STATE OF RHODE ISLAND
WATER RESOURCES BOARD

IN RE: Appeal of Jeffrey Saletin, Trustee of The Jeffrey Saletin Living Trust dated September 29, 2016, and Deborah L. Furness Saletin, Trustee of The Deborah L. Furness Trust n/k/a The Deborah L. Furness Saletin Trust dated April 2, 1998 from a Decision dated June 28, 2024 of the Town of Jamestown Board of Water and Sewer Commissioners

REPLY BRIEF OF APPELLANTS, Jeffrey Saletin, Trustee of The Jeffrey Saletin Living Trust dated September 29, 2016, and Deborah L. Furness Saletin, Trustee of The Deborah L. Furness Trust n/k/a The Deborah L. Furness Saletin Trust dated April 2, 1998

NOW COME Jeffrey Saletin, Trustee of The Jeffrey Saletin Living Trust dated September 29, 2016, and Deborah L. Furness Saletin, Trustee of The Deborah L. Furness Trust n/k/a The Deborah L. Furness Saletin Trust dated April 2, 1998 ("Appellants" and/or the "Saletins"), acting by and through counsel in the above-referenced matter, and hereby submit to the Rhode Island Water Resources Board ("WRB") their Reply Brief to the Response Memorandum of the Town of Jamestown (the "Town") in connection with the Saletin's Appeal of the Decision of the Jamestown Board of Water and Sewer Commissioners (the "Board").

The Town presents several arguments in its Response Memorandum (the "Town's Response"), each of which is unavailing. These arguments are addressed in turn below.

A. The Town misinterprets R.I. Gen. Laws § 46-15-2, which takes precedence in this instance over the Special Act.

The Town erroneously claims that the Special Act granting authority to the Jamestown Water District ("JWD") takes precedence over R.I. Gen. Laws § 46-15-2. This argument fails to

recognize the clear legislative intent behind the 2022 amendment to establish uniform statewide standards for water service extensions. The 2022 amendment to § 46-15-2 clearly demonstrates the General Assembly's intent to establish uniform statewide standards for water service extensions. This point is underscored by the language of the Explanation provided in the underlying House and Senate bills upon which that amendment is based: "This act would provide the standards for reviewing applications for plans or work for the extension of supply or distribution mains or pipes […]".[1] The Rhode Island Supreme Court has consistently held that when interpreting statutes, the court's ultimate goal is to give effect to the General Assembly's intent. "It is well settled that the plain statutory language is the best indicator of legislative intent." *See Hebert v. City of Woonsocket by & through Baldelli-Hunt*, 213 A.3d 1065, 1082 (R.I. 2019), as corrected (Sept. 6, 2019) (citing *Twenty Eleven, LLC v. Botelho*, 127 A.3d 897, 900 (R.I. 2015) (brackets omitted) (quoting *Zambarano v. Retirement Board of Employees' Retirement System of Rhode Island*, 61 A.3d 432, 436 (R.I. 2013))). This principle is endorsed in other jurisdictions as well. *See, e.g., Walton v. Mueller*, 180 Cal. App. 4th 161, 168–69, 102 Cal. Rptr. 3d 605, 610 (2009) ("Because the statutory language is the best indicator of legislative intent, we must begin by examining the words of the statute itself, giving those words their plain meanings"); *Deal v. Coleman*, 294 Ga. 170, 172, 751 S.E.2d 337, 341 (2013) ("When we consider the meaning of a statute, 'we must presume that the General Assembly meant what it said and said what it meant'"); *Darden Rest. v. Sun*, 2024 UT App 189, ¶ 17 ("When interpreting a statute, our primary objective is to ascertain the intent of the legislature, the best evidence of which is the plain language of the statute itself"); *People v. Clark*, 2024 IL 127838, ¶ 70 ("The most reliable indicator of that intent is the plain and ordinary meaning of the statutory language

[1] *See* 2022 - H7782.pdf and 2022 - S2480.pdf.

itself"); *Harvard Crimson, Inc. v. President & Fellows of Harvard College*, 445 Mass. 745, 749, 840 N.E.2d 518 (2006) ("[A] statute must be interpreted according to the intent of the Legislature ascertained from all its words construed by the ordinary and approved usage of the language, considered in connection with the cause of its enactment, the mischief or imperfection to be remedied and the main object to be accomplished, to the end that the purpose of its framers may be effectuated"); *Bodge v. Commonwealth*, 494 Mass. 623, 625, 241 N.E.3d 51, 54 (2024) ("Our analysis begins with the plain language of the statute, which is the 'principal source of insight into legislative intent'").

