



2006 00121989

Bk: 40589 Pg: 218 Doc: AGT
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Loc: 5:2430 Beacon Street, Boston MA

CROSS EASEMENT AND USE AGREEMENT

This **CROSS EASEMENT AND USE AGREEMENT** ("Agreement") is made this 18th day of September, 2006 by **WATERWORKS PARK, LLC**, a Massachusetts limited liability company with an address of 536 Granite Street, Braintree, Massachusetts 02184 (hereinafter, the "Declarant") as owner of all that certain parcel of land with the improvements thereto situated at 2436 Beacon Street, Chestnut Hill, Massachusetts, and legally described in Exhibit A attached hereto. (the "Park Condominium Property").

RECITALS

A. The Declarant is the owner of the Park Condominium Property by virtue of that certain Deed with Conservation and Preservation Restrictions by and among the Commonwealth of Massachusetts, et al., as Grantor, and Declarant, as Grantee, dated August 5, 2005 and recorded with the Suffolk County Registry of Deeds (the "Registry") in Book 37860, Page 176, as amended by a First Amendment to Deed with Conservation and Preservation Restrictions dated as of August 22, 2006 to be recorded herewith (as so amended, "Declarant's Deed").

B. The Park Condominium Property is subject to the terms and conditions of that certain Amended and Restated Land Disposition Agreement by and among the Commonwealth of Massachusetts, the Massachusetts Water Resources Authority and the Declarant, dated as of August 5, 2005, and recorded with the Registry in Book 37860, Page 1 (the "LDA").

C. Pursuant to the Declaration of Trust of The Waterworks at Chestnut Hill Trust dated September 18, 2006 and to be recorded herewith, (the "Park Board Declaration of Trust"), a board of trustees (the "Park Board") has been established and charged with, inter alia, the administration of this Agreement and the preparation of a budget for payment of the Common Park Expenses, East Sewer Easement Area costs and West Sewer Easement Area costs (defined in *Section 12* below).

(A. Miller)

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D. The Park Condominium Property has been divided into four individual lots shown as and labeled "Lot 1," "Lot 2," "Lot 3" and "Lot 4" on a plan entitled "Plan of Land in Boston, MA," dated July 17, 2006, by Precision Land Surveying, Inc., recorded with the Registry in Plan Book 2006, Page 931 (the "Subdivision Plan").

E. Four individual condominiums will be created by the Declarant pursuant to Chapter 183A of the Massachusetts General Laws ("Chapter 183A") on the Park Condominium Property to be known as the Waterford Condominium, the Watermark Condominium, the Whitehall Condominium and the Waterworks Museum Condominium (together, the "Park Condominiums"; also sometimes generally referred to individually as a "Condominium").

F. The Waterford Condominium will be created by the Declarant by recording a Master Deed with the Registry submitting Lot 3 as shown on the Subdivision Plan to the provisions of Chapter 183A ("Waterford").

G. The Watermark Condominium will be created by the Declarant by recording a Master Deed with the Registry submitting Lot 1 as shown on the Subdivision Plan to the provisions of Chapter 183A ("Watermark").

H. The Whitehall Condominium will be created by the Declarant by recording a Master Deed with the Registry submitting Lot 2 as shown on the Subdivision Plan to the provisions of Chapter 183A ("Whitehall").

I. The Waterworks Museum Condominium will be created by the Declarant by recording a Master Deed with the Registry submitting Lot 4 as shown on the Subdivision Plan to the provisions of Chapter 183A ("Waterworks").

J. By this Agreement, the Declarant intends to create reciprocal easements for the benefit of the Park Condominiums for the purpose of (i) ingress and egress to and from the Park Condominiums; (ii) use of a fitness facility to be located in Whitehall; (iii) use of a management office and superintendent's office to be located in Watermark and Waterworks; (iv) use of the concierge office to be located in Watermark; (v) parking for the public and certain residents of the Park Condominiums; (vi) use and maintenance of sewer lines; (vii) use of Verizon's telephone services located on the Whitehall property; (viii) use and maintenance of the irrigation system throughout the Park Condominium Property; and (ix) landscaping and grounds maintenance throughout the Park Condominium Property. Some of the designated easement areas are shown on the plan (consisting of 2 sheets) entitled "Chestnut Hill Waterworks, Easement Plan in Boston, MA (Suffolk County)", dated August 17, 2006, by Precision Land Surveying, Inc., to be recorded herewith (the "Easement Plan").

