

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CONSERVATION AND RECREATION
AND THE
MASSACHUSETTS WATER RESOURCES AUTHORITY

This Memorandum of Understanding (“MOU”) sets forth the agreement between the Commonwealth of Massachusetts Department of Conservation and Recreation ("DCR") and the Massachusetts Water Resources Authority ("MWRA") concerning the coordination and implementation of their respective responsibilities established by statute, administrative and court action, and by agreement in regard to the protection, construction, operation, maintenance and improvement of water supply resources, facilities, and infrastructure within the watershed and waterworks systems

1.0 Parties, Historical Background, and Purposes

1.1 The MWRA is a public authority established under Chapter 372 of the Acts of 1984. The MWRA was established, among other things, to operate, regulate, finance, and improve the water supply distribution systems and services and to provide water for local water systems of the political subdivisions listed in Section 8 (d) of said Chapter 372.

1.2 The DCR is a Department within the Executive Office of Environmental Affairs (“EOEA”) of the Commonwealth of Massachusetts, and is established under Chapter 21 of the General Laws, as amended by Section 63 of Chapter 26 of the Acts of 2003. For the purposes of this MOU, the DCR acts through its Division of Water Supply Protection (hereinafter the “WATERSHED AGENCY”), which Division was established under Chapter 92A ½ as added by Section 290 of Chapter 26 of the Acts of 2003. As of July 1, 2003, the WATERSHED AGENCY assumed, among other responsibilities, the responsibilities of the former Division of Watershed Management of the Metropolitan District Commission ("MDC") regarding the construction, maintenance, and operation of the system of watersheds, reservoirs, water rights, and rights in sources of water for the purpose of supplying a sufficient supply of pure water to the MWRA. The WATERSHED AGENCY also assumed all other former MDC responsibilities (whether established by law, regulation, executive order, or agreement) pertaining to the use, protection, and conservation of said water and its other natural resources (such as watershed lands), so as to assure the availability of pure water for future generations, and so as to protect, preserve, and enhance the environment of the Commonwealth.

1.3 Prior to the creation of the MWRA through Chapter 372 of the Acts of 1984, the MDC was solely responsible pursuant to G.L. Chapter 92 for the metropolitan Boston water system. Chapter 372 of the Acts of 1984 established the waterworks and watershed systems and allocated statutory responsibilities for these systems to the MWRA and MDC respectively. Subsequently, Chapter 36 of the Acts of 1992 (hereinafter referred to either as the “Watershed Protection Act” or “WsPA”) established additional statutory responsibilities for the MDC in regard to the watershed system.

1.4 Reference is made to the fact that the water supply system consisting of the waterworks system and watershed system operated jointly by the MWRA and WATERSHED AGENCY is a public water supply regulated under the federal Safe Drinking Water Act (“SDWA”) and state drinking water laws, and that regulatory and enforcement authority under the SDWA has been delegated by the United States Environmental Protection Agency (“USEPA”) to the Commonwealth of Massachusetts’s Department of Environmental Protection (“DEP”). In 1993, and pursuant to its delegated SDWA authority, the DEP issued Administrative Consent Order No. 92-5134 (the “ACO”) to the MWRA and MDC in regard to compliance with the SDWA’s surface water treatment rules. The ACO, which is still in full force and effect, requires MWRA and WATERSHED AGENCY to maintain compliance with federal and state laws and regulations relating to surface water supplies.

1.5 Reference is also made to the fact that in 1999, the USEPA (despite having delegated SDWA authority to the DEP) brought suit under the SDWA against the MWRA and MDC to require the construction of a water filtration facility for the metropolitan Boston water system. The United States District Court refused to order construction of such a facility (United States v. MWRA, 97 F. Supp. 2d 155 (D. Mass 2000)), made findings that the MWRA system is in present compliance with the filtration avoidance criteria of the surface water treatment rules, and ordered MWRA to give the court notice of any further violations of the avoidance criteria.

1.6 The MWRA and DCR (hereinafter referred to collectively as the “Parties”) acknowledge the need for continuous communication and cooperation in undertaking their respective responsibilities, statutorily created and otherwise, for the waterworks and watershed systems, and agree to continue working together in a positive, constructive manner so as to ensure that each Party will be able to discharge its responsibilities in a successful, efficient manner consistent with statutory, legal, and contractual responsibilities, including the responsibilities established under this MOU.

1.7 This MOU sets forth the respective responsibilities of the Parties to:

(A) Protect water supply quality through effective watershed management in order to demonstrate compliance with applicable Federal and State guidelines and regulations for surface water sources of public water supply;

(B) Operate the reservoir system to optimize both the quality and quantity of water available to MWRA for water supply purposes, and so as to meet statutory and regulatory requirements for downstream releases and other legal obligations;

(C) Inspect, maintain, and improve the dams, dikes, and other facilities constituting the infrastructure of the watershed system through ongoing maintenance and an adequate multi-year capital improvement program;

(D) Enhance the security of the water supply and watershed system against accidental or intentional threats and hazards.

(E) Recognize the importance of the environmental, cultural, historical, and recreational values of the Quabbin, Wachusett, and Sudbury watershed lands and the Ware River watershed lands to the citizens of the Commonwealth, and work cooperatively to insure that these lands are available for public access.

1.8 The Parties acknowledge the need to establish appropriate procedures and mechanisms to assure that sufficient resources are devoted to the purposes for which MWRA provides funding for DCR's water supply and watershed services. Such funding is provided pursuant to the provisions of Section 11 of Chapter 92A ½. The Parties further acknowledge their desire to develop and implement through legislation an alternative funding mechanism for such services to assure that the resources to meet agreed upon watershed priorities can be applied to those purposes regardless of any constraints and limitations otherwise applicable to expenditures from the General Fund of the Commonwealth. The Parties acknowledge their ongoing efforts to establish a Water Supply Protection Trust for that purpose, and commit to working together to get such an account legislatively established to be effective beginning with Fiscal Year 2005 or as soon thereafter as feasible, following which this MOU shall be amended so as to reflect the fact that MWRA funding for DCR's water supply and watershed services is being provided through the Water Supply Protection Trust and to provide for other terms relating to the operation and governance of such Trust, including provision for meetings of the Board of Trustees.

1.9 This MOU establishes procedures and mechanisms to assure the MWRA that sufficient resources will be appropriately devoted to the purposes and activities for which the MWRA provides funding to the Commonwealth for DCR's water supply and watershed services. Such funding is provided pursuant to the provisions of Section 11 of Chapter 92A ½ and the Annual Work Plan preparation, review, and approval process established under Section 7 of this MOU.

1.10 This MOU updates and supercedes the prior Memorandum of Understanding between the MWRA and MDC dated July 1, 1992, and both reflects the new statutory structure contained in G.L. Chapter 92A ½ and clarifies, restates, and expands upon the non-statutory responsibilities agreed to mutually by the WATERSHED AGENCY and MWRA.

1.11 The terms “watershed system”, “waterworks system” and other terms used in this MOU shall have the meanings set forth in Chapter 372 of the Acts of 1984 and Chapter 92A ½ of the General Laws.

2. Watershed Management Plans and Implementation

2.1 The WATERSHED AGENCY is responsible for preserving water quality in the watershed through an active program of watershed protection, consistent with the regulations for protection of the watershed promulgated pursuant to G.L. Chapter 92A ½, Section 6, and accordingly, shall have primary responsibility for implementation of the Quabbin/Ware, Wachusett, and Sudbury watershed protection plans, plan updates, and plan sub-components, including but not limited to land management plans, public access plans, and the implementation, administration, and enforcement of the Watershed Protection Act and its regulations (all hereinafter collectively referred to as the “Plans”). Said Plans will be developed with the participation of the appropriate watershed committee established under Section 13, 14, or 15 of Chapter 92A ½.

2.2 The WATERSHED AGENCY and MWRA shall maintain in effect and shall implement watershed protection plans for the Quabbin/Ware watershed (the "Quabbin Plan") and for the Wachusett Reservoir watershed (the "Wachusett Plan") as approved by the DEP and for the purpose of maintaining compliance with state and federal requirements including, but not limited to, those relating to maintaining in effect a waiver of the requirement to construct filtration treatment.

2.3 As set forth in Section 7 below, an Annual Work Plan for the upcoming fiscal year shall be jointly prepared and agreed to by the WATERSHED AGENCY and MWRA. The WATERSHED AGENCY shall prepare the first draft of the Plan. The Annual Work Plan shall include, among other things, specific annual goals and objectives associated with implementation of the Plans described in Section 2.1 above. The Annual Work Plan will include those budget sections as set forth in Section 7.2 below, and a staffing plan/organizational chart section indicating staff needed to accomplish the goals, objectives, and responsibilities of the WATERSHED AGENCY. The overall annual budget set forth in the Annual Work Plan shall, among other items, include a proposed operating expense component and two proposed capital improvement components (land and non-land) to be arrived at pursuant to Sections 7.4, 7.5, and 7.6 of this MOU.

