



2018 00051485

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GARRISON PLACE SEPTIC SYSTEM ESCROW AGREEMENT

Agreement made this 13th day of November, 2018, by and between Brendon Properties Garrison Place, LLC, a Massachusetts limited liability company, with a place of business at 259 Turnpike Road, Suite 110, Southborough, Massachusetts 01772 (hereinafter "Brendon"), Leslie S. Carey, Trustee of Garrison Place Condominium Trust, under a declaration of trust dated November 13, 2018 and recorded with the Middlesex North District Registry of Deeds in ~~Book _____~~ Herewith Page _____, of 259 Turnpike Road, Suite 110, Southborough, MA 01772 (hereinafter "Garrison") and the Town of Carlisle, of 66 Westford Street, Carlisle, Massachusetts 01772 (hereinafter "Town") through its duly constituted Board of Health ("Board");

Whereas, the Town of Carlisle, through its Planning Board, has issued an Amended and Restated Decision of the Special Permit dated December 2, 2016 and recorded with the Middlesex North District Registry of Deeds in Book 30912, Page 16 for the development of land located at 81 Russell St., Carlisle, MA as a Senior Residential Open Space Community (SROSC) pursuant to the Zoning Bylaws of the Town of Carlisle and the Rules and Regulations of its Planning Board ("Special Permit");

Whereas the SROSC is shown as Lot 1 (hereinafter "Property") on the Plan entitled "Garrison Place a Senior Residential Open Space Community in Carlisle, Massachusetts", dated February 21, 2014 and revised through November 5, 2014, prepared by Stamski and McNary, Inc., which plan is recorded with the Middlesex North District Registry of Deeds in Plan Book 242, Page 142;

Whereas Brendon is the owner of the Property and Declarant of the Garrison Place Condominium (for Brendon's title see deed dated February 9, 2017 and recorded with the Middlesex North District Registry of Deeds in Book 30923, Page 27) and Master Deed dated November 16, 2018 and recorded in said Deeds in Book _____, Page _____; Herewith

Whereas, Garrison is the condominium trust established for the ownership, management and maintenance of all of the common elements of the SROSC which will be a 16-unit condominium community, which has been approved pursuant to the Special Permit;

Whereas Brendon and Garrison, along with their respective successors and assigns, are hereinafter collectively referred to herein as "Owner";

BRENDON PROPERTIES
259 TURNPIKE ROAD, SUITE 110
SOUTHBOROUGH, MA 01772

Whereas, the Town of Carlisle, through its Board of Health, has approved a septic system for the SROSC (“Septic System”), which requires, among other things, that a financial instrument must be provided to guarantee the operation and maintenance of the Septic System pursuant to Sections 15.290-15.293 of the Town of Carlisle Supplementary Regulations for Sewage Disposal Systems (“Septic Regulations”);

Whereas, the purpose of this Agreement is to create the financial instrument required under the Septic Regulations, pursuant to which Garrison and the Town will receive initial and periodic payments of funds to hold and disburse for the operation, maintenance and replacement of the Septic System, all as hereinafter provided:

Now, therefore, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Brendon, Garrison and the Town, on behalf of themselves, their successors and assigns, hereby agree as follows:

1. This Agreement is hereby approved by the Town as the financial instrument required under the Septic Regulations for the Septic System for the SROSC.
2. This Agreement shall be binding on the Owner, and all of the terms, provisions and conditions herein contained will run with the Property in perpetuity.
3. For purposes of this Agreement, the total replacement cost of the Septic System at Year 1 is determined to be at or near \$232,923.10, which has been estimated to be as follows:

System Component	Projected Replacement cost
a. MicroFast System	\$ 46,473.75
b. Pumping System and Pump Tank	\$ 59,899.50
c. Septic Tank	\$ 38,370.25
d. Fast Tank and Equalization	\$ 66,879.13
e. Force Main	\$ 21,300.47
f. Total Projected Replacement Cost	\$232,923.10

 - g. The term of the useful life of the Septic System is determined to be 20 years.
**Note that numbers estimated above are not exact figures and are based upon the projected replacement cost of components in 2014. The Board has agreed round the final amount down to \$232,920.00.*
4. Owner has herewith established an Operations and Maintenance Fund to be held by Garrison for the normal and regularly occurring maintenance of the Septic System in an amount that will be established each year as part of the condominium budget of Garrison, in such an annual amount as the Trustees thereof deem appropriate from time to time, which shall be used solely for such maintenance and operations.

