

THE CITY OF PROVIDENCE  
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

# RESOLUTION OF THE CITY COUNCIL

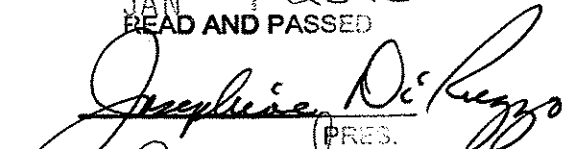
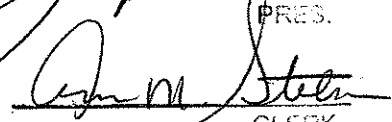
No. 3

*Approved* January 8, 2010

RESOLVED, That His Honor, the Mayor, is hereby authorized to execute an Agreement between the Town of Gloucester ("Town") and the Providence Water Supply Board ("PWSB"), an enterprise fund of the City of Providence, relating to the taxation of property owned by the PWSB in the Town, which would settle all pending disputes between the parties, including actions in the Providence County Superior Court and administrative appeals before the Gloucester Tax Assessor and/or the Gloucester Board of Assessment Review, and establish a tax treaty between the parties.

IN CITY COUNCIL

JAN 7 2010  
READ AND PASSED

  
PRES.  
  
CLERK

APPROVED

MAYOR

1/8/10

## AGREEMENT

AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and among the TOWN OF GLOCESTER ("Glocester"), and the PROVIDENCE WATER SUPPLY BOARD, an enterprise fund of the City of Providence ("PWSB" or "Water Supply Board").

WHEREAS, PWSB owns certain real property located in Glocester; and

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

WHEREAS, PWSB has challenged the valuations placed by Glocester on the property owned by PWSB; and

WHEREAS, the parties desire to settle all pending disputes between them, including all pending civil actions in the Providence County Superior Court ("Court Actions") and any administrative appeals which may be pending before the Glocester Tax Assessor and/or the Glocester Board of Assessment Review ("Appeals"); and

WHEREAS, this Agreement is authorized by R.I.G.L. § 45-2-2.1.

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. Taxes assessed through and including December 31, 2007**

The parties acknowledge and agree that the Water Supply Board has paid, in full, all of its taxes to Glocester assessed through and including December 31, 2007. The parties agree to resolve all pending tax challenges by the Water Supply Board including, but not limited to, a final resolution of the Court Actions and any Appeals. In consideration of Glocester paying the refund set forth below, the Water Supply Board agrees to dismiss all pending tax challenges

including, but not limited to, dismissing the Court Actions and Appeals, once final approvals of this Agreement have been obtained, and the refund has been paid. The parties have agreed that the refund to be paid by Gloucester to the Water Supply Board will be \$123,369.39, inclusive of interest.

Gloucester also agrees to cooperate with reasonable requests by the Water Supply Board for assistance in connection with any efforts needed to secure any approval of this Agreement, including any PUC approval and any approval from the Water Supply Board's Lenders. The parties acknowledge and agree that PUC and Lender approval of this Agreement (if needed) 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. Ten (10) Year Tax Treaty.**

For a period of ten (10) years beginning with taxes assessed as of December 31, 2008 (tax year 2009) and continuing on and through taxes to be assessed as of December 31, 2017 (tax year 2018), Gloucester shall charge the Water Supply Board and the Water Supply Board shall pay taxes which are based on a continuing 20% reduction for property owned as of December 31, 2008, as follows:

2009	\$47,253
2010	\$49,380
2011	\$51,478
2012	\$53,537
2013	\$55,679
2014	\$57,906
2015	\$60,222
2016	\$62,631
2017	\$65,136
2018	<u>\$67,742</u>
TOTAL	\$570,964

Although Gloucester may be putting values on the Providence Water properties in their computer system in order to generate the necessary tax bills, both parties agree that these values are artificial, are for calculation purposes only, and are not binding on either party in terms of actual fair market value of the properties.