2.4 On a quarterly basis, the WATERSHED AGENCY shall provide MWRA with a progress report identifying the activities undertaken in the preceding three months toward implementing the Annual Work Plan, progress toward goals and objectives not set forth in the Annual Work Plan, and any obstacles to timely completion of agreed upon tasks or activities, regardless of whether such tasks or activities are identified in the Annual Work Plan or not. If work is not progressing according to schedule, the progress report will identify actions that the WATERSHED AGENCY intends to take in the next three month period to return to schedule, and should resource or staffing issues be identified as an obstacle to the WATERSHED AGENCY’S timely completion of tasks or activities, the WATERSHED AGENCY shall identify promptly how it intends to rectify resource or

staffing problems. The progress reports shall be submitted to MWRA within 30 days of the end of each three-month period beginning in April 2004. The WATERSHED AGENCY shall promptly supplement any previously submitted progress report with relevant information not available to it at the time of preparation and submission of such progress report.

2.5 The WATERSHED AGENCY agrees to be bound by and to fulfill all of its responsibilities under the ACO, including but not limited to implementation and updating of a watershed resource protection plan for the Wachusett Reservoir, and the submission to DEP of quarterly progress reports jointly written and prepared by the WATERSHED AGENCY and MWRA. The WATERSHED AGENCY further agrees to cooperate fully with MWRA in any renegotiations with DEP regarding the ACO its requirements, schedule or termination.

2.6 The WATERSHED AGENCY and MWRA shall jointly develop metrics and performance measures to track the effectiveness and efficiency of watershed management operations. The WATERSHED AGENCY shall track metrics and progress shall be reported in the quarterly reports.

3.0 Management of Watershed and Waterworks Systems

3.1 The WATERSHED AGENCY and MWRA agree that the clear delineation of responsibilities between the Parties is desirable and a common goal. To clarify the ongoing responsibilities of the WATERSHED AGENCY and MWRA, the Parties agree to a general framework of policy development, operations, and consultation as set forth in Exhibit A attached hereto and incorporated by reference herein. Specific responsibilities for operation and maintenance of specific facilities shall be as set forth in Exhibit B attached hereto and incorporated by reference herein. Where responsibilities indicated in the Exhibits are inconsistent with those specified in this MOU, the terms of the MOU shall control. Furthermore, Exhibits A and B shall be updated as necessary, and the Parties agree that as part of their collective work on the Annual Work Plan, they shall evaluate annually the need to update Exhibit A and Exhibit B. It is also expressly understood and accepted by the Parties that circumstances may arise from time to time requiring deviations from the delineation of work responsibilities set forth in Exhibit A or Exhibit B, and the Parties agree to handle and resolve any such deviations in a timely and constructive manner. In particular, and due to geography, travel distance, and staffing patterns, day-to-day operations at specific facilities may vary somewhat from what is set forth in Exhibits A and B.

3.2 MWRA shall have responsibility for the day-to-day operation of man-made points of control over water flowing into or out of the reservoirs and aqueducts of the water system. Such points of control are designated as MWRA operational responsibilities, as listed in Exhibit B. Such operations shall be consistent with the regulatory responsibilities of the WATERSHED AGENCY, as described in Section 1.2 herein. MWRA shall be responsible for the operation, maintenance, ownership and replacement

of personal property as listed in Exhibit A including, but not limited to, aqueducts, sluice gates, valves, shafts, connections and related machinery.

3.3 MWRA shall bear the primary responsibility for determining if a water shortage exists, in consultation with the WATERSHED AGENCY. MWRA shall consult with the WATERSHED AGENCY prior to making any final determination and shall consult with both the WATERSHED AGENCY and DEP before mandatory restrictions are recommended. The Parties agree that MWRA shall be responsible for monitoring reservoir levels at Wachusett Reservoir and for reporting reservoir levels to the WATERSHED AGENCY on a daily basis. The Parties agree that DCR shall be responsible for monitoring reservoir levels at Quabbin Reservoir and for reporting reservoir levels to MWRA on a daily basis until such time as MWRA is in a position to assume responsibility for monitoring Quabbin reservoir levels.

3.4 The WATERSHED AGENCY, in consultation with the MWRA, shall develop written policies and procedures to be followed during wet weather or flood periods to enable MWRA to determine how much water (above statutory requirements) shall be discharged through MWRA controlled waterworks facilities into the Nashua, Swift, Ware, or Sudbury rivers.

3.5 MWRA, in consultation with the WATERSHED AGENCY, shall establish policies and procedures for determining all movements and transfers of supply waters within the watershed and source reservoir system to ensure that the system encompassing the Quabbin Reservoir/Ware River, Wachusett Reservoir and the emergency Sudbury Reservoir System is operated to provide an adequate and safe quantity and quality of water. To advise and inform such policies and procedures, the Parties agree to continue the Reservoir Operations Group, comprised of MWRA and WATERSHED AGENCY personnel and as referenced in Section 13.4, to serve as the forum to establish and coordinate policies and procedures. MWRA shall immediately notify the WATERSHED AGENCY of a variance from or modification of any established policy or procedure. MWRA assumes responsibility for meeting the requirements of federal or state laws or permits applicable to such movements and transfers and will be responsible for any compliance liability arising out of its unilateral actions under any permit where DCR is a permittee or co-permittee.

3.6 The WATERSHED AGENCY and MWRA shall share responsibility for water quality sampling and analysis as described in (a) and (b) below. The Parties agree to cooperate to the fullest extent possible in assisting each other to ensure that all water quality sampling and analysis required for the waterworks and watershed system is undertaken effectively and efficiently. The Parties agree to the formation of a Water Quality Sampling and Analysis Coordination Team (WQ-SACT) comprised of WATERSHED AGENCY and MWRA personnel and as referenced in Section 13.4, to serve as a forum to address water quality and sampling needs.

(a) Water Quality Sampling

The WATERSHED AGENCY shall have responsibility for collection of all water quality samples within the watershed and for collection of water quality samples in the reservoirs, other than those required for purposes of compliance with the SDWA. The WATERSHED AGENCY will also be responsible for transport of Wachusett samples collected to the MWRA Southborough laboratory. MWRA shall have responsibility for collection of all water quality samples required for SDWA compliance purposes and corollary state law and regulations. MWRA shall have responsibility for water quality monitoring in the transmission and distribution system.

(b) Water Quality Sample Analysis

MWRA shall provide laboratory services needed for analyzing all watershed and reservoir samples collected by the WATERSHED AGENCY. The WATERSHED AGENCY, however, may also maintain sufficient laboratory capability (currently existing at DCR's West Boylston field headquarters and Quabbin laboratory) to support its field data collection equipment, and so as to be able to perform routine physiochemical water quality analyses for all non-compliance purposes associated with watershed monitoring and enforcement, and to process plankton, macro/microinvertebrate and macrophyte samples. MWRA shall maintain and control access to bacteriological testing equipment at the Quabbin laboratory to eliminate cross-contamination potential. MWRA shall provide all laboratory data to the WATERSHED AGENCY in a digital format compatible with the data base and spreadsheet software used by the WATERSHED AGENCY. The Parties agree to establish suitable arrangements to provide laboratory space for designated MWRA staff to perform sample analyses at the Quabbin Administration building laboratory for SDWA and state law compliance purposes.

(c) Monitoring for nuisance aquatic organisms

The WATERSHED AGENCY shall have responsibility for monitoring the reservoirs for the presence and concentrations of nuisance aquatic organisms which may impact water treatment decisions, including algae and macrophytes (plants).

3.7 The MWRA shall have responsibility for in-reservoir algae treatment and applications, and for invasive species control, which responsibility shall include the procurement and project management of contractors. The WATERSHED AGENCY shall, when requested by the MWRA, provide staff with appropriate expertise to assist MWRA personnel in supervising contractors engaged for algae or invasive species control purposes.

3.8 As provided in Section 2 (n) of Chapter 372 of the Acts of 1984, in consultation with the Attorney General's Division of Environmental Protection, the WATERSHED AGENCY is required to determine the amount of water that can be safely withdrawn from MWRA water supply sources. MWRA shall maintain the analytical capability necessary to support and inform the WATERSHED AGENCY's determination of the amount of flow that can be safely withdrawn. MWRA shall maintain a reservoir model that assesses the impact of varying demands on safe yield and other reservoir performance measures.

