

NEW YORK CITY WATER BOARD

May 15, 2009

RESOLUTION

WHEREAS, the Board is authorized pursuant to Section 1045-j of the New York City Municipal Water Finance Authority Act (the "Act") to establish, fix and revise from time to time fees, rates, rents and other charges for the use of, or services furnished, rendered or made available by the water system and wastewater utility systems (the "System") of the City of New York ("the City") at a level sufficient to provide funds to pay for the operations, maintenance and financing of the System; and

WHEREAS, the Board is authorized pursuant to Section 1045-g(3) of the Act to make and amend rules and regulations governing the exercise of its powers and duties and the fulfillment of its purposes; and

WHEREAS, the Board is authorized pursuant to Section 1045-h(8) of the Act to adopt rules and regulations to provide for the discontinuance or disconnection of the supply of water or the provision of sewer services or both by the City for nonpayment of fees, rates, rents or other charges; and

WHEREAS, the Board finds in the interest of equity and fairness to all System customers, that all users of the System should be billed for services received in accordance with the provisions of the Water and Wastewater Rate Schedule and that in meeting this objective New York City Department of Environmental Protection ("DEP") must gain access to a customer's premises in order to inspect water and sewer service connections and record consumption measured by the installed meter in order to ensure the accuracy of charges; and

WHEREAS, the Board finds that the theft of services by a customer, whether by direct action or by the toleration of actions taken by others, negatively affects the Board's ability to levy and collect rates and charges in a fair and equitable manner from all properties connected

to the System and imposes additional costs on every responsible customer of the System; and

WHEREAS, the Board's obligation of equity and fairness to all customers requires it to adopt prudent and assertive measures to be used to secure access to a customer's premises and to discourage theft of system services; and

WHEREAS, pursuant to the Act, the Board previously adopted Regulation No. 3, Discontinuance of Water Supply and/or Sewer Service for Denial of Access, which authorizes DEP to terminate water and sewer service to customers who fail to provide access to their premises thereby preventing DEP or its agents from inspecting water and sewer service at the premises; and

WHEREAS, to provide the Board and DEP with an additional means to enforce access to a premises when water and sewer customers, after reasonable notice, fail to provide and/or facilitate access to their premises, DEP has proposed certain modifications to Regulation No. 3, among which are amending the title of the regulation to "Denial of Access", authorizing the imposition a Denial of Access Account Administration Fee and Attributed Consumption Charges, and conforming all relevant service termination provisions to those of the Board's Regulation No. 2, Discontinuance of Water Supply and/or Sewer Service Because of Nonpayment; and

WHEREAS, DEP has also proposed a new Regulation No. 4, Theft of Services, which is intended to discourage the impairment of system revenues and recover reasonable charges for services provided but not billed or paid by the owner in cases where a theft of services determination is made by DEP; and

WHEREAS, the Board has reviewed a revised Regulation No. 3, Denial of Access, and a proposed new Regulation No. 4, Theft of Services, which are set forth and annexed hereto and has considered the recommendations of staff and believes that the proposed revisions to Regulation No. 3 and the proposed new Regulation No. 4 are reasonable and appropriate; it is therefore

RESOLVED, that the proposed revisions to Regulation No. 3 and the proposed Regulation No. 4 as described above and in the form annexed hereto are hereby approved and adopted effective July 1, 2009.