Here, the legislative intent in enacting R.I. Gen. Laws § 46-15-2 is apparent on its face. First, the statute expressly applies to all water supply districts and uses the word "shall" in multiple sections of the statute. *See* R.I. Gen. Laws § 46-15-2(b). Moreover, the Town, through legislators, had a bill introduced in the Rhode Island General Assembly on January 26, 2024 (2024 -- H 7345) which, if enacted (it has not been), would have exempted the Town from R.I. Gen. Laws § 46-15-2(b) and would have authorized the Board to deny applications for extension of water service outside of areas designated by the Town (*i.e.*, any properties outside of the "Urban Water District"). This bill never passed. The Town was and remains undeniably aware that the state law applies to the JWD, yet the Board nonetheless disregarded the law as its principal basis for denying the Saletins' Application.

Furthermore, the purpose of § 46-15-2 is to ensure fair and consistent treatment of water service extension requests across the state. Allowing individual water districts to operate under different standards would undermine this important public policy goal, and interpreting § 46-15-2 as not applying to the JWD would defeat the statute's stated and intended purpose of creating uniform standards. In *Brennan v. Kirby*, the Rhode Island Supreme Court emphasized the

importance of considering public policy when interpreting statutes: "A statute or enactment may not be construed in a way that would attribute to the Legislature an intent that would result in absurdities or would defeat the underlying purpose of the enactment, *City of Warwick v. Aptt*, 497 A.2d 721, 724 (R.I. 1985), nor may it be construed, if at all possible, to render sentences, clauses, or words surplusage. *State v. Gonsalves*, 476 A.2d 108, 110–11 (R.I. 1984)." *Brennan v. Kirby*, 529 A.2d 633, 637 (R.I. 1987).

Here, the WRB should interpret and apply the statute to the JWD in the same manner that the statute should be applied to all other municipal water districts.

B. The Special Act and R.I. Gen. Laws § 46-15-2 can be harmonized.

The Special Act and § 46-15-2 can be harmonized. The Rhode Island Supreme Court has consistently held that statutes relating to the same subject matter should be construed together to create a harmonious body of law. "It is an especially well-settled principle of statutory construction that when, as here, 'we are faced with statutory provisions that are *in pari materia*, we construe them in a manner that attempts to harmonize them and that is consistent with their general objective scope.' " *Horn v. S. Union Co.*, 927 A.2d 292, 295 (R.I. 2007) (quoting *State v. Dearmas*, 841 A.2d 659, 666 (R.I. 2004)); *see also Kells v. Town of Lincoln*, 874 A.2d 204, 212 (R.I.2005); *Folan v. State, Department of Children, Youth, and Families*, 723 A.2d 287, 289-90 (R.I. 1999) (recognizing that, when statutes in issue are silent about their interrelationship and none expressly mentions the others, the resolution of this conflict requires consideration of the objectives of the statutes); *In re Doe*, 717 A.2d 1129, 1132 (R.I. 1998); *Kaya v. Partington*, 681 A.2d 256, 261 (R.I. 1996); *State v. Ahmadjian*, 438 A.2d 1070, 1081 (R.I. 1981) ("[S]tatutes which relate to the same subject matter should be considered together so that they will harmonize with each other and be consistent with their general objective scope [even if] *** the statutes in

question contain no reference to each other and are passed at different times.").

The U.S. Supreme Court has also emphasized this principle in *FDA v. Brown & Williamson Tobacco Corp.*, stating that "the meaning of one statute may be affected by other Acts, particularly where Congress has spoken subsequently and more specifically to the topic at hand". *See Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 1333, 120 S. Ct. 1291, 1300, 146 L. Ed. 2d 121 (2000).