4.0 Dams, Dikes and Infrastructure

4.1 Pursuant to G.L. c. 92A ½, the WATERSHED AGENCY recognizes its statutory responsibility for the maintenance, repair, and operation of facilities and properties, real and personal, owned by the Commonwealth and that are critical to the safe and reliable supply of water to the MWRA. This responsibility includes, but is not limited to, the structural and operational integrity of the dams, dikes, and spillways within the watershed system listed in Exhibit C as the WATERSHED AGENCY's responsibility, attached hereto and by reference incorporated herein. The WATERSHED AGENCY and MWRA shall include the funds necessary to carry out this responsibility (including but not limited to routine periodic inspections on a planned schedule) in the annual operating budget (as part of both the capital and operating budgets) developed pursuant to Sections 7 and 8 below.

4.2 As of the date of this MOU, MWRA acknowledges its willingness to share responsibility for funding and undertaking capital maintenance and capital improvements of dams, dikes, and spillways that MWRA determines are critical to the safe and reliable supply of water to the MWRA listed in Exhibit B (Winsor Dam, Quabbin Spillway, Goodnough Dike, East Branch North and South Baffle Dams, North Dike, South Dike, Wachusett Reservoir Dam and Spillways, Ware River Dam and Spillways, Framingham Reservoir #3, and Sudbury Dam and Spillway). Capital projects relating to these structures to be undertaken by MWRA directly will be identified in the Annual Work Plan, but will not be included in the Capital Spending Plan for the WATERSHED AGENCY. As provided for in Section 7.5 below, MWRA shall determine jointly with the WATERSHED AGENCY the budget and schedule for capital improvements and priorities for dams, dikes, and spillways identified in Exhibit C as DCR's responsibility for maintenance. If the Parties mutually determine that MWRA will be able to accomplish a project more expeditiously or cost-effectively than the WATERSHED AGENCY, the MWRA will undertake the project, at MWRA's expense, and such action will be reflected in the Annual Work Plan (or in consecutive Annual Work Plans if the project is a multi-year project) prepared pursuant to Section 7 below.

5. Security and Emergency Response

5.1 MWRA is required, pursuant to Title IV of the U.S. Public Health Security and Bioterrorism Preparedness and Response Act, to perform Vulnerability Assessments

(“VA”) for the public water supply and to prepare an Emergency Response Plan (“ERP”) that incorporates the results of the VA. The ERP shall identify plans, procedures, and equipment that can be implemented or used to respond to and repair damages in the event of a terrorist or intentional attack. Among the issues that the ERP must address are: chain-of-command, planning partnerships, communication procedures, personnel safety needs, equipment to obviate or significantly lessen the impact of terrorist attacks or other intentional actions on the public health, property protection needs and lock-down procedures, incident-specific emergency action procedures, and access control procedures. The ERP shall be updated periodically. Specific emergency action plans for the Wachusett Reservoir Dam, Winsor Dam, North Dike, Goodnough Dike, Sudbury Dam, Framingham Reservoir #3 Dam, and the Ware River Diversion structure must also be developed.

5.2 MWRA will be responsible for development of the ERP and the emergency action plans for the Wachusett Reservoir Dam, Winsor Dam, North Dike, Goodnough Dike, Sudbury Dam, Framingham Reservoir #3 Dam, and the Ware River Diversion structure, and the WATERSHED AGENCY will provide any and all support and cooperation requested by the MWRA in the development and implementation of the ERP and the emergency action plans. DCR will be responsible in consultation with MWRA for development and implementation of appropriate policies regarding public access and other restrictions on use of watershed lands in the event of an emergency. Following the termination of any such emergency situation, DCR and MWRA will work with the Executive Office of Public Safety and other law enforcement or public safety agencies to ensure that appropriate public access to watershed lands is restored in a timely fashion.

5.3 The Parties recognize that emergency action procedures can have implications for allocation and deployment of resources, including but not limited to resources for emergency sampling and analysis, emergency program training, drills/table top exercises, assessment of emergency management plans and procedures, deployment of equipment, maintenance of equipment, security and access control during emergencies. As these needs are identified, they shall be incorporated and reflected in the Annual Work Plan process undertaken by the Parties.

5.4 The Parties mutually acknowledge that the ERP is a highly sensitive and confidential document and is exempt from disclosure under the Public Records Act. The Parties agree that access to ERP contents and supporting documentation shall be limited in accordance with MWRA information security policies, and that those staff of the Parties who require access to the ERP and supporting documentation shall not under any circumstances disclose contents to unauthorized sources. The Parties agree to exchange and maintain lists of approved personnel authorized to have access to the ERP. Disclosure of ERP contents shall be limited to approved personnel.

5.5 Hazardous Chemical Spill/Release Containment and Response to incidents (accidental or intentional) is an important component of Watershed Protection Plans and the ERP. Spill containment and emergency response equipment and trailers have been pre-positioned at the Wachusett and Quabbin Reservoirs to better ensure that the

reservoirs and watersheds are protected in the event of a release. MWRA owns and maintains the response equipment and trailers; the WATERSHED AGENCY as well as local fire departments have access to the equipment in the event of an incident requiring their use and are considered primary responders. MWRA shall have the responsibility of providing appropriate training to WATERSHED AGENCY, local fire departments, and MWRA staff in the concepts and deployment of the equipment. The WATERSHED AGENCY shall ensure that the personnel assigned to perform emergency response functions at its reservoirs are trained in the concepts and deployment of the equipment.

5.6 The Parties shall cooperate in the undertaking of physical hardening and other security enhancements of specific components of the water supply and watershed system. These include ongoing programs for installation of cameras and intrusion alarms by MWRA, and improvements to physical barriers by the WATERSHED AGENCY, as well as any additional measures identified in the ERP.

5.7 As the local authority and presence in the watersheds, the WATERSHED AGENCY shall continue to monitor the day-to-day operations of the highways and railroads traversing the watersheds, with particular attention paid to the management, control, and documentation of hazardous materials being transported over and adjacent to reservoirs. The Parties shall share all information on the operations of the railroads and their transport of hazardous materials within the watershed. MWRA shall continue to be the liaison with railroads on communications related to security and transportation matters.

6. Land Acquisition and Management

6.1 Pursuant to the WsPA, and in accordance with the DCR's Watershed Land Acquisition Plan (which Watershed Land Acquisition Plan was first prepared by the MDC in 1988, was periodically updated by MDC, and may be periodically updated in the future by the DCR, in consultation with MWRA) the WATERSHED AGENCY shall continue to acquire development rights or other interests in land in the watershed system consistent with WsPA criteria and to advance the statutory purposes of DCR and MWRA.

6.2 As set forth in Section 13.4(b) below, the WATERSHED AGENCY shall continue to convene a Land Acquisition Panel ("LAP") to evaluate and recommend to the WATERSHED AGENCY watershed parcels of land in which to acquire fee simple, conservation restriction, or other interests. Modeling and other tools currently used by the LAP (including the use of the LAP members' best professional judgment), shall be used to identify, evaluate, and recommend those lands within the watershed system whose protection meet the criteria set forth in the WsPA and whose protection the LAP concludes will advance the water quality operation and maintenance responsibilities of the Parties. The list of all proposed and potential land acquisitions shall be updated by the LAP on a quarterly basis, or on a more frequent basis should circumstances arise that

compel that consideration be given to purchase of specific parcels not previously considered or identified for acquisition. The WATERSHED AGENCY shall also provide the LAP with a quarterly update on the status/disposition of recommended parcels for acquisition in fee simple, conservation restriction, or other interests.

6.3 Expenditures for watershed land acquisitions shall be identified and budgeted for by the MWRA and WATERSHED AGENCY in the watershed land acquisition capital spending budget portion of the Annual Work Plan process established in Section 7 below. There shall be flexibility to purchase specific parcels recommended by the LAP that may not be identified in the Annual Work Plan. All land acquisitions pursuant to this Section and Section 7 must first undergo review and listing pursuant to the LAP process. Current and proposed uses for any land to be acquired will be reviewed by LAP, and LAP shall make recommendations as to any limitations on future uses necessary and appropriate to accomplish the purposes of such acquisition. Additionally, and in recognition of the fact that all such watershed land acquisitions shall be undertaken in the name of the Commonwealth of Massachusetts, such acquisitions shall be carried out in accordance with procedures and policies established by the Commonwealth and its agencies, provided that watershed and Quabbin/Wachusett/Ware River water supply protection goals and priorities are appropriately incorporated into, or not otherwise preempted by, such procedures and policies.

6.4 MWRA shall have the right, through its participation on the LAP, and through any public process before any evaluating panel or committee of the DCR which reviews a LAP recommendation, to object to any proposed watershed land acquisition as not meeting criteria set forth in the WsPA. Should the WATERSHED AGENCY and MWRA not agree on a LAP watershed land acquisition recommendation, or should any evaluating panel or committee of the DCR not agree with the MWRA in regard to its objection, then the Executive Director of the MWRA and the Commissioner of the DCR shall meet and shall use best efforts to resolve disagreements over potential watershed land acquisition. Thereafter, should such efforts be unsuccessful, matters of disagreement shall be directed to the Secretary of the Executive Office of Environmental Affairs.

