

**DECLARATION OF COMMON DRIVEWAY COVENANT SHARED MAINTENANCE  
AGREEMENT CONCERNING THE SEWAGE DISPOSAL SYSTEM, AND  
RESTRICTIVE COVENANTS AND CONDITIONS FOR RICHARDSON'S CROSSING,  
ACTON, MASSACHUSETTS**

**I. Creation**

(A) The undersigned, Richardson's Crossing, LLC, a Massachusetts Limited Liability Company, having a place of business at 411 Massachusetts Avenue, Suite 304, Acton, Massachusetts 01720 (the "Declarant"), being the sole owner of the land with the buildings thereon with the post office address of 113 Central Street, Acton, Middlesex County, Massachusetts, as described on a plan entitled "Site Development Plan Richard Crossing" (hereinafter the "Plan") which is recorded simultaneously herewith and hereby incorporated herein by this reference and made a part hereof, does hereby, create this Declaration of Common Driveway Covenant and Shared Maintenance Agreement concerning the Sewage Disposal System.

(B) The purpose of this document is to document is to establish the respective rights and responsibilities of the parties relative to the Declarant and the future owners of Lots 1,2,3, and 4 as they relate to the both the common driveway known Richardson Way as shown on the plan and the sewage disposal system.

(C) Every Owner of Lots 1,2,3, and 4 by the acceptance of a deed to a Lot within Richardson Crossing hereby consents for himself, his heirs, administrators, executors, successors and assigns and all other persons claiming by, through or under him (including the holder of any mortgage or other encumbrance) or any other party whatsoever, to the terms and provisions of this document.

(D) Further, the Lot Owner(s) shall be responsible for the proper maintenance, repair, and replacement of Richardson Way and the Sewage Disposal System and all portions and/or components of the same.

(E) All Lot Owners hereunder, in addition to any covenants set forth herein, shall be bound by the terms and conditions of the Town of Acton Zoning Board of Appeals Comprehensive Permit and Certificate of Action Relative to \_\_\_\_\_ Development dated \_\_\_\_\_ and recorded with the \_\_\_\_\_ Registry of Deeds at Book \_\_\_\_\_, Page \_\_\_\_\_.

(F) Neither the Declarant nor any of the future Lot owners shall Petition the Town of Acton for acceptance of the Driveway as a public way. In addition, no lot owner shall request that the Town of Acton perform snow plowing, maintenance, or any services associated with the Driveway.

## II. Description of Land

(A) Common Driveway: The common driveway known as Richardson Way is shown on the Plan. The purpose of the common driveway is to provide access to Lots 1,2,3,and 4. Also located within Richardson Way will be easements for various utilities including but not limited to electric, telephone, cable, and septic lines which will access the sewage disposal system.

(B) Declarant's Right of Access: The Declarant hereby expressly reserves to itself and its successors-in-title and their nominees, for a period three (3) years from the date of the last Lot sold in Richardson Crossing the easement, license, right and privilege to pass and repass by vehicle and on foot in, upon, over Richardson Way for all purposes including, but not limited to, transportation of construction materials in order to complete construction work on any of the Lots. Nothing in this paragraph shall be deemed to create any rights in the general public.

(C) Declarant's Right to Grant Easements: The Declarant reserves the exclusive right to grant easements over, under, through and across Lots 1,2,3, and 4 for the purpose of installing shared sewage disposal system and such other equipment as may be necessary for the installation and operation of the same. The Declarant further reserves the right to unilaterally grant to the Town of Acton and/or any of its Boards, Assigns and/or Designees (the "Town") any easement the Declarant deems necessary, in its sole discretion, to complete the development contemplated hereunder, included any requested access rights to the sewage disposal system.

(D) Common Rights to Use Richardson Way: The Declarant further reserves the right and easement, in common with the individual Lot owners thereto, to use any and all roadways and walkways located upon the Land for all purposes for which roadways are commonly used in the Town of Acton, including, without limitation, the right and easement to bring construction vehicles and equipment over any such roadways.

(E) Declarant's Rights During Construction: The Declarant further reserves the right and easement for the benefit of the Declarant as well as their agents, servants, employees, contractors, workmen, work crews, successors and assigns to (a) further grant easements across the Land upon terms and conditions similar to those contained herein, to the extent reasonably necessary or convenient to further development; (b) restrict the use of the Land, including but not limited to the sewage disposal system; (c) park vehicles used in connection with construction work or sales and marketing upon the land hereunder; and (d) in general do all things necessary or desirable in order to construct and complete all the improvements located on any of the Lots.

