

**EXECUTIVE OFFICE OF ENERGY &
ENVIRONMENTAL AFFAIRS**
Matthew A. Beaton, Secretary
Grant Announcement



BID ENV 19 DCS 05
Posting Date: September 19, 2018

Drinking Water Supply Protection Grant
FY 2019

1. GRANT OPPORTUNITY SUMMARY:

A. PROPOSALS SOUGHT FOR: Financial assistance for the purchase of land in existing Department of Environmental Protection (DEP)-approved drinking water supply protection areas, or land in estimated protection areas of identified and planned future water supply wells or intakes

B. OVERVIEW AND GOALS: The Executive Office of Energy and Environmental Affairs (EEA) protects, conserves, and restores the natural resources of the Commonwealth. To fulfill this mission, Matthew A. Beaton, Secretary of EEA, announces the Fiscal Year (FY) 2019 Drinking Water Supply Protection (DWSP) Grant Program. This grant provides funds to assist in protecting and conserving the quality and quantity of public drinking water supply sources in the Commonwealth. This is a reimbursement program.

C. ELIGIBLE PROJECTS:

- 1) Purchase of land in fee
- 2) Purchase of a Conservation Restriction (CR)
- 3) Purchase of a Watershed Preservation Restriction (WPR)

See further detail on eligible projects in section 2B.

D. ELIGIBLE APPLICANTS: This BID is open to municipalities, water districts, and non-profit public water systems (PWSs) authorized by the Commonwealth to provide drinking water to the public. See further detail on eligible applicants in section 2A.

E. APPLICATION DEADLINE: Friday, November 16, 2018 at 3:00 pm

See further detail on deadlines and grant program calendar in section 4.

F. FUNDING AVAILABILITY: Maximum reimbursement available: \$300,000.

See further detail on funding availability in section 2E.

G. BUDGET REQUIREMENT: Applicants selected to receive grant funding must show authorization to expend funds equal to the total project amount, and to accept the grant award (See section 2A.1). They must show the use of funds from non-state sources. Only approved project costs incurred within the contract period will be eligible to receive reimbursement. See further detail on budget requirement in section 2F.

H. TOTAL ANTICIPATED DURATION OF CONTRACT(S): The contract period will begin on the date that EEA signs the contract. Contracts issued pursuant to this BID must purchase the property and expend 100% of the approved project costs on or before the end of the fiscal year (June 30, 2019 for FY2019 awards; June 30, 2020 for FY2020 awards) to be eligible for reimbursement. See further detail on anticipated duration of

contract(s) in section 2F.

I. REGULATIONS, STATUTES, OR AUTHORIZATION GOVERNING THIS GRANT PROGRAM: This BID is issued according to M.G.L. c. 40, §39B and 41. It is funded through Chapter 312 of the Acts of 2008, § 2A, 2200-7017. All properties for which grant assistance is provided will become protected open space under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, dedicated to water supply protection and land conservation. This program provides funding for acquisitions of interests in land only; funding through the DWSP program does not replace or constitute approval of any proposed development of new drinking water sources or groundwater recharge or wastewater discharge. Applicants must adhere to all relevant DEP regulations and approval processes.

J. CONTACT INFORMATION: Emmanuel Owusu
Executive Office of Energy and Environmental Affairs
100 Cambridge Street – Suite 900
Boston, MA 02114
617-626-1187
Emmanuel.owusu@mass.gov

2. Performance and Contract Specifications

A. ELIGIBLE APPLICANTS:

Municipalities, public water districts, and non-profit water systems. The Massachusetts Water Resources Authority and state agencies are not eligible for funding.

Applicants must have:

1. **Authorization to acquire the property**, expend funds, and accept the grant award, through a town meeting or city council vote, or through a vote of a Board of Water Commissioners, or Select Board acting as such.
The vote must identify the specific parcel to be acquired and contain authorization to seek funding under the DWSP grant (Chapter 312 of the Acts of 2008, § 2A, 2200-7017), and to enter into any contracts for the project, as well as permit the conveyance of a CR if a CR is applicable to the project, or conveyance of a license for maintenance or other compatible property use. The vote must authorize the appropriation, transfer from available funds or borrowing of the total cost of the project stated in the DWSP application. The Water Department (or Board of Selectmen/City Council authorized as such under M.G.L. c. 40, §39A) must be designated to hold and manage the property for water supply protection and land conservation purposes under M.G.L. c. 40, §39B and 41, and Article 97 of the Amendments to the Massachusetts Constitution. The vote may be contingent upon receiving grant funding. However, applicants must submit the vote prior to the grant contract execution. All votes must be reviewed and approved by program manager prior to being voted on.

Department of Environmental Protection (MassDEP) approval of the acquisition of land for public drinking water supply purposes. A DWSP grant award constitutes preliminary MassDEP approval to acquire the property, however, it must be finalized through a public hearing. The DEP approval process takes up to six weeks to complete. Details are available at <https://www.mass.gov/how-to/ws-26-sale-or-acquisition-of-land-for-water-supply-purposes>.

The following is a summary of the steps:

1. Grantee submits a Permit Application (form BRP WS-26) for Land Acquisition and requests a public hearing date.
2. DEP schedules a public hearing in the appropriate regional office and provides grantee with public hearing instructions.
3. Grantee notifies abutters and places a public notice in the newspaper.
4. Grantee submits draft documents and proof of abutter notification to DEP.
5. Public hearing is held at DEP regional office.
6. DEP issues Grantee a final approval letter.

Further, open space protection may qualify as mitigation for increased water withdrawal under the Sustainable Water Management Initiative framework

(<http://www.mass.gov/dep/water/resources/swmi.htm>), and as regulated by the MA Water Management Act (<https://www.mass.gov/water-management-act-program>) administered by MassDEP. Care should be taken to understand the implications any anticipated additional withdrawals from the subwatershed may have under the WMA regulations.

3. **No unresolved protected open space conversion issues** with EEA (see EEA Article 97 Disposition Policy at: https://www.mass.gov/files/documents/2018/06/06/article97_LandDisposition_Policy.pdf).
4. **No current enforcement orders** or orders of non-compliance related to land protection or management. Applicants with outstanding enforcement orders may receive grant awards, with payment contingent upon their satisfactory resolution, at the sole discretion of EEA.

B. ELIGIBLE PROJECT(S)/SCOPE(S) OF WORK:

EEA seeks to further the conservation of lands contributing to the protection of drinking water supplies within the Commonwealth. Applications may be to purchase land in fee simple or a CR or WPR. All applicants must specify whether their proposed acquisition will protect an existing well or intake or a planned new well or intake.