6.5 All interests in land acquired by the Commonwealth for watershed protection purposes with funds reimbursed by MWRA, either directly or through payment of debt service costs, shall be within the sole care and control of DCR and shall be managed to promote the priorities, goals and objectives set forth in the Watershed Protection Plans and Annual Work Plan, consistent with any use limitations recommended by LAP, and taking into consideration the advice of the appropriate watershed committee established under Section 13, 14, or 15 of Chapter 92A ½. Any further disposition of such land will be subject to Section 11.4.

6.6 The WATERSHED AGENCY shall continue to bear the primary responsibility for developing public access plans and for overseeing public access to watershed lands (so as to further the purposes of subsection (e) of Section 1.7 above), which shall include, but not be limited to, establishing policies and procedures regarding recreational

activities on watershed lands consistent with the priorities, goals and objectives set forth in the Watershed Protection Plans and Annual Work Plan, in accordance with Section 16 of Chapter 92A ½, and also in consultation with MWRA.

7.0 Annual Work Plan and Budget Review Procedures

7.1 Pursuant to Section 11 of G.L. c. 92A ½ the MWRA shall pay those fiscal year costs and other authorized charges of the WATERSHED AGENCY relating to the watershed system. Such costs and authorized charges shall be identified and budgeted for in the Annual Work Plan jointly prepared and agreed to by the WATERSHED AGENCY and the MWRA.

7.2 The Annual Work Plan jointly prepared and agreed to by the WATERSHED AGENCY and MWRA shall include, but not necessarily be limited to, the following elements: (i) annual operations plan, (ii) annual operating budget, (iii) annual non-land capital spending budget, (iv) annual watershed land acquisition capital spending budget, (v) annual debt service budget on prior land acquisitions, (vi) annual payment in lieu of taxes budget, (vii) annual staffing plan/organizational chart, and (viii) projected annual revenues. The schedule for preparing the Annual Work Plan shall be as set forth in Exhibit D, attached hereto and incorporated by reference herein, with the Parties acknowledging and accepting that Exhibit D may require amendment by mutual consent.

7.3 The annual operations plan included in the Annual Work Plan shall include information demonstrating the priorities, goals, and objectives of the WATERSHED AGENCY and MWRA with regard to implementation of the Plans identified in Section 2.1 above and any other programs or activities required to be undertaken within or affecting the water supply and watershed system in the upcoming year, including but not limited to the implementation of the WsPA and technical assistance to communities in the watershed. Particular care shall be given to inclusion of goals and objectives of plan elements required to demonstrate compliance with the ACO. The annual operations plan shall include estimates of the WATERSHED AGENCY staffing levels (elaborated upon specifically in the staffing/organizational plan component of the Annual Working Plan) required to discharge successfully its responsibilities, and so as to allow to be accomplished the goals, objectives, and responsibilities set forth in the Annual Work Plan.

7.4 The annual operating budget included in the Annual Work Plan shall in draft form be prepared by the WATERSHED AGENCY based on the estimate of costs for personnel, contracts, watershed operations, and administrative and other support services required to carry out any and all of the WATERSHED AGENCY'S responsibilities under the Annual Work Plan. The draft annual operating budget submitted by the WATERSHED AGENCY to the MWRA shall include detailed supporting information on line item and subsidiary costs, indirect and other direct costs including but not limited to professional services, materials, vehicles and other equipment, and detail on the personnel costs reflected in the annual staffing/organization plan component of the

Annual Work Plan. The draft annual operating budget submitted by the WATERSHED AGENCY to the MWRA shall also include an accounting and estimate of the time and associated costs allocated to other administrative and support services provided to the WATERSHED AGENCY by other work units within DCR. Following the submission of the draft annual operating budget by the WATERSHED AGENCY to the MWRA, the Parties agree and commit to meet as regularly as is necessary to ensure that a mutually agreed to annual operating budget is established in a timely manner for inclusion in the Annual Work Plan.

7.5 The annual non-land capital spending budget included in the Annual Work Plan shall include descriptions of each intended capital project and an estimate of required total costs, costs incurred-to-date, and remaining costs by fiscal year. The Capital Spending Plan shall be based on the 5 Year Capital Program Plan required to be prepared and updated annually by DCR in accordance with current guidelines and requirements of the Commonwealth and its agencies, as well as MWRA Management Policies. The annual non-land capital spending budget shall reflect projects in progress (carried over from prior fiscal years) as well as planned projects. Planned projects shall include projected expenditures by fiscal year for the entire duration of the project. Projects shall be listed according to category reflecting engineering study/design; construction; engineering services during construction; staff and associated costs; or such other categories as may be appropriate to clarify the nature of the project. MWRA will review the non-land capital spending budget request as a component of its own capital budget. Any recommendations to alter planned capital projects as requested in the Annual Work Plan that result from the MWRA budget review process will be discussed and evaluated in consultation with the WATERSHED AGENCY.

7.6 The annual watershed land acquisition capital spending budget included in the Annual Work Plan shall include a description of all proposed watershed land acquisitions for the coming fiscal year, and shall include a collective estimated value of all parcels identified for acquisition in the upcoming year. Additionally, the annual watershed land acquisition capital spending budget shall include a breakdown of direct costs associated with potential watershed land acquisitions, including but not limited to appraisals, surveys, title examinations, environmental assessments, other discrete direct costs.

7.7 The annual debt service budget included in the Annual Work Plan shall identify the debt service payments needed to be made by the MWRA to the Commonwealth of Massachusetts pursuant to Section 11 of G.L. c. 92A ½.

7.8 The annual payment in lieu of taxes budget included in the Annual Work Plan shall be an estimate of the payments in lieu of taxes (“PILOT”) due pursuant to G.L. c. 59, section 5G by the MWRA to communities for land under the ownership and control of the WATERSHED AGENCY within the watershed system. Following receipt of the spreadsheet prepared by the WATERSHED AGENCY showing final PILOT obligations for the current fiscal year, which spreadsheet reflects the applicable local tax rates certified to by the Commonwealth of Massachusetts Department of Revenue (the

“DOR”), the MWRA shall pay to the WATERSHED AGENCY the amounts required to make PILOT payments to communities entitled thereto. MWRA and the WATERSHED AGENCY mutually agree to support efforts to clarify PILOT related legislation, and to work together to propose or support legislation intended to clarify or resolve issues regarding the operation and fiscal impacts of the current PILOT program.

7.9 The annual staffing plan/organizational chart component of the Annual Work Plan shall show the present staffing of the WATERSHED AGENCY, and shall list the number and titles of staff vacancies within the WATERSHED AGENCY directly pertinent to the MWRA water supply and watershed system as of the date of preparation of the current Annual Work Plan. The organizational chart shall show the staff required to accomplish the programs and priorities outlined in the Annual Work Plan. The staffing plan component shall also include recommendations for filling of vacancies and shall document the need for each proposed hiring action. The staffing plan component shall also highlight those recommended hires considered critical to the operation, maintenance, and protection of the water supply and watershed system, with particular attention given to positions required for compliance with an element or function specified in the approved watershed protection plans referenced in Section 2.2 or the ACO. The staffing plan component of the Annual Work Plan shall also include a summary of staffing levels, including the total number of staff, job titles and HRCMS (PCR) numbers, salaries, and fringe benefits, and other information mutually determined necessary by the MWRA and WATERSHED AGENCY. The WATERSHED AGENCY shall develop and provide to MWRA a clear and effective methodology for establishing how administrative costs and time and expenses of shared personnel or agency resources shall be allocated among the WATERSHED AGENCY and other divisions of DCR so that the costs related to the watershed system shall be borne by MWRA, and that costs not related to the watershed system shall be borne by DCR. In allocation of health insurance costs, MWRA’s reimbursements will be limited to the costs of the Commonwealth’s health insurance programs as determined by the Commonwealth’s Executive Office of Administration & Finance (“EOAF”), and provided, however, that the MWRA’s health insurance costs shall be determined in a manner consistent with the health insurance costs allocated by EOAF to all other Commonwealth agencies, offices, departments, and divisions.

7.10 The projected annual revenue component of the Annual Work Plan shall include a summary of the estimated revenue projected to be derived from various operations of the WATERSHED AGENCY and MWRA through activities such as hydropower generation and sale, transmission line leases, forest product sales and contracts, recreational or permit fees, interment charges, sale of cemetery plots, concessions, or any other revenue source. In light of the fact that the WATERSHED AGENCY shall prepare the draft of the Annual Work Plan, the MWRA agrees to provide all estimates of annual revenue to the WATERSHED AGENCY in a timely manner for inclusion in this component of the Annual Work Plan.

