

**Memorandum of Understanding
between
The Town of Littleton Board of Water Commissioners and
the Town of Littleton Conservation Commission**

WHEREAS, the Town of Littleton Conservation Commission has the care, custody, and control of Lot 9, Lot 10, and Lot 11 (the "Parcels"), as appearing on the on a plan entitled "Open Space Development Plan of Land in Littleton, Mass., Prepared for Emily B. Cobb Trust B, Scale: 1" = 80", containing six (6) sheets, dated April, 2001 and July, 2001, plan number L-2964, prepared by David E. Ross Associates, Inc., certified by David Edwards Ross on July 31, 2001, and recorded at the Middlesex South District Registry of Deeds (the "Registry") as Plan Number 1180 of 2001 (the "Open Space Development Plan"), and where title to such lots is recorded at the Registry in Book 56399, Page 133, and Book 39698, Page 555;

WHEREAS, Lot 10 and Lot 11 are subject to a water supply easement, shown on a plan entitled "Plan of Easements in Littleton, Mass. Prepared for Littleton Water Department", dated April 2002, plan number L-2964-E, prepared by David E. Ross Associates, Inc, recorded in the Registry as Plan No. 550 of 2003 (the "Water Supply Easement"), to be used for water supply and distribution pursuant to G.L. c.40, §39B, and to be managed and controlled by the Town of Littleton Board of Water Commissioners;

WHEREAS, the Littleton Conservation Trust (LCT) holds a certain Conservation Restriction over the Parcels, recorded at the Registry in Book 37573, Page 586, amended at [REDACTED];

WHEREAS, the Water Commissioners seek to install and operate three public water supply wells on Lot 10 and Lot 11, as shown on a plan entitled "Well Protection Easement in Littleton, Mass.", prepared for Littleton Electric Light & Water Dept., dated August 12, 2021 (the "Zone I Plan"), attached hereto as Attachment A;

WHEREAS, the Department of Environmental Protection (the "Department") requires public water suppliers to acquire "ownership and control of sufficient land around wells, infiltration galleries, springs and similar sources of ground water used as sources for drinking water to protect the water from contamination" and finds that this requirement is met "if all land within Zone I is under the ownership or control of the supplier of water" ((310 CMR 22.1(3)(b));

WHEREAS, the Zone I is defined in 310 CMR 22.02 and calculated as a 400 foot radius from each of the three wells, and further, as show on the Zone I Plan;

WHEREAS, the Department imposes this requirement to ensure that the public water supplier has the ability to treat onsite any contaminant that may arise in the future;

WHEREAS, the Department has reviewed the Board of Water Commissioners' (the "Board") permit request and directed the Board to (i) obtain control of the area within the Zone I located on the Parcels and (ii) revise the existing Conservation Restriction to adopt various use restrictions for certain activities with the Zone I, while permitting the Board the flexibility to construct a water treatment plant on the Parcels, unrestricted as to size and scale, if needed;

WHEREAS, the Board and the Conservation Commission have agreed to revise the Conservation Restriction as recommended by the Department, using the Model Conservation Restriction to protect Public Groundwater Well relative to Zone I as a template;

WHEREAS, the Board will request that Town Meeting (i) authorize the transfer of Zone I area to the Board, to be held jointly with the Conservation Commission and (ii) direct the Select Board to seek legislative approval to amend the Conservation Restriction by filing change of use legislation under Article 97 of the Massachusetts Constitution; and

WHEREAS, notwithstanding the above, the Board of Water Commissioners and the Conservation Commission further wish to memorialize their understand of what may be constructed on the Parcels in this Memorandum of Understanding (MOU).

1. Known Improvements to the Parcels

a. *Water Treatment Plant*

The Board will construct a water treatment plant (the "Treatment Plant") and associated access roads, on Lot 10 and Lot 11 to process and treat the water collected from the on-site wells; provided, however, that the Treatment Plan and associated access road shall not extend outside of the Buildable Area, as shown on a plan entitled _____, and attached hereto as Attachment B (the "Buildable Area"), without the express written consent of the Conservation Commission. The Board anticipates that the Treatment Plant will be approximately 40 feet tall, totaling approximately 5,000 square feet. The Treatment Plant may be located outside of the Water Supply Easement. All water processed at the Treatment Plant is to be collected from the three wells located on Lot 10 and Lot 11.