The Property must:

1. **Be primarily located in an appropriate area to achieve stated objectives.** This requirement is met in different ways depending upon whether the project is to protect an existing well or intake or a planned future well or intake.
 - a. **Projects to protect existing wells or intakes:** Fifty percent (50%) or more of the parcel(s) to be acquired must be located in a DEP-approved Zone I, II, or III (groundwater) or Interim Wellhead Protection Area (IWPA), or Zone A, B or C (surface water). Properties to protect groundwater that contain more than 50% Zone II will be viewed most favorably. Applicants may use the Water Supply Protection Areas available from MassGIS or use the online map located here: <http://maps.massgis.state.ma.us/images/dep/omv/wspviewer.htm>.
 - b. **Projects to protect future wells or intakes:** property must be primarily located within an area identified as of value for anticipated future water supply use through an appropriate process, or that has been tested and included in an application to DEP for a site exam under the new source review approval process. Appropriate planning processes include locally-developed and accepted plans such as: drinking water resource management plan, integrated

water resource management plan, wastewater resource management plan, regional watershed plan, water assets report, or direct testing. Documentation of this planning should be submitted with the application. Priority will be given to projects that have already submitted an application to DEP for new source review.

2. **Not include Zone I designated after 1990.** Parcels located in a Zone I are eligible to receive funding only if well construction was approved by DEP prior to June 6, 1990. Projects including Zone I land for wells approved after this date may receive funding only for the portion of the property lying outside of Zone I. The appraiser should estimate the value of the Zone I area and subtract this from the total property value.
3. **Be currently unprotected.** Land that is already protected for any purpose under Article 97 or under an EEA-approved CR is ineligible for funding. Article 97 status may be conferred on a property through an EEA grant program (Local Acquisitions for Natural Diversity (LAND), Parkland Acquisitions and Renovations for Communities (PARC), Conservation Partnership, Landscape Partnership, or Land and Water Conservation Fund (LWCF)); a CR; Agricultural Preservation Restriction (APR); or by virtue of its acquisition by a government entity for any Article 97 purpose. Land owned by a 501(c)(3) non-profit environmental or conservation organization is ineligible for funding, unless it was purchased no earlier than the posting date for this grant with the sole intention of pre-purchasing the land until the application receives a potential DWSP grant. Any exercise of this exemption is at the risk of the non-profit organization. EEA does not guarantee funding as a result of this exemption. Lands enrolled in Chapter 61, 61A or 61B are not classified as permanently protected land and are eligible to receive funding.
4. **Not already be owned by the applicant.** Land already owned by the applicant, regardless of purpose (eg, general municipal land), is not eligible. Otherwise eligible land that an applicant purchased prior to receiving an executed contract from EEA is not eligible.

Additional notes on eligible projects:

- Multiple applications will be accepted from the same entity. Landholdings that are in a single, contiguous tract may be packaged in the same application. Unrelated, separate landholdings must be submitted as individual applications.
- Applicants can submit more than one application.
- Municipalities may apply for funds to protect drinking water supply land on behalf of any PWS.
- Municipalities may apply for funds to protect water supply land that is partially or wholly located within another municipality.

Allowable uses of property acquired with DWSP funds:

While the primary purpose of this grant is to protect public drinking water supplies, an additional goal of the program is to encourage compatible uses of protected open space. Properties acquired with assistance from this program must be open to the public for appropriate passive recreational use, including hunting, as consistent with MassDEP Drinking Water Regulations 310 CMR 22.00 and other applicable federal, state, and local regulations. The unique characteristics of each property will guide what specific activities are appropriate, but the specific mix of permitted recreational uses will be determined by the grantee, with EEA approval. Public access is not required within Zone I areas on surface waterbodies.

This list not a complete list of permitted or prohibited uses. For specific activities, contact the grant manager.

Permitted uses: Watershed protection, passive recreation, limited forestry and agriculture where compatible with water supply protection.

Examples of acceptable non-water supply uses: hiking, hunting, Nordic skiing, wildlife viewing, educational programs, sustainable timber management under an approved forest management plan, low intensity agriculture under a conservation plan.

Prohibited uses: Active recreation, intensive agriculture, or developed uses; uses prohibited in 310 CMR 22.00.

Examples: athletic fields, motorized vehicles, row crops, feedlots, large-acreage clear-cutting, swimming pools, play structures, golf courses, buildings, etc.

Article 97 protection: Any property acquired with EEA grant assistance becomes permanently protected open space, dedicated to water supply protection and land conservation, in accordance with M.G.L. Chapter 40, § 38, 39B, and 41, and Article 97 of the Amendments to the Massachusetts Constitution. This statement must be stated in the deed. Property interests must be placed under the control of the applicant's Board of Water Commissioners (or Board of Selectmen authorized as such); properties acquired by private water suppliers must be subject to a CR held by an eligible government entity. The property may not be sold, disposed of, altered, or subject to a change in use without the prior approval of the Secretary of EEA, both houses of the Massachusetts Legislature, and the Governor, and appropriate mitigation to comply with the EEA No Net Loss of Open Space Policy.

Previously developed land and brownfields:

Communities may receive DSWP funding to acquire property that meets the goals of the program and that requires removal of buildings or impervious surfaces, remediation, or other environmental restoration, and are encouraged to submit applications for such projects. Properties must be adequately remediated prior to final reimbursement. This requires careful planning and timely action on the part of the applicant.

A brownfield is a property where real or perceived environmental contamination complicates redevelopment or reuse efforts. These properties are typically abandoned or underutilized commercial or industrial sites, although other lands may also be brownfields. Often, these sites have been reported to the DEP because contamination has been found (search sites at <https://eeaonline.eea.state.ma.us/portal#!/search/wastesite>). In other cases, sites may not have been assessed due to insufficient resources or fear of liability for possible contaminants.

Developed, previously developed, or brownfield sites that will be remediated and restored as part of the project are eligible for acquisition under the DWSP grant program. To receive funding, the applicant must:

1. If the site has been reported to MassDEP under M.G.L. c. 21E, include in the application a copy of the most recent environmental site assessment report (Massachusetts Contingency Plan (MCP) Phase I or Phase II). These reports are available online and/or are on file with the appropriate MassDEP regional office (see: <http://www.mass.gov/dep/about/regional.htm>). If the site has not been reported to MassDEP, the most recent ASTM Phase I or II site assessment report may be substituted. Applications to acquire properties for which no report is available will be accepted, however, no contract will be awarded until a report has been provided to EEA.
2. Demonstrate their ability to complete any remaining required environmental response actions through

the submission of a budget outlining sources of assessment/remediation funding and a timeline for completion. If another liable party (e.g., the current owner or a causally responsible party) will be completing any required response actions after the property is transferred, include any legal agreements to that effect. If selected to receive funding, the applicant must submit a site-specific environmental cost estimate (or MCP Phase III Completion Report including a cost estimate) from a Massachusetts Licensed Site Professional (see <https://www.mass.gov/how-to/hiring-a-licensed-site-professional>).

