

**STORMWATER DRAINAGE SYSTEM
MAINTENANCE AGREEMENT**

For SITE PLANS (THAT ARE NOT SUBDIVISIONS)

IN CONSIDERATION OF the site plan approval granted by the Planning Board/Planning Authority of the City of Portland to the proposed Lot #5 Industrial Way, project #2015-085, and the associated Grading and Utility Plan (Exhibit A) submitted by Deerfield 91 Industrial LLC, prepared by Sebago Technics, Inc. of 75 John Roberts Road, Suite 1A, South Portland, ME 04106 dated August 21, 2015, and pursuant to a condition thereof, Deerfield 91 Industrial LLC, a Maine limited liability company with a principal place of business in Portland, Maine, and having a mailing address of One Canal Plaza, Portland, ME 04101 (Attn: Drew Sigfridson), the owner of the subject premises, does hereby agree, for itself, its successors and assigns (the "Owner"), as follows:

Maintenance Agreement

That it, its successors and assigns, will, at its own cost and expense and at all times in perpetuity, maintain in good repair and in proper working order the Detention Basin with Under Drained Grass Filter and underdrain pipes (hereinafter collectively referred to as the "stormwater system"), as shown on the Plan in Exhibit A and in strict compliance with the approved Inspection, Maintenance and Housekeeping Plan prepared for the Owner by Sebago Technics, Inc. (copy attached at Exhibit B) and Chapter 32 of the Portland City Code.

Owner of the subject premises further agrees, at its own cost, to keep a Stormwater Maintenance Log. Such log shall be made available for inspection by the City of Portland upon reasonable notice and request.

Said agreement is for the benefit of the said City of Portland and all persons in lawful possession of said premises and abutters thereto; further, that the said City of Portland and said persons in lawful possession may enforce this Agreement by an action at law or in equity in any court of competent jurisdiction; further, that after giving the Owner written notice and a stated time to perform, the said City of Portland, by its authorized agents or representatives, may, but is not obligated to, enter upon said premises to maintain, repair, or replace said stormwater system in the event of any failure or neglect thereof, the cost and expense thereof to be reimbursed in full to the said City of Portland by the Owner upon written demand. Any funds owed to the City under this paragraph shall be secured by a lien on the property.

This Agreement shall also not be construed to allow any change or deviation from the requirements of the site plan most recently and formally approved by the Planning Board/Planning Authority of the City of Portland.

This agreement shall bind the undersigned only so long as it retains any interest in said premises, and shall run with the land and be binding upon the Owner's successors and assigns as their interests may from time to time appear.

The Owner agrees to record a copy of this Agreement in the Cumberland County Registry of Deeds within thirty (30) days of final execution of this Agreement. The Owner further agrees to provide a copy of this Agreement to any Condominium Association or management company, and to any successor or assign and to forward to the City an Addendum signed by any successor or assign in which the successor or assign states that the successor or assign has read the Agreement, agrees to all its terms and conditions and the successor or assign will obtain and forward to the City's Department of Public Services and Department of Planning and Urban Development a similar Addendum from any other successor or assign.

For the purpose of this agreement and release "Owner" is any person or entity who is a successor or assign and has a legal interest in part, or all, of the real estate and any building. The real estate shown by chart, block and lot number in the records on file in the City Assessor's office shall constitute "the property" that may be entered by the City and liened if the City is not paid all of its costs and charges following the mailing of a written demand for payment to the owner pursuant to the process and with the same force and effect as that established by 36 M.R.S.A. §§ 942 and 943 for real estate tax liens.

Any written notices or demands required by the agreement shall be complete on the date the notice is attached to one or more doors providing entry to any buildings and mailed by certified mail, return receipt requested or ordinary mail or both to the owner of record as shown on the tax roles on file in the City Assessor's Office.

If the property has more than one owner on the tax rolls, service shall be complete by mailing it to only the first listed owner. The failure to receive any written notice required by this agreement shall not prevent the City from entering the property and performing maintenance or repairs on the stormwater system, or any component thereof, or liening it or create a cause of action against the City.

Dated at Portland, Maine this 25th day of August, 2015.

Deerfield 91 Industrial LLC
(name of company)

[Signature]
(Andrew Staffordson, ~~Manager~~
Member)

STATE OF MAINE
CUMBERLAND, ss.