5. Owner will establish a Working Capital Fund, to be held by Garrison, for the current and future replacement and/or repair expenses of the Septic System in the amount of \$58,230.00 ("Initial Deposit"), representing 25% of the replacement cost of the Septic System. The initial deposit to this fund by Garrison shall be made on or before the commencement date of System operations and prior to the issuance of any occupancy permits for any Units in the SROSC. This fund shall be used solely for the immediate replacement and/or repair of any failing component of the Septic System. Garrison shall replenish the fund to the above amount, in full, within two years after any disbursement, unless otherwise agreed to by Garrison and the Town, and it shall, within sixty (60) days after December 31 of each year, provide the Board with a statement or other evidence acceptable to the Board which demonstrates that the required amount of funds are on deposit in the Working Capital Fund. The amount of the Initial Deposit shall be subject to review every five (5) years to ensure that it continues to represent 25% of the replacement cost of the septic system. Garrison shall at each five-year interval provide supporting documentation to the Board of Health regarding the then current replacement cost of the system, and the Board may order such adjustment to the funding as may be necessary to provide that the amount on deposit in the Working Capital Fund reflects the requisite 25% funding level.
6. Owner shall also establish and maintain a Reserve Fund, to be held by the Town, in order to accumulate sufficient capital to replace the System and related equipment at the end of the estimated useful life of the System, which is twenty (20) years. The amount of Financial Assurance was projected based upon input from Garrison's engineering consultant, the Board's engineering consultant, as well as input from the Board, as itemized above.

The Year 1 deposit to the Reserve Fund shall occur one year after the commencement date of System operations. Such reserve, which shall cumulatively be equivalent to a sum equal to \$174,690.00, or 75%, of the replacement cost of the Septic System, shall be provided by means of deposits into an interest bearing account no less than one deposit per year, or some other financial security mechanism, and be in a form satisfactory to the Board of Health or its legal counsel. The Garrison shall maintain the funding of such account for as long as the Project is served by the Septic System. The principal and interest of said account shall be used exclusively for the replacement of the Septic System, and related infrastructure. This provision is intended to ensure that Garrison will have available to it sufficient financial resources to replace the Septic System, provided however that the minimum endowment of the fund shall be \$174,690.00, prorated over the 20-year period described above. Accordingly, within sixty (60) days after December 31 of each year, Garrison shall provide the Board with a statement or other evidence acceptable to the Board which demonstrates that the required amount of funds have been deposited in the Reserve Fund account in

accordance with the following payment terms.

Year 1 to Year 5: \$ 8,735.00 per year

Year 6 to Year 10: \$ 8,995.00 per year

Year 11 to Year 15: \$ 9,265.00 per year

Year 16 to Year 20 \$9,544.00 per year

Except for any periodic adjustments in the above amounts, as provided for below, any deviations from this condition will be considered a violation. [It says below that the amount may be adjusted every 5 years, so presumably the amounts from year 6 on may change, which might be read as a "deviation" since it comes immediately after (with no space) the amounts.

The Reserve Fund is intended to provide that adequate funds will be available to Garrison to replace the septic system; nothing contained herein shall be construed so as to create any obligation on the part of the Town to perform, or arrange for the performance of, any work relating to said septic system, or otherwise provide any funding for such work.

The amount of the Reserve Fund shall be subject to review every five (5) years to ensure that it continues to represent 75% of the replacement cost of the septic system. Garrison shall at each five year interval provide supporting documentation to the Board of Health regarding the then-current replacement cost of the system, and the Board may order such adjustment to the funding schedule described above as may be necessary to provide that the amount on deposit in the Reserve Fund will reflect the requisite 75% funding level.

