

Storm Water Management Practice  
Maintenance Agreement

THIS AGREEMENT is made and executed this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the Village of Hartland, a Wisconsin municipal corporation (“Village”) and Lightning Development, LLC (“Owner”).

Whereas, the Owner owns the land described in the attached Exhibit A (the “Property”); and

Whereas, the Owner and the Village wish to set forth certain storm water facilities and maintenance obligations to document the obligations of the Owner; and

Whereas, to assure appropriate and necessary maintenance of the storm water management facilities and system, it is necessary that a maintenance plan and agreement be prepared and that this Agreement, which sets forth that maintenance plan and agreement, be recorded in the office of the Register of Deeds for Waukesha County; and

Whereas, the Owner has agreed to the requirements of this Storm Water Management Facility Maintenance Agreement; and

Whereas, the restrictions set forth in this Agreement are to run with the Property and perpetually bind the Owner and all of its heirs, successors and assigns.

Now, therefore, the undersigned Owner, as fee owner of all affected lands, hereby executes this Agreement imposing the following restrictions on the Property:

1. The real estate to which this Agreement applies is the Property described on Exhibit A attached hereto.
2. The Owner agrees to construct storm water management facilities in accordance with the plans and specifications set forth in Exhibit B attached and/or referenced hereto.
3. The Owner hereby subjects the Property to the minimum storm water practice maintenance requirements set forth on Exhibit C attached hereto, which restrictions and requirements are to run with the land and are to bind Owner and all its heirs, successors and assigns of Owner.
4. The storm water facilities shown on Exhibit B shall be constructed according to the grading elevations shown on Exhibit B attached and/or referenced hereto.
5. The Owner and the respective heirs, successors and assigns of Owner as owners of the Property shall be solely responsible for the perpetual maintenance, upkeep and repair of the storm water management facilities in accordance with the requirements set forth in Exhibit C attached hereto.

Name and Return Address

Village of Hartland  
210 Cottonwood Avenue  
Hartland, WI 53029

HAV 0423981

Parcel Identification Number(s) – (PIN)

6. Upon notification to the owner of the Property by the Village of maintenance failures that require correction due to an adverse effect on the Property or the public health, safety or welfare, the then-current Owner shall take the specified corrective action within a reasonable time frame as set forth by the Village.
7. The Village is authorized, but not required, to perform the corrective actions identified in the notice if the owner does not make the required corrections within the specified time. All costs and administrative fees charged to the Owner in accordance with this section may be placed upon the tax rolls by the Village as a special charge in accordance with the Wisconsin Statutes, including Wis. Stat. section 66.0627, as amended from time to time.
8. The Owner shall be responsible for maintenance of the storm water management facilities pursuant to the requirements of Exhibit C attached hereto. Maintenance shall be undertaken consistent with the maintenance requirements of Exhibit C unless more stringent requirements have been enacted by the Village or a State Agency from time to time. The Village is authorized to access the Property to conduct inspections of storm water management facilities as necessary to determine that the facilities are being maintained and operated in accordance with this Agreement. The Owner, as needed (but not less than on an annual basis), shall provide maintenance of each storm water management measure including, but not limited to, removal of debris, maintenance of vegetative areas, maintenance of structural storm water management facilities, and sediment removal. Upon notice to the Owner by the Village of maintenance problems that require correction, the specified corrective actions shall be taken within a reasonable time frame as set by the Village.
9. In the event that maintenance of the storm water management facilities is not undertaken by the Owner, the Village may perform maintenance work on the storm water management facilities if such a failure to maintain:
  - a. Has a material adverse effect on public or private property, or
  - b. Endangers the public health, safety or welfare; provided, however, that before the Village shall have the right to perform any such maintenance pursuant to this section (except in the case of an emergency situation determined by the Village DPW Director), the Village shall provide the Owner with written notice stating what specific maintenance activities the Village deems to be required with respect to the storm water management facilities. The Owner shall have ten (10) calendar days after the date of such written notice to perform such maintenance activities, provided that said 10 days may be extended by the Village if the Owner has commenced required maintenance work within the 10 days and is diligently proceeding to complete the same. In the case of an emergency situation, as determined in the sole discretion of the DPW Director, no notice shall be required prior to the Village performing emergency maintenance and/or repairs.
10. The Village shall have unrestricted access to the Property for purposes of inspection for compliance and for repairs and corrective action
11. The cost of all the inspections or maintenance undertaken by the Village pursuant to the above paragraphs shall be assessed against the Owner in accordance with the provisions of section 66.0627 of the Wisconsin Statutes, as amended from time to time. It is expressly understood and acknowledged that such costs shall be deemed a Special Charge