NOW, THEREFORE, the Declarant hereby declares that the Park Condominium Property is and shall be subject to, and have the benefit of, the covenants, easements and restrictions set forth below.

AGREEMENT

1. Ingress/Egress Easement.

1.1 Agreement of Easement. The Declarant hereby declares that the roadways shown as Roadway Easement Areas and Proposed Roadways on the Easement Plan (collectively, the "**Roadway Easement Area**") shall, subject to the terms and conditions in this Agreement, be subject to the perpetual, nonexclusive right and easement in favor of each Condominium in the Park Condominiums and its respective unit owners, residents, agents, employees, invitees, guests, lessees and any other third party, including, but not limited to emergency vehicles and personnel, solely for the purpose of pedestrian and motor vehicle passage, access, ingress and egress to and from any of the Park Condominiums and to and from the area subject to the Conservation Restriction granted in the Declarant's Deed. In addition, the general public shall, subject to the terms and conditions of this Agreement, the Declarant's Deed, and by-laws and rules and regulations of the Park Board, have the right to use the Roadway Easement Area solely for the purpose of pedestrian and motor vehicle passage, access, ingress and egress to and from the area subject to the Conservation Restriction in the Declarant's Deed and the Public Space Unit in the Waterworks Condominium, the terms and conditions of such public access, such as hours of access, to be determined by the Park Board subject to the provisions of the LDA.

1.2 Maintenance and Repair. The Park Board shall be solely responsible for maintaining and repairing the Roadway Easement Area, including, without limitation, repair and replacement of any pavement or other surfacing and any sweeping, cleaning, snow-plowing and landscaping as necessary to keep the Roadway Easement Area in good, clean order and repair. All maintenance, repairs or replacements performed by the Park Board under this Agreement shall be performed in a good and workmanlike manner and in compliance with all applicable laws, codes, ordinances, by-laws, rules, and regulations, and shall be performed so as to minimize interference with the Park Condominiums and the use thereof.

2. Fitness Facility Easement.

2.1 Agreement of Easement. The Declarant hereby declares that the fitness facility and surrounding area shown on the plans to be recorded with the Master Deed for Whitehall (the "**Fitness Easement Area**") shall, subject to the terms and conditions in this Agreement, be subject to the perpetual, nonexclusive right and easement in favor of the Whitehall, Waterford, Watermark, and Waterworks residential unit owners, residents of residential units and their guests for the purposes of ingress and egress to the fitness facility and use thereof. Such use shall be subject to the terms and conditions of Whitehall's Rules and Regulations.

2.2 Maintenance, Repair and Management. The Park Board shall be solely responsible for any maintenance, repair and management associated with the fitness facility and Fitness Easement Area, including, without limitation, repair and maintenance of any equipment, cleaning of the fitness facility and equipment, management of day to day operations of the fitness facility and any other activities necessary to keep the fitness facility and Fitness Easement Area in good, clean order and repair.

3. Management and Superintendent Easement.

3.1 Agreement of Easement. The Declarant hereby declares that the management offices and superintendent's offices shown on the plans to be recorded with the Master Deeds for Watermark and Waterworks (the "**Management Easement Area**") shall, subject to the terms and conditions in this Agreement, be subject to the perpetual, nonexclusive right and easement in favor of each Condominium in the Park Condominiums and its respective unit owners, residents, agents, employees, invitees, guests, lessees and any other third party for the purposes of ingress and egress to the management and superintendent's office and use thereof.

3.2 Maintenance, Repair and Management. The Park Board shall be solely responsible for any maintenance, repair and management associated with the management and superintendent offices and Management Easement Area, including, without limitation, repair, maintenance, and cleaning of the management and superintendent offices and Management Easement Area, management of day to day operations of the management and superintendent offices and any other activities necessary to keep the management and superintendent offices and Management Easement Area in good, clean order and repair.

4. Concierge Easement.

4.1 Agreement of Easement. The Declarant hereby declares that the concierge office and surrounding area shown on the plans to be recorded with the Master Deed for Watermark (the "**Concierge Easement Area**") shall, subject to the terms and conditions in this Agreement, be subject to the perpetual, nonexclusive right and easement in favor of each of the Condominiums in the Park Condominiums and its respective unit owners, residents, agents, employees, invitees, guests, lessees and any other third party for the purposes of ingress and egress to the concierge office and use thereof.

