

AGREEMENT

AGREEMENT made this _____ day of _____, 2008, by and among the TOWN OF SCITUATE (“Scituate”), the PROVIDENCE WATER SUPPLY BOARD, an enterprise fund of the City of Providence (“PWSB”) and the PROVIDENCE PUBLIC BUILDINGS AUTHORITY (“PPBA”), hereafter PWSB and PPBA are sometimes collectively referred to as the “Water Supply Board”.

WHEREAS, PWSB and PPBA own certain real and personal property located in Scituate; and

WHEREAS, certain property owned by PWSB and PPBA in Scituate is subject to taxation by Scituate; and

WHEREAS, PWSB and PPBA have challenged the tax classification and valuations of certain property owned by them in Scituate; and

WHEREAS, the parties desire to settle the disputes of all matters by and among them, including the final settlement of all pending civil actions in the Providence County Superior Court (“Court Actions”) and all pending administrative appeals before the Scituate Tax Assessor and/or the Scituate Board of Assessment Review (“Appeals”).

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual promises and covenants herein made, each of the parties hereto agree as follows:

1. **Real estate and personal property taxes assessed as of December 31, 2000 through and including December 31, 2006 (for the tax years 2001—2007).**

The parties acknowledge and agree that the Water Supply Board has paid, in full, all of its real estate and personal property taxes to Scituate assessed as of December 31, 2000 through and including December 31, 2006 (tax years 2001—2007). The parties agree to resolve all pending tax challenges by the Water Supply Board for said tax years including, but not limited to, a final resolution of the Court Actions and Appeals. In consideration of Scituate recalculating and reducing the Water Supply Board's real estate taxes for the tax years 2001—2007 inclusive, and Scituate paying the refund set forth below, the Water Supply Board agrees to dismiss, without prejudice, all pending tax challenges including, but not limited to, dismissing the Court Actions and Appeals, once final approvals of this Agreement have been obtained, the Legislation has been passed, and the refund has been paid. Scituate agrees to recalculate the Water Supply Board's real estate taxes for the years 2001—2007 by granting the Water Supply Board a 12½% reduction from the real estate taxes actually paid each year, together with the payment of interest on said amounts at 6% per annum. The parties acknowledge that a 12½% reduction of those taxes would yield a cumulative refund of \$4,297,516. The parties also acknowledge that interest at 6% per annum on that amount would yield a total refund of over \$5,300,000. Notwithstanding, the parties have agreed that the refund to be paid by Scituate to the Water Supply Board will be capped at \$5,000,000, inclusive of interest.

The parties further agree and acknowledge that this Agreement is contingent upon Scituate raising \$5,000,000 through the issuance of bonds or some other legally authorized financing arrangement to pay PWSB. Scituate and the Water Supply Board agree to use their best efforts to educate the taxpayers of Scituate and the ratepayers and customers of the PWSB, through a series of workshops or other public relations efforts, if necessary, in order to seek any necessary approvals in furtherance of the purposes of this Agreement.

Scituate also agrees to cooperate with reasonable requests by the Water Supply Board for assistance in connection with its efforts to secure PUC approval of this Agreement and approval from the Water Supply Board's Lenders. The parties acknowledge and agree that PUC and Lender approval of this Agreement in toto is a contingency and a condition precedent to this Agreement. The Water Supply Board will not dismiss any Court Actions or Appeals unless and until all contingencies are fully satisfied, all approvals are obtained, and the refund is paid.

2. **\$5,000,000 Watershed Protection Restricted Fund.**

If approved by the PUC and the Water Supply Board's Lenders, the \$5,000,000 refund paid by Scituate to PWSB will be held by PWSB in a watershed protection restricted fund ("Restricted Fund") intended to be used for the purchase of land (together with any buildings thereon) located in Scituate which will provide watershed protection for the water supply distribution systems of the PWSB pursuant to generally recognized proper watershed management practices. Any purchases made by the Water Supply Board utilizing any portion

of the Restricted Fund may take the form of fee simple ownership by the Water Supply Board, a 100% lease, the acquisition of development rights by the Water Supply Board, or a joint purchase by the Water Supply Board and other entities. Any purchases by the Water Supply Board utilizing any portion of the Restricted Fund shall be supported by an appraisal from a duly licensed and accredited appraiser, and if required by the PUC, shall be subject to PUC approval. The Restricted Fund may also be used to pay reasonable professional fees associated with investigating and completing potential purchases of such land, including reasonable appraisal fees, survey fees, engineering fees, legal fees, environmental investigation fees, etc.