Commented [IF1]: Once finalized and approved by ConsComm and LCT, the plan will reflect this notation.

b. *Well Access Roads*

The Board will construct access roads to the three wells and the Treatment Plan (the "Well Access Roads"). The Well Access Roads may be located outside of the Water Supply Easement if necessary to protect the wetland resource areas not be located outside the Buildable Area without the express written consent of the Conservation Commission.

c. *Siting*

↔ Formatted: Keep with next

Notwithstanding the above, the Parties recognize that the planning process for the Treatment Plant is still in its infancy and that the location and size of the Treatment Plant and its associated access roads, as well as the ~~Well~~ Access Roads, may change and evolve. The Board will take all reasonable measures to (i) site the Treatment Plant and any associated access roads and the ~~Well~~ Access Roads outside of the area subject to the jurisdiction of the Wetland Protection Act and the Town's Wetland Bylaw; and (ii) size the Treatment Plant to appropriately reflect the needs of the Town, based on the Water Management Act withdrawal permit.

d. *Permitting*

The Board will obtain all required approvals and permits for any work, including an Order of Conditions from the Conservation Commission, as needed.

2. Unanticipated Improvements to the Parcels

a. *Water Treatment*

The intent of the Board is not to construct additional water treatment plants on the Parcels or enlarge the proposed treatment plant, once constructed. However, such installations may become necessary based on the discovery of currently unknown contaminants or other environmental changes. Thus, the Board commits that it will not construct additional water treatment plant(s), and associated access roads, or alter an existing treatment plant, including the proposed Treatment Plant, within the Zone I on any of the Parcels, unless: (1) it is deemed necessary and in the best interest of the Town by the Board, after consultation with the Conservation Commission; and (2) such improvements are within the Buildable Area, unless otherwise approved by the Conservation Commission. The Board may base its decision that the improvement is necessary and in the best interest of the Town, on the nature of the identified contaminants, currently available treatment technology, the impact to the wetland resource area, and financial considerations of siting a new treatment plant elsewhere in Town.

Prior to deciding to construct a new plant or enlarge an existing plant, the Board will work closely with the Conservation Commission to review all reasonable alternatives to the project, as well as the impacts of locating or expanding the treatment plant onsite. The Conservation Commission may supply a recommendation to the Board as to whether it believes the proposed project is necessary and in the best interest of the Town.

The size of any new water treatment plant, or alteration to an existing water treatment plant, must appropriately reflect the Town's needs, based on any existing Water Management Act permits. Reasonable effort should be made to minimize the impact on the wetland resource areas.

b. *Off Site Water*

After considering all reasonable alternatives, the Board may bring water collected off site to be processed and treated at a water treatment plant on the Parcels, if it is deemed to be in the best interest of the Town. The Board will consult with the Conservation Commission, as outlined above, prior to treating water drawn from wells located offsite. In making this determination, the Board may consider the impact to the wetland resource area, the nature of the identified contaminates, currently available treatment technology, and financial considerations of siting a new treatment plant elsewhere in Town. Reasonable effort should be made to minimize the impact on the wetland resource areas

3. Monitoring wells

Where necessary, the Board will install monitoring wells on the Parcels, including areas outside the Building Area; provided, however, that such monitoring wells shall not result in a permanent disturbance to the land.

← - - - Formatted: Indent: Left: 0.81", First line: 0"

**BOARD OF WATER
COMMISSIONERS**

CONSERVATION COMMISSION

Scott A. Larsen, Chair

Chase Gerbig, Co-Chair

Ivan Pagacik, Vice Chair

Sarah Seaward, Co-Chair

James Karr, Clerk

Andrew Sammarco, Clerk

Dick Taylor

Bryan T. Crowley

Bruce S. Trumbull

Kyle F. Maxfield

Carl Melberg

Michael J. Livingston

Attachment A

Plan Entitled
Well Protection Easement in Littleton, Mass
Dated August 12, 2021

Attachment B

Plan Showing Buildable Area

Entitled

Formatted: Centered

Formatted: Font: Bold