The easements described hereunder shall be deemed to run with the Land and shall burden the Land and shall obligate and inure to the benefit of the owners and occupants of the Land hereunder as well as any adjoining land thereto.

Said easements may be assigned, transferred, sold and/or conveyed by the Declarant, to any entity, including but not limited to, the owner(s) of the abutting land.

(F) Each Lot Owner shall have an easement in common with the Owners of the other Lots to use all pipes, wires, flues, ducts, conduits, and plumbing lines for the purpose of obtaining access to the same in conjunction with sewage disposal system. The unit owners, pursuant to a vote of 51% of the Lot owners shall have a right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace any portions of the Common Areas and Facilities contained therein or elsewhere in the Buildings.

### **III. Care and Maintenance of the Sewage Disposal System**

A. **General Description** All future owners of Lots 1,2,3, and 4 hereby acknowledge that their properties shall be serviced by common sewage disposal system which is created pursuant to 310 CMR 15.00 (commonly referred to as Title 5). The owners of Lots 109, 111, 113, and 115 take their property subject to and accordance with the provisions of that certain document entitled, Grant of Title 5 Covenant and Easement which is recorded simultaneously herewith. To the extent that this is a conflict between the terms and provisions of this document and the Grant of Title 5 Covenant and Easement shall govern.

B. **Location of the Sewage Disposal System** The common sewage disposal system is shown on the Plan and is labeled "Sewage Disposal" the area shall also include that portion of land labeled "Reserves" , finally there is an area labeled "sewage disposal easement area." The last mentioned area is intended to provide access to the sewage disposal system. The system shall also include all pipes constituting the sewer collection system and their related appurtenances and easements for sewer lines and other appurtenances relating thereto.

C. **Components of the Sewage Disposal System** The components of the On-Site Subsurface Sewage Disposal System, which is hereby defined as follows: leaching areas to be constructed on the Common Areas, together with all pipes, conduits, controls, ducts, plumbing, cables, equipment and other facilities for the furnishing of on-site subsurface sewage disposal service and all sewer and drainage pipes, on-site subsurface sewage disposal tanks, and sewer disposal systems, tanks, leaching field and all appurtenances thereto located within the areas labeled on the plan. The on-site subsurface sewage disposal system shall serve the all four Lots.

D. **Care of the Sewage Disposal System** The responsibilities for the care and maintenance of the system are set forth in the Grant of Title 5 Covenant and Easement. Additional reference is made to the decision by the Acton Board of Health dated \_\_\_\_\_, and recorded

simultaneously herewith.

**E. Easements** In addition, all Lot owners shall have an easement to go in, upon, over and under all parts of the Sewage Disposal Easement area for the purposes of the operation, use, maintenance, repair and replacement of the on-site subsurface sewage disposal system. Notwithstanding the foregoing, it shall be the sole responsibility of each Unit Owner to maintain, repair and replace all elements of the on-site subsurface sewage disposal system located within their Lot and serving their Lot exclusively. All components that are not located exclusively on each Lot shall be deemed to be owned in common as a part of the sewage disposal system.

The owners of Lots 1,2,3, and 4, with the approval of the Board of Health of the Town of Acton, shall have the right at any time and from time to time to change the location of any portion of the on-site subsurface sewage disposal system, with unanimous consent of all Lot owners.

**F. Care of Parcel A** All lot owners shall a joint responsibility for the care and maintenance of the lawn are located on Parcel A as shown on the above described plan.

#### **IV. Care and Maintenance of Richardson Way**

A. The owners of Lots 1,2, 3, and 4 shown the Plans shall bear the joint responsibility, subject to their percentage interest as set forth in Exhibit A of maintenance, repairs, reconstruction, and snow plowing of the common driveway known as Richardson Way and each of the aforesaid lots shall bear its proportionate share of the responsibility and expenses as listed in Exhibit A, of the maintenance and repair, including any necessary reconstruction thereof, and the expense of snowplowing and driveway repairs, in order to maintain said common driveway in a good and passable condition.

B. Any necessary maintenance, repair or reconstruction of said common driveway shall be carried out so that the products of erosion as a result thereof shall not be carried into the storm drainage system.

