

## **MINUTES OF A SPECIAL MEETING OF THE NEW YORK CITY WATER BOARD**

June 26, 2008

A special meeting of the New York City Water Board (the “Board”) was held on June 26, 2008 at approximately 8:40 a.m. at Pace University – Downtown Conference Center, 157 William Street, Room 1225, New York, N.Y. The following members of the Board were present:

James T.B. Tripp;

Alan M. Moss;

Donald A. Capoccia;

Dawn S. Davis;

Amaziah Howell; and

Marilyn Gelber;

constituting a quorum. Mr. Tripp chaired the meeting, and Kathy Blyn served as Secretary of the Meeting.

### **Adoption of Minutes**

The first item on the agenda was approval of the minutes of the Board’s previous meeting held on May 16, 2008. There being no discussion, upon motion duly made and seconded, the minutes of the Board’s meeting held on May 16, 2008 were unanimously adopted.

### **Opportunity for Public Comment**

Next, members of the public were invited to address the Board.

Jim Buckley of United Neighborhood Housing addressed the issue of the expiration of frontage based billing for multiple family buildings and the effect of this change on affordable housing. Mr. Tripp asked if the consultants working on the Rate Structure project would meet with groups of this nature. Steven Lawitts, Executive Director of the Board, replied that they would. Mr.

Tripp suggested that the Board could facilitate such meetings and that it would make sense to help such organizations. Mr. Lawitts explained that pursuant to the multi-family conservation program, frontage based billing of water charges will expire on July 1, 2009 and that a plan will be proposed at the Board's September meeting which will provide for a generous transition period for affected properties. He explained that such plan would also provide for the installation of fixtures and other actions in order to meet the eligibility requirements for entry into the multi-family conservation program. Mr. Buckley then raised the issue of the impact on these properties of a 20% increase in the rate, characterizing it as a "fairly heavy hit". Mr. Lawitts responded that the compound effect of the transition plus next year's rate increase is part of the discussion to be presented at the next meeting.

### **Adoption of FY 2009 Water Rates for Communities Outside of the City**

The next item on the agenda was adoption of fiscal year 2009 water rates for communities outside of the City. William Kusterbeck, Treasurer of the Board, referred to the extract of the rate study that had been provided to the Board. He explained that the cost breakdown in the chart showed actual costs for fiscal year 2007 and projected costs for fiscal years 2008, which is not yet completed, and 2009 and that a ten year regression analysis was used to project system consumption for purpose of unit cost calculation, which is in keeping with the New York State Department of Environmental Conservation's 1990's methodology. Mr. Kusterbeck then explained that the unit cost of water per million gallons for fiscal year 2009 that was arrived at pursuant to the rate study was \$900.31. He summarized the cost structure for fiscal 2009 presented in the chart. He then referred to the testimony presented at the hearing on these rates that was held in Valhalla, New York on June 11, 2008. He explained that United Water of New Rochelle had objected to the use of the ten year regression analysis, claiming that the decline in consumption appears to be leveling off with the result, therefore, that consumption projected for fiscal year 2009 is underestimated. Mr. Kusterbeck stated that this point has merit and that it raises the question for the Board and DEP of what methodology should be used. Mr. Kusterbeck then referred to the testimony of the Kathy Lane of Newman/Dichter, the attorneys representing various upstate communities. The testimony had questioned the actual unit cost for water for fiscal year 2008. Mr. Kusterbeck explained that that number is simply a projection as actual expenditures and consumption numbers for fiscal year 2008 are not yet available. He then asked if there were any questions.

Ms. Gelber asked whether the real estate taxes paid by the Board were negotiated or aligned with the normal property rates for the upstate counties.

Robin Levine, the General Counsel of DEP, responded that the localities issue tax assessments annually and that DEP and the Law Department review these assessments and challenge them if appropriate. She pointed out that some properties are unique and hard to assess, while others are more typical. Ms. Levine further explained that the City is engaged in negotiations to achieve a long term settlement on tax matters with the upstate communities. She referred to an existing settlement with the town of Olive which has had a favorable impact and provides predictability over a ten year period.

Mr. Capoccia pointed out that when upstate taxes are expected to increase this gets passed on to local customers and that he felt that the consultants should look into this.

Mr. Tripp then stated that a presentation in the fall with respect to real estate taxes would be appropriate.

Ms. Levine responded in the affirmative.

Mr. Moss inquired as to whether any of the previously adopted upstate rates were being legally challenged and Mr. Kusterbeck responded that rates for fiscal year 2005 are currently subject to administrative review before DEC.

Ms. Davis inquired as to whether there would be more tax agreements with the upstate communities by next year's hearing and Ms. Levine responded that this is the goal of all the parties and that there is a lot of momentum towards this but settlement might not be reached with every entity by that time.

Ms. Gelber then inquired about the breakdown of assessments between areas that are east and west of the Hudson River. Ms. Levine explained that most of the assessments are west of the Hudson River because a larger part of the tax base and larger structures are located there. Ms. Gelber stated that it would be interesting to get a breakdown of assessments between areas east and west of the Hudson River.