## Exhibit A

**Project Identifier:** Catalyst – Hartland Apartments

**Tax Key No.:** HAV 0423981

**Legal Description:**

Lot 2 of Certified Survey Map No. 12049, recorded on August 13, 2020 in Certified Survey Maps 122 Pages 315 to 328 inclusive, at the Waukesha County Register of Deeds office as Document No. 4501088, located in part of the Northeast 1/4 of the Southwest 1/4 of Section 34, Town 8 North, Range 18 East, in the Village of Hartland, Waukesha County, Wisconsin.

# Exhibit A (continued)

**Preliminary Plat:** The property is being subdivided via a Condominium Plat entitled "Paradise Trails Condominium" dated \_\_\_\_\_ and approved by the State Department of Administration on \_\_\_\_\_. A reduced size copy of the final plat layout is shown in the following:



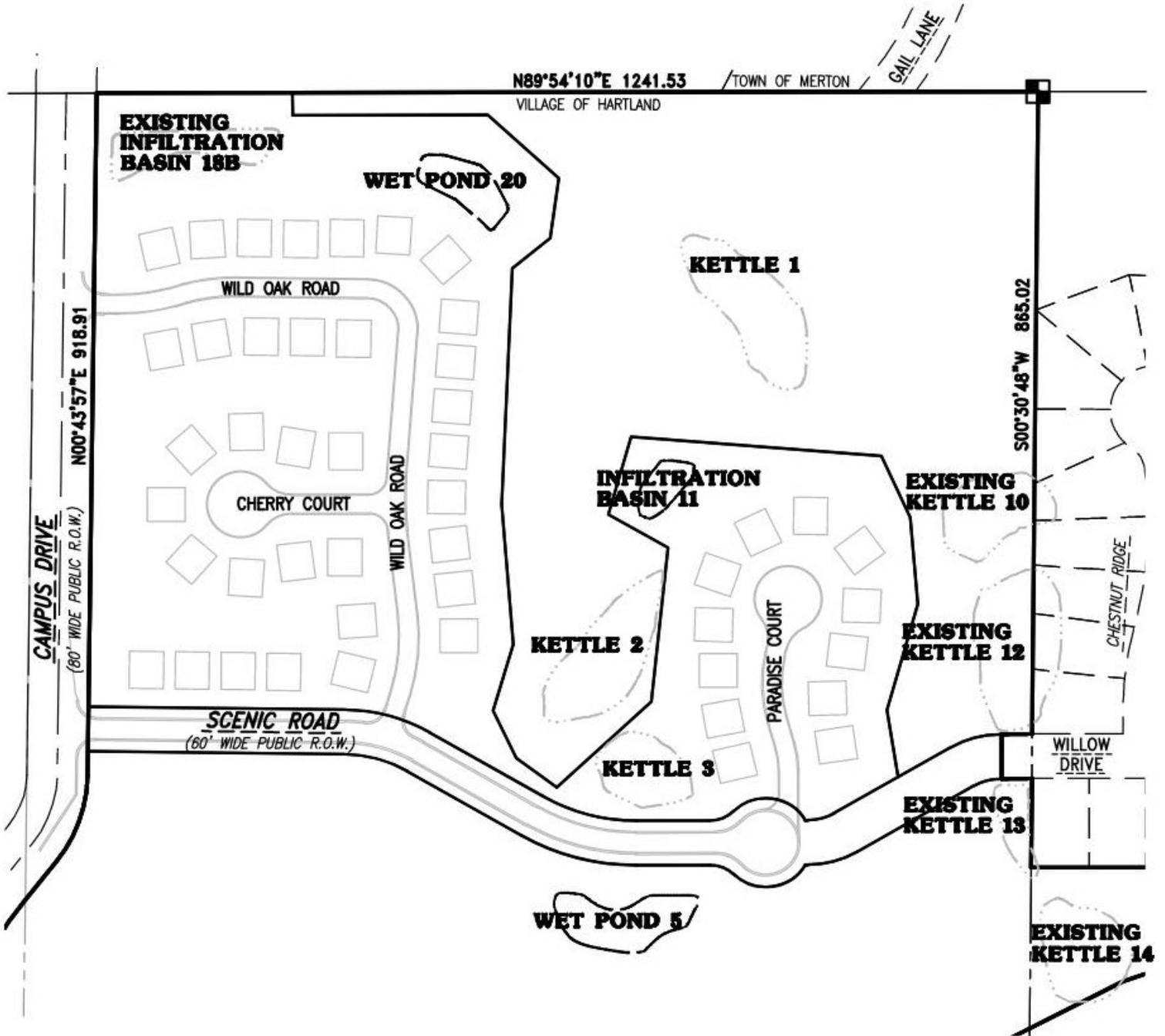
**CURVE TABLE**

NO.	RADIUS	CENTRAL ANGLE	ARC	CHORD BEARING	TANGENT IN	TANGENT OUT
C1	130.00	30°00'00"	68.07	S74°53'11"W	S89°53'09"W	S59°53'09"W
C2	70.00	30°00'00"	36.05	S74°53'09"W	N89°53'09"E	N89°53'09"E
C3	60.00	104°24'55"	109.34	N82°19'18.5"W	N20°06'51"W	S45°28'14"W
C4	45.00	44°34'50"	54.98	S74°02'41.5"W	N89°53'09"E	N45°28'14"E
C5	245.00	30°00'00"	128.38	N35°25'17"W	S60°06'51"E	N89°53'09"E
C6	250.00	29°09'11"	117.03	N34°17'26"W	N60°06'51"W	N89°16'02"W

THIS INSTRUMENT WAS DRAFTED BY DEBORAH L. JOHNS, P.L.S. (S-2132), (TRIO ENGINEERING, LLC, BROOKFIELD, WISCONSIN)

DATE: 8/26/20 PAGE 1 OF 1

**EXHIBIT B**  
**Storm Water Facilities**



## **EXHIBIT C**

### **Minimum Storm Water Practice Maintenance Requirements**

This Exhibit prescribes the minimum maintenance requirements for the development to remain compliant with this Agreement. The maintenance activities listed below are provided to ensure storm water practices continue to serve 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 storm water practices for maintenance vehicles is shown in Exhibit B. Any failure of a storm water practice caused by lack of maintenance will subject the responsible party to enforcement of the provisions of this Agreement by the Village of Hartland, together with such other remedies as may be available at law.