C. The Declarant and its contractors shall have the right and easement to enter upon either Richardson Way or the sewage disposal area with workers, vehicles, machinery and equipment for purposes of constructing, erecting, installing, operating, maintaining, repairing, modifying, rebuilding, replacing, relocating and removing structures and their appurtenances, utilities of every character, as the Declarant shall deem necessary or desirable to complete the development of the four units. This easement shall include the right to store within Richardson Way, temporary structures, vehicles, machinery, equipment and materials used or to be used in connection with said development work for such periods of time as shall be conveniently required for said development work. The Declarant further reserves the right and easement, in common with the Lot Owners thereto, to use any and all roadways and walkways located upon the Land for all purposes for which roadways are commonly used in the Town of Acton including, without limitation, the right and easement to bring construction vehicles and equipment over any such roadways.

D. The owners of Lots shall restrict their use of the common driveway to that of ingress and egress to Central Street and shall not impede the passage of foot or vehicular traffic on said common driveway by parking upon it. The use of the common driveway shall be restricted to foot and private passenger vehicles or vehicles driven by guest and business invites and such vehicles as are necessary to maintain and repair said common driveway as provided above.

E. The Declarant and future owners, their successors and assigns, hereby agree that they shall, from time to time, if necessary, amend the foregoing agreement and covenant so as to have same conform with any applicable requirements of the Town of Acton any other governmental claiming authority or jurisdiction over and upon said common driveway so as to permit said common driveway to be used to service the lots hereinbefore referenced.

F. The Declarant, for itself, its successors and assigns, agrees to fully construct the common driveway on or before \_\_\_\_\_, except for one (1) resurfacing of which will be completed at Declarant's expense, in accordance with all applicable local, state rules, regulations, by-laws, laws and the like, so that said common driveway can be fully used as the sole access for Lots 1, 2, 3 and 4.

G. Each Buyer of market rate Lots shall make an initial capital contribution of \$?????.00 upon its purchase of the lot, shown on the aforesaid easement plan, which contribution shall be held in an interest bearing account for the benefit of the Richard Crossing Driveway and Sewage Disposal Fund. Said account(s) shall be established and controlled by Declarant, so long as it is the owner of at least one lot in the subdivision. After such time the account shall be controlled by the four unit owners. Thereafter the Lot owners agree to make quarterly payment of \$ \_\_\_\_\_. The Lot owners acknowledge that this payment is only an estimate of the future expenses associated with the care and maintenance of the sewage disposal system and Richardson Way.

H. Assessments for maintenance, improvements, (including capital improvements), repair or reconstruction of the common driveway, and septic system as shown on said plan, shall be made by Richard Crossing, LLC, so long as it is owner of at least one lot shown on the plan. Thereafter, Assessments shall be voted on by the Lot Owners, which lot owners may make an assessment so long as same is approved by a majority vote of all lot owners. The voter's interest shall be based upon each lot owner's proportionate share of said assessments shall be paid quarterly into the aforesaid account without limiting any of the provisions of any of the agreements, covenants, restrictions, easements or conditions hereinbefore set forth or referred to in this deed, by acceptance and recording of this deed the Grantee acknowledges that the aforesaid agreements, covenants, restrictions, easements conditions shall not only run with the land hereby, but also the Grantee, its successors and assigns, agree to comply with the provisions of said easements, covenants, restrictions, easements or conditions and the Grantee, its successors and assigns, agree to hold the Grantor, its successors or assigns, harmless and indemnify them in full from any and all liabilities or obligations which may arise out

of or on account of any violation or failure to comply with any provision or any of said agreements, covenants, restrictions, easements or conditions set forth or referred to in this deed.

**V. General Operation of this Agreement**

**A. Establishment of the Lot Owners Interest and Management**

The beneficiaries of this agreement shall be the Lot Owners within Richardson Crossing. Each Lot owner's beneficial interest is set forth in Exhibit A. The beneficial interest of each Lot shall be held and exercised as a whole and shall not be divided among several Owners of any such Lot. To that end, whenever any of said Lot is owned of record by more than one person, the several Owners of such Lot shall: (i) determine and designate which one of such Owners shall be authorized and entitled to cast votes, execute instruments, and otherwise exercise the rights appertaining to such Lot.

**B. Meetings:**

The Lot Owners shall meet annually. The date of the annual meeting shall be the second Saturday in February at 10:00 AM. Other meetings may be called by any Lot Owner, provided, however, that written notice of each meeting shall be given at least five (5) days before such meeting to each Lot owner. A majority of the Lot owners shall constitute a quorum at all meetings.