Date: August 25, 2015

Personally appeared the above-named Andrew C. Staffordson ^{Member of Deerfield 91 Industrial LLC} (name and title), and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me,

[Signature]
Notary Public/Attorney at Law
Anthony Stast
Print name: _____

Exhibit A: Approved Grading and Drainage Plan (name of the plan showing the Stormwater System in detail)

Exhibit B: Approved Stormwater Maintenance and Inspection Agreement

INSPECTION, MAINTENANCE, AND HOUSEKEEPING PLAN

Lot 5 Industrial Way Portland, ME

Introduction

The owner of the development is Deerfield 91 Industrial LLC. The owner's address is One Canal Plaza, Portland, ME 04101; the telephone number is 207-772-1333. During construction, the contractor will be responsible for the maintenance of all stormwater management structures and the keeping of records and maintenance logbook. After construction, the owner will be responsible for the maintenance of all stormwater management structures, the establishment of any contract services required to implement the program, and the keeping of records and maintenance logbook

Records of all inspections and maintenance work accomplished must be kept on file and retained for a minimum 5-year time span. The maintenance logbook will be made available to the Maine Department of Environmental Protection (MDEP) and the City of Portland upon request. At a minimum, the appropriate and relevant activities for each of the stormwater management systems will be performed on the prescribed schedule.

The following plan outlines the anticipated inspection, maintenance, and housekeeping procedures for the erosion and sedimentation controls as well as stormwater management devices for the project site. Also, this plan outlines several housekeeping requirements that shall be followed during and after construction. These procedures should be followed in order to ensure the intended function of the designed measures and to prevent unreasonable adverse impacts to the surrounding environment.

The procedures outlined in the Inspection, Maintenance, and Housekeeping Plan are provided as an overview of the anticipated practices to be used on this site. In some instances, additional measures may be required due to unexpected conditions. For additional details on any of the erosion and sedimentation control measures or stormwater management devices to be utilized on this project, refer to the most recently revised edition of the "Maine Erosion and Sedimentation Control BMP" manual and/or the "Stormwater Management for Maine: Best Management Practices" manual as published by the MDEP.

During Construction

1. **Inspection:** During the construction process, it is the Contractor's responsibility to comply with the inspection and maintenance procedures outlined in this section. These responsibilities include inspecting disturbed and impervious areas, erosion control measures, materials storage areas that are exposed to precipitation, and locations where vehicles enter or exit the site. These areas shall be inspected at least once a week as well as before and after a storm event, and prior to

completing permanent stabilization measures. A person with knowledge of erosion and stormwater control, including the standards and conditions in any applicable permits, shall conduct the inspections.

2. **Maintenance:** All measures shall be maintained in an effective operating condition until areas are permanently stabilized. If Best Management Practices (BMPs) need to be maintained or modified, additional BMPs are necessary, or other corrective action is needed, implementation must be completed within seven (7) calendar days and prior to any storm event (rainfall).
3. **Documentation:** A log summarizing the inspections and any corrective action taken must be maintained on-site. The log must include the name(s) and qualifications of the person making the inspections, the date(s) of the inspections, and major observations about the operation and maintenance of erosion and sedimentation controls, material storage areas, and vehicle access points to the site. Major observations must include BMPs that need maintenance, BMPs that failed to operate as designed or proved inadequate for a particular location, and locations where additional BMPs are needed. For each BMP requiring maintenance, BMP needing replacement, and location needing additional BMPs, note in the log the corrective action taken and when it was taken.

The log must be made accessible to the appropriate regulatory agency upon request. The permittee shall retain a copy of the log for a period of at least three (3) years from the completion of permanent stabilization.

4. **Specific Inspection and Maintenance Tasks:** The following is a list of erosion control and stormwater management measures and the specific inspection and maintenance tasks to be performed during construction.

A. Sediment Barriers:

- Hay bale barriers, silt fences, and filter berms shall be inspected immediately after each rainfall and at least daily during prolonged rainfall.
- If the fabric on a silt fence or filter barrier should decompose or become ineffective prior to the end of the expected usable life and the barrier is still necessary, it shall be replaced.
- Sediment deposits should be removed after each storm event. They must be removed before deposits reach approximately one-half the height of the barrier.
- Filter berms shall be reshaped as needed.
- Any sediment deposits remaining in place after the silt fence or filter barrier is no longer required should be dressed to conform to the existing grade, prepared, and seeded.

B. Riprap Materials:

- Once a riprap installation has been completed, it should require very little maintenance. It shall, however, be inspected periodically to determine if high flows have caused scour

beneath the riprap or dislodged any of the stone.