7.11 In the event that the WATERSHED AGENCY or the MWRA identify a service, project, or expenditure not previously included in the Annual Work Plan and that the

Parties mutually agree should be undertaken, the Parties shall determine as promptly as possible which of them shall assume responsibility for such activity, which determination shall include an analysis of potential funding sources for such activity. Should the WATERSHED AGENCY be unable to undertake any service, project, or expenditure identified as being its responsibility under an Annual Work Plan, the WATERSHED AGENCY shall promptly notify the MWRA of such inability, and the MWRA may request the DCR Commissioner to take any action necessary to remedy such inability, including but not limited to authorizing the MWRA to undertake such action at its own expense. MWRA costs incurred for activities undertaken pursuant to this Section 7.11 shall not be included in assessments made against MWRA pursuant to Section 11 of G.L. c. 92A ½, or if previously assessed shall be credited against future MWRA assessments. The MWRA agrees to submit draft scopes of work and identification of assigned staff to the WATERSHED AGENCY prior to implementing any such action.

7.12 The Parties acknowledge the ongoing need for the availability and assignment of sufficient numbers of personnel who possess the specific expertise and qualifications in the various disciplines relating to watershed management as critical to the continued effectiveness of the watershed management programs performed by the WATERSHED AGENCY. The Parties therefore commit to work together to ensure that, to the extent sufficient budget and other resources are made available, the regular employees of the WATERSHED AGENCY devote their time exclusively to the mutually agreed upon elements and activities set forth in the Annual Work Plan, and further commit that any additional personnel hired for or assigned to such purposes shall have sufficient expertise, experience, and training in relevant watershed management disciplines. The Parties commit to acknowledge and recognize the financial participation of the MWRA as provided by law in any decision regarding staffing, overtime, or reductions in force which impact the composition of the work force of the WATERSHED AGENCY.

8. Fiscal Obligations and Invoice Provisions

8.1 Pursuant to Section 11 of G.L. c. 92A ½, DCR shall assess the MWRA for the fiscal year costs of operating the WATERSHED AGENCY and other authorized charges relating to the watershed system formerly under the care and control of the MDC Division of Watershed Management, including one hundred percent (100%) of the amounts to be paid in that fiscal year in trust by the MWRA to the WATERSHED AGENCY for application of payments in lieu of taxes pursuant to G.L. c. 59, less any and all revenues generated by or on behalf of the WATERSHED AGENCY, which shall include but not be limited to sale of hydroelectricity, recreational or permit fees, revenues from the sale of wood products harvested on watershed lands, and any access fees. Revenues received after the June 30 billing shall be credited to the current fiscal year. G.L. c. 92A ½ section 11 assessments levied against the MWRA shall be deposited into or otherwise credited to the General Fund.

8.2 The WATERSHED AGENCY shall keep records documenting staff time allocated to water supply protection and watersheds, services performed and reimbursable expenses under this MOU consistent with accounting practices approved

for agencies of the Commonwealth of Massachusetts. All such records shall be available to MWRA for examination upon request. MWRA reserves the right to conduct periodic examinations of records to verify the appropriateness of WATERSHED AGENCY expenditures.

8.3 The WATERSHED AGENCY shall invoice the treasurer of the MWRA on a quarterly basis on September 30th, December 31st, March 31st and June 30th for the prior calendar quarter.

(a) Such quarterly invoices shall show expenditures and revenue compared to the budget by line item and program as set forth in the Annual Work Plan, and shall document progress towards meeting annual objectives and targets. Invoices will include sufficient detail to show the appropriateness of and basis for all charges. Invoices shall be consistent with the methodology for allocating administrative and personnel costs among the WATERSHED AGENCY and other divisions of the DCR as provided further herein.

(b) The December and March invoices shall be accompanied by projections of year-end expenses and revenues. The projections shall be incorporated into MWRA's year-end projections. Any variances shall be explained, and significant assumptions in producing such year-end estimates shall be noted.

8.4 The MWRA, within 30 days of receipt of the WATERSHED AGENCY's invoice, shall remit the invoiced amount. MWRA reserves the right to take exceptions to the amounts invoiced if the amounts are inconsistent with any of the approved budget components established in the Annual Work Plan, and shall clearly indicate the amounts and the basis for all such exception in writing to the WATERSHED AGENCY. The WATERSHED AGENCY shall review the claim submitted by the MWRA within 30 days of receipt thereof and shall recommend either cure for the questioned charge or refer the matter to the Executive Director of the MWRA and the Commissioner of DCR for resolution. If in any fiscal year the invoiced amount exceeds the actual operating expenses of the WATERSHED AGENCY, the unexpended balance shall be credited to the following fiscal year.

8.5 A year-end performance report shall be submitted by the WATERSHED AGENCY to MWRA detailing progress and analyzing expenditures for the prior fiscal year. On or before September 30, following each completed fiscal year, the WATERSHED AGENCY shall provide MWRA an annual report (the "Annual Report") showing expenditures and revenue compared to the budget and accomplishments compared to objectives and targets. The WATERSHED AGENCY may modify and amend its Annual Report in order to reflect accurately all expenditures following the fiscal year "close-out" for the Commonwealth by the Executive Office of Administration & Finance, which is acknowledged by the Parties to occur typically after September 30th of each year. MWRA may request additional information as needed in connection with the Annual Report.

9. Hydroelectricity and Transmission Lines

The WATERSHED AGENCY shall have the exclusive right to and interest in hydroelectricity developed, generated, transmitted and sold as an incident to the operation of the watershed and waterworks system. Revenues generated shall be applied to offset the costs of operating the WATERSHED AGENCY assessed to MWRA as provided in Section 8.1 of this MOU. MWRA shall have the exclusive right to negotiate the terms of any contracts for either the sale of hydroelectricity or for lease arrangements and revenues derived from electricity transmission lines on watershed system property. MWRA shall have the authority to operate, control, maintain, replace, and develop and operate increased hydroelectric capacity at existing or new facilities, subject to consultation with and approval of the WATERSHED AGENCY, for reasons of sound management of the reservoirs, for watershed, waterworks and stream flow purposes.

10. Existing Memoranda of Understanding

Reference is made to the fact that in the past, the MWRA and MDC entered into Memoranda of Understanding regarding their respective responsibilities for portions of the water supply and watershed systems no longer required to be kept in active status at Chestnut Hill (Newton) and Spot Pond (Stoneham). These Memoranda of Understanding continue in full force and effect, and pursuant to Section 696 of Chapter 26 of the Acts of 2003, the responsibilities of the MDC have been assumed by the DCR's Division of Urban Parks and Recreation. Pursuant to these Memoranda of Understanding, the cost of public access plans and programs at the Chestnut Hill and Stoneham locations shall be borne by DCR and not by MWRA.

11. Divestiture of Assets

11.1 The WATERSHED AGENCY has assumed the rights and obligations of the MDC with respect to the ownership of the Rutland-Holden Trunk Sewer and the Rutland-Holden Relief Trunk Sewer, and any and all agreements between MDC and Rutland, Holden, Rutland State Hospital, West Boylston, Worcester, and Upper Blackstone Water Pollution Abatement District related thereto. The WATERSHED AGENCY shall be responsible for approving all new connections to the Rutland-Holden Sewer and Relief Trunk Sewer, including all capital improvements of these sewer lines that will further protect the watersheds, and managing all billings and payment for sewage conveyed through these lines. Capital improvements are defined as those items that cannot be charged back to users as maintenance costs. The Parties agree to mutually support efforts to transfer ownership and control of the Rutland-Holden Sewer and Relief Trunk Sewer to the user communities or such other sewer district or legal entity as may be deemed appropriate to assume such ownership and control. Until such transfer is accomplished, MWRA agrees as requested by the WATERSHED AGENCY to operate and maintain the sewer lines, including meter readings, gates and valves, manhole inspections and evaluations of problem conditions such as infiltration and inflow and shall be reimbursed for its costs by Holden, West Boylston, and Rutland through established payment

mechanisms. Operation, maintenance and repair are defined as those items that can be charged to the users.

11.2. The WATERSHED AGENCY has also assumed the rights and obligations of MDC with respect to sewers being constructed by MDC in the Towns of Holden and West Boylston, and under related agreements with Holden, West Boylston, Worcester, and Upper Blackstone Water Pollution Abatement District. The WATERSHED AGENCY shall transfer ownership and responsibility for operation and maintenance of sewer system elements to such towns upon completion of construction in accordance with such written agreements.

11.3 The WATERSHED AGENCY has assumed the rights and obligations of the MDC with respect to Framingham Reservoir #1 and Framingham Reservoir #2. The WATERSHED AGENCY has also assumed rights and obligations of MDC with respect to certain off-line watershed lands in Ashland and Westborough that are not tributary to Sudbury Reservoir or Framingham Reservoir #3, and which no longer serve any water supply protection purpose. DCR and MWRA agree that the ownership, maintenance and future improvement of these reservoirs and lands should therefore no longer be included as a part of the watershed system for which MWRA has financial responsibility, and the Parties shall mutually support efforts to transfer the management and responsibility for these resources to appropriate entities so that the costs for operation, maintenance and management for such non-water supply assets are not funded through watershed accounts.

