AGREEMENT BETWEEN MUNICIPALITY AND ABUTTERS

This AGREEMENT is dated _______, 2015, by and between the TOWN OF CHEBEAGUE ISLAND, a Maine municipal corporation (the “Town”); and LESLIE REALTY TRUST, a trust organized in Maine, and SARA ANNE HOLMBOM AND WILLIAM N. LUND, individual residents of Maine (collectively the “Abutters”).

BACKGROUND

The Great Chebeague Golf Club (Golf Club) owns real estate parcels in the Town, including an undeveloped nonconforming lot located between property of the Abutters, and the Stone Wharf (hereinafter “Lot 64”).

The Golf Club is proposing to convey Lot 64 to the Town for the purpose of the Town building a parking lot.

The Abutters are concerned that the proposed use, which would require a zoning change, will decrease the enjoyment and value of their property, on which the residence has stood since the late 1700s or the early 1800s.

The Abutters successfully opposed a 2013 proposal by the Golf Club to have the town construct a parking lot on Lot 64.

By prior authorization of the Golf Club, the Abutters’ septic system and leaching field is located on a portion of Lot 64.

The Golf Club claims ownership of a rectangular piece or strip of property located between the Abutters’ residence and Stone Wharf Road.

The Abutters want to ensure a continued supply of pure water from their well, as well as access to, and proper performance of, their septic system and leaching field, and to otherwise mitigate the adverse impacts of the proposal on the Abutters’ property.

THE PARTIES THEREFORE AGREE AS FOLLOWS:

1. Once the Golf Club conveys Lot 64, including the rectangular piece or strip of property located between the Abutters’ residence and Stone Wharf Road as shown on the illustration attached at Exhibit 1, to the Town under the terms of a separate agreement, the Town will convey that rectangular piece or strip of property to the Abutters, by municipal quitclaim deed in the form attached as Exhibit 2. That conveyance will not revert, regardless of any separate reversion agreement between the Town and the Golf Club under separate agreement.

2. The Parking Lot shall be designed, constructed, or operated to permit not more than forty (40) automobiles or other vehicles of a similar size.

3. The Town will prohibit long-term parking (greater than 24 hours) in the lot.

4. The Town will prohibit parking for more than 24 hours of any multi-axle vehicles in the lot.

5. The Town will not permit parking along the rectangular piece or strip of land conveyed to the Abutters by the Golf Club under paragraph #1, above.
6. No costs shall accrue to the Abutters in this process.

7. Along the property line with the Abutters' parcel, the Town shall install and maintain an eight (8) foot high wood stockade fence and evergreen plantings adequate to provide a buffer along the property line. As part of the pre-construction planning process, the Town and the Abutters will agree on the estimated cost for installation and maintenance of the eight (8) foot high wooden stockade fence and evergreen plantings adequate to provide a buffer along the property line. As part of the Town's appropriation of funds for the overall project, the money for the installation and maintenance listed in this paragraph, plus a 10% overage amount (together, the “Fence and Screening Funds”), shall be accounted for separately and will be held by the Town separately from other funds appropriated for the project. The Fence and Screening Funds will not be expended on aspects of the project other than those described in this paragraph. The express purpose of this paragraph is to ensure that adequate funds are available to accomplish the fence and screening of the Parking Lot from the Abutters' property. Funds reserved but not used for this purpose will revert to the Town.

8. Setback for the parking lot will be at least 15 feet from Abutters' property line.

9. Any lighting installed at the Parking Lot shall be of the minimum wattage necessary for public safety, and all fixtures shall be designed as down-directional or otherwise shielded to prevent any direct lighting of the Abutters' Parcel.

10. The Town shall relocate, at its sole expense, any existing utility lines or facilities, including electric lines, currently serving the Abutters' Parcel which must be discontinued, relocated, or modified to accommodate the Parking Lot.

11. The Abutters may participate with the Town on the final design of the Parking Lot and the Town shall use best efforts to incorporate any reasonable requests by the Abutters regarding the final design or operating conditions.

12. The Town shall indemnify and hold harmless the Abutters for reasonable costs, and expenses incurred by the Abutters due to any adverse impacts to the Abutters' existing septic system or existing well that result from the construction or operation of the Parking Lot.

13. The Town shall grant an easement to the Abutters that permits the continued maintenance of the existing septic system and leaching field serving the single family residence presently located on the Abutters' Parcel (the “Easement”) by delivering to the Abutters an easement deed in substantially the form attached as Exhibit 3.