3. Prior to reimbursement, awardee must ensure that the site achieves closure under 21E through either a Response Action Outcome (RAO) or Remedy Operation Status (REMOPS). Site closure must precede opening the property to the public. (For text of M.G.L. 21E legislation, see: <http://www.mass.gov/legis/laws/mgl/gl-21e-toc.htm>). Remediation must be appropriate for the intended conservation and/or passive recreational use as described in the Project Narrative.
4. Submit a copy of all Activity and Use Limitation (AUL) deed clauses with the RAO. AULs can indefinitely exclude certain land uses based on the level of cleanup attained at a site or portion of a site. If there are AULs associated with the site, the management plan must demonstrate that it accommodates them without significantly compromising public access.
5. **Ensure that remediation is completed to the full satisfaction of EEA and DEP.**

Assessment, demolition, and remediation costs are eligible for limited reimbursement (up to \$15,000) under the DWSP grant program. More information on brownfields, state and federal brownfields grant and loan programs and liability protection is available from DEP at: <http://www.mass.gov/dep/cleanup/brownfie.htm>.

EEA is committed to working with grant awardees whose projects include remediation and restoration, and will strive to assist and accommodate awardees with particularly complex or challenging projects; however, EEA reserves the right to withhold reimbursement where site remediation is unsatisfactory.

C. APPRAISAL REPORTS:

Applications must include the appropriate type of appraisal. Appraisals must be dated no earlier than one year prior to the grant application deadline. The Applicant or one of the Applicant's project partners must be the client for the appraisal; the owner of the property cannot be the client. All appraisal reports must be prepared in accordance with the EEA Specifications for Analytical Narrative Appraisal Reports. See the Division of Conservation Services website for detailed Appraisal Report Specifications at <https://www.mass.gov/files/documents/2016/08/oy/eea-land-acquisition-policy-appraisals-01-06-15.pdf>.

1. **Parcels with an estimated value of under \$40,000:**
One certified appraisal report, restricted appraisal report, or contracted realtor's market analysis.
2. **Parcels with an estimated value of between \$40,000 and \$99,999:**
One certified appraisal report or restricted appraisal report.
3. **Parcels with an estimated value of between \$100,000 and \$1,000,000:**
One certified appraisal report.
4. **Parcels with an estimated total value of over \$1,000,000:**
One certified appraisal report. Applicants are strongly encouraged to obtain a second appraisal report or review appraisal.

EEA reserves the right to request additional or review appraisals, as it deems necessary.

D. EVALUATION CRITERIA:

Each application will be scored using the criteria below. See the full application in Attachment A for more detailed description.

- **Project quality – 74 points**
- **Resource management – 18 points**
- **Demographics – 8 points**
- **Community Compact Agreement – 2 bonus points**

This program encourages the completion of projects to serve Environmental Justice populations, to help address the disproportionate share of environmental burdens borne by lower-income and racial minority communities. In Massachusetts, Environmental Justice populations are defined as neighborhoods that meet one of more of the following criteria:

- Block group whose annual median household income is equal to or less than 65 percent of the statewide median (\$62,072 in 2010); or
- 25% or more of the residents identifying as minority; or
- 25% or more of the residents are lacking English language proficiency (refers to households that do not have an adult proficient in English).

More information, including a list of communities and maps, can be found at:

<http://www.mass.gov/eca/waste-mgmt-recycling/site-and-bldg-cleanup/environmental-justice-policy.html>

A project Selection Committee composed of EEA and DEP staff members will review all applications, conduct site visits, and make funding recommendations.

E. FUNDING AVAILABILITY, BUDGETING GUIDELINES & ALLOWABLE EXPENDITURES:

Reimbursement rate:	50% of the total approved project cost
Maximum award amount:	\$300,000

Applicants must submit the appropriate type of appraisal(s) (see Section 2C), provide an itemized budget estimate, and a specific grant request. The maximum award for any single project may be increased at the discretion of the Secretary. Only expenditures for eligible items made within a grant recipient's contract period will be reimbursed.

Eligible project costs:

Property acquisition	Recording fees
Title research and certification	Survey or plan of land
Baseline Documentation Report & Land Management Plan (up to \$1,500)	21E compliance, brownfield cleanup, or demolition costs (up to \$15,000)

Expenditures must be incurred and paid within contract period.

Ineligible project costs:

Staff salaries	Equipment or goods
Legal fees other than title research & certification	Appraisal
Application preparation and submission costs	Other items as determined by EEA
Buildings, pumps, or other infrastructure	

All contracts shall be subject to available funding, whether through the appropriation and authorization of sufficient funds or the receipt of sufficient revenues. If available funding ceases for any reason, a contract shall be deemed under suspension and contract performance must halt. A contractor will not be entitled to compensation for any performance provided during the period of contract suspension. EEA may lift the suspension if additional funding is received. In the absence of foreseeable available funding, EEA may terminate the contract.

F. BUDGET REQUIREMENT:

Applicants selected to receive grant funding must show the use of funds from non-state sources, such as PWS funds, other grants from private or non-profit foundations, and cash contributions from local partners or individuals. Reimbursement payments are made based on the total amount spent, *as shown by cancelled checks, transfer statements, and Treasurer's statement from the Grantee.* Only expenditures from the contracted grantee's account will be reimbursed. Funds from other state land acquisition grant programs, or the federal LWCF, may not be paired with this grant. Community Preservation Act (CPA) payments and other federal funds including those administered by state agencies, may be used. Other state funding sources may be used for site remediation, brownfields compliance, well development, and aspects not eligible for funding from the DWSP grant. Only those eligible project expenses incurred within the contract period will be considered for reimbursement.

G. PROJECT TERMS:

1. **Ownership and control:** Property acquisitions resulting from this BID must be held by the municipal water department, water district, public water supplier, or select board acting as such.
2. **Project Agreement:** A DWSP Project Agreement must be recorded and appropriately cross-referenced with all property interests acquired using grant funds.
3. **Survey:** External property boundaries, and the boundaries of any internal easements or rights-of-way, must have a recent, modern survey. The survey must be recorded and appropriately cross-referenced to the Project Agreement and all property interests acquired using grant funds.
4. **Title:** Applicants selected to receive an award through this program must demonstrate, as a condition of reimbursement payment, that they possess good, clear, marketable title to the interest acquired. Title research should be conducted well in advance of anticipated closing, to allow for resolution of any

issues that may arise. Research must be brought up to time of acquisition. Where clear title is unavailable, applicants may acquire the property by a friendly taking (eminent domain) process to clear the title. At the sole discretion of EEA, title insurance may be accepted where title research reveals unresolvable flaws in title.