11.4 No disposition of or transfer of the management and responsibility for any land or property interest which is or has become part of the watershed system shall take place unless DCR and MWRA agree that such property no longer serves any water supply or watershed protection purpose and that the operation, maintenance, and management of such property should no longer be included in the watershed system for which MWRA has financial responsibility.

12. Operation of the Clinton Wastewater Treatment Plant

12.1. Reference is made to the fact that Chapter 307 of the Acts of 1987 obligated the Division of Watershed Management to make an annual payment to the Town of Clinton, subject to appropriation, in an amount equal to the user fees levied against the Town of Clinton by the MWRA for services provided by the Clinton Wastewater treatment plant, but not to exceed \$500,000. Chapter 307 further provides that MWRA shall forward a duplicate copy of each sewerage bill submitted to the Town of Clinton to the Division of Watershed Management, and that within 30 days of receipt of the bill, the Watershed Management Division shall forward the amount, subject to appropriation by the Legislature, to the Town of Clinton.

12.2 The DCR shall include in its annual budget request the amount of \$500,000 for payment of the Town of Clinton's user fees and shall make an annual payment to the Town of Clinton, subject to appropriation, for user fees levied against Clinton by the

MWRA for services provided by the Clinton Wastewater Treatment Plant. The annual payment shall not exceed \$500,000. This payment shall not be included as an authorized charge identified and budgeted in the Annual Work Plan against MWRA.

12.3 MWRA shall forward a duplicate copy of each sewerage bill submitted to the Town of Clinton to the WATERSHED AGENCY, who shall forward payment, subject to appropriation by the Legislature, to the Town within 30 days of receipt of the bill.

13. General

13.1 The Parties agree that an essential element in the accomplishment of the goals of this MOU is free and open communication among the employees of both agencies. Accordingly, the staffs of the WATERSHED AGENCY and MWRA are encouraged to maintain contact with their counterparts at the other agency, to share statistical and operating data, to maintain joint databases where appropriate, and, in all other ways to work together to facilitate the smooth functioning of the day-to-day management of the watershed, waterworks, hydroelectric facilities, watershed protection activities and any other areas of joint interest. To promote such cooperation and communication, the Parties agree to identify appropriate staff to participate in the Working Groups as more particularly set forth in section 13.4.

13.2 The WATERSHED AGENCY and MWRA agree that where there is independent action by one agency that affects the day-to-day operations of the other agency, the action will be communicated to the appropriate persons within the other agency as soon as possible, preferably within 24 hours, but at the latest, within 5 working days of the action.

13.3 Should the WATERSHED AGENCY and MWRA disagree on matters related to the development of and implementation of watershed management plans, capital improvement and current expense budgets and invoices and fiscal obligations and should the Executive Director of MWRA and the Commissioner of the Department of Conservation and Recreation not be able to reach agreement, matters of disagreement shall be directed to the Secretary of Environmental Affairs for resolution.

13.4 The Parties agree that the creation, maintenance and active participation in committees and joint working groups is critical to maintaining effective communication and efficient, responsive operation of the water supply and watershed system. At a minimum, the Parties agree to establish and support the following committees and working groups:

(a) Watershed Management Coordination and Oversight Committee.

In order to ensure effective coordination and exchange of information critical to the successful preparation and discharge of the elements of the Annual Work Plan, there is hereby established a Watershed Management Coordination and Oversight

Committee (the “WMCO Committee”), which shall include an equal number of representatives from the WATERSHED AGENCY and the MWRA, and, in addition, a representative from (i) the EOE, (ii) the MWRA Advisory Board, and (iii) the MWRA Water Supply Citizens Advisory Committee. It shall also include two (2) additional representatives, the first being appointed by the Commissioner of the Department of Conservation and Recreation from three (3) names nominated collectively by the Worcester County League of Sportsmen, the Quabbin Fisherman’s Association, the North Worcester County Quabbin Anglers, and the Friends of the Quabbin, Inc., and the second being a representative from the Watershed System Advisory Committee established under Section 15 of Chapter 92A½. The WMCO Committee shall meet no less frequently than quarterly and shall serve as a communication and discussion forum for issues of mutual concern among the Parties. WMCO Committee members may invite to WMCO Committee meetings such operations level staff deemed necessary to inform and advise the WMCO Committee regarding issues raised or scheduled for discussion. The WMCO Committee may request status reports or other information from any of the working groups set forth in Section 13.4 below, and may request the attendance of other staff and functions within state or federal agencies as it may deem necessary.

(b) Watershed Protection Act Working Group (WsPAWG).

WsPAWG shall be comprised of WATERSHED AGENCY staff from Boston, Quabbin/Ware River and Wachusett sections and an MWRA representative. The Division of Water Supply Protection, pursuant to the provisions of G.L. c. 92A ½, is exclusively responsible for the administration and enforcement of the provisions of the Watershed Protection Act. The purpose(s) of this working group are limited to the provision of input to the WATERSHED AGENCY and DCR supervisory staff on the application and support required for successful implementation and enforcement of the WsPA. This working group shall convene no less frequently than quarterly.

(c) Land Acquisition Panel (LAP).

LAP shall be comprised of WATERSHED AGENCY staff from Boston, Quabbin/Ware River, and Wachusett sections and an MWRA representative. The group shall evaluate watershed parcels proposed for protection by fee title, conservation restriction, or other acquisition, and shall provide recommendations to the Director of the Division of Water Supply Protection, DCR Office of General Counsel, and Commissioner of DCR for prioritizing such parcels for acquisition on an on-going basis. The group shall make recommendations as to any limitations on future uses necessary and appropriate to accomplish the purposes of watershed protection. The group shall meet at least quarterly.

(d) Reservoir Operations Group.

The Reservoir Operations Group shall be comprised of designated WATERSHED AGENCY and MWRA personnel and shall meet to coordinate management, policies and activities related to reservoir operations. This working group shall have primary responsibility for the development of all reservoir operations policies and procedures as outlined within the various sections enumerated within Section 3.0 of this MOU. The group shall meet at least quarterly.

(e) Security Task Force.

The MWRA conducts monthly meetings of its security task force. MWRA shall provide the WATERSHED AGENCY with adequate advance notice of any meeting with agenda items concerning reservoir or watershed operations that relate to the responsibilities of the WATERSHED AGENCY. The WATERSHED AGENCY may designate such staff to attend such meetings as are approved pursuant to the provisions of section 5.1 herein

(f) Water Quality Sampling and Analysis Coordination Team (WQ-SACT)

WQ-SACT shall be comprised of WATERSHED AGENCY staff from Quabbin/Ware River and Wachusett sections and MWRA staff from Department of Laboratory Services, and Field Operations Department -- Quality Assurance and Western Operations staff, and additional staff from both agencies as necessary. The group shall coordinate water quality sampling in tributaries and the reservoir, discuss rationale for sampling and sampling protocol, and how the data are analyzed and interpreted. The group shall coordinate data transfer and communication on routine and special sampling internally and with outside entities (e.g., UMass/Amherst researchers). The group shall meet at least quarterly.

(g) Ad Hoc Working Groups.

The Parties agree to create, staff, and charge such ad hoc working groups as may be deemed appropriate to address any issues as may time to time arise which may warrant joint deliberation and discussion between them. The Parties further agree to include appropriate representation from outside entities -- such as exists on the Watershed Management Coordination and Oversight Committee -- as the parties determine necessary for successful operation of such ad hoc working groups.

13.5 The Parties intend to monitor the effectiveness of the division of responsibilities described herein, and agree to make any appropriate amendments to this MOU, by mutual consent, in a timely manner. Accordingly, the Parties agree to jointly review and reevaluate this MOU not less frequently than every two years to ensure that it continues to embody the intent of the Parties and that it continues to be a working document.

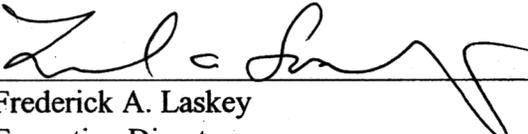
13.6 The Parties acknowledge that this MOU is not intended to define the whole of their relationship; that both Parties have rights, obligations, and responsibilities, whether

under law, regulation, executive order, or policy, which, while unexpressed in this document, may be exercised outside of the scope of this document. Furthermore, the Parties acknowledge that the discretionary authority vested in such officers as the Executive Director of the MWRA, the Secretary of the EOEA, the DCR Commissioner, and other officers and employees of the Commonwealth of Massachusetts may be exercised in connection with the water supply and watershed systems in ways that are subject only to conformance and compliance with all applicable policies, procedures, rules, regulations, orders as may be lawfully issued within the Commonwealth of Massachusetts.