If at the end of Year 20, the Reserve Fund plus the accumulated funds in the account collectively are in excess of the projected replacement cost of the system as determined by Garrison and agreed by the Board (the "Excess Reserve"), then the Board agrees to release the Excess Reserve to the Garrison forthwith. If at the end of Year 20 the Reserve Fund plus accumulated funds in the account collectively do not equal 75% of the projected replacement cost of the system, Garrison shall within sixty days make such additional deposits as needed to raise the total amount to the requisite level.

7. All funds held by the Town under this Agreement shall be held in interest bearing accounts that are fully insured by the FDIC or other government agency, with all interest to accumulate to the respective funds and not to the benefit of the Town.
8. Upon the use of some or all of the Working Capital Fund and/or the Reserve Fund to provide for a replacement septic system as contemplated herein, Garrison shall replenish the Working Capital Fund up to an amount equal to 25% of the replacement cost of a new system within two (2) years and replenish the Reserve Fund to an amount

equal to 75% of the replacement cost pursuant to a twenty-year funding schedule consistent with that described in Section 6, above.

9. This Agreement may only be terminated by agreement of the parties hereto, or their respective successors or assigns or upon such time at the Septic System no longer services the SROSC. Upon termination of this agreement, all funds held under this Agreement shall be turned over to Garrison, or its successors or assigns, but only upon the satisfaction of any and all obligations of Garrison to the Town.
10. The obligations of the Owners in this Covenant are joint and several; provided, however, that Brendon shall be deemed to be released from the terms of this Agreement upon its conveyance, in an arms-length transaction to a good-faith purchaser for residential purposes, of the sixteenth (16th) and last condominium unit, and Garrison shall thereafter be exclusively responsible for the obligations of the Owners stated herein.

In Witness Whereof Brendon Properties Garrison Place, LLC has hereto set its duly authorized hand and seal this 13th day of November, 2018.

Brendon Properties Garrison Place, LLC

By: *Leslie S. Carey, AS*
Leslie S. Carey, Its Authorized Signatory

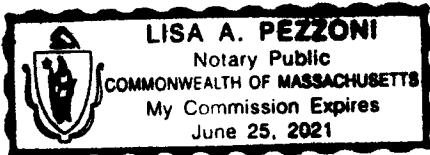
COMMONWEALTH OF MASSACHUSETTS

Middlesex ss,

On this 13th day of November 2018, before me, the undersigned notary public, personally appeared Leslie S. Carey, Authorized Signatory of Brendon Properties Garrison Place, LLC, personally known to me to be the person whose name is signed on this document and acknowledged to me that she signed it voluntarily for its stated purpose.

Lisa A. Pezzoni
Notary Public

My Commission Expires:



In Witness Whereof Garrison has hereto set its duly authorized hand and seal this 13th day of November, 2018.

Garrison Place Condominium Trust

By: *Leslie S. Carey*
Leslie S. Carey, Trustee

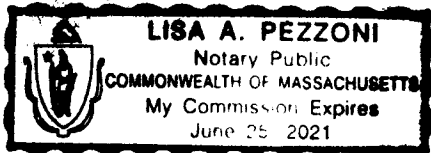
COMMONWEALTH OF MASSACHUSETTS

Middlesex ss,

On this 13th day of November, 2018, before me, the undersigned notary public, personally appeared Leslie S. Carey, Trustee of Garrison Place Condominium Trust, personally known to me to be the person whose name is signed on this document and acknowledged to me that she signed it voluntarily for its stated purpose.


Lisa A. Pezzoni
Notary Public

My Commission Expires:

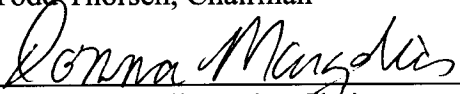


In Witness Whereof we have set our hands and seals this 13th day of November, 2018.


Approved:
Carlisle Board of Health
By:



Todd Thorsen, Chairman



Donna Margolies, Vice Chairman

Todd Brady


Lee Storrs

Signatures of a majority of members

Date: November 13, 2018