5. **Public access:** All DWSP grant-funded properties are encouraged to be open to the general public for appropriate passive recreational uses, including hunting, as consistent with all applicable federal, state, and local regulations.
6. **Baseline Documentation Report and Land Management Plan:** A Baseline Documentation Report and Land Management Plan must be completed for the property prior to reimbursement.
7. **Acknowledgement sign:** A sign acknowledging receipt of public funding through the DWSP Grant Program, and describing the terms of public access, must be installed and maintained in a prominent location on all funded-properties.
8. **Vegetative cover:** Properties must be maintained in a natural vegetated state to the greatest extent possible.
9. **Permanent protection:** Property acquired using DWSP grant funds is permanently protected open space land under Article 97. Conversion to another use or transfer to another ownership is prohibited.

Grantees must abide by the Standard Commonwealth of Massachusetts Terms and Conditions. All contracts are subject to successful negotiation of a Final Scope of Services. EEA does not guarantee that any contracts may result from this BID, or that any particular funding level will be awarded. Property purchased outside of the contract period will not be reimbursed.

Environmentally Preferable Products and local wood use: Where building materials are required to meet obligations for signage, access, or to serve any other allowable use, Grantees should seek to minimize the environmental impact of the work and materials (see Executive Order 515, <http://www.mass.gov/courts/docs/lawlib/eo500-599/eo515.pdf>) and to use locally-grown and produced wood products, unless the grantee can demonstrate that wood is not a suitable material, or that Massachusetts grown and manufactured products are not available, or will cost more than 10% more than equivalent products (see M.G.L. C. 7, §23B and M.G.L. C. 30, §4(d)). Where possible, municipalities should use firms that are certified by the Massachusetts Department of Agricultural Resources as part of the Commonwealth Quality Program (see <http://www.mass.gov/agr/cqp/>), which verifies their sustainable practices and that the products are grown and manufactured in Massachusetts.

H. ANTICIPATED DURATION OF CONTRACTS:

Contracts for FY19 will be in effect from the date of execution until June 30, 2019. Contracts for FY20 projects will be in effect from the date of execution or July 1, 2019, whichever is later, until June 30, 2020. It is anticipated that projects selected to receive awards for FY19 could commence immediately upon EEA's announcement and the signing of a contract by the Commonwealth; projects selected to receive awards for FY20 could begin no earlier than July 1, 2019. The awarded contracts will be reviewed during their course and, upon request by the Grantee (Contractor), may be extended or otherwise amended at the sole discretion of EEA. Awardees should not plan to close in calendar year 2018.

I. DELIVERABLES, OWNERSHIP, AND CREDIT DUE:

EEA must be notified in advance of, and its representatives must be invited to, any public events sponsored by the grant recipient in celebration of a project that has received a DWSP grant award. Receipt of funding from the DWSP program must be acknowledged in any press issued by the applicant or its partners.

J. REPORTING:

Grantees are expected to communicate regularly with EEA staff, and must promptly inform EEA of any expected delays or significant complications. A progress reports are required in May for FY 19 awards and in February 2020 for FY 20 awards. Grantees are subject to contract performance review by the EEA grant administrator without advance notice.

K. INVOICING:

The DWSP program is a **reimbursement** program. Applicants selected to receive grant funding will be required to submit a State Standard Contract, billing forms, and documentation of expenditure. These forms will be sent to Grantees with their contract.

3. Instructions for Application Submission

A. APPLICATION SUBMISSION:

Applications must be received in hard copy by **3:00 pm, Friday, November 16, 2018**. Applications received after the deadline will be rejected. A postmark will not be accepted for verification of date of submission. Applications will not be accepted by fax or email. The outside of the package should be marked BID ENV 19 DCS 05. Applications must contain one original (clearly identified as an original), a second copy and one digital submission (on CD, DVD, or flashdrive). Printed proposals must be prepared using 12 point font and printed using double-sided format. Please avoid unnecessary documentation. Submit applications to:

Emmanuel Owusu, Grant Manager
RE: ENV 19 DCS 05
Executive Office of Energy and Environmental Affairs
100 Cambridge Street – Suite 900
Boston, MA 02114

Help reduce waste—print double sided when possible. Use the minimum packaging necessary for good organization.

B. REQUIRED DOCUMENTS:

A complete application package includes a completed Application Form and supporting documentation.

Applications should include:

1. Cover letter signed by an authorized signatory for the applicant (eg, Chair of the Board of Selectmen, Mayor), authorizing the project manager to apply for the grant on behalf of the municipality, district, or PWS
2. Application form
3. Project narrative
4. Parcel maps showing the location and context of the project. Applicants may use the Water Supply Protection Areas online map located here:
<http://maps.massgis.state.ma.us/images/dep/omv/wspviewer.htm>
5. Documentation of the location of the project parcels in water supply protection area:
 - Projects to protect existing water supplies: Parcel is located in a DEP-approved drinking water

- supply protection area (Zone II, Zone III, IWPA, Zone A,B, C, or eligible Zone I).
- Projects to protect planned future wells/intakes: Parcel is located in the estimated supply area, as identified through an appropriate planning process (refer to section 2B). Include copies of the relevant parts of the plan
6. Appraisal report(s) (*only one copy required; application copies may include just the appraisal summary letter*)
 7. Conservation Restriction draft (*if applicable*)
 8. Most recent brownfield site assessment MCP Phase I or II, or ASTM Phase I or II (*if applicable*)
 9. Preliminary brownfield remediation plan and timeline (*if applicable*)

See the Application Form for more detail.

C. DOCUMENTATION REQUIRED IF SELECTED TO RECEIVE FUNDING:

If selected, the Applicant will be required to submit the following forms to receive an executed contract:

- Commonwealth Standard Contract Form
- Commonwealth Scope and Budget Form
- Completed Contractor Authorized Signatory Listing Form
- DWSP Project Agreement

Respondents should review the Commonwealth Standard Contract Form, Commonwealth Scope and Budget Form, and Contractor Authorized Signatory Listing Form.