In the instant case, the Special Act and § 46-15-2 can be harmonized, as the Special Act was merely an enabling law, and the more recent enactment of the amendments to § 46-15-2 established specific, objective, and uniform standards, intended to apply statewide, which all water supply districts must adhere to in evaluating applications for water main extensions.

C. To the extent the Special Act and § 46-15-2 cannot be harmonized, the Special Act is preempted.

"The preemption doctrine encompasses three types of preemption: (1) express preemption, (2) field preemption, and (3) conflict preemption." *Verizon New England Inc. v. Rhode Island Pub. Utilities Comm'n*, 822 A.2d 187, 192 (R.I. 2003) (*Shaw v. Delta Airlines, Inc.*, 463 U.S. 85, 95–96, 103 S.Ct. 2890, 2899–900, 77 L.Ed.2d 490, 500–01 (1983)). "A finding of express preemption involves two steps: (1) that the statute expressly provide that it shall supersede related state law, and (2) that the state enactment falls within the class of law that Congress intended to preempt." *Id.* (citing *Gade v. National Solid Wastes Management Association*, 505 U.S. 88, 95–97, 112 S.Ct. 2374, 2382, 120 L.Ed.2d 73, 83 (1992)). In the first instance, the language in § 46-15-2 stating it applies "notwithstanding any other provision of the general or public laws to the contrary" constitutes express preemption. Therefore, the standards set forth in § 46-15-2 should apply to the JWD based upon express preemption.

Notwithstanding the above, the Special Act is also preempted under other preemption

principles. Under conflict preemption, "a municipal ordinance is preempted if it conflicts with a state statute on the same subject." *Town of Warren v. Thornton-Whitehouse,* 740 A.2d 1255, 1261 (R.I. 1999). (citing *State v. Pascale*, 86 R.I. 182, 186–87, 134 A.2d 149, 152 (1957) (local traffic ordinance punishing any refusal to comply with order of police officer was preempted by state statute punishing willful refusal to comply with police order); *see also Wood v. Peckham,* 80 R.I. 479, 482, 98 A.2d 669, 670 (1953) (it is declared to be a fundamental principle that municipal ordinances are inferior in status and subordinate to the laws of the state; it is also recognized in this jurisdiction that an ordinance inconsistent with a state law of general character and state-wide application is invalid); *Nixon v. Malloy*, 52 R.I. 430, 161 A. 135 (ordinance providing for biennial designation of member of board of canvassers and registration of city of Central Falls as clerk thereof held invalid as inconsistent with statute providing that term of clerk shall be six years).

Additionally, "a municipal ordinance is preempted if the Legislature intended that its statutory scheme completely occupy the field of regulation on a particular subject." *Id.* (citing *Town of East Greenwich v. Narragansett Electric Co.*, 651 A.2d 725, 729 (R.I.1994) (state statute creating Public Utilities Commission evidenced legislative intent to completely occupy the field of utilities regulation such that local ordinances on the subject were preempted even if they were not disruptive or inconsistent with the state's regulatory scheme).

Even if express preemption did not apply, as it should, the Town's Regulations are preempted due to a direct conflict with R.I. Gen. Laws § 46-15-2. "A statute must be examined in its entirety, and its words must be accorded their plain and ordinary meaning." *Andrade v. Town of Lincoln*, 2014 WL 1875908, at *4 (R.I. Super. May 06, 2014) (citing *Matter of Falstaff Brewing Corp. re: Narragansett Brewery Fire*, 637 A.2d 1047, 1049 (R.I. 1994)). "When a statute has a plain, clear, and unambiguous meaning, no interpretation is required." *Id.* (citing *State v.*

Diamante, 83 A.3d 546, 548 (R.I. 2014); *Chambers v. Ormiston*, 935 A.2d 956, 961 (R.I. 2007)). Here, R.I. Gen. Laws § 46-15-2 is clear and unambiguous, and therefore no interpretation is required, as such statute clearly sets forth the standards for an application for water service extension; therefore, the Town's inconsistent and more restrictive Regulations, which the Town claims are prevailing under the Special Act, are directly preempted.