### **3. Court Actions and Appeals.**

Upon execution of this Agreement, and satisfaction of all the conditions and contingencies, the obtaining of any necessary approvals, and the payment of the refund, the Water Supply Board and Gloucester, through their duly authorized attorneys, shall enter into written stipulations of dismissal dismissing the Court Actions and any other Appeals as more particularly identified on Exhibit A attached hereto. The foregoing stipulations shall be filed with the Providence County Superior Court and, if applicable, the Gloucester Board of Assessment Review.

### **4. Termination.**

This Agreement shall terminate on December 31, 2018. Notwithstanding the foregoing, effective as of December 31, 2013, and after, (but not before), Gloucester shall have the option to terminate this Agreement after receipt of actual notice that the Water Supply Board has, on December 31, 2013 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 Gloucester'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 Gloucester gives the written notice.

**5. Revised tax payment schedule in the event of disposition or acquisition of property.**

**a. Disposition**

In the event a portion of Providence Water's property is sold, leased, or otherwise alienated to a non-public entity, then Providence Water's tax payment schedule as set forth above in ¶2 shall be reduced by the percentage of total acreage so sold, leased, or otherwise alienated as compared to the acreage owned by Providence Water on December 31, 2008. For example, if 25% of the acreage is sold, leased, or otherwise alienated, then Providence Water's tax payment schedule shall be reduced by 25% for all remaining years.

**b. Acquisition**

In the event Providence Water acquires additional property after December 31, 2008, then Providence Water's tax payment schedule as set forth above in ¶2 shall be increased by the percentage of total acreage so acquired as compared to the acreage owned by Providence Water on December 31, 2008. For example, if 25% more acreage is acquired, then Providence Water's tax payment schedule shall be increased by 25% for all remaining years.

**6. 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 Glocester: (1) President, Glocester Town Council, 1145 Putnam Pike, P.O. Box B, Chepachet, RI 02814-0702, and (2) Town Clerk and Tax Assessor, Town of Glocester, 1145 Putnam Pike, P.O. Box B, Chepachet, RI 02814-0702.

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 \_\_\_\_\_, 2009, by their duly authorized representatives.

Executed in presence of:

PROVIDENCE WATER SUPPLY BOARD OF  
THE CITY OF PROVIDENCE

Carissa Richard

By: Andrew K. Moffit  
Andrew K. Moffit, Chairman

THE CITY OF PROVIDENCE

\_\_\_\_\_

By: David N. Cicilline  
David N. Cicilline, Mayor

\_\_\_\_\_

By: \_\_\_\_\_  
Peter S. Mancini  
City Council President

TOWN OF GLOCESTER

\_\_\_\_\_

By: \_\_\_\_\_  
Kevin P. Walsh  
Town Council President

[EXHIBIT A NEEDS TO BE ATTACHED]

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Executed in presence of: PROVIDENCE WATER SUPPLY BOARD OF THE CITY OF PROVIDENCE

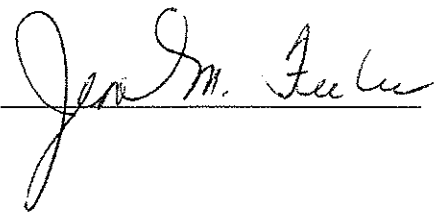
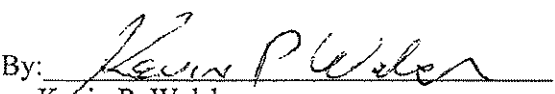
\_\_\_\_\_  
By: \_\_\_\_\_  
Andrew K. Moffitt, Chairman

THE CITY OF PROVIDENCE

\_\_\_\_\_  
By: \_\_\_\_\_  
David N. Cicilline, Mayor

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By: \_\_\_\_\_  
Peter S. Mancini  
City Council President

TOWN OF GLOCESTER

  
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Kevin P. Walsh  
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