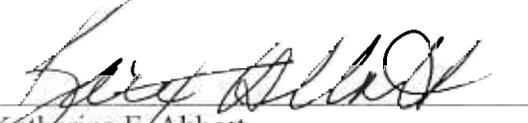
13.7 The Parties acknowledge that MWRA's legal liability for any activities undertaken herein shall be subject to all rights and defenses in MWRA's Enabling Act.

13.8 This MOU shall be effective as of the date set forth below, and shall remain in full force and effect until replaced by any subsequent MOU or other written agreement that specifies that it is superceding this MOU.

Massachusetts Water Resources Authority


Frederick A. Laskey
Executive Director

Commonwealth of Massachusetts
Department of Conservation and Recreation


Katherine F. Abbott
Commissioner

Dated: 4/27/04

Exhibits A—D

Exhibit A—General Framework for Policy Development, Operations, and Consultation

Exhibit B—Specific Facilities: Operation and Maintenance Responsibilities

Exhibit C—Dams, Dikes, and Infrastructure List

Exhibit D—Schedule for Submission of Annual Work Plan

**MEMORANDUM OF UNDERSTANDING – EXHIBIT A
GENERAL FRAMEWORK FOR POLICY DEVELOPMENT, OPERATIONS AND
CONSULTATION**

| ACTIVITY | RESPONSIBLE AGENCY | | | OUTSIDE AGENCY |
|---|---|---|--|---|
| | <u>Policy</u> | <u>Operations</u> | <u>Consultation</u> ¹ | |
| <u>1. Reservoir Regulation/Operations</u> Routine, Seasonal and Special Operations Drought Management Flood Management Wachusett Water Level Monitoring Quabbin Water Level Monitoring Downstream Minimum Releases | MWRA MWRA DCR MWRA MWRA MWRA MWRA | MWRA MWRA DCR, MWRA MWRA DCR MWRA | DCR DCR MWRA DCR DCR DCR | DEP (mandatory restrictions) Army Corps |
| <u>2. Watershed Management</u> Admin. Consent Order Reporting Land Acquisition Watershed Protection Act Administration Coordination w/Watershed Communities Watershed Management Plan Updates Land Management Public Access Special Consultant Contracts Pathogen Control/Gull Harassment/Mammal Control | MWRA, DCR DCR DCR DCR DCR, MWRA DCR DCR DCR DCR, MWRA DCR DCR | DCR DCR DCR DCR DCR DCR DCR DCR DCR DCR DCR | MWRA MWRA MWRA MWRA MWRA MWRA MWRA MWRA MWRA MWRA MWRA | MEPA, DEP Local Government |

¹ Consultation may include informal consultation, or consultation with a formal working group, where disagreements may be directed to the Executive Director of the MWRA and the Commissioner of DCR.

³ Consultation may include informal consultation, or consultation with a formal working group, where disagreements may be directed to the Executive Director of the MWRA and the Commissioner of DCR.

| ACTIVITY | RESPONSIBLE AGENCY | | | OUTSIDE AGENCY |
|---|------------------------|------------------------|----------------------------------|--|
| | <u>Policy</u> | <u>Operations</u> | <u>Consultation</u> ³ | |
| <u>3. Security and Emergency Response Plans</u> | | | | |
| Emergency Response Plan Development | MWRA | | DCR | FEMA, Coast Guard, DEP, DHP, Civil Defense, FERC, Local Watershed Fire Departments, Oil Spill Recovery Organizations ("OSROs") |
| Emergency Response Plan Implementation | MWRA | MWRA , DCR | | |
| Emergency Response Drills and Training | DCR, MWRA | DCR, MWRA | | |
| Boom Deployment | DCR | DCR | MWRA | |
| Coordination on Spill Cleanup | MWRA/DCR | DCR | MWRA | |
| Physical Hardening | MWRA, DCR | MWRA, DCR | | |
| Railroad: Monitoring day-to-day Operations | DCR | DCR | MWRA | |
| <u>Contamination/System Disruption</u> | | | | |
| Sanitary Surveys | DCR | DCR | MWRA | DEP, DPH, MEMA, FBI, MSP, EPA |
| Reservoir Contamination/Disruption | MWRA | DCR/MWRA | DCR | |
| Transmission/Distribution Contam./Disruption | MWRA | MWRA | | |
| <u>4. Water Quality Monitoring Treatment</u> | | | | |
| Watershed/In-reservoir Monitoring | DCR | DCR | MWRA | DEP, EPA |
| Transmission/Distribution | MWRA | MWRA | | |
| Laboratory Services | MWRA | MWRA | | |
| Algae/Invasive Species Control | MWRA, DCR ² | MWRA, DCR ² | | |

² MWRA shall be responsible for algae treatment and applications for invasive species control, including procurement and management of contractors. DCR shall be responsible for field supervision of contractors and shall provide staff to assist in treatments.

| ACTIVITY | RESPONSIBLE AGENCY | | | OUTSIDE AGENCY |
|--|------------------------------|------------------------------|----------------------------------|----------------------------------|
| | <u>Policy</u> | <u>Operations</u> | <u>Consultation</u> ¹ | |
| 6. <u>Hydroelectricity</u> Facilities Operation Maintenance/Improvement New Facilities Records, Reporting, Billing | MWRA MWRA MWRA MWRA | MWRA MWRA MWRA MWRA | DCR DCR DCR DCR | State Regulation FERC |
| 7. <u>Enforcement</u> Reservoirs/Watersheds Transmission/Distribution | DCR MWRA | DCR MWRA | | DEP, State Police |
| 8. <u>Safe Yield Determination</u> | DCR | MWRA | | Attorney General DEP (WMA) |
| 9. <u>Long Range Supply Planning</u> | MWRA | | DCR | WSCAC, WRC |
| 10. <u>Demand Mgmt./Conservation</u> | MWRA | MWRA | — | Water Res. Comm. |

¹ Consultation may include informal consultation, or consultation with a formal working group, where disagreements may be directed to the Executive Director of the MWRA and the Commissioner of DCR.

ATTACHMENT B

Allocation between the MWRA and DCR (Watershed Agency) Of Structures, Certain Equipment, and Responsibilities

| | |
|------------------------------|--|
| OPERATION | Operation of sluice gates, screens, valves, turbines, pumps, treatment facilities, communication facilities, water surface elevation readings, meter readings, gauge reading (stream and rainfall) and other incidental controls necessary for flood control and to deliver pure water to current service areas, including diversions of water from Ware River. |
| MAINTENANCE | |
| GROUND S | Mowing of lawn areas, aqueducts and fields; cutting of shrubs and small trees on aqueducts; maintaining fences, gates, roadways; plowing roads, emptying trash receptacles. |
| FORESTRY | Forestry management of watershed lands including yield enhancement through selective cuttings; reseeding; identification and protection of critical, sensitive or rare forest/wildlife habitats; improvements of aesthetics in suburban and urban land holdings. |
| STRUCTURE | Maintenance of the entire physical structure for identified facilities, including buildings, vaults, meter chambers, shaft head houses, dams, dikes, retaining and training walls, aqueducts, bridges and tunnels. |
| PIPING/ EQUIPMENT | Maintenance of piping and valves directly related to the delivery of water for consumption or for required releases and maintenance of all installed mechanical equipment including but not limited to turbines, generators, pumps, motors, engines, electrical wiring and control panels, heating, ventilation and air conditioning, plumbing, meters, screens, chemical feed machines, and hoists. |
| SECURITY | Physical and operational control and surveillance of the facility. This includes access prevention through locks and other physical barriers, routine observations by DCR watershed Rangers, and/or MWRA Operations staff, and/or remote surveillance by cameras and intrusion monitors. It may be extended to include notification of other parties such as MA State Police, Environmental Polies, local police, etc. |

MEMORANDUM OF UNDERSTANDING – EXHIBIT B

| | OPS | MAINTENANCE | | | | SECURITY |
|--|------|-------------|-------|---------------------------|-------------------|--------------|
| | | GRNDS | FSTRY | STRUCT | PIPING/ EQUIP. | |
| QUABBIN AREA/WATERSHED | | | | | | |
| Quabbin Watershed | | DCR | DCR | | | DCR |
| Winsor Dam | MWRA | DCR | | DCR/ MWRA ¹ | DCR | DCR |
| Goodnough Dike | | DCR | | DCR/ MWRA ¹ | | DCR |
| Quabbin Spillways | DCR | DCR | | DCR/ MWRA ¹ | | DCR |
| East Branch South/North Baffle Dams | MWRA | MWRA | | DCR/ MWRA ¹ | | DCR |
| Observation Tower | | DCR | | DCR | MWRA ₂ | DCR |
| Rest Rooms | | DCR | | DCR | | DCR |
| Quabbin Park Cemetary and Buildings | | DCR | | DCR | DCR | DCR |
| Administration Building/Residences/Garage | DCR | DCR | | DCR | DCR | DCR |
| New Salem Field Office | | DCR | | DCR | | DCR |
| Boat Launching Areas (structures, ramps, rental boats) | | DCR | | DCR | | DCR |
| Winsor Dam Intake Bldg. | MWRA | MWRA | | MWRA | MWRA | DCR/ MWRA |
| Winsor Dam Power Station | MWRA | MWRA | | MWRA | MWRA | DCR/ MWRA |
| Winsor Dam Swift River Outlet Works | MWRA | DCR | | MWRA | MWRA | DCR/ MWRA |
| Chicopee Valley Aqueduct and Appurtenances | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Nash Hill Emergency Reservoir, Service Building, Gate House, Covered Reservoir | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Head House/ Service Building Shaft #12 | MWRA | MWRA | | MWRA | MWRA | MWRA/ DCR |
| Gate Facilities #11 A | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Quabbin Hill Power Line from Winsor Dam to Quabbin Hill | | DCR | | | DCR | |
| Blue Meadow Road residences | | DCR | | DCR | DCR | |

¹ DCR shall be responsible for ordinary maintenance that typically does not entail capital expenditures. MWRA shall be responsible for capital maintenance and capital improvement of this specific structure in accordance with the Annual Work Plan.