Regarding field preemption, the Rhode Island Supreme Court has articulated that, "[w]hen confronted with an issue of preemption, it is incumbent upon the Court to determine whether the issue before us 'is implicitly reserved within the state's sole domain.' " *Providence Lodge No. 3, Fraternal Ord. of Police v. Providence External Rev. Auth.*, 951 A.2d 497, 504 (R.I. 2008) (quoting *Amico's Inc. v. Mattos*, 789 A.2d 899, 908 (R.I. 2002)). "Characterized as field preemption, the usual question is whether the Legislature manifestly has controlled the subject area and has not delegated any of its authority to the cities and towns, such as is the case with respect to the spheres of education, elections, and taxation." *Id.* "[A] municipal ordinance is preempted if the Legislature intended that its statutory scheme completely occupy the field of regulation on a particular subject." *Id.* (quoting Thornton–Whitehouse, 740 A.2d at 1261). "This determination is more complicated when . . . 'there has been limited delegation of regulatory authority to the cities and towns.' " *Grasso Serv. Ctr., Inc. v. Sepe*, 962 A.2d 1283, 1290 (R.I. 2009) (citing *Providence Lodge No. 3*, 951 A.2d at 504). "**Nevertheless, despite a limited delegation of authority, '[o]rdinances * * * will be found unenforceable and invalid when they are in contravention of the city charter or the general laws of the state**.' " *Id.* (emphasis added) (quoting *Providence City Council v. Cianci*, 650 A.2d 499, 501 (R.I. 1994) (citing *Wood v. Peckham*, 80 R.I. 479, 98 A.2d 669 (1953); *State v. Berberian*, 80 R.I. 444, 98 A.2d 270 (1953))). "When interpreting a statute, this Court's task is to give effect to the expressed intent of the General

Assembly." *Id.* (citing *Champlin's Realty Associates, L.P. v. Tillson*, 823 A.2d 1162, 1165 (R.I. 2003); *Thornton–Whitehouse*, 740 A.2d at 1259). "[W]e presume that the [General Assembly] intended to attach a significant meaning to every word, sentence, or provision of a statute." *Id.* (quoting *Champlin's Realty Assoc.*, 823 A.2d at 1165).

In *Grasso*, the Rhode Island Supreme Court held that: 1) a city could not administer a towing program on the basis of competitive bids under which towers promised to remit a referral fee and percentage of storage charges to the city; and 2) a statute that prohibits common carriers from refunding or remitting any portion of their tariff to any person prohibits a tower from paying or agreeing to pay a portion of its rates to a police department that instigates the tow. *See id.*, at 1290-91; *see also Deutsche Bank Nat. Trust Co. v. Murphy*, 2010 WL 2024917 (R.I. Super. May 17, 2010) (holding that city ordinances establishing new procedures with respect to mortgage foreclosure were preempted by state law to the extent that they barred acceptance by the recorder of deeds of a deed filed by a mortgage lender who violated the new procedures; state law required a deed to be recorded upon request and payment of the lawful fee, and use of mandatory language demonstrated the legislature's goal of occupying the entire field of the state's recording system); *Rhode Island Cogeneration Associates v. City of East Providence*, 728 F.Supp. 828, 834, n. 12 (D.R.I.1990) ("Rhode Island, unlike some states, recognizes implied preemption and does not require a clear statement by the legislature of intention to preempt").

Accordingly, even if the Town's reliance on the Regulations and the Special Act as a basis to ignore the applicable statutory standard and deny the Application is not barred by express preemption or direct preemption, field preemption would nonetheless apply.

Finally, the Town insists there was no implied repeal of its special act. However, the 2022 amendments to § 46-15-2 were drafted with full recognition that local regulations existed

and clarified the uniform process and standards for water main extensions. By declaring that all water suppliers "shall review" such applications under those enumerated standards, any prior special act provisions that obstruct uniform review effectively yield so that the new statute can operate without contradiction.

D. More recent enactments are given precedence over older ones when there is a conflict.

As our Supreme Court has held, "when two statutes are irreconcilably repugnant, we shall imply a repeal and give effect to the more recently passed statute." *632 Metacom Assocs. v. Pub Dennis of Warren, Inc.*, 591 A.2d 379, 383 (R.I. 1991) (citing *City of Providence v. Public Utilities Commission*, 414 A.2d 465, 466 (R.I. 1980)). "This decision is especially appropriate when the more recently enacted statute is more comprehensive and more specific than its conflicting counterpart." *Id.* (citing G.L.1956 (1988 Reenactment) § 43–3–26). "We are of the opinion that the later and more specific statute should prevail." Id.