**Overall Description.** The Paradise Trails Condominium development is a 47 single-family condominium unit residential subdivision situated along a private road that connects to the public road and Campus Drive. The layout of the condominium units and roads was intentional and designed to maximize the amount of wooded area that can be preserved through this development. The development plan includes wet ponds, infiltration basins and existing kettles in a series serving as a treatment train for the primary means of storm water management.

**Description of Storm Water Management Practices.** The following describes the primary storm water management practices utilized by this development:

#### **Pond 5 Summary**

Pond 5 is a large basin located south of the public drive. This pond receives inflow from area P-5. Pond 5 discharges via a riser structure toward the eastern Lisbon Road ditch. This basin discharges through a multi-stage structure into a 15-inch reinforce concrete culvert pipe to existing Kettle 3. The emergency overflow spillway is a low point in the public drive near the southeast corner of the pond.

The following describes this pond:

- Top of Berm = 987.0
- Overflow = 985.9
- NWL = 979.25
- Bottom = 974.25
- 6-inch orifice I.E. = 979.25
- 36-inch riser rim elevation = 981.25
- 15-inch RCP culvert I.E. = 979.25

Future Development Conditions:

- 100-yr FROZEN = 985.87
- 100-yr back-to-back = 985.67
- 100-yr = 984.30
- 10-yr = 981.96
- 2-yr = 981.35
- 1-yr = 981.00

### **Infiltration Basin 11 Summary**

This infiltration basin is located near the center of the development, northwest of the isolated cul-de-sac. Inflow to this basin is primarily from drainage area P-11 with some discharge from existing Kettle 2 in large storm events. Infiltration Basin 11 discharges via a 10-inch culvert pipe to existing Kettle 1. The emergency overflow spillway is on the northern side of the pond and overflows to Kettle 1.

