



2006 00121989

Bk: 40589 Pg: 218 Doc: AGT  
Page: 1 of 15 10/20/2006 10:56 AM

Recording Requested by,  
and when Recorded Return to:  
Bingham McCutchen LLP  
150 Federal Street  
Boston, MA 02110  
Attn: Marcia Robinson

15

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).

(Amended)

2 Plan  
2 Book 2006 Page 953

- 2 -

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.