D. APPLICATION STEPS AND PROCEDURES:

1. **Submit application.**
2. Applicant will be contacted by EEA to schedule a **site inspection**.
3. **Application evaluation:** See Attachment B for rating system.
4. **Awards announced:** Project approval letter, unexecuted Commonwealth Standard Contract Form, and billing forms for approved projects are sent to Participants by EEA. State funds are obligated by the Commonwealth upon execution of contract documents for approved projects. Applicants not selected to receive funding will receive a brief explanation of why the project was rejected.
5. **Conservation Restriction review:** projects that involve a CR or WPR must have a draft CR reviewed by EEA-Division of Conservation Services (DCS). A copy of the model CR can be obtained at DCS website: <https://www.mass.gov/service-details/conservation-restriction-review-program>. Send draft CRs/WPRs, along with a CR review application form, separately to:

Denise Pires
 Division of Conservation Services
 Executive Office of Energy & Environmental Affairs
 100 Cambridge St., Suite 900
 Boston, MA 02114

6. **Contract execution:** Commonwealth Standard Contract Form is signed by Grantee and returned to EEA. Grantee will be contacted once contract is executed.
7. **Municipal, district, or PWS Board vote** to acquire property.
8. **Survey the property.**
9. **Conduct title research.** Title must be certified up to the point of transfer.
10. **Secure DEP approval of acquisition.**

11. **Follow state procurement law:** Acquisition projects must adhere to the state's procurement laws, M.G.L. c. 30B (Uniform Procurement Act). DWSP projects fall under Section 16(2)(e). Work with your procurement officer to ensure that your project conforms to the law, including advertising in the Central Register 30 days prior to closing. Communities using CPA funds for the acquisition are exempt from this requirement.
12. **Purchase property.** Grantee records deed, CR, DWSP Project Agreement, and survey.
13. **Prepare the property:** Grantee completes contract conditions and performs site cleanup as needed.
14. **Submit Baseline Documentation Report and Land Management Plan:** Grantee prepares a Baseline Documentation Report and Land Management Plan that documents the conditions of the property at the time of acquisition (but after removal of debris, buildings, etc.) and describes allowable use and management plans. A template document will be provided to Grantees. EEA must review and approve the report.
15. **Request reimbursement:** Grantee submits reimbursement request to EEA.
16. **Reimbursement payment is made.**

4. Deadlines and Procurement Calendar

A. RELEASE OF BID: Wednesday, September 19, 2018

B. INFORMATION SESSIONS: An information session will be held on:

Tuesday, October 16, 2018 10:00 am

Division of Fisheries and Wildlife Field Headquarters at
1 Rabbit Hill Road (off North Drive) Westborough, MA 01581

C. QUESTIONS:

Responses to questions will be posted on the DCS website.

D. APPLICATION DUE DATE: 3:00 pm, Friday, November 16, 2018

E. ESTIMATED AWARD DATE:

Grant awards are estimated to be announced about 100 days after the application deadline, subject to budget finalization.

F. ESTIMATED CONTRACT START DATE:

Notwithstanding any verbal representations by the parties, or an earlier start date listed on the EEA executed contract, and only after an award is issued and a final scope of services has been negotiated, the effective start date shall be the latest of the following dates: the date the of the contract executed by an authorized signatory of the contractor and the procuring department; the date of secretariat or other approval(s) required by law or regulation; or a later date specified in the EEA executed contract.

Miscellaneous

A. TYPE OF PROCUREMENT: Grant

B. USE OF THIS PROCUREMENT BY SINGLE OR MULTIPLE DEPARTMENTS: This BID is single department procurement. All contracts awarded under this BID will be utilized solely by EEA.

C. REQUEST FOR SINGLE OR MULTIPLE CONTRACTORS: This BID may result in multiple contracts.

D. BID DISTRIBUTION METHOD: This BID has been distributed electronically using the Commbuys system. It is the responsibility of every Applicant to check Commbuys for any addenda or modifications to a BID to which they intend to respond. The Commonwealth of Massachusetts and its subdivisions accept no liability and will provide no accommodations to Applicants who fail to check for amended BIDs and submit inadequate or incorrect responses. Potential Respondents are advised to check the “last change” field on the summary page of BIDs for which they intend to submit a response to ensure they have the most recent BID files.

Respondents may not alter BID language or any BID component files. Those submitting a proposal must respond in accordance to the BID directions and complete only those sections that prompt a Respondent for a response. Modifications to the body of this BID, specifications, terms and conditions, or which change the intent of this BID are prohibited. Any unauthorized alterations will disqualify response. The EEA Supplemental Terms and Conditions are hereby incorporated into this BID by reference.

E. LIST OF ATTACHMENTS TO THIS BID:

- A. Application Form
- B. DWSP program acquisition selection and rating system
- C. Appraisal report requirements
- D. Requirements for use of Community Preservation Act funds

**Massachusetts Executive Office of Energy and Environmental Affairs
Drinking Water Supply Protection (DWSP) Grant Program
APPLICATION FORM – FY2019**

Deadline: Friday, November 16, 2018 at 3:00 pm

Please print double-sided

1. APPLICANT INFORMATION

Applicant: _____

Project name: _____

Public Water System ID#: _____

Municipalities served: _____

Number of connections served: _____

Which year did your agency received the last DWSP Grant? _____

Do you serve an identified Environmental Justice community? (see <https://www.mass.gov/info-details/environmental-justice-communities-in-massachusetts> for information)

Yes

No

Do you currently have any enforcement orders or orders of non-compliance issued for water resource management?

Yes

No

Note: Applicants with outstanding or unresolved orders will not receive funding.

Project manager:

This is the person who will be the day-to-day contact for the project and who will represent the Applicant in communication with EEA.

Name: _____

Title: _____

Mailing address: _____

Phone number: _____

Email address: _____

2. PROJECT DETAILS

Project type: What is the purpose of your proposed acquisition (select one)?

A. Protect land serving an existing well or intake

What is the Water Supply Source ID# (list all sources to be protected by this acquisition, eg, 01G, 02G):

B. Protect land that will serve a planned future well or intake

Parcel information:

Parcel	Acres	Assessor's map/lot #	Interest to be acquired (fee/CR/WPR)	Parcel location (street, town)	Current owner
1					
2					
3					
4					
5					

Property: (Provide this information directly from the appraisal report)

Total project acres: _____

Watershed: _____

Number of Parcels: _____

Upland Acreage: _____

Building Lots: _____

Wetland Acreage: _____

Highest and best use as determined in appraisal:

- Industrial/manufacturing
- Commercial/institutional/mixed use
- High-density residential (8 or more units per acre)
- Medium density residential (1-7 units per acre)
- Low-density residential (under 1 unit per acre)
- Agriculture
- Conservation and/or Water supply protection

Present use(s): _____

Past use(s): _____

Proposed use(s) if acquired by applicant (must permit public access for passive recreation, except in Zone I and around sensitive areas):

Are there buildings, structures, or debris on the property? Yes No

If yes, list each. DWSP Program funds may not be used purchase buildings. Existing structures, buildings, and debris must be removed prior to receipt of grant payment.