A. Establishment of Watershed Protection Restricted Fund Advisory Board. Within three months of the Effective Date of this Agreement the parties agree to establish a Watershed Protection Restricted Fund Advisory Board (“Advisory Board”) consisting of five (5) members, two (2) selected by PWSB, two (2) selected by Scituate, and one (1) selected jointly by PWSB and Scituate, for an initial 2-year term, who is to vote only in the event of a tie. All members shall serve without compensation. The purpose of the Advisory Board is to identify property to be purchased with Restricted Fund funds. The Advisory Board shall hold no less than four (4) regular meetings per calendar year. At the first regular meeting the Advisory Board shall elect a chair from among its members. Special meetings may be called by the Chair. The four members chosen by Scituate and PWSB shall constitute a quorum for the transaction of business at

meetings. Special and regular meetings may be open to the public; provided, however, the Advisory Board may meet in closed sessions to discuss any and all aspects of identifying and acquiring property. An opportunity for public comment shall be provided at all regular meetings. The Advisory Board may take action to set reasonable rules for public comment during regular and special meetings on a case by case basis. Roberts Rules of Order, newly revised, shall govern all questions of procedure not otherwise provided for in this Agreement.

B. Land Selection Procedures. Upon receipt of an application or nomination for acquisition of a property or an interest therein, the Advisory Board shall conduct a review of the property, or the interest therein. The review shall be based upon the criteria set forth below. The Advisory Board may assign relative weights to the selection criteria. Based upon consideration of the preliminary review, the Advisory Board shall determine by a majority vote of those members present at a regular or special meeting whether the application/nomination should proceed to acquisition.

C. Selection Criteria. Significant issues affecting the Scituate Reservoir, the source of drinking water for approximately half of the state's population, are the rapid growth rate and changing land use patterns that have been occurring within the watershed. The surface drainage basin or watershed for the Scituate Reservoir covers approximately 93 square miles, of which the Water Supply Board owns and protects approximately 25%. That leaves 75% of the watershed in private ownership and subject to development pressures. As such,

the purpose of the Restricted Fund is to acquire property or interests therein, for the long-term protection of water quality in the Scituate Reservoir watershed – including reservoirs, their tributaries, and ground water. The following primary criteria shall be used to assess property considered to be purchased with the Restricted Fund:

1. The property provides the protection of water resources to include:
 - Wetlands and watershed protection and/or stabilization
 - Groundwater protection
 - Open water bodies and frontage on open water bodies
 - Protection of water quality
 - Additional buffers to existing watershed property
 - security
2. The property poses a possible threat to the water resources if developed.
3. The property abuts and/or provides for increasing the size, protection and effectiveness of existing public or privately conserved lands contiguous to other property owned by the Water Supply Board.

The following secondary criteria may also be considered in evaluating possible purchases if and only if the above primary criteria are met:

The property provides an opportunity for habitat protection and/or protection of agricultural lands in the Scituate Reservoir watershed, and/or the property serves to direct development away from environmentally sensitive areas in the Scituate Reservoir watershed to those areas more suited to economic development.

D. Acquisition Procedures. Upon approval of the Advisory Board to pursue acquisition of a property, the following general procedures will be followed:

1. Preliminary discussions with landowner.
2. Landowner submits letter to Advisory Board requesting consideration of acquiring property (either fee simple, development rights or 100% lease).
3. Advisory Board obtains two full independent appraisals, each containing a value for fee simple, development rights, and any other relevant values as determined by the Advisory Board.
4. Purchase price is negotiated with the land owner.
5. If agreement is reached, a purchase and sale agreement is signed. At this time, a deposit may be forwarded to land owner.
6. Advisory Board will obtain a survey, title report, phase 1 environmental site assessment, and other warranted information.
7. Closing on the property and payment.

