

## **NEW YORK CITY WATER BOARD**

April 3, 2009

### **RESOLUTION**

**WHEREAS**, the water and wastewater systems (the “Systems”) of the City of New York (the “City”) have been leased by the City to the New York City Water Board (the “Board”) pursuant to an Agreement of Lease, dated as of July 1, 1985, as amended, between the City and the Board (the “Lease); and

**WHEREAS**, the New York City Department of Environmental Protection (“DEP”) operates and maintains the Systems; and

**WHEREAS**, pursuant to Section 11.1(d)(ii) of the Lease, the City may, with the prior written consent of the Board, grant interests in property covered by the Lease which, in the reasonable judgment of the Board, do not interfere with the operation, maintenance and the collection of revenues from the Systems; and

**WHEREAS**, the County of Westchester (“Westchester”), a municipal corporation organized pursuant to the laws of the State of New York, currently receives, pursuant to Section 24-360 of the Administrative Code of the City of New York (the “Code”), a supply of water from the Catskill Aqueduct for certain of Westchester’s water district(s); and

**WHEREAS**, DEP is constructing the Catskill/Delaware Ultraviolet Disinfection Facility (“UV Facility”) on City-owned property located in Eastview in Westchester; and

**WHEREAS**, as part of the UV Facility construction, the Catskill Aqueduct will be shut down for an extended period of time, currently scheduled to begin in October 2010, in order for work related to the Catskill Pressurization Project (“Pressurization Project”) to be conducted, such work being integral to the construction of the UV Facility; and

**WHEREAS**, due to the scheduled long-term shutdown of the Catskill Aqueduct for the Pressurization Project, Westchester will need to obtain an alternate source of water in order to maintain an adequate supply to meet the demands of the customers within the affected water district(s); and

**WHEREAS**, pursuant to an agreement between DEP and the Town of Mount Pleasant (“Mount Pleasant”), a municipal corporation organized pursuant to the laws of the State of New York and located in Westchester, DEP will be constructing a 24 inch water main that will run from the Kensico Reservoir, part of the Systems, to Mount Pleasant’s Commerce Street Pump Station (“Commerce St PS”), such water main to be operational by the shutdown of the Catskill Aqueduct and not affected by such; and

**WHEREAS**, Westchester has requested an interconnection to Mount Pleasant’s line at a point south of the Commerce St PS in order to receive a supply of water from the Kensico Reservoir via Mount Pleasant line during the shutdown of the Catskill Aqueduct; and

**WHEREAS**, in order for Westchester to deliver this supply of water to its distribution facilities, Westchester will need to construct a new water distribution pipeline from the point of interconnection with Mount Pleasant’s 24 inch line to its pump station within the Gate of Heaven Cemetery (“GOH”), as well as rehabilitate its pump station within GOH and its distribution line to Westchester’s storage tank; and

**WHEREAS**, the City currently owns in fee a parcel of land that runs through GOH along which the Catskill Aqueduct is sited; and

**WHEREAS**, Westchester has requested that an easement on the City’s land be granted to Westchester, such easement to correspond approximately with the route of the Catskill Aqueduct as it passes through GOH and beginning at the eastern point of the City’s land within GOH and ending at Westchester’s pump station; and

**WHEREAS**, Westchester’s pump station along with its pipeline running to Westchester storage tank are situated on City property pursuant to a land use permit issued to Westchester by DEP, with Westchester’s pump station and a portion of the pipeline within the boundaries of GOH, the remainder of Westchester’s pipeline to its storage tank situated on City property outside the boundaries of GOH; and

**WHEREAS**, Westchester has requested that the land use permit be extinguished and an easement on the City land currently occupied by Westchester’s pump station and pipeline

to the storage tank be granted to Westchester in conjunction with the easement granted for the installation of the new pipeline; and

**WHEREAS**, the requests for easements on the two (2) parcels of City-owned land described herein would constitute a single granting of an easement to Westchester and create an interest in the City land as described above, such grant being one (1) easement from the eastern point of the City's land along which the Catskill Aqueduct is sited within GOH to the western point where the City's land has passed out of the boundaries of GOH, ending at the point where Westchester's pipeline connects with its water storage tank; and

**WHEREAS**, the granting of such an easement constitutes the granting of an interest in real property subject to the Lease; and

**WHEREAS**, pursuant to Section 4-106(9) of the Code, an easement on City land may be granted without public letting in perpetuity or for shorter periods where the purpose of the easement would be for transporting water for municipal water supply or for any other public purpose; and

**WHEREAS**, DEP and Board staff have determined that the grant of the easement to Westchester as described herein would be in accordance with both the Lease and the Code, in the best interests of the City and would contribute to the overall sustainability of the Systems, DEP's water supply redundancy initiative and enable the City to continue to adhere to the statutory requirements for supplying Westchester with its entitled share of City water; and

**WHEREAS**, Westchester has agreed to grant to the City rights to Westchester land in the form of an easement for installation of infrastructure related to DEP's UV Facility, such grant of an easement to the City by Westchester to be equal and full consideration for the grant of the easement described herein; and

**WHEREAS**, based on the recommendation by staff and for such consideration as herein described, the Board has determined that the grant of an easement to Westchester as set forth in this Resolution is reasonable and appropriate; and,

WHEREAS, by letter dated X/X, 2009, William Pfang, P.E., Project Director, Metcalf & Eddy of New York, Inc. confirmed that they have evaluated the grant of easement to Westchester, and have concluded that such transfer provides benefits to the City, and that it will have no adverse impact on the operation of the water and wastewater system serving the City of New York, it is therefore

**RESOLVED**, that, pursuant to the powers granted to the Board by the Lease, the Board hereby approves the grant of an easement to Westchester and authorizes DEP to take such actions as may be required to effectuate the granting of the easement described herein.