Is contamination present or suspected on the property? Yes No

Proposed remediation plans must be appropriate. If a brownfield, attach a copy of the most recent site assessment, either MCP Phase I or II, or ASTM Phase I or II, indicating the nature of the contamination and the remediation required. Discuss in the Project Description the importance of remediating the site, the plan for remediation, clear identification of disbursement of liability (e.g., will the town take it or will

it reside with the current owner?), and any specific stewardship that will be undertaken to ensure that currently existing contamination on the site does not in the future pose undue risk to the public. Include a remediation timeline and funding sources. Site remediation must be completed before reimbursement.

3. ACQUISITION AND FUNDING DETAILS

Appraisal Report #1 REQUIRED		Appraisal Report #2/Review Appraisal (optional, recommended for projects valued over \$1,000,000)	
Valuation	\$	Valuation	\$
Appraiser		Appraiser	
Valuation Date		Valuation Date	

Buildings are not eligible for funding; their value may not be included in the value of the subject property.

Acquisition details:

Negotiated Sale: Yes No
 Do you have a Purchase & Sales Agreement or Agreed Price? Yes No
 If yes, amount: \$ _____

Is Clear Title available? Yes No
 If no, is an eminent domain taking anticipated? Yes No
 If yes, proposed pro tanto award amount: \$ _____

If clear title is not available, the applicant may decide to acquire the property by a friendly taking (eminent domain) process to clear the title. It is best to know if there is a potential title problem as soon as possible since this can complicate the acquisition process.

Can this project be completed next fiscal year, FY2020 (July 1, 2019 – June 30, 2020)?

Yes, but FY19 is preferable Yes, and FY20 is preferable No

Project budget:

Item	Amount	Grant request amount (not to exceed 50%)
Property acquisition*	\$	\$
Recording fees	\$	\$
Title certification	\$	\$
Survey	\$	\$
Baseline & Management Plan (up to \$1,500)	\$	\$
Total (maximum award is \$300,000)	\$	\$

*Reimbursement amount for the acquisition will be based on the appraised value or agreed upon purchase price, whichever is less.

Will funds from the Community Preservation Act (CPA) be used? Yes No
Use of CPA funds require the conveyance of a permanent Conservation Restriction (CR), within the meaning of Ch. 184, to an eligible non-profit organization.

Have you identified an organization willing to hold the CR? Yes No
Name of organization: _____

Are you seeking funds from other sources or partners? Please list:

4. PROJECT DESCRIPTION

Describe in a 1-2 page attachment the following:

- Property characteristics and its value for water supply
- How this project promotes water conservation, resource planning, and management measures already in place
- Threat of development to the property
- Proposed uses; proposed terms if project is for a CR/WPR
- Type of passive public recreation to be permitted. If hunting will not be allowed, explain why.
- Plans for property management and vegetative cover
- Proximity of the proposed project to other protected open space or how the proposed project could serve as a potential catalyst for the conservation of adjacent acres. Provide documentation to support potential conservation of adjacent parcel(s) (example ownership information and outcome of an outreach to owner).
- How the applicant addresses land stewardship on existing municipal conservation, water district, or non-profit public water system land. Attach documentation of such project(s) to the application as appropriate.
- Agreements with any project partners
- Project timeline

5. RESOURCE MANAGEMENT

Applicants may be requested to provide supporting documentation,

What is your service area's current rate of water use?
_____ residential gallons per capita per day

What is your service area's current percentage of unaccounted-for water?
_____ %

What is your current water rate structure?
 Flat rate Flat fee Ascending Tiered Seasonal

6. PROJECT QUALITY

Supporting documentation MUST be included to receive credit.

Water resource planning:

Is project located in an area identified as a priority for protection in one of the following plans?

Municipal/PWS Source Water Assessment and Protection (SWAP) report, wellhead protection plan, surface water supply protection plan, community master plan, water resources management plan, wastewater resource management plan, regional watershed plan, water assets report, or an analysis of lands utilizing established water assets GIS screening methodology
(See <https://www.mass.gov/lists/water-resources-policies-guidance>).

Yes

No

Resource protection: complete only the section that corresponds to your proposed project type.

A. Projects to protect land serving existing well sites/intakes:

What is the size of the recharge or drainage area (Zone I/II or A/B) for this project?
_____ acres

What is the percentage of unprotected land in the Zone I/II or A/B?
_____ %

Distance from property to wellhead or intake: _____ feet

B. Projects to protect land serving planned future well sites/intakes:

Will this future source replace a lost water supply due to a contamination event?
 Yes No

Has a MassDEP site exam been requested? Yes No

Has a MassDEP site exam been conducted? Yes No

Has MassDEP approved the site for a new source/intake?
 Yes No

Recreation:

What appropriate low-impact, passive public recreational activities will be permitted on the property?

- Trail-based activities (example: hiking)
- Daytime wilderness activities (example: bird watching)
- Hunting
- Other (describe): _____

Public access for passive recreation is encouraged where appropriate and consistent with water supply protection. Necessary and reasonable restrictions to public access may be made in Zone I and other sensitive areas.

7. MUNICIPAL OR PWS BOARD OF COMMISSIONERS APPROVAL

Does this acquisition have town meeting/city council/PWS board approval?

- Yes No

If not, what is the date for the vote? _____

The proposed land acquisition must have approval. Attach a certified copy of the vote, or draft language.

8. OTHER DOCUMENTATION

I. Maps:

- a) **Topographic map** with an outline of the Project boundary. Identify nearby water supply lands and other protected open space
- b) **Drinking Water Supply Protection Areas map** indicating Project location in relation to Zones I/II/III or A/B/C. An online mapping tool is available here: <http://maps.massgis.state.ma.us/images/dep/omv/wspviewer.htm>
- c) **Plot plan or survey map** showing the Project boundary. The Project area must be shown in enough detail to be legally sufficient to identify the lands to be protected. A survey plan with deed references or assessor’s map with block and lot number are acceptable.
- d) **Hydrogeologic Soil Group (HSG) map** (recharge projects only)

9. CERTIFICATION

This application was prepared by:

Name:

Title/organization:

Mailing address:

City:

State:

Zip:

Email:

Telephone:

The information and data that has been included in this application to the Drinking Water Supply Protection Grant application is true and correct to the best of my knowledge.