#### The following describes this wet pond:

- Top of Berm = 970.0
- Overflow = 969.0
- Bottom = 964.0
- 10-inch culvert I.E. = 966.00

#### Future Development Conditions:

- 100-yr FROZEN = 969.49
- 100-yr back-to-back = 969.66
- 100-yr = 969.18
- 10-yr = 965.70
- 2-yr = 964.59
- 1-yr = 964.33

### **Pond 20 Summary**

Pond 20 is located in the northern portion of the site. Pond 20 receives discharge from drainage area P-20, and the existing infiltration basin during the frozen 100-year storm event. This basin discharges through a 6-inch culvert pipe to Kettle 1 and has a secondary discharge through a 15-inch culvert pipe that directs runoff to the existing infiltration basin 18B. The emergency overflow route is in the southeast corner of the basin and directed towards Kettle 1.

#### The following describes this basin:

- Top of Berm = 995.0
- Overflow = 994.0
- NWL = 989.0
- Bottom = 984.0
- 15-inch RCP culvert I.E. = 991.00
- 6-inch culvert I.E. = 989.00

#### Future Development Conditions:

- 100-yr FROZEN = 994.54
- 100-yr back-to-back = 994.57
- 100-yr = 993.78
- 10-yr = 991.49
- 2-yr = 990.04
- 1-yr = 989.78

**Responsibility.** The Owner of the property, and their heirs and assigns, shall be the “responsible party” for the routine, ordinary, and long term maintenance of all drainage easements and storm water practices, including, but not limited to those improvements shown on the plans.

## **Minimum Maintenance Requirements**

### **Wet Detention Ponds**

#### I. ROUTINE MAINTENANCE

##### A. Mowing

1. Side slopes, embankments, and emergency spillways that are not rock lined which have been planted with turf grasses should be mowed at least three (3) times a year to prevent woody growth and control noxious weeds. Recommended mowing times are April, July and October of each year.
2. The Owner may more frequently mow areas adjacent to the entry drive, typically once every week to two weeks during a normal growing season, for aesthetic and allergy control purposes.
3. Native grasses should be mowed to a height of 6” in mid to late summer or after they have achieved a height of 1-1/2 feet during the first growing season. Further mowing in subsequent growing seasons may not be required.
4. A 6 to 8” mowing every 3 to 4 years, may suffice as a substitute management technique. The mowed area should be raked and performed in the spring.

##### B. Inspections

1. Inspections of the ponds shall be completed on an annual basis or after significant rainfall events.
2. The inspections should be completed during wet weather conditions to determine if the ponds are functioning properly.
3. Inspection priorities shall be as follows:
  - a. Inspect the embankments for subsidence, erosion, cracking and tree growth.
  - b. Inspect the condition of the emergency spillway and overland flow path.
  - c. Inspect the pond for accumulation of sediment.
  - d. Inspect the outlet control structure for clogs, debris and material failures.
  - e. Inspect upstream and downstream channels from an erosion perspective.
  - f. Inspect any modifications that may have been done to the ponds following their initial construction.
  - g. Inspect the side slopes of the pond for erosion, slumping, cracking or woody plant materials.
  - h. NO trees are to be planted or allowed to grow on the earthen berms.
4. As-built plans shall accompany the person responsible for the pond inspections.
5. Documentation of the inspections should be completed and filed. Documentation should include as a minimum:
  - a. Inspectors name, affiliation and professional credentials if applicable.
  - b. Date, time and weather conditions.
  - c. Approximate rainfall total over a 24 hour period if applicable.
  - d. Existing embankment, outlet and inlet conveyance systems and vegetation condition.