C. Erosion Control Blankets:

- Inspect these reinforced areas semi-annually and after significant rainfall events for slumping, sliding, seepage, and scour. Pay close attention to unreinforced areas adjacent to the erosion control blankets, which may experience accelerated erosion.
- Review all applicable inspection and maintenance procedures recommended by the specific blanket manufacturer. These tasks shall be included in addition to this plan.

D. Temporary Storm Drain Inlet Protection:

- The inlet protection structure shall be inspected before each rain event and repaired as necessary.
- Sediment shall be removed and the storm drain sediment barrier restored to its original dimensions when the sediment has accumulated to half of the design depth of the trap.
- Structures shall be removed upon permanent stabilization of the tributary area.
- Upon removal of the structure, all accumulated sediments downstream of the structure shall be cleaned from the storm drain system.

E. Stabilized Construction Entrances/Exits:

- The exit shall be maintained in a condition that will prevent tracking of sediment onto public rights-of-way.
- When the control pad becomes ineffective, the stone shall be removed along with the collected soil material. The entrance should then be reconstructed.
- Areas that have received mud-tracking or sediment deposits shall be swept or washed. Washing shall be done on an area stabilized with aggregate, which drains into an approved sediment-trapping device (not into storm drains, ditches, or waterways).

F. Temporary Seed and Mulch:

- Mulched areas should be inspected after rain events to check for rill erosion.
- If less than 90% of the soil surface is covered by mulch, additional mulch shall be applied in bare areas.
- In applications where seeding and mulch have been applied in conjunction with erosion control blankets, the blankets must be inspected after rain events for dislocation or undercutting.
- Mulch shall continue to be reapplied until 95% of the soil surface has established temporary vegetative cover.

G. Stabilized Drainage Swales:

- Sediment accumulation in the swale shall be removed once the cross section of the swale is reduced by 25%.
- The swales shall be inspected after rainfall events. Any evidence of sloughing of the side slopes or channel erosion shall be repaired and corrective action should be taken to prevent reoccurrence of the problem.
- In addition to the stabilized lining of the channel (i.e. erosion control blankets), stone check dams may be needed to further reduce channel velocity.

5. **Housekeeping:** The following general performance standards apply to the proposed project.

- A. Spill Prevention: Controls must be used to prevent pollutants from being discharged from materials on-site, including storage practices to minimize exposure of the materials to stormwater, and appropriate spill prevention, containment, and response planning and implementation.
- B. Groundwater Protection: During construction, liquid petroleum products and other hazardous materials with the potential to contaminate groundwater may not be stored or handled in areas of the site draining to an infiltration area. An "infiltration area" is any area of the site that by design or as a result of soils, topography and other relevant factors, accumulates runoff that infiltrates into the soil. Dikes, berms, sumps, and other forms of secondary containment that prevent discharge to groundwater may be used to isolate portions of the site for the purposes of storage and handling of these materials.
- C. Fugitive Sediment and Dust: Actions must be taken to insure that activities do not result in noticeable erosion of soils or fugitive dust emissions during or after construction. Oil may not be used for dust control.
- D. Debris and Other Materials: Litter, construction debris, and chemicals exposed to stormwater must be prevented from becoming a pollutant source.
- E. Trench or Foundation Dewatering: Trench dewatering is the removal of water from trenches, foundations, cofferdams, ponds, and other areas within the construction area that retain water after excavation. In most cases, the collected water is heavily silted and hinders correct and safe construction practices. The collected water must be removed from the ponded area, either through gravity or pumping, and must be spread through natural wooded buffers or removed to areas that are specifically designed to collect the maximum amount of sediment possible, like a cofferdam sedimentation basin. Avoid allowing the water to flow over disturbed areas of the site. Equivalent measures may be taken if approved.

After Construction

1. **Inspection:** After construction, the owner or operator shall hire a qualified post-construction stormwater inspector to at least annually, inspect the BMPs, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved post-construction stormwater management plan.
2. **Maintenance, and repair:** If a BMP requires maintenance, repair or replacement to function as intended by the approved post-construction stormwater management plan, the owner or operator shall take corrective actions to address the deficiency or deficiencies as soon as possible after the deficiency is discovered and shall provide a record of the deficiency and corrective actions to the Department of Public Services (DPS). The following is a list of permanent erosion control and stormwater management measures and the inspection, maintenance, and housekeeping tasks to be performed after construction.

A. Vegetated Areas:

- Inspect vegetated areas, particularly slopes and embankments, early in the growing season or after heavy rains to identify active or potential erosion problems.
- Replant bare areas or areas with sparse growth. Where rill erosion is evident, armor the area with an appropriate lining or divert the erosive flows to on-site areas able to withstand the concentrated flows.

B. Winter Sanding:

- Clear accumulations of winter sand in parking lots and along roadways at least once a year, preferably in the spring.
- Accumulations on pavement may be removed by pavement sweeping.
- Accumulations of sand along road shoulders may be removed by grading excess sand to the pavement edge and removing it manually or by a front-end loader or other acceptable method.

C. Culverts:

- Inspect culverts in the spring, in the late fall, and after heavy rains to remove any obstructions to flow.
- Remove accumulated sediments and debris at the inlet, at the outlet, and within the conduit.
- Inspect and repair any erosion damage at the culvert's inlet and outlet.
- Inspect embankment for erosion, settling, and structural failure.

D. Underdrained Soil Filter Detention Basin:

- The soil filter should be inspected after every major storm in the first few months to ensure proper function. Thereafter, the filter should be inspected at least once every six

- months to ensure that it is draining within 24 hours.
- The top several inches of the filter shall be replaced with fresh material when water ponds on the surface of the bed for more than 72 hours.
 - Sediment and plant debris should be removed from the pretreatment structure (sediment forebay) at least annually.
 - The filter bed vegetations shall be mowed once or twice per year to a grass height no less than six (6) inches.
 - Fertilization of the under drained filter area should be avoided unless absolutely necessary to establish vegetation.
 - Harvesting and pruning of excessive growth will need to be done occasionally. Weeding to control unwanted or invasive plants may also be necessary.
 - Inspect embankment for erosion, settling, and structural failure
3. **Snow storage:** Snow storage is prohibited within the underdrained soil filter basins and the on-site wetlands. If the snow storage areas depicted on the plans exceed their capacity, the owner will contract with a third party to haul and dispose of the snow off-site.
4. **Annual Report:** The owner or operator or a qualified post-construction stormwater inspector hired by that person, shall, on or by June 30 of each year, provide a completed and signed certification that the person has inspected the BMPs and that they are adequately maintained and functioning as intended by the approved post-construction stormwater management plan, or that they require maintenance or repair, including the record of the deficiency and corrective actions taken.
5. **Duration of Maintenance:** Perform maintenance as described and required for any associated permits unless and until the system is formally accepted by a municipality or quasi-municipal district, or is placed under the jurisdiction of a legally created association that will be responsible for the maintenance of the system. If a municipality or quasi-municipal district chooses to accept a stormwater management system, or a component of a stormwater system, it must provide a letter to the MDEP stating that it assumes responsibility for the system. The letter must specify the components of the system for which the municipality or district will assume responsibility, and that the municipality or district agrees to maintain those components of the system in compliance with MDEP standards. Upon such assumption of responsibility, and approval by the MDEP, the municipality, quasi-municipal district, or association becomes a co-permittee for this purpose only and must comply with all terms and conditions of the permit.

Attachments

Attachment 1 – Sample Stormwater Inspection and Maintenance Form

Attachment 1

Sample Stormwater Inspection and Maintenance Form
Lot 5 Industrial Way
Portland, ME

This log is intended to accompany the stormwater Inspection, Maintenance and Housekeeping Plan for the Avita Nursing Home/Medical Clinic. The following items shall be checked, cleaned and maintained on a regular basis as specified in the Maintenance Plan and as described in the table below. This log shall be kept on file for a minimum of five (5) years and shall be available for review. Qualified personnel familiar with drainage systems and soils shall perform all inspections. Attached is a copy of the construction and post-construction maintenance logs.

| Item | Maintenance Required & Frequency | Date Completed | Maintenance Personnel | Comments |
|------------------------------|--|----------------|-----------------------|----------|
| Ditches and Swales | Inspect after major rainfall event producing greater than 3" of rain in 2 hours. | | | |
| | Repair erosion or damage immediately. | | | |
| Catch Basins and Culverts | Remove accumulated sediment and debris | | | |
| | Sump depth | | | |
| Vegetated Areas | Inspect Slopes | | | |
| | Replant Bare Areas | | | |
| | Check after Major Storms | | | |
| Winter Sanding | Clean annually (Spring) | | | |
| | Remove sand and sediment from roadway shoulders | | | |
| Underdrained Detention Basin | Inspect inlet and outlet for blockage and debris | | | |
| | Inspect for erosion, destabilization or side slopes and other structural failure | | | |
| | Mowed | | | |
| | Inspect periodically during wet weather conditions | | | |
| | Check for sediment build up | | | |
| | Ensure proper function | | | |

Received
Recorded Register of Deeds
Aug 25, 2015 03:07:09P
Cumberland County
Nancy A. Lane