4.2 Maintenance, Repair and Management. The Park Board shall be solely responsible for any maintenance, repair and management associated with the concierge office and Concierge Easement Area, including, without limitation, repair, maintenance, and cleaning of the concierge office and Concierge Easement Area, management of day to day operations of the concierge office and any other activities necessary to keep the concierge office and Concierge Easement Area in good, clean order and repair.

5. Parking Easement.

5.1. Agreement of Easement. The Declarant hereby declares that the parking areas shown on the Easement Plan shall be subject to the following:

a. The nine (9) surface parking spaces numbered 23 through and including 31 on the Easement Plan and located on the Whitehall Property (the "**Waterworks Parking Easement Area**") shall, subject to the terms and conditions of this Agreement, be subject to the perpetual and exclusive right and easement in favor of Waterworks, for the benefit of its unit owners, residents, lessees and their respective contractors and invitees, and the general public,

solely for the purposes of parking motor vehicles thereon. Such use shall be subject to the terms and conditions of Waterwork's Master Deed, Declaration of Trust and Rules and Regulations, and the Declarant under the Waterwork's Master Deed shall have the right to grant the exclusive right to use one or more of such parking spaces as an appurtenance to a designated unit in Waterworks.

b. The seven (7) parking spaces numbered 22 and 69 through and including 74 on the Easement Plan and located on the Waterworks Property and the Whitehall Property (the "**Waterford Parking Easement Area**") shall, subject to the terms and conditions of this Agreement, be subject to the perpetual and exclusive right and easement in favor of Waterford, for the benefit of its unit owners, residents and lessees, solely for the purposes of parking motor vehicles thereon. Such use shall be subject to the terms and conditions of the Waterford Master Deed, Declaration of Trust and Rules and Regulations, and the Declarant under the Waterford Master Deed shall have the right to grant the exclusive right to use one or more of such parking spaces as an appurtenance to a designated unit in Waterford.

c. The eighteen (18) surface parking spaces numbered 32 through and including 49 on the Easement Plan and located on the Whitehall Property (the "**Watermark Parking Easement Area**") shall, subject to the terms and conditions of this Agreement, be subject to the perpetual and exclusive right and easement in favor of Watermark, for the benefit of its unit owners, residents and lessees, solely for the purposes of parking motor vehicles thereon. Such use shall be subject to the terms and conditions of Watermark's Master Deed, Declaration of Trust and Rules and Regulations, and the Declarant under the Watermark Master Deed shall have the right to grant the exclusive right to use one or more of such parking spaces as an appurtenance to a designated unit in Watermark.

d. The twenty-two (22) surface parking spaces numbered 65 through and including 68, 75 through and including 85, and 86 through and including 92, on the Easement Plan, and located on the Whitehall Property and the Watermark Property (the "**Visitor Parking Easement Area**"), shall, subject to the terms and conditions of this Agreement, be subject to the perpetual, nonexclusive right and easement in favor of each Condominium in the Park Condominiums, solely for the purpose of visitor parking and parking for the disabled. The use of such parking spaces located on the Whitehall Property shall be subject to the terms and conditions of Whitehall's Master Deed, Declaration of Trust and Rules and Regulations. The use of such parking spaces located on the Watermark Property shall be subject to the terms and conditions of Watermark's Master Deed, Declaration of Trust and Rules and Regulations.

5.2 Maintenance and Repair. The Park Board shall be solely responsible for maintaining and repairing the Waterworks Parking Easement Area, the Waterford Parking Easement Area, the Watermark Parking Easement Area, the Visitor Parking Easement Area and all other surface parking areas in the Park Condominium (collectively, the "**Parking Easement Area**"), including, without limitation, repair and replacement of any pavement or other surfacing and any sweeping, cleaning, snow-plowing and landscaping as necessary to keep the Parking Easement Area and all parking lots in good, clean order and repair. The Park Board shall have the authority to make special assessments, when deemed appropriate, against the residential units in Waterworks and Waterford for the cost of repair and maintenance of the Parking Easement Area.

6. Sewer Easements

6.1 Agreement of Easement. The Declarant hereby declares that the sewer line located on the Watermark and Whitehall properties and shown as East Sewer Easement Area on the Easement Plan (the "**East Sewer Easement Area**") and the sewer line located on the Waterworks and Waterford properties and shown as West Sewer Easement Area on the Easement Plan (the "**West Sewer Easement Area**") shall, subject to the terms and conditions of this Agreement, be subject to the perpetual nonexclusive right and easement in favor of each of the Condominiums in the Park Condominiums and their respective unit owners, residents, agents, employees, and contractors for the purpose of using, accessing and maintaining the sewer line thereon.