8. Mapping, boundary work, inventory, fencing, signage, etc. by the Water Supply Board.

3. **Termination of Restricted Fund.**

The entire Restricted Fund is intended to be spent and/or contractually committed by the Water Supply Board within five (5) years from the date of this Agreement. It is also intended that \$1 million or more of the Restricted Fund will be spent and/or contractually committed by the Water Supply Board for each year of this 5-year period. The parties shall use their best efforts to designate and acquire property in accordance with the procedures set forth above. If less than \$1 million is spent and/or committed on a yearly basis, measured cumulatively on each anniversary of the Effective Date of this Agreement, then the difference between (the total of the amount spent and/ or committed together with the total of the amount previously redirected) and the sum of \$1 million (measured cumulatively each year) shall be redirected in a manner by the Public Utilities Commission (“PUC”) for the benefit of the general ratepayers and customers of the PWSB. By way of example: if no money is spent in year 1, \$750,000 in year 2, \$500,000 in year 3, \$250,000 in year 4 and \$1 million in year 5, the following amounts would be redirected:

Year 1 \$1.0M less \$ 0.0M previously redirected/spent/contractually obligated + \$0.0 spent/contractually obligated = \$1.0M redirected

Year 2 \$2.0M less \$ 1.0M previously redirected/spent/contractually obligated + \$750,000 spent/contractually obligated = \$250,000 redirected

Year 3 \$3.0M less \$ 2.0M previously redirected/spent/contractually obligated + \$500,000 spent/contractually obligated = \$500,000 redirected

Year 4 \$4.0M less \$ 3.0M previously redirected/spent/contractually obligated + \$250,000 spent/contractually obligated = \$750,000 redirected

Year 5 \$5.0M less \$ 4.0M previously redirected/spent/contractually obligated + \$1.0M spent/contractually obligated = \$0.0 redirected

Total: \$2.5 spent/contractually obligated \$2.5 redirected

For purposes of this paragraph, the Effective Date of this Agreement is when all contingencies and approvals required herein have been met and/or received.

4. **State Legislation.**

The parties acknowledge and agree that this Agreement and the obligations of the parties contained herein are specifically conditioned upon the Rhode Island General Assembly amending the Public Laws of Rhode Island to enable Scituate and the Water Supply Board to enter into this Agreement.

5. **Ten (10) Year Tax Treaty.**

For a period of ten (10) years beginning with the real estate and personal property taxes assessed as of December 31, 2007 (tax year 2008) and continuing on and through the real estate and personal property taxes to be assessed as of December 31, 2016 (tax year 2017), Scituate shall charge the Water Supply Board and the Water Supply Board shall pay real estate and personal property taxes, and the taxes will be based on no less than a continuing 12½% reduction (and assuming a maximum allowable property tax levy on an annual basis) as follows:

2008	\$5,145,964
2009	\$5,390,397
2010	\$5,632,965
2011	\$5,872,366
2012	\$6,107,261
2013	\$6,351,551
2014	\$6,605,613
2015	\$6,869,838
2016	\$7,144,631
2017	\$7,430,416
TOTAL	\$62,551,002

Notwithstanding the foregoing, the Water Supply Board agrees to pay real estate and personal property taxes for tax years 2008 and 2009 at \$5,824,650.57, resulting in an overpayment made by the Water Supply Board in tax years 2008 and 2009. Those two overpayments will be made up (with 6% annual interest) in the tax years 2010, 2011, and 2012, resulting in the following payment schedule to be paid by the Water Supply Board to Scituate as follows:

2008	\$5,824,651
2009	\$5,824,651
2010	\$5,199,933
2011	\$5,439,334
2012	\$5,674,228
2013	\$6,351,551
2014	\$6,605,613
2015	\$6,869,838
2016	\$7,144,631
2017	\$7,430,416
TOTAL	\$62,364,846