At the Annual Meeting of the Lot Owners, the Lot Owners shall submit reports of the management and finances of the Richardson Way. The report shall include a summary of the costs associated with the care and maintenance of Richardson Way. There also shall be a report concerning the sewage disposal system. Whenever at any meeting the Lot Owners proposes to submit to the Lot Owners any matter with respect to which approval of or action by the Lot Owners is necessary or appropriate, the notice of such meeting shall state and reasonably specify such matter. A quorum of Lot Owners shall consist of a majority in interest of Lot Owners. Unless set forth otherwise hereunder, any action taken at such meeting, at which a quorum has been established, shall only require a vote of plurality of the beneficial interest of Lot Owners in attendance at the same.

Any Lot Owner may, at any time, waive notice of any meeting in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Lot Owner without objection to lack of notice at any meeting shall constitute a waiver of notice.

Any action taken by unanimous written consent of all of the Lot Owners shall be fully valid as though taken at a meeting.

**C. Notices to Lot Owners.**

Every notice to any Lot Owner required under the provisions hereof, shall be deemed sufficient and binding if a written or printed copy of such notice shall be given by leaving such notice with him at his residence in the Richardson Way, by mailing it, postage prepaid, addressed to such Lot Owner at least five (5) days prior to the date fixed for the happening of the matter, thing or event of which such notice is given.

**D. Inspection of Books - Reports to Lot Owners**

The Lot owners shall keep detailed records of their actions, minutes of their meetings, and financial records and books of accounts, including a chronological listing of receipts and expenditures, as well as a separate account for each Lot, which among other things, shall contain the amount of each assessment of Common Expenses against such Lot, the date when due, the amounts paid thereon, and the balance remaining unpaid. All of the foregoing records, accounts and documents shall be available for inspection by all Lot Owners, their authorized agents, and lenders, mortgagees, holders, insurers and guarantors of any mortgage on any Lot at all reasonable times. "Available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

**E. Checks and Notes.**

The Lot Owners, at the time of the annual meeting, shall appoint one of the Lot Owners to have authority to sign checks and deal with all financial matters associated with Richardson Way.

**F. Amendment to this Agreement**

(A) This document may be amended by; (i) vote of the Owners of Lots entitled to not less than seventy-five percent (75%) of the undivided interests as set forth in Exhibit A. Any such amendment shall be effective when an instrument in writing, signed and acknowledged in proper form for recording by the Lot owners approving the change to this document, who certify under oath in such instrument that the amendment has been approved by the requisite vote of the Lot Owners, and provided that the document is duly recorded in the Middlesex South Registry of Deeds, provided, however that:

- (i) No such instrument shall be of any force or effect unless and until the same has been recorded in the Middlesex South Registry of Deeds within six (6) months after the requisite vote of the Lot Owners;
- (ii) No such instrument shall be inconsistent with any decision issued by any municipal board or entity of the Town of Acton.

(B) Notwithstanding anything to the contrary herein, so long as the Declarant owns any Lot within Richardson Crossing, the Declarant reserves the right, at any time and from time to time, to unilaterally amend this document for the following purposes:

- (i). to meet the requirements of any governmental or quasi-governmental body or agency including, but not limited to, the Town of Acton, or any of its boards, bodies or agencies;
- (ii). or the requirements of any insurance company or insurance underwriting office or organization, or the requirements of Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Massachusetts Housing Finance Agency, the secondary mortgage market, or any lender; or
- (iii). To induce any such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering the ownership of a Unit; or
- (iv). to correct typographical, mathematical, clerical or scrivener's errors, or to cure any ambiguity, inconsistency or formal defect or omission in this document or any supplement or amendment thereto, including without limitation, the correction of measurements appearing on any plan recorded in connection with the road and sewage disposal system; or

All Lot Owners and mortgagees shall be deemed to have consented to any such amendments by the Declarant.

- (i) The Declarant shall have the right and easement in accordance with any decision by the Town of Acton to construct, erect and install on the Land in such locations as the Declarant shall in the exercise of its discretion determine to be appropriate or desirable:
  - (a) Roads, driveways, decks, garages, exterior parking spaces and parking areas, walks and paths;
  - (b) New or additional fences or decorative barriers or enclosures, and other structures of every character;
  - (c) The Declarant further reserves the right to unilaterally grant to the Town of Acton and/or any of its Boards, Assigns and/or Designees (the "Town") any easement the Declarant deems necessary, in its sole discretion, to complete the Development contemplated hereunder.

The Declarant further reserves the right to unilaterally grant to the Town of Acton and/or any of its Boards, Assigns and/or Designees (the "Town") any easement the Declarant deems necessary, in its sole discretion, to complete the development contemplated hereunder.

The easements described hereunder shall be deemed to run with the Land and shall burden the Land and shall obligate and inure to the benefit of the Owners and occupants of the Land hereunder as well as any adjoining land thereto.

Said easements may be assigned, transferred, sold and/or conveyed by the

Declarant, to any entity including, but not limited to, the owner(s) of the abutting land.

**(G) Enforcement of Payment Obligations**

If any owner, his heirs, successors or assigns, shall fail or refuse at any time to bear such responsibility and make payment, and such failure or refusal shall continue for thirty days after written notice by registered mail, return receipt requested, has been delivered to said owner, his heirs, successors and assigns, the Grantor, or any other lot owner, shall have the right forthwith to bring suit at law or in equity against such owner, his heirs, successors or assigns by suit commenced in the Superior Court or District Court or any other court of the Commonwealth with appropriate jurisdiction and collect and enforce the same as in any other actions, and such right to sue shall exist on every successive default in such payments. Any owner who shall file suit to enforce this covenant shall be entitled to reasonable attorneys' fee incurred in such enforcement. The provisions of this paragraph shall be governed and controlled by the terms and provisions of Massachusetts General Laws Chapter 183 A. All rights and remedies afforded under Massachusetts General Laws Chapter 183 A relative to the collection of outstanding fees shall be available and applicable to any outstanding and unpaid fees.

**(F) Certification of Payment of Outstanding Fees**

At the time of the transfer of any of the Lots, the owner of said lot shall be responsible for obtaining certification that all fees associated with this agreement have been paid. The form used to confirm payment shall be the same form commonly used for condominiums pursuant to Massachusetts General Laws Chapter 183 A, Section 6. The Declarant shall have the authority to sign this document until such time as it has conveyed all Lots. After this period, the Lot owners shall be required to obtain the consent of greater than 51% of the Lot owners.

**VI. POWERS OF THE LOT OWNERS**

The Lot Owners shall have all power necessary for the administration of the affairs of the Richardson Way and the sewage disposal system and, provided they obtain consent of those entitled to a 51% vote of the beneficial interest as set forth in Exhibit A, they may do any and all acts necessary or desirable for the administration of the affairs of Richardson Way, and the sewage disposal system. Such powers and duties of the Trustees shall include, but shall not be limited to, the following:

- a. Operation, care, upkeep and maintenance of Richardson Way and the sewage disposal system;
- b. Determination of the Common Expenses required for operation of the same;
- c. Collection of the Common Expenses from the Lot Owners;
- d. Employment and dismissal of the personnel necessary or advisable for maintenance and operation;

- e. Opening of bank accounts and designating the signatories required therefore;
- f. Making of repairs, additions and improvements to, or alterations or restoration of, the sewage disposal system and Richardson Way
- g. Conducting litigation as to any course of action involving either Richardson Way or the sewage disposal system.
- h. Granting permits, licenses and easements over Richardson Way and the sewage disposal system and other purposes reasonably necessary or useful for the proper maintenance or operation of the development;
- i. Enforcing obligations of the Lot Owners, allocating income and expenses, and to do anything and everything else necessary and proper for sound management.

## VII. COMMON RESTRICTIONS AND COVENANTS APPLICABLE TO ALL LOTS

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities of the Development and, to this end, desires to subject the Lots to the covenants and restrictions hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and each Lot owner thereof.

NOW THEREFORE, the Declarant and its heirs, successors, grantees and assigns hereby agree that the Lots, are and shall be held, transferred, sold, conveyed, inherited and occupied subject to and with the benefit of the covenants and restrictions hereinafter set forth, which covenants and restrictions shall run with the Lots in perpetuity.

1. Use. Each Lot shall be subject to the terms and conditions of all terms and conditions established by the Town of Acton including but not limited to the Comprehensive Permit.

2. Miscellaneous Restrictions. With regard to any Lot located within the Subdivision, the following shall apply:

A. No business, trade or profession shall be conducted on or from any Lot. However, an office may be maintained in the dwelling located on a Lot if such office use is limited solely to the Lot owner's use. No business, trade or profession signage shall be allowed.

B. No horses or barnyard animals shall be stabled or maintained on any Lot. This restriction does not, however, apply to dogs, cats, birds, or household pets that are reasonable in number, and shall not cause a nuisance to the neighborhood.

C. Clotheslines, poles, outside television antennae, radio aerials and satellite dishes shall be located on or near the dwelling in such a way as to minimize their visibility from any public street and abutting lots.