6.2 Maintenance and Repair. The Park Board shall be solely responsible for maintaining and repairing the East Sewer Easement Area and West Sewer Easement Area, unless the Park Board transfers these responsibilities to the Massachusetts Water Resources Authority.

7. Telephone Easement

7.1 Agreement of Easement. The Declarant hereby declares that the Whitehall property shall, subject to the terms and conditions of this Agreement, be subject to the perpetual nonexclusive right and easement in favor of each Condominium in the Park Condominiums and its respective unit owners, residents, and lessees for the purpose of using and accessing the Verizon telephone vault located thereon (the "**Telephone Easement Area**").

7.2 Maintenance and Repair. All equipment in the Telephone Easement Area shall be the property of Verizon and all maintenance and repairs performed thereto shall be performed by Verizon. The Park Board shall be solely responsible for keeping the Telephone Easement Area clear and in good, clean order.

8. Irrigation System Easement.

8.1 Agreement of Easement. The Declarant hereby declares that the irrigation system constructed on the Park Condominium Property shall, subject to the terms and conditions of this Agreement, be subject to the perpetual nonexclusive right and easement in favor of each Condominium in the Park Condominiums and its unit owners, residents, and lessees for the purpose of accessing and using the irrigation system (the "**Irrigation Easement Area**").

8.2 Maintenance and Repair. The Park Board shall be solely responsible for maintaining and repairing the irrigation system and Irrigation Easement Area.

9. Landscaping Easement.

9.1 Agreement of Easement. The Declarant hereby declares that the areas of the Park Condominium Property which are not from time to time occupied by buildings, roadways and parking areas (collectively, the "**Landscape Easement Area**") shall, subject to the terms and

conditions of this Agreement and the Declarant's Deed, be subject to a perpetual nonexclusive right and easement in favor of each Condominium in the Park Condominiums and its respective unit owners, residents, agents, employees and contractors, for the purpose of planting, installing and maintaining lawns, plants, shrubs, trees, walkways, benches and other ornamental landscaping elements.

9.2. Maintenance. The Park Board shall be solely responsible for the maintenance of the Landscape Easement Area, including lawn mowing, pruning, planting and leaf removal, consistent with sound horticultural practices and in accordance with the provisions of Sections I and II of the Declarant's Deed applicable thereto.

10. Access by the Commonwealth, the Massachusetts Water Resources Authority and the General Public

Pursuant to Section IV of the Declarant's Deed, the Commonwealth of Massachusetts, acting by and through the Division of Capital Asset Management and Maintenance and the Department of Conservation and Recreation, the Massachusetts Historical Commission and the Massachusetts Water Resources Authority, through their duly designated officers, directors, employees, representatives, and agents shall have the right to enter the Restricted Area (as defined in the Declarant's Deed) at reasonable times and in a reasonable manner, including access by foot and/or by motorized vehicle, for the purpose of inspecting the Restricted Area (as defined in the Declarant's Deed), determining compliance with the terms of the Declarant's Deed, and preventing, abating or remedying any violations thereof.

The Declarant's Deed also reserves to the Commonwealth of Massachusetts and the Massachusetts Water Resources Authority and grants to the general public the right and easement to enter upon and use the exterior grounds of the Restricted Area (as defined in the Declarant's Deed) for passive outdoor recreational purposes such as walking, hiking, jogging, wildlife observation, and similar uses by the general public, such public access, such as hours of access, to be determined by the Park Board subject to the provisions of the LDA.

11. Definition of Easement Areas; Costs and Expenses; Administration.

11.1 Definition of Easement Areas. The Roadway Easement Area, Fitness Easement Area, Management Easement Area, Concierge Easement Area, Parking Easement Area, East Sewer Easement Area, West Sewer Easement Area, Telephone Easement Area, Irrigation System Easement Area, and Landscape Easement Area are herein collectively referred to as the "Easement Areas."

11.2. Allocation. With the exception of the East Sewer Easement Area and West Sewer Easement Area, all costs and expenses associated with the Easement Areas, including the maintenance, repair and management (the "**Common Park Expenses**") thereof, shall be allocated and assessed by the Park Board to each individual Condominium making up the Park Condominiums in an amount equal to the Common Park Expenses multiplied by (i) 62.61% in the case of Waterford, (ii) 3.35% in the case of Waterford, (iii) 21.98% in the case of Whitehall,