- e. Sediment depth at the outlet control structure and at a minimum one other location.
    - f. Identification of potential structural failures and repair needs.
    - g. Other pond conditions such as vegetation growth, algae growth and emergency spillway conditions.
    - h. Repair recommendations.
  - C. Leaf, Debris and Litter Removal.
    - 1. Debris, leaf accumulation and litter removal from the pond surface shall be completed at least once a month.
    - 2. Particular attention should be paid to debris and leaves accumulating around the riser pipe to prevent potential clogging.
  - D. Erosion Control.
    - 1. The pond side slopes, embankments and emergency spillways may suffer from periodic slumpage and erosion.
    - 2. Corrective measures shall include regrading, filling and revegetation of the eroded or slumping areas.
    - 3. Permanent geosynthetic erosion matting (or rip rap) at the pond outlet and emergency spillways should be inspected for displacement or undermining. Repairs shall be made upon discovery.
  - E. Nuisance Control.
    - 1. Biological control of algae and mosquitoes is preferred over chemical control. Consultation with local WDNR officials is recommended prior to the introduction of any biological control.
    - 2. Maintaining the native grass perimeter will aide in the control of geese.
    - 3. Mechanical controls should be used when feasible.
- II. NON-ROUTINE MAINTENANCE
  - A. Structural Repairs and Replacement.
    - 1. The outlets of the pond have been constructed utilizing concrete pipe and concrete materials. The estimate life of these structures is 75 to 100 years. Annual inspection of the structures will disclose any potential structural problems. If structural problems appear, repair or replace the outlet.
    - 2. Excessive or chronic drawdowns of the ponds may cause leaks or seepage through the embankments. Excessive drawdowns should be avoided and thus corrective measures for leakage and seepage can be avoided.
  - B. Sediment Removal.
    - 1. A sediment clean out cycle of 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 of the permanent water pool is maintained.
    - 2. It is recommended that the sediment be tested to determine if land filling is necessary. Contact the local DNR prior to sediment sampling and testing to ensure compliance with State standards and regulations.
    - 3. Surveyed depths of the sediment storage area and permanent pool elevations shall be made immediately following the construction of the ponds and recorded on the as-built plans. Annual inspections shall include measure downs to determine sediment elevations in relation to the permanent pool elevation.
  - C. Any other repair or maintenance needed to ensure the continued function of the storm water practices or as ordered by the Village of Menomonee Falls under the provisions listed within this Agreement.
- III. RESPONSIBLE PARTY & FINANCIAL FUNDING
  - A. The responsible party for the operation, inspection and maintenance of the wet ponds shall be the homeowners association of the subdivision.

- B. It is recommended that the homeowners association of the subdivision and their heirs and assigns establish or set aside a perpetual maintenance fund to ensure that the ponds are properly inspected, maintained and repaired.

IV. ADDITIONAL CONSIDERATIONS TO IMPROVE POND WATER QUALITY AND REDUCE MAINTENANCE COSTS.

- A. General.
  - 1. Improper disposal of yard wastes will affect the water quality of the wet ponds and may cause clogging of the outlet structure.
  - 2. Improper fertilizer and pesticide application will affect the water quality of the wet ponds and add to algae growth.
  - 3. Excess lawn watering will affect the water quality of the ponds due to increased water runoff that may contain fertilizers and pesticides.
- B. Yard Care.
  - 1. It is recommended to consider routine yard care maintenance that is practical and environmentally sound.
  - 2. Refer to the U.W. Extension's "Rethinking Yard Care" for additional information.
- C. Leaves and Yard Trimmings.
  - 1. It is recommended that leaves and yard trimmings be properly disposed of.
  - 2. Refer to the U.W. Extension's "Managing Leaves and Yard Trimmings" for further information.
- D. Lawn and Garden Fertilizers.
  - 1. It is recommended to control fertilizer applications on lawn and gardens so as not to be detrimental to the water quality of the ponds.
  - 2. Refer to the U.W. Extension's "Lawn and Garden Fertilizers" for further information.
- E. Lawn and Garden Pesticides.
  - 1. Lawn and garden pesticides may pollute surface and ground water.
  - 2. Refer to the U.W. Extension's "Lawn and Garden Pesticides" for further information.
- F. Lawn Watering.
  - 1. Excess lawn watering will wash pollutants into the wet ponds.
  - 2. Refer to the U.W. Extension's "Lawn Watering" for further information.
- G. Lawn Weed Control.
  - 1. Proper turf management will lower the amount of the chemicals that may runoff into the wet ponds during rain events.
  - 2. Refer to the U.W. Extension's "Lawn Weed Control" for further information.

## **Infiltration Basins**

To ensure the proper function of the storm water infiltration basins, the following list of maintenance activities are recommended:

- I. A minimum of 70% soil cover made up of native grasses should be maintained on the bottom of the infiltration basin area to promote the desired infiltration rates. Periodic mowing is recommended to enhance establishment of the prairie grasses (which may take 2-3 years) and maintain the minimum native cover. To reduce competition from cool season grasses (bluegrass, fescues, quack, etc.) and other weeds:
  - A. For the first year, cut to a 6" height three times – once each in June, July and early August. To prevent damage to the native grasses, do not mow below a 6" height. Remove excessive accumulation of clippings to avoid smothering next year's seedlings.
  - B. After the first year, mowing may only be needed in early June each year to help control the spread of cool season plants. The mowing should also be raised to 10-12" to avoid damage to the warm season plants.
  - C. Any major bare areas or areas taken over by non-native species must be reseeded. To clear area of weeds and cool season grasses, treat with an herbicide that contains glyphosphate in accordance with manufacturer's instructions. Ensure a firm seedbed is prepared to a depth of 3 inches (a roller is recommended). Seeding should occur in early-mid June. Seed with Big Bluestem, Indian Grass, Little Blue Stem or Switchgrass (preferably an equal mix of all four types). A companion crop of oats is recommended. Seed must be placed at a depth of 1/4 – 1/2" and a minimum rate of 1/4 pound per 100 square feet. If broadcast seeding by hand, drag leaf rake over soil surface after seeding. Then roll it again and cover with a light layer of mulch and staked erosion control netting to hold it in place until germination. For other planting details, see NRCS standard 342 (Critical Area Planting).
- II. The basin and all components (grass swales, inlets, outlets, etc.) should be inspected after each heavy rain, but at a minimum of once per year. If the basin is not draining properly (within 72 hours), further inspection may be required by persons with expertise in storm water management and/or soils.
  - A. If soil testing shows that the soil surface has become crusted, sealed or compacted, some tillage of the soil layer at the bottom of the basin should be performed – note the location of the perforated underdrain before tilling to avoid damage to the underdrain. Types of tillage equipment that can be used include a subsoiler or straight, narrow-shanked chisel plow.
  - B. If sedimentation is determined to be causing the failure, the accumulated sediment must be removed and the area reseeded in accordance with the notes above.
  - C. If inspection of the basin shows that groundwater is regularly near the surface, additional design features may need to be considered, such as additional subsurface drainage or conversion to a wetland treatment system.
- III. LEAF and DEBRIS REMOVAL: All outlet pipes, soil layers and other flow control devices must be kept free of debris and blockage by leaves. Any blockage must be removed immediately; the Owner shall be responsible for this removal/maintenance.
- IV. Any eroding areas must be repaired immediately to prevent premature sediment build-up in the system. Erosion matting is recommended for repairing grassed areas.
- V. Heavy equipment and vehicles must be kept off of the bottom and side slopes of the engineered soil area to prevent soil compaction. Soil compaction will reduce infiltration rates and may cause failure of the basin, resulting in ponding and possible growth of wetland plants.
- VI. No trees are to be planted or allowed to grow in the bottom of the basin, as trees may shade out the native grasses. The basin must be inspected annually, and any woody vegetation removed.
- VII. Grass swales leading to the basin shall be preserved to allow free flowing of surface runoff in accordance with approved grading plans.
- VIII. No grading or filling of the basin or berms other than for sediment removal is allowed.

- IX. Any other repair or maintenance needed to ensure the continued function of the infiltration basin as ordered by the Village of Hartland under the provisions listed in this Agreement.

### **Private Storm Sewer Piping, Catch Basins, Field Inlets & Storm Manholes**

- I. Accumulated solids or byproduct removal requirements:
  - A. Inlets are to be cleaned on an annual basis from May to June of each year.
  - B. Inspect and remove **leaf and other similar debris** from private storm sewer structures from November to December each year.
  - C. Inlets are to be cleaned utilizing vacuum equipment in accordance with Local and State regulations.
- II. Identification of Safety Hazards
  - A. Storm manholes may be considered “confined spaces” and appropriate “confined space entry” requirements must be met in accordance with Local and State regulations.
- III. Cleaning and Inspection Schedule
  - A. Inspect entire system including inlets, grates, manhole covers, and flared end sections on semi-annual basis for deficiencies. Said inspection shall take place in the spring and fall of each year.
  - B. Spring inspection shall be completed prior to each spring-cleaning cycle.
- IV. Inspection and Maintenance Checklist
  - A. Inspection shall include documenting and/or noting concerns and updates needed or completed.
- V. Start up and Shutdown Procedures.
  - A. Upon stabilization of worksite, all temporary erosion control measures shall be removed.
- VI. Contingency Plan in event of System Failure.
  - A. If stormwater inlets (or catch basins) cease functioning properly, inspect in the following order:
    1. Stormwater Inlets.
      - a. Inspect inlet grate for blockage, clean as required.
      - b. Inspect inlet outfall pipe for blockage, clean as required.
    2. Blockage in mainline storm sewer.
      - a. Perform video inspection of mainline storm sewer.
      - b. Clean and repair as required.