D. No trailers, campers, mobile homes, boats, or other recreational vehicles, non-operative or unregistered automobiles, trucks, machinery, supplies, materials or equipment of any kind shall be stored on a Lot, unless same are stored wholly within the dwelling or garage.

E. Homeowners to maintain their yard in well-cared for condition which at a minimum shall include cutting the grass regularly, maintaining all plants including shrubs trimmed and yard free of junk or clutter.

3. Enforcement of Covenants. These covenants are enforceable by a majority of the Lot Owners acting by way of majority vote. Failure to enforce the within Covenants shall in no way be deemed as a waiver by any benefited party to enforce the rights included herewith at a subsequent time.

4. Modification or Termination of Restrictions. For so long as the Declarant owns at least one Lot, it reserves the right to unilaterally, and without the consent of any owner of any other Lot located with the Subdivision modify, amend, change, or terminate any or all of the restrictions and covenants as herein contained; provided, however, that any such modification, amendment, change or termination shall not apply to any Lots located within the Subdivision which have previously been conveyed.

5. Indemnification. Any person who violates or otherwise fails to comply with these Covenants and Restrictions shall be liable to the person who seeks enforcement of the Covenants and Restrictions for all losses, costs and expenses (including reasonable attorney's fees) incurred by the party entitled to indemnification in connection with the enforcement of these Restrictions. Invalidation of anyone of these Covenants by judgment or court order, shall in no way affect any of the other provisions that shall remain in full force and effect.

6. In carrying out its duties pursuant to these Covenants, the Declarant, or its grantees or assigns, shall not be liable for any act it takes or refuses to take, as long as said act is made in good faith.

## **VII Invalidity**

The invalidity of any provision of this document shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this document, and in such event, all of the provisions of this document shall continue in full force and effect as if such invalid provision had never been included herein.

## **IX. Waiver**

No provision contained in this document shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

## **X. Captions**

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this document or the intent of any provisions hereof.

## **XI. Enforcement**

This Master Deed is set forth to comply with the requirements of Chapter 183A of the General Laws of the Commonwealth of Massachusetts. In case any of the provisions stated above conflict with the provisions of said statute, the provisions of said statute shall control.

**XII. Continuing Obligations of the Lot Owners**

Reference is made to the Town of Acton Zoning Board of Appeals Comprehensive Permit and Certificate of Action Relative to \_\_\_\_\_ Development dated \_\_\_\_\_ and recorded with the Middlesex South District Registry of Deeds at Book \_\_\_\_\_, Page \_\_\_\_\_ (the "Decision"). The Lot Owners shall be subject to and bound by the terms and conditions of the Comprehensive Permit Decision. Further, to the extent that there is a continuing obligation set forth in either of these documents, these obligations, once any of the site work which has been constructed by the Declarant for the same.

EXECUTED as an instrument under seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
RICHARDSON'S CROSSING, LLC  
By: Julian J. D'Agostine III, Its Managing Member

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss: \_\_\_\_\_, 20\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned notary public, personally appeared Julian J. D'Agostine III, proved to me through satisfactory evidence of identification, which was drivers license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as the Managing Member of Richardson's Crossing, LLC.

\_\_\_\_\_  
Official signature and seal of notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT "A"

LOT DESIGNATION	PROPORTIONATE INTEREST OF UNIT IN COMMON AREAS AND FACILITIES
1	
2	
3	
4	

Upon recording, mail to:

Bureau of Resource Protection  
Department of Environmental Protection

One Winter Street

Boston, MA 02108

GRANT OF TITLE 5 COVENANT AND EASEMENT

(Property served by Shared System)

310 CMR 15.290(2)(e)

This GRANT OF TITLE 5 COVENANT AND EASEMENT made as of this \_\_\_ day of \_\_\_\_\_, 2009, by Richard Crossing, LLC, of 411 Mass Ave, Suite 304, Acton, Middlesex County, Massachusetts ("Grantor").

WITNESSETH

WHEREAS, Grantor being the owner(s) in fee simple of those four certain parcel(s) of land located in Acton Middlesex County, Massachusetts, with the buildings and improvements thereon, pursuant to a deed from Westchester Company, Inc. Grantor, dated \_\_\_\_\_, and recorded with the Middlesex South County Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_ said Lots of land being more particularly bounded and described in plan entitled, " \_\_\_\_\_ ", dated \_\_\_\_\_, prepared by Forsite Engineering Associates, Inc.