Signed:

Date:

ATTACHMENT CHECKLIST

- Authorization from CEO identifying project manager
- Maps
- Project narrative
- Supporting documentation (infiltration rate; brownfields, etc.)
- Appraisal report. **Applications lacking the correct type of appraisal report(s) will not be considered.**
- Town meeting, city council, or PWS board authorization to apply to this grant and acquire the subject parcel(s) for water supply and land conservation purposes (see Section 2A of the BID for details)
- Documentation of MassDEP site examination request or approval
- Documentation to support potential conservation of adjacent parcel(s) (example ownership information and outcome of an outreach to owner)
- Documentation of a good land stewardship on past DCS Grant, Municipal Conservation, Water District, non-profit public water systems' land. Documentation can include a recent survey outlining the conditions of the trails or land boundaries, a recent baseline documentation report, a forest or land management plan, and/or photos/documentations of recent conservation projects or outdoor programs carried out on the property. Provide a narrative of how your agency will provide stewardship if your community does not presently own any conservation land. If appropriate, provide a link to a website that shows how this information can be used.

Contract documents

Applicants selected to receive funding under this BID will be required to submit the following forms in order to execute a contract with the Commonwealth. Forms will be provided. They are also available from the Operational Services Division at <http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/osd/osd-forms.html>.

- Commonwealth Standard Contract
- Commonwealth Scope and Budget Form
- Contractor Authorized Signature Verification Form
- DWSP Project Agreement

Attachment B: Land Acquisition Project Selection System
Drinking Water Supply Protection Grant Program

In reviewing applications for land acquisition and developing funding recommendations, the grant review committee considers:

1. Demographics

- Population served, measured by number of service connections
- Environmental Justice: whether the applicant serves an Environmental Justice Community, defined according to income, race, and English language proficiency

2. Resource Management

- PWS rate of water use: residential gallons per capita per day
- PWS percentage of unaccounted-for water
- PWS water rate structure

3. Project Quality

- Identification of property as priority for acquisition in appropriate plan
- Importance of parcel(s) proposed for acquisition to the water resource. Separate criteria for each of two project types:
 - A. Land to protect current wells/intakes:
 - 1. Percentage of the applicant's Zone I/II or A/B will this project protect
 - 2. Distance of parcel from wellhead or intake
 - B. Land to protect proposed future wells/intakes:
 - 1. The need for replacement of water supply source due to contamination or non-contamination event.
 - 2. New source approval submission to DEP
- Highest and best use of project parcel(s)
- Location over aquifer
- Removal of structures, development, or brownfield remediation
- Project size
- Public recreational opportunities
- Proximity of the proposed project to other protected open space or potential for the proposed project to serve as a catalyst for the conservation of adjacent acres.
- Quality of present or planned land stewardship on past DCS grant-funded, municipal conservation, water district, or non-profit public water system land. Attach documentation of such project(s) to the application.
- Overall quality

SELECTION NOTES:

Preservation of Agricultural Land

Executive Order #193 discourages the irreversible conversion of the Commonwealth's productive agricultural land base. State Grants shall not be used to encourage the irreversible conversion of agricultural land to other uses when feasible alternatives are available. In the event that all feasible alternatives have been explored, and the conversion of suitable agricultural lands to non-agricultural use remains the only feasible alternative to protection of open space, a mitigation plan must be developed to be eligible for reimbursement under a state grant. Project which would convert any prime agricultural lands should consult with the Department Agricultural Resources at (617) 626-1700 prior to submitting an application.

RATING SYSTEM for Drinking Water Supply Protection Grant Acquisition Projects

CATEGORY	Description	Max														
DEMOGRAPHICS – 8 points																
Population served	How many people does this water supply serve? Score will be ranked relative to other applications. 0 - 6	6														
Environmental Justice	Water supply serves, or will serve, identified EJ community Yes : 2 No: 0	2														
RESOURCE MANAGEMENT – 18 points																
Management	Rate of water use: Residential gallons per capita per day: <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">≤55</td> <td style="text-align: center;">56-65</td> <td style="text-align: center;">66-70</td> <td style="text-align: center;">71+</td> </tr> <tr> <td style="text-align: center;">7</td> <td style="text-align: center;">6</td> <td style="text-align: center;">1</td> <td style="text-align: center;">0</td> </tr> </table>	≤55	56-65	66-70	71+	7	6	1	0	7						
	≤55	56-65	66-70	71+												
	7	6	1	0												
Percentage of unaccounted for water: <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">≤5%</td> <td style="text-align: center;">6-10%</td> <td style="text-align: center;">11-15%</td> <td style="text-align: center;">16%+</td> </tr> <tr> <td style="text-align: center;">7</td> <td style="text-align: center;">6</td> <td style="text-align: center;">1</td> <td style="text-align: center;">0</td> </tr> </table>	≤5%	6-10%	11-15%	16%+	7	6	1	0	7							
≤5%	6-10%	11-15%	16%+													
7	6	1	0													
Water rate structure: Tiered or ascending Seasonal Flat rate Flat fee <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">4</td> <td style="text-align: center;">2</td> <td style="text-align: center;">0</td> <td style="text-align: center;">0</td> </tr> </table>	4	2	0	0	4											
4	2	0	0													
PROJECT QUALITY 74 points																
Importance (rate only on criteria for relevant type of project)	A. Current wellhead /intake projects	Percentage of the applicant's unprotected Zone I,II, A, or B water supply area, or IWPA this project will protect: Project will be ranked relative to other applications and rated accordingly (2 – 8 points).	14													
		Distance to wellhead or intake: <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;"><500ft.</td> <td style="text-align: center;">500-999ft.</td> <td style="text-align: center;">1,000-1,999ft</td> <td style="text-align: center;">2,000-3,999ft</td> <td style="text-align: center;">≥4,000ft</td> </tr> <tr> <td style="text-align: center;">6</td> <td style="text-align: center;">4</td> <td style="text-align: center;">2</td> <td style="text-align: center;">1</td> <td style="text-align: center;">0</td> </tr> </table>		<500ft.	500-999ft.	1,000-1,999ft	2,000-3,999ft	≥4,000ft	6	4	2	1	0			
	<500ft.	500-999ft.		1,000-1,999ft	2,000-3,999ft	≥4,000ft										
	6	4		2	1	0										
	B. Proposed future wellhead / intake projects	Proposed future source replaces a lost water supply due to a contaminated event Yes: 6 No: 0														
MassDEP site examination has been requested Yes: 2 No: 0																
MassDEP site examination has been conducted Yes: 2 No: 0																
MassDEP has approved the site for a new source/intake Yes: 4 No: 0																
Resource protection	Proposed project abuts protected open space (25+ acres) or proposed project will serve as a potential catalyst for the conservation of 100+ adjacent acres: Yes: 5 No: 0	23														
	Highest and best use of project parcel(s) as identified in appraisal: Industrial/Manufacturing; high density residential; commercial/institutional/mixed use _____ 8 Low – medium density residential _____ 6 Agriculture _____ 4 Forestry (Lands not enrolled in the Chapter 61 Program) _____ 2															
	Percentage of property located over a medium- or high-yield aquifer, or sole-source aquifer: <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;"><5%</td> <td style="text-align: center;">5.0-10.9%</td> <td style="text-align: center;">11.0-25.9%</td> <td style="text-align: center;">26.0-50.9%</td> <td style="text-align: center;">51.0-74.9%</td> <td style="text-align: center;">>75%</td> </tr> <tr> <td style="text-align: center;">0</td> <td style="text-align: center;">1</td> <td style="text-align: center;">2</td> <td style="text-align: center;">3</td> <td style="text-align: center;">4</td> <td style="text-align: center;">5</td> </tr> </table>		<5%	5.0-10.9%	11.0-25.9%	26.0-50.9%	51.0-74.9%	>75%	0	1	2	3	4	5		
	<5%		5.0-10.9%	11.0-25.9%	26.0-50.9%	51.0-74.9%	>75%									
0	1	2	3	4	5											
Undevelopment: Project will remove structures, impervious surfaces, other development. Proposed remediation plans must be appropriate. Yes: 5 No: 0																
Landscape conservation	Project size (acres): <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">< 10</td> <td style="text-align: center;">10-24.9</td> <td style="text-align: center;">25-49.9</td> <td style="text-align: center;">50-74.9</td> <td style="text-align: center;">75-99.9</td> <td style="text-align: center;">100-149.9</td> <td style="text-align: center;">150+</td> </tr> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">2</td> <td style="text-align: center;">4</td> <td style="text-align: center;">6</td> <td style="text-align: center;">8</td> <td style="text-align: center;">10</td> <td style="text-align: center;">12</td> </tr> </table>	< 10	10-24.9	25-49.9	50-74.9	75-99.9	100-149.9	150+	1	2	4	6	8	10	12	12
< 10	10-24.9	25-49.9	50-74.9	75-99.9	100-149.9	150+										
1	2	4	6	8	10	12										
Recreation	Public recreational opportunities: (confirmed at site visit) Wilderness activities (hunting, fishing, wildlife viewing, etc) Yes: 2 Marginal: 1 No: 0 Trails-based (eg, hiking): Yes: 1 Marginal: 0.5 No: 0 Environmental, historic, or cultural education Yes: 1 Marginal: 0.5 No: 0 Other Yes: 2 Marginal: 1 No: 0	6														
Stewardship Capacity	Applicant has proven capacity to carry-out proper future stewardship of land held in fee or CR Excellent Good Average 6 3 1	6														
Distribution of state resources	Applicant has not received a DWSP grant in the past grant rounds Past 5 rounds Past 3 rounds Past 2 Rounds 3 2 1	3														
Overall project quality	Excellent Very Good Good Average 10 8 6 2	10														
TOTAL		100														
Bonus Point - Community Compact	Applicant has signed the Community Compact Agreement Yes – 2 No – 0	2														