The above payment schedule is based on the assumption that Scituate will raise taxes annually to the maximum property tax levy allowed by law. The foregoing payments schedule will not change for the duration of this Agreement,

except that in the event that Scituate does not raise taxes by the maximum property tax levy allowed by law in any given year, Scituate agrees to reduce the Water Supply Board's scheduled payments by the percentage by which taxes were not raised to the maximum allowed by law in those years when the maximum increase is not implemented. For example, if the maximum allowable increase in the levy is 4% and Scituate only raises its tax levy by 3%, then a 1% reduction will be made for that year, and the appropriate reduction will also apply in each remaining successive year of this Agreement.

6. **Tax Classification:**

For the entire term of this Agreement, Scituate agrees to classify as forest land on its assessment list, all land owned by the Water Supply Board that the Rhode Island Department of Environmental Management ("RIDEM") certifies now or in the future as forest land. Scituate and the Water Supply Board agree that the foregoing classification by Scituate is for the purpose of settling a dispute among the parties, which dispute is the subject of the Court Actions and Appeals and is not an admission by Scituate that the Water Supply Board's land is forest land or is entitled to forest land classification under the laws of the State of Rhode Island. Upon the termination of this Agreement, Scituate shall be entitled to take any actions with respect to the forest land classification of the Water Supply Board's land as if this Agreement, the Court Actions and the Appeals never occurred including, but not limited to, removing all of the Water Supply Board's land from the Scituate list of classified forest land, denying any application by the

Water Supply Board to the Scituate Tax Assessor for classification of land as forest land and issuing a use valuation assessment for the Water Supply Board's land by the Scituate Tax Assessor. The Water Supply Board also expressly reserves and will be entitled to exercise any and all appeal rights with respect to Scituate taking any of the foregoing actions.

The parties also agree that they will not use any of the terms, provisions or agreements contained in this Agreement against the other in any future proceedings concerning the assessment or collection of taxes by Scituate. The parties further agree that they will not raise as an issue that anything which transpired in the Court Actions or any administrative appeals which were filed by the Water Supply Board prior to the date of this Agreement establishes, under the doctrines of res judicata, collateral estoppel, administrative finality, or any other theory or ground, that the land owned by the Water Supply Board is or is not entitled to be classified and/or valued as forest land. After the termination of this Agreement, all parties shall be entitled to present their positions concerning the issue of forest land classification and valuation just as if the Court Actions and any administrative appeals and this Agreement never occurred. The foregoing provisions contained in this Paragraph 6 shall survive the termination of the Agreement.

7. **Court Actions and Appeals.**

Upon execution of this Agreement, and satisfaction of all the conditions and contingencies, including, but not limited to, the passage of the Legislation, the

obtaining of all approvals, and the payment of the refund, the Water Supply Board and Scituate, through their duly authorized attorneys, shall enter into written stipulations of dismissal, dismissing without prejudice, the Court Actions and the Appeals as more particularly identified on Exhibit A attached hereto. The foregoing stipulations shall be filed with the Providence County Superior Court and the Scituate Board of Assessment Review.

Notwithstanding the forgoing, in the event that the Water Supply Board finds it necessary to commence administrative appeals or civil actions with regard to the forest land classification and/or forest land valuation of any of its acreage after the expiration of this Agreement, Scituate agrees that the Water Supply Board may introduce the Judge Vogel decision of February 3, 2006 (as amended) into the proceedings and may argue that the reasoning of that decision should be followed, but the Water Supply Board agrees that it will not raise the issue that said decision must be followed under the doctrines of res judicata, collateral estoppel, or administrative finality, or any other theory or ground. In addition the parties agree that Scituate may at that time hold hearings before the Board of Assessment Review to establish the value of any such forest land, and the Water Supply Board may appeal the determination of said Board.

8. **Additional Property or Improvements.**

The parties agree and understand that the agreed taxes established by this Agreement include any real and personal property which may be acquired by the Water Supply Board, and any improvements to any property owned by the Water

Supply Board, during the term of this Agreement, as well as any property which may be acquired with the \$5 million Restricted Fund, and that the taxes to be paid by the Water Supply Board during the term of this Agreement will not be increased as a result of any such acquisitions or improvements.