WHEREAS, all references to the "Grantor" shall also include each of the individual Lot owners, and their successors and assigns, within the Richardson Crossing development. The original Grantor's responsibility under this document shall terminate when it conveys its last unit within the development.

WHEREAS, the Property has the benefit of a Shared System Easement, being more particularly bounded and described as that area shown on the plan and so labeled as Sewage Disposal System; and

WHEREAS, the Shared System has been approved by the Approving Authority, as defined in 310 CMR 15.002, in accordance with Title 5, 310 CMR 15.000, as amended ("Title 5"); said approval being based upon the agreement by Grantor to incur certain obligations regarding the construction, inspection, maintenance, upgrade and expansion of the Shared System and to grant to the Approving Authority a perpetual easement to construct, inspect, maintain, upgrade and expand any component of the Shared System and in connection herewith a perpetual easement to pass and repass over the Property and the Shared System Property for

purposes of inspecting the Shared System to insure compliance with and fulfillment of the terms of this Covenant/Easement as hereafter set forth;

Now Therefore, pursuant to the provisions of 310 CMR 15.290, Grantor hereby does GRANT to the Town of Acton, a Massachusetts municipal corporation situated in Middlesex County, having an address at 472 Main Street, Massachusetts, acting through its Board of Health, for nominal, non-monetary consideration, with QUITCLAIM COVENANTS, a TITLE 5 COVENANT AND EASEMENT ("Covenant/Easement") in, on, upon, through, over and under the Shared System Easement, the terms and conditions of which are as follows:

## OBLIGATIONS AND EASEMENT

1. Inspection and Pumping. Grantor, and the individual Lot owners after the Grantor no longer owns a Lot within Richardson Crossing, agrees to have the Shared System inspected at least once annually by a System Inspector, as defined in 310 CMR 15.002, and pumped on an as needed basis, but in no event shall the Shared System be pumped less than every three years. The System Inspector shall submit the results of the inspection on a System Inspection Report (Appendix   ) to the Acton Board of Health and to DEP within 30 days of the Shared System's inspection. Grantor shall provide the Acton Board of Health and the Department of Environmental Protection [DEP] with a copy of the receipt obtained from the duly registered septage hauler upon pumping of the Shared System within 30 days of the Shared System's pumping.

2. Financial Assurance Mechanism. Grantor agrees to provide the Acton Board of Health and DEP with the financial assurance mechanism, naming the Acton Board of Health and DEP as additional beneficiaries, which shall provide for upgrade of the Shared System in the event the Shared System fails to protect public health and the environment pursuant to the criteria established in 310 CMR 15.303.

3. Maintenance. The Grantor agrees to construct the Shared System such that the Sanitary Sewage, as defined in 310 CMR 15.002, from any Facility, as defined in 310 CMR 15.002, owned by Grantor may be denied access to the Shared System in the event Grantor fails to pay its proportionate share of the construction, inspection, maintenance, upgrade and expansion costs incurred by said Shared System.

4. Easements. In creating this Covenant/Easement, Grantor hereby grants to the Acton Board of Health, its agents, contractors, subcontractors and employees, a perpetual EASEMENT to enter upon and the right to bring equipment onto the Shared System Easement to do any and all acts deemed necessary to construct, install, lay, operate, maintain, inspect, upgrade, repair, remove, excavate, replace, and expand any component of the Shared System, together with a right to pass and repass by foot and by vehicle over the Shared System Easement for said purposes, including the removal and trimming of crops, vegetation, trees, or shrubs therefrom, and for purposes of inspecting the Shared System Easement to insure compliance with and fulfillment of the terms of this Covenant/Easement.

5. Lien Authority of Local Approving Authority. For purposes of enforcing a lien against the Property and the Shared System Property, Grantor hereby agrees that the phrase "...land upon which the structure is or was located..." as used in the second paragraph of M.G.L. c. 111, § 127B shall include the Property and the Shared System Property, thereby authorizing the Acton Board of Health to impose a lien on either or both the Property and the Shared System Property in the event the Acton Board of Health has incurred debt in accordance with the provisions of M.G.L. c. 111, § 127B. The lien shall be owed owners of Lots 1, 2, 3, and 4 in proportion to their ownership interest as set forth in the Declaration of Common Driveway and Sewage Disposal Maintenance Agreement which is recorded simultaneously herewith.

6. Severability. If any court or other tribunal determines that any provision of this instrument is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event the provision invalidated is of such a nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect.

7. Enforcement. Grantor expressly acknowledges that a violation of the terms of this instrument could result in the following:

(i) upon determination by a court of competent jurisdiction, in the issuance of criminal and civil penalties, and/or equitable remedies, including, but not limited to, injunctive relief, such injunctive relief could include the issuance of an order to modify or remove any improvements constructed upon the Shared System Easement in violation of the terms of this Covenant/Easement; and

(ii) in the assessment of penalties and enforcement action by the Local Approving Authority and DEP to enforce the terms of this Covenant/Easement, pursuant to Title 5; M.G.L. c. 111, §§ 17, 31, 122, 124, 125, 125A, 127A through 127O, and 129; and M.G.L. c. 83, § 11.

8. Provisions to Run with the Land. This Covenant/Easement sets forth rights, liabilities, agreements and obligations upon and subject to which the Shared System Easement or any portion thereof, shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. The rights, liabilities, agreements and obligations herein set forth shall run with the Property and the Shared System Property, as applicable thereto, and any portion thereof and shall inure to the benefit of and be binding upon Grantor and all parties claiming by, through or under the Local Approving Authority or Grantor. The rights hereby granted to the Local Approving Authority, its successors and assigns, constitute the perpetual right of the Local Approving Authority to enforce this Covenant/Easement and Grantor hereby covenants for himself/herself/itself and his/her/its executors, administrators, heirs, successors and assigns, to stand seized and hold title to the Property and the Shared System Property, as applicable thereto, and any portion thereof, subject to this Covenant/Easement, provided, however, that a violation of this Covenant/Easement shall not result in a forfeiture or reversion of Grantor's title to the Property or the Shared System Property as applicable

thereto.

9. Concurrence Presumed. It being agreed that Grantor and all parties claiming by, through or under Grantor shall be deemed to be in accord with the provisions herein set forth and to agree for and among themselves and any party claiming by, through or under them, and their respective agents, contractors, sub-contractors and employees, that the Covenant/Easement herein established shall be adhered to and not violated and that their respective interests in the Property and the Shared System Property, as applicable thereto, shall be subject to the provisions herein set forth.

10. Incorporation into Deeds, Mortgages, Leases and Instruments of Transfer. Grantor hereby agrees to incorporate this Covenant/Easement, in full or by reference, into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest in and/or a right to use the Property and the Shared System Property, or any portion thereof, is conveyed.

11. Recordation. Grantor shall record and/or register this Covenant/Easement with the appropriate Registry of Deeds and/or Land Registration Office within 30 days of the latter of: receipt from the Local Approving Authority of the approved Covenant/Easement or the expiration of the 60-day constructive approval period granted to DEP pursuant to 310 CMR 15.293. Grantor shall file with the Local Approving Authority and the DEP a certified Registry copy of this Covenant/Easement as recorded with the appropriate Registry of Deeds.

12. Amendment and Release. This Covenant/Easement may be amended or released only upon approval by the Local Approving Authority and DEP. Any such amendment or release shall be recorded.

13. Term. This Covenant/Easement shall run in perpetuity and is intended to conform to M.G.L. c. 184, § 26.

14. Rights Reserved. This Covenant/Easement is granted to the Local Approving Authority in connection with the approval of a Shared System pursuant to 310 CMR 15.290 through 15.293. It is expressly agreed that acceptance of this Covenant/Easement by the Local Approving Authority or constructive approval of the Shared System by DEP shall not operate to bar, diminish, or in any way affect any legal or equitable right of the Local Approving Authority or DEP to issue any future order with respect to the Property and the Shared System Property, as applicable thereto, or in any way affect any other claim, action, suit, cause of action, or demand which the Local Approving Authority or DEP may have with respect thereto. Nor shall acceptance of this Covenant/Easement serve to impose any obligations, liabilities, or any other duties upon the Local Approving Authority.

This Covenant/Easement shall become effective upon its recordation and/or registration with the appropriate Registry of Deeds and/or Land Registration Office.

15. Conflict If there is a conflict between the terms of this document and the Declaration of Common Driveway Agreement and Sewage Disposal Maintenance Agreement, the terms of this document shall control.

WITNESS the execution hereof under seal this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
RICHARDSON'S CROSSING, LLC

By: Julian J. D'Agostine III, Its Managing Member

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss:

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned notary public, personally appeared Julian J. D'Agostine III, proved to me through satisfactory evidence of identification, which was drivers license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as the Managing Member of Richardson's Crossing, LLC.

\_\_\_\_\_  
Official signature and seal of notary  
My Commission Expires: \_\_\_\_\_