² MWRA's sole responsibility at Quabbin Tower is to maintain its communications equipment.

| | OPS | MAINTENANCE | | | | SECURITY |
|--|------|-------------|-------|---------------------------|-------------------|--------------|
| | | GRNDS | FSTRY | STRUCT | PIPING/ EQUIP. | |
| WARE RIVER AREA | | | | | | |
| Ware River Watershed | | DCR | DCR | | | |
| Demon Pond, Brigham Pond, Comet Pond | | DCR | | | DCR | |
| Ware River Diversion Dam | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Ware River Intake Works and Service Building/Lower Garage | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Residence- Oakham (Ware River Field Office) | | DCR | | DCR | DCR | DCR |
| Shafts 2-3, 9, 10, 11 ³ | MWRA | MWRA | | MWRA | MWRA | MWRA/ DCR |
| WACHUSETT AREA/WATERSHED | | | | | | |
| Wachusett Watershed | | DCR | DCR | | | DCR |
| Oakdale Power Station (Shaft 1) | MWRA | DCR | | MWRA | MWRA | MWRA/ DCR |
| Oakdale Power Station Forestry Office | | DCR | | DCR | | DCR |
| North Dike | | DCR | | DCR/ MWRA ⁴ | | DCR |
| South Dike | | DCR | | DCR/ MWRA ⁴ | | DCR |
| Wachusett Spillway | MWRA | DCR | | DCR/ MWRA ⁴ | DCR | DCR |
| Wachusett Dam | MWRA | DCR | | DCR/ MWRA ⁴ | | MWRA |
| Wachusett Power and Intake | MWRA | DCR | | MWRA | MWRA | MWRA/ DCR |
| Wachusett Aqueduct and Shafts | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Wachusett Reservoir Boat Launch and Cove (including structures, ramp, and boats) | | DCR | | DCR | | DCR |
| Cosgrove Intake | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Cosgrove Aqueduct Tunnel | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Quinepoxet Weir and Fish Ladder | DCR | DCR | | DCR | | |
| Bridges-Thomas & Beaman Sts. | | DCR | | DCR | | DCR |
| Power Lines: Cosgrove to Arrestor Building | | DCR | | | MWRA | MWRA/ DCR |
| Arrestor Building | | DCR | | MWRA | | MWRA |
| Power Transmission Lines | MWRA | DCR | | | | DCR |

³ These shafts are located outside of the DCR watersheds.

⁴ DCR shall be responsible for ordinary maintenance that typically does not entail capital expenditures. MWRA shall be responsible for capital maintenance and capital improvement of this specific structure in accordance with the Annual Work Plan.

| | OPS | MAINTENANCE | | | | SECURITY |
|---|--|--------------------|-------|---------------------------|-------------------|-----------------|
| | | GRNDS | FSTRY | STRUCT | PIPING/ EQUIP. | |
| Sterling Filter Bed | DCR | DCR | | DCR | | |
| SUDBURY AREA/WATERSHED | | | | | | |
| Wachusett Aqueduct Open Channel | MWRA | MWRA | | MWRA | | MWRA |
| Marlborough Brook Filters & associated buildings | DCR | DCR | | DCR | | DCR |
| Sudbury Reservoir Watershed | | DCR | DCR | | | DCR |
| Framingham Dam #3 | MWRA | DCR | | MWRA/ DCR ⁴ | | DCR |
| Sudbury Dam and Spillway | MWRA | MWRA | | MWRA/ DCR ⁴ | MWRA | MWRA |
| Western Operations Headquarters and area off Boston Rd (including residences) | | MWRA | | MWRA | MWRA | MWRA |
| Shaft 4 Valve Station | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Framingham Dam #1 and #2 ⁵ | | | | | | |
| Framingham Dam #3 Gatehouse | MWRA | | | MWRA | MWRA | MWRA |
| DISTRIBUTION AND TRANSMISSION (METRO AREA) | | | | | | |
| Hultman Aqueduct & shafts | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Weston Aqueduct | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Sudbury Aqueduct | MWRA | MWRA | | MWRA | MWRA | MWRA |
| MetroWest Tunnel | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Norumbega Reservoir | MWRA | MWRA | | MWRA | | MWRA |
| Schenks Pond | MWRA | MWRA | | MWRA | | MWRA |
| Norumbega Covered Storage | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Loring Road | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Weston Reservoir and Gatehouse | MWRA | MWRA | | MWRA | | MWRA |
| Spot Pond | See terms of Separate MOA for Spot Pond ⁶ | | | | | |
| Chestnut Hill | See terms of separate MOA for Chestnut Hill ⁶ | | | | | |
| Fells | See terms of separate MOA for Fells Reservoir ⁶ | | | | | |

⁴ DCR shall be responsible for ordinary maintenance that typically does not entail capital expenditures. MWRA shall be responsible for capital maintenance and capital improvement of this specific structure in accordance with the Annual Work Plan.

⁵ DCR has assumed rights and obligations of MDC with respect to Framingham Reservoir #1, Framingham Reservoir #2: neither serve any water supply purpose. DCR and MWRA agree that the ownership, maintenance and future improvement of these reservoirs and lands should be the responsibility of those benefiting from them, and DCR shall work to transfer the management and responsibility to appropriate entities

⁶ MWRA had separate MOAs with MDC for these facilities. The MOAs specifically noted that MDC's involvement and management at these reservoirs was not a function of the Watershed Management Division, and costs of MDC management at these back-up facilities were not to be borne by MWRA ratepayers

| | OPS | MAINTENANCE | | | | SECURITY * |
|--|--------------------------------|--------------------|-------|--------|-------------------|----------------------|
| | | GRNDS | FSTRY | STRUCT | PIPING/ EQUIP. | |
| Blue Hills Covered Storage (to be constructed) | MWRA | MWRA | | MWRA | MWRA | MWRA |
| Blue Hills Open Reservoir ⁷ | DCR Urban Parks and Recreation | | | | | |
| Bear Hill | MWRA | MWRA | | MWRA | MWRA | MWRA |
| | | | | | | |

⁷ Once the Blue Hills Covered Storage Facility is constructed, the Blue Hills Open Reservoir will be under the management of DCR Urban Parks and Recreation. Costs of public access at the Open Reservoir shall not be borne by MWRA ratepayers.

Exhibit “D”-- Schedule for Submission of Annual Work Plan, and Annual Work Plan Relationship to Commonwealth Budget Process and MWRA Current Expense and Capital Improvements Budget Process

MWRA operates on a fiscal year that starts July 1. The Capital Improvement and Current Expense Budget development process begins in September and continues through a series of interactive reviews and revisions until June, when MWRA’s Board of Directors approves the final budget. Throughout the formal budget process, MWRA staff maintain an ongoing dialogue with the Board of Directors to discuss issues, the status of budget development, and other concerns.

The schedule for submission of the Annual Work Plan to support MWRA’s Capital Improvement and Current Expense Budget processes is critical to ensure sufficient review and appropriate funding of watershed activities. The dates below are to support the development of the Annual Work Plan and Budget Review as defined in Section 7.0.

7.2.0 The WATERSHED AGENCY shall submit its annual non-land capital Spending budget, as defined in Section 7.5 and to be included in the Annual Work Plan by September 30. This submission in advance of the Annual Work Plan is necessary to allow timely review by MWRA and to meet MWRA’s schedule to submit its proposed capital improvement program to its Board of Directors by December.

7.2.1 The WATERSHED AGENCY shall submit its Annual Work Plan for the following fiscal year to the MWRA by November 30. The Annual Work Plan shall include, but not be limited to, the elements as defined in Section 7.2

Date specific submission requirements of invoices, reports, and other fiscal obligations are defined in Section 8.