9. **Termination.**

This Agreement shall terminate on December 31, 2017. Notwithstanding the foregoing, effective as of December 31, 2012, and after, (but not before), Scituate shall have the option to terminate this Agreement after receipt of actual notice that the Water Supply Board has, on December 31, 2012 or after, sold, leased or otherwise alienated any of its water supply system property to a non-public entity by giving written notice to the Water Supply Board within thirty (30) days of Scituate's receipt of such actual notice. This option to terminate shall only apply to the water supply system property actually sold, leased or otherwise alienated to a non-public entity and the Agreement shall remain in full force and effect for the balance of the Water Supply Board's property. The effective date of the termination shall be December 31 of the calendar year following the calendar year in which Scituate gives the written notice.

10. **Miscellaneous.**

A. This Agreement shall be governed by and construed in accordance with the laws of the State of Rhode Island.

B. This Agreement constitutes the entire agreement among the parties and supersedes any prior communications, written and oral, with respect to all

matters pertaining thereto. This Agreement shall not be modified or amended except by an instrument in writing signed by the parties hereto.

C. All notices, requests, demands and other communications hereunder shall be deemed to have been duly given if hand delivered or if sent by prepaid registered or certified mail or by a recognized overnight delivery service to the parties hereto at the following addresses:

For PWSB: (1) Chief Engineer and General Manager, Providence Water Supply Board, 552 Academy Avenue, Providence, RI 02908, (2) Finance Director, Providence Water Supply Board, 552 Academy Avenue, Providence, RI 02908, and (3) Michael R. McElroy, Esq. Schacht & McElroy, 21 Dryden Lane, P.O. Box 6721, Providence, RI 02940-6721.

For Scituate: (1) President, Scituate Town Council, 195 Danielson Pike, North Scituate, RI 02857; (2) Town Clerk, Town of Scituate, 195 Danielson Pike, North Scituate, RI 02857; and (3) Gorham & Gorham, Attorneys at Law, 25 Danielson Pike, North Scituate, RI 02857.

Any party hereto may change its address for notice purposes by providing notice in accordance with this provision. Any notice, demand, or other communication shall be deemed given and effective as of the date of delivery by hand, or upon the fifth day following mailing.

D. This Agreement constitutes a valid and binding agreement of the parties hereto, enforceable in accordance with its terms. This Agreement shall be binding

upon, and shall inure to the benefit of, the parties and their respective successors and assigns.

E. The parties agree that they shall meet not later than one hundred and eighty (180) days prior to the termination of this Agreement for the purpose of discussing a possible extension of this Agreement or a new similar agreement.

F. The parties agree that, during the term of this Agreement, it shall not be necessary for the Water Supply Board to file any notices of intention to bring in an account, any accounts, or any appeals of any kind, and this Agreement shall control all obligations of the Water Supply Board to pay all taxes to the Town during the entire term of this Agreement. This Agreement may be enforced as a contract directly in the Superior Court of the State of Rhode Island, without the necessity of the filing of any administrative appeals or the exercise of any other administrative remedies by the Water Supply Board or the Town.

G. This Agreement may be signed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have hereunto cause these presents to be executed on this _____ day of _____, 2008, by their duly authorized representatives.

Executed in presence of:

PROVIDENCE WATER SUPPLY
BOARD OF THE
CITY OF PROVIDENCE

By: _____

Andrew K. Moffitt, Chairman

PROVIDENCE PUBLIC BUILDINGS
AUTHORITY OF THE
CITY OF PROVIDENCE

By: _____
Lloyd Granoff, Chairman

THE CITY OF PROVIDENCE

By: _____
David N. Cicilline, Mayor

By: _____
Peter S. Mancini
City Council President

TOWN OF SCITUATE

By: _____
Robert Budway
Town Council President

[EXHIBIT A NEEDS TO BE ATTACHED]