

NEW YORK CITY WATER BOARD

April 11, 2008

RESOLUTION

WHEREAS, the Board has been advised by staff and counsel that they are in the process of negotiating an agreement with the United Water New Rochelle (“UWNR”) with respect to various bills for excess consumption which have been rendered since September 24, 1994 and which have been the subject of dispute and litigation in the matter of Village of Scarsdale, et. al. v. New York City Water Board, Index No. 98-13254 (Supreme Court, Westchester County); and

WHEREAS, staff has recommended a settlement in the sum of Five Million Two Hundred Twenty Four Thousand and Eight Hundred Thirty dollars (\$5,224,830.00) in full satisfaction of any and all excess consumption by UWNR from September 1994 through September 2007, plus interest at the rate of 3% applied to bills dated prior to and including November 1, 2007, conditioned upon the execution and delivery by UWNR of a Stipulation of Settlement and other related instruments, including an updated Water Supply Agreement, satisfactory in form and substance to staff and counsel for the Board, and which Stipulation of Settlement shall, among other matters, include a covenant by UWNR to pay in a timely manner any and all future bills for water taken from the New York City water supply system, whether entitlement or excess, that are rendered by the Board to UWNR; and conditioned upon prompt payment of the settlement amount; and

WHEREAS, UWNR, as of January 3, 2008, has made a partial payment of Two Million Nine Hundred Thousand dollars (\$2,900,000.00) towards the full satisfaction of the settlement amount; and

WHEREAS, staff has recommended that the Water Board agree to grant a credit against the settlement amount of Seven Hundred Fifty Two Thousand dollars (\$752,000) that

represents a portion UWNR's construction costs of installing a flow control valve and Venturi meter in connection with UWNR's connection to Shaft 22 of the Delaware Aqueduct, as required by the Water Supply Agreement; and

WHEREAS, staff has recommended that the Board agree to conditions set forth in the Stipulation of Settlement regarding UWNR's design, purchase and installation of telemetry equipment for the flow control valve in Shaft 22, whereby UWNR has agreed to pay the initial Fifty Thousand Dollars (\$50,000) of the bid price for such work obtained through a competitive bidding process, and the Board agrees to credit UWNR against future excess consumption bills for any amount of the bid price over \$50,000, with UWNR agreeing to pay for any actual cost overages beyond the bid price; and

WHEREAS, upon payment by UWNR to the Board of the aforementioned sum, New York City Department of Environmental Protection will issue engineering approval and a land use permit allowing UWNR to make the connection to Shaft 22; and

WHEREAS, in accordance with its powers under the New York City Municipal Water Finance Authority Act, the Board has determined the terms of such settlement to be reasonable and appropriate; it is therefore

RESOLVED, that the Board hereby approves the settlement in the sum of Five Million Two Hundred Twenty Four Thousand and Eight Hundred Thirty dollars (\$5,224,830.00) plus interest at the rate of 3%, in full satisfaction of any and all excess consumption by UWNR through September 2007 as reflected in bills dated prior to and including November 1, 2007, less the credit of Seven Hundred Fifty Two Thousand dollars (\$752,000) and any credit against future excess bills attributable to installation of telemetry equipment as described herein, subject to the execution and delivery by UWNR of a Stipulation of Settlement and other related instruments including an updated Water Supply Agreement satisfactory in form and substance to Water Board staff and counsel and subject to prompt

payment of the settlement amount. The Executive Director is hereby authorized and directed to take such steps as may be required to effectuate the settlement described above.