**Attachment D: Requirements for acquisition projects funded through the
Community Preservation Act (CPA)**

The Community Preservation Act (CPA) states that land acquired with CPA funds must be bound by a permanent restriction (see excerpt of act below). Property acquired with the help of the DWSP grant program is protected Article 97 conservation land, however, this does not supersede the requirements of the Community Preservation Act. The CPA requires that, for fee acquisitions, the municipality convey a Ch. 184 CR to a qualified 501(c)(3) organization whose purpose is land and/or water conservation (e.g., land trusts). It may not be an internal deed restriction. Fulfillment of the CPA is the responsibility of the municipality. **Conveyance of a CR to a qualified entity is required for reimbursement under this grant program.**

Conveying a CR over “conservation land normally would trigger the formal Article 97 disposition process, requiring a 2/3 vote of the legislature. However, here, if a municipality acquires property under the CPA statute, it is required to impose a restriction on the property as a matter of law and thus the imposition of the restriction should be considered part of an integrated plan for dealing with the property. Therefore, the imposition of the restriction should not be considered a ‘disposition’ of an interest in the property within the meaning of Article 97.

Points to remember when conveying a Conservation Restriction:

1. At the same time that it votes to acquire the property, the municipality should vote to authorize the grant of the CR and also indicate that the purchase of the property and conveyance of the CR be a simultaneous closing.
2. The deed to the municipality should indicate that the municipality may grant a CR to the specific entity identified to hold it or to an entity authorized to hold a CR under M.G.L. Ch. 184.
3. As long as a restriction is recorded **after** the recording of the deed of acquisition (even if immediately after), the unrestricted value (and therefore higher value) of the property is used for funding determinations in DCS grant programs.
4. The fact that the funding statute *requires* the restriction may mean that a party seeking a charitable contribution deduction in connection with a bargain sale of property may not be able to use the unrestricted value of the property in calculating the tax benefit.
5. The “proceeds” clause of the conservation restriction, if conveyed at no cost to the grantee, must provide that the municipality (as the fee owner) receives all of the proceeds of an extinguishment or taking, and the grantee receives none of such proceeds. In the event that the land ever is converted to non-conservation use, the municipality would still be responsible for replacing the converted property with land of equal or greater monetary value and conservation use and described in the Program Regulations, as though the land were owned in fee simple. Applicants should consult with DCS for guidance on drafting conservation restrictions for the appropriate language.

**Community Preservation Act
Section 12 of the Chapter 44B Real property interest; deed restriction; management**

(a) A real property interest that is acquired with monies from the Community Preservation Fund shall be bound by a permanent restriction, recorded as a separate instrument, that meets the requirements of sections 31 to 33, inclusive, of chapter 184 limiting the use of the interest to the purpose for which it was acquired. The permanent restriction shall run with the land and shall be enforceable by the city or town or the commonwealth. The permanent restriction may also run to the benefit of a nonprofit organization, charitable

corporation or foundation selected by the city or town with the right to enforce the restriction. The legislative body may appropriate monies from the Community Preservation Fund to pay a non-profit organization created pursuant to chapter 180 to hold, monitor and enforce the deed restriction on the property.

(b) Real property interests acquired under this chapter shall be owned and managed by the city or town, but the legislative body may delegate management of such property to the conservation commission, the historical commission, the board of park commissioners or the housing authority, or, in the case of interests to acquire sites for future wellhead development by a water district, a water supply district or a fire district. The legislative body may also delegate management of such property to a nonprofit organization created under chapter 180 or chapter 203.