Mr. Tripp and Mr. Kusterbeck then discussed possible approaches to reconsidering the use of the ten year regression analysis. Mr. Kusterbeck stated that this will be dealt with one way or another, either by DEC review in the future or by the Board itself next year once actual system water consumption for the current fiscal year is known and an assessment can be done. He also pointed out that for most of the past fifteen years the Board has undercharged upstate customers.

There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted:

**WHEREAS**, the Board is authorized pursuant to Section 1045-j of the New York City Municipal Water Finance Authority Act to establish rates and charges for services furnished by the Water System of the City of New York; and

**WHEREAS**, the Board has received a report dated May 2008 from the Amawalk Consulting Group LLC, Rate Advisor to the Board, on the cost of supplying water to upstate customers for the 2009 rate year and such report indicates that the anticipated unit cost of water supply service for municipalities and water districts north of the City in Fiscal Year 2009 will be \$900.31 per million gallons; and

**WHEREAS**, upon appropriate notice, a public hearing was held on June 11, 2008 in Valhalla, New York, concerning a proposed increase in the rates for water supply from the City system sold to users outside of the City pursuant to the Water Supply Act of 1905; and

**WHEREAS**, the Board has received a copy of the transcript with respect to such hearing, and has received a report and recommendations from staff regarding the proposed increase;

**RESOLVED**, that effective July 1, 2008, the regulated rate for water sold to users outside of the City from either the Croton or Catskill/ Delaware Systems that is within the allowance quantities of water set forth in Section 24-360 of the Administrative Code of the City of New York shall be increased to \$900.31 per million gallons; and the rate and charge for water provided to users outside the City which exceeds the allowance quantities of water set forth in Section 24-360 of the Administrative Code of the City of New York shall be continued at a level equal to the retail metered rate effective within the City of New York which as of July 1, 2008 shall be equal to \$3,088.24 per million gallons.

### **Approval of Consultant to Evaluate Expenditures, Revenue Sources and Alternative Water, Wastewater and Stormwater Rate Structures**

The next item on the agenda was approval of a consultant to evaluate expenditures, revenue sources and alternative water, wastewater and stormwater rate structures. Mr. Lawitts explained that a request for proposals was sent to eleven firms and that five responded although three of those firms combined into a single proposer. Mr. Lawitts further explained that an evaluation committee consisting of representatives of the Board, the New York City Municipal Water Finance Authority, the Office of Management and Budget, the Mayor's Office and DEP has reviewed the presentations

of the proposing entities and recommended the combined entity consisting of Booz Allen Hamilton, The Amawalk Consulting Group and Camp Dresser & McKee. He explained that the committee found the Booz Allen group to be the most thorough and responsive.

Mr. Capoccia inquired as to whether DEP staff would negotiate with Booz Allen with respect to price.

Mr. Lawitts replied that they would negotiate the price and schedule and that in some cases Booz Allen's proposed schedule is more accelerated than the schedule set forth in the RFP.

Ms. Davis asked if the fact that the winning firm was a combination of firms added to the cost structure.

Mr. Lawitts responded that the firm's price was based on hours and hourly rates and while Booz Allen's price had more person hours this reflected thoroughness.

Mr. Capoccia then inquired about the contemplated timeframe and Mr. Lawitts responded that the first phase of looking at cost components, rental payments, transfers, etc., which includes data gathering and analysis that will feed into the fiscal year 2010 rate discussion, was contemplated to take three months and the second part, alternative rate structures, was contemplated to take a year, but that Booz Allen had scheduled completion of these tasks in nine months.

Mr. Moss expressed concern that the combination of three firms could lead to disorganization and stated that it was important that they synchronize their activities. He also pointed out that since Booz Allen has worked for the Water Board in the past it is important that they challenge themselves and not just rely on their prior experience.

Mr. Lawitts stated that the evaluation committee would also function as a steering committee and would frequently review the project and provide feedback.

Mr. Tripp and Mr. Lawitts then discussed the importance of reviewing various alternatives and not just looking at the practices of other utilities.

It was agreed that the Board would receive regular updates with respect to this project. There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted:

**WHEREAS**, pursuant to Section 1045-g(8) of the New York City Municipal Water Finance Authority Act (the "Act"), the Board is authorized to enter into contracts and to retain private consultants on a contract basis for the purpose of obtaining professional or technical services to assist the Board in carrying out its responsibilities; and,

**WHEREAS**, in the interest of greater equity for rate payers, revenue stability, the encouragement of water conservation and best management practices with respect to stormwater discharges and the assessment of charges based on property-specific characteristics, the New York City Department of Environmental Protection (“DEP”) has identified to the Board a need for the services of a management consultant to evaluate current and projected expenditures and revenues, assess alternatives for water, sewer, stormwater and water conservation rate structures, examine new development charges, and to benchmark DEP’s current practices against other large water utilities; and

**WHEREAS**, Requests for Proposals (“RFP”) in connection with said Benchmarking and Best Practices Model were issued on June 6, 2008 to a total of eleven potential consulting firms and three proposals representing five of the firms solicited submitted technical and cost proposals for consideration and review; and

**WHEREAS**, the Board has reviewed a memorandum from Esther Siskind, Assistant Commissioner, DEP Bureau of Environmental Planning and Assessment, dated June 25, 2008, which sets forth a recommendation for the designation of Booz Allen Hamilton (“BAH”) to perform the necessary evaluations; and,

**WHEREAS**, in accordance