Here, as discussed above and in the Saletins' Appeal Brief, R.I. Gen. Laws § 46-15-2 is more recent and more specific than the Special Act which the Town relies upon. While the Special Act is specific to Jamestown, § 46-15-2 is specific to water service extensions. In this context, § 46-15-2 should be considered the more specific statute. Accordingly, to if these two laws cannot be harmonized and if they are indeed in conflict, § 46-15-2 should control.

Moreover, the Town's contention that the Special Act supersedes the general statute (§ 46-15-2) is misplaced. The Rhode Island General Assembly has broad power to adopt legislation that establishes uniform standards for all municipal suppliers—even those created by special legislation—particularly where public health and safety are implicated. R.I. Gen. Laws § 46-15-2(b) states that municipalities "may impose less restrictive requirements," underscoring that the statute itself governs more restrictive local rules. As a result, to the extent the Town's

regulations conflict with § 46-15-2, the general law prevails.

E. The WRB should consider the legislative intent.

When engaging in statutory interpretation, "the Court's ultimate goal is to give effect to the purpose of the act as intended by the Legislature." *Newport Sch. Comm. v. Rhode Island Dep't of Educ.*, 316 A.3d 1159, 1163 (R.I. 2024) (quoting *Koback v. Municipal Employees' Retirement System of Rhode Island*, 252 A.3d 1247, 1251 (R.I. 2021) (brackets omitted) (quoting *Lang v. Municipal Employees' Retirement System of Rhode Island*, 222 A.3d 912, 915 (R.I. 2019))). The clear legislative intent behind § 46-15-2 was to create uniform statewide standards. This intent would be frustrated if the Special Act could override its provisions. Further, as articulated in the Saletins' Appeal Brief and in this Reply Memorandum, the Town is well aware that it is not exempt from § 46-15-2, as evidenced by the Town's failed attempt to pass a law which would have expressly exempted the Town from the standards set forth in § 46-15-2.

F. The Town's Response fails to rebut the Saletins' arguments that they met all of the applicable standards for a water extension.

In focusing primarily on statutory construction issues, the Town's Response fails to rebut the Saletins' substantive arguments in their Reply Brief that, through their Application and presentation before the WRB over the course of multiple public hearings, they satisfied all of the standards set forth in § 46-15-2. The Town asserts that the Saletins did not satisfy local regulations requiring proof of a "benefit" to the existing system. In reality, § 46-15-2(b) prescribes a set of seven statewide criteria that municipal suppliers must apply. The record reveals that the Saletins' property suffers from severe water quality shortfalls, has no feasible alternative well site, and poses no threat to existing service or fire protection. Their experts demonstrated consistent statutory compliance, demonstrating that local "benefit" requirements cannot negate the clear showing that § 46-15-2(b) was satisfied. Moreover, the fire protection

would even be enhanced by this proposed water service extension, as noted in the Town's fire department review of the Application. *See* Saletin's Appeal Brief. Finally, the Town references water scarcity to justify its denial. While resource constraints can be an important consideration, § 46-15-2(b)(6) already authorizes an analysis of whether "public health, safety or environmental concerns" are implicated. The Saletins presented undisputed evidence that their existing well is fundamentally inadequate, and the Town's evidence never disproved that the statutory factors were met. Accordingly, the WRB should conclude that the Saletins Application and supporting testimony at the public hearings satisfied all of the applicable statutory requirements for a water service extension and that there are therefore sufficient grounds to reverse the JWD's Decision.

WHEREFORE, the Saletins hereby respectfully request that the WRB reverse the Board's Decision and award reasonable attorney's fees and costs to the Saletins pursuant to R.I. Gen. Laws § 42-92-1, *et seq.*, as well as any other such relief as the WRB deems appropriate.

Jeffrey Saletin, Trustee of The Jeffrey Saletin Living Trust dated September 29, 2016, and Deborah L. Furness Saletin, Trustee of The Deborah L. Furness Trust n/k/a The Deborah L. Furness Saletin Trust dated April 2, 1998

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