14. The Town and the Abutters shall use their reasonable efforts to determine the location of the boundary lines between the undeveloped lot and the Abutters' Parcel. The Town shall bear the cost of a boundary survey to be prepared for this purpose by a professional land surveyor licensed by the State of Maine. The remaining property lines of the Abutters’ property shall be included in the survey and a copy provided to the Abutters, at no cost to the Abutters.
15. The Town shall convey a view easement over Lot 64, as shown on the illustration attached at Exhibit 1, the purpose of which is to prevent the construction, other than utility or light poles, higher than the height of the fence described in paragraph 7, above, without permission of the Abutters.

16. The Town shall cause the Golf Club to convey a view easement to the Abutters to the north of the Abutters’ parcel to any point of visible ocean, as shown on the illustration attached at Exhibit 1.

17. Given the probability that motor vehicles will drip fluids onto the surface of the proposed parking lot, the parking lot shall be designed and landscaped to prevent run-off onto Abutters’ property, including for the protection of the Abutters’ well and gardens.

18. The parties agree to resolve any dispute arising under this Agreement through binding arbitration, to be conducted in Portland, Maine, by JAMS according to its then-prevailing streamlined arbitration rules. Each party shall bear its own costs and expenses incurred in the arbitration and the parties shall share equally in the costs of the arbitrator, except that, in its discretion, the arbitrator may award reasonable costs and attorney’s fees to the prevailing party. The arbitrator shall have the authority to grant specific performance of this Agreement, and the prevailing party may ask any Maine court of competent jurisdiction to enforce an order of specific performance. The decision of the arbitrator shall be final, and shall be enforceable in any Maine state or federal court, and any other court of competent jurisdiction under the Uniform Arbitration Act.

19. All communications required by this Agreement shall be sent by U.S. mail, postage prepaid, and shall be deemed effective when received or refused, if sent to the parties at the following addresses:

If to the Town:
Town of Chebeague Island
192 North Road
Chebeague Island, Maine 04017
Attn:
With a copy to:
Brann & Isaacson
184 Main Street, P.O. Box 3070
Lewiston, Maine 04243-3070
Attention: Michael S. Malloy, Esq.

If to the Abutters:
Leslie Realty Trust, Sara Anne Holmbom and William N. Lund
46 Wyoming Avenue
Portland, Maine 04103

The parties are signing this agreement as of the date stated on page 1.

Terms of this agreement may be modified by the Town or by the Abutters, upon the written agreement of both parties.

TOWN OF CHEBEAGUE ISLAND
By: Susan Campbell
Its Chair, Board of Selectmen

ABUTTERS:

LESLIE REALTY TRUST, by:
_________________________, trustee

_________________________
SARA ANNE HOLMBOM

_________________________
WILLIAM N. LUND
All boundaries and areas to be determined and confirmed by a licensed surveyor.

Area to be conveyed by GCGC to Town outlined in white.

Area to be conveyed by Town to Abutters outlined in red

View easement shown in shaded area, top right.
EXHIBIT 2

MUNICIPAL QUITCLAIM DEED

THE TOWN OF CHEBEAGUE ISLAND, a municipal corporation with its mailing address of 192 North Road, Chebeague Island, Maine 04017, releases to SARA ANNE HOLMBOM, WILLIAM LUND, individuals, and LESLIE REALTY TRUST, a trust, collectively with a mailing address of 46 Wyoming Avenue, Portland, Maine 04103, the land located adjacent to Stone Wharf Road and more particularly described as follows:

[legal description of rectangular parcel of land to be prepared by licensed surveyor]

IN WITNESS WHEREOF the Town of Chebeague Island has executed this municipal quitclaim deed by __________, its duly authorized ______________, this day of ____________.

TOWN OF CHEBEAGUE ISLAND

BY: [PRINT NAME]________________________
ITS CHAIR, BOARD OF SELECTMEN

STATE OF MAINE
COUNTY OF CUMBERLAND, SS.

On ________________, personally appeared the above-named, Chair, Board of Selectmen of the Town of Chebeague Island, and acknowledged the foregoing to be his/her free act and deed in his/her said capacity and the free act and deed of said Town of Chebeague Island.

Before me,________________________
Notary Public/Attorney-at-Law

_____________________________
Printed Name
EXHIBIT 13

EASEMENT DEED

Witness my hand this ____ day of ___________, 201_.

TOWN OF CHEBEAGUE ISLAND

BY: ______________________________________

______________________________
PRINT NAME
ITS: CHAIR, BOARD OF SELECTMEN
STATE OF MAINE __________, 201_
CUMBERLAND, SS

Now personally appeared before me the above-named ____________, Chair, Board of Selectmen for the Town of Chebeague Island, and acknowledged the foregoing to be his/her free act and deed and the free act and deed for the Town of Chebeague Island.

NOTARY PUBLIC/ATTORNEY AT LAW

PRINT NAME: