen berms. Tree root systems can reduce soil compaction and cause berm failure. The berms must be inspected annually and any woody vegetation removed.
5. Invasive plant and animal species shall be managed in compliance with Wisconsin Administrative Code Chapter NR 40. This may require eradication of invasive species in some cases.
6. If the permanent pool falls below the safety shelf, a review shall be performed to determine whether the cause is liner leakage or an insufficient water budget. If the cause is leakage, the liner shall be repaired. Leakage due to muskrat burrows may require removal of the animals. If the permanent pool cannot be sustained at the design elevation, benching of the safety shelf may be necessary.
7. If floating algae or weed growth becomes a nuisance (decay odors, etc.), it must be removed from the basin or the forebay and deposited where it cannot drain back into the basin. Removal of the vegetation from the water reduces regrowth the following season (by harvesting the nutrients). Wetland vegetation must be maintained along the waters edge for safety and pollutant removal purposes.
8. When sediment in the forebays or the basin has accumulated to an elevation of three feet below the outlet elevation, it must be removed (see Exhibit D). All removed sediment must be placed in an appropriate upland disposal site and stabilized (grass cover) to prevent sediment from washing back into the basin. The forebays will likely need sediment removal first. Failure to remove sediment from the forebays will cause resuspension of previously trapped sediments and increase downstream deposition.
9. No grading or filling of the basin or berm other than for sediment removal is allowed, unless otherwise approved by the City of Waukesha.
10. Periodic mowing of the grass swales will encourage vigorous grass cover and allow better inspections for erosion. Waiting until after August 1 will avoid disturbing nesting wildlife. Mowing around the basin or the forebays may attract nuisance populations of geese to the property and is not necessary or recommended.
11. Any other repair or maintenance needed to ensure the continued function of the storm water practices or as ordered by the City of Waukesha under the provisions listed on page 1 of this Agreement.
12. The titleholder(s) or their designee must document all inspections as specified above. Documentation shall include as a minimum: (a) Inspectors Name, Address and Telephone Number, (b) Date of Inspections, (c) Condition Report of the Storm Water Management Practice, (d) Corrective Actions to be Taken and Time Frame for Completion, (e) Follow-up Documentation after Completion of the Maintenance Activities. All documentation is to be delivered to the attention of the City Engineer at the City of Waukesha Engineering Department on January 10<sup>th</sup> and July 10<sup>th</sup> each year.

*Minimum Maintenance Requirements for Underground Chambers:*

1. Inspection of Isolator row shall occur on an annual basis. If upon visual inspection it is found that sediment has accumulated, a stadia rod should be inserted to determine the depth of sediment. When average depth of sediment exceeds 3 inches throughout the length of Isolator Row, clean-out maintenance should be performed.
2. Entry into any manhole or chamber is required, follow local and OSHA rules for confined space entry.
3. Maintenance shall be accomplished with the JetVac process. Rear facing jets with an effective spread of at least 45" are best. The JetVAC process shall be only performed on StormTech Isolator Rows that have AASHTO class 1 woven geotextile over their angular base stone.
4. All outlet structures and pipes must be checked monthly to ensure there is no blockage from floating debris or ice. Any blockage must be removed immediately.

*Minimum Maintenance Requirements for Up-Flo Filters:*

1. The Up-Flo Filter shall be inspected annually and cleaned per manufacturers specifications as needed to maintain optimum pollutant removals. When the sediment storage area of the structure is one-third full, remove sediment, oils and floatables. See attached Up-Flo Filter operation and maintenance manual for details.

Minimum Maintenance Requirements for Dry Pond:

1. Grass swales shall be preserved to allow free flowing of surface runoff in accordance with approved grading plans. No building or other structures are allowed in these areas. No grading or filling is allowed that may interrupt flows in any way.
2. Grass swales, inlets and outlets must be check at least twice yearly (spring and fall) and after heavy rains for signs of erosion. Any eroding areas must be repaired immediately to prevent premature sediment build-up in the basin. Erosion matting is recommended for repairing grassed areas.
3. No trees are to be planted or allowed to grow on the earthen berms of the pond. Tree root systems can reduce soil compaction and cause berm failure. The berms must be inspected annually, and any woody vegetation removed.
4. The basin is to be cleaned out prior to the depth of sediment reaching the dewatering hole. All removed sediment must be placed in an appropriate upland disposal site and stabilized (grass cover) to prevent sediment from washing back into the basin.
5. After vegetation is 70% established, the use of herbicides/pesticides is to be discontinued along the swales & basins.
6. Rip rap at the pond outlet should be inspected for displacement or undermining. Repairs shall be made upon discovery.
7. Sediment clean out every 10 to 15 years is recommended. Sediment removal may be necessary prior to 10 years if there is a substantial amount of land disturbance occurring within the contributory watershed. Annual inspections shall be made to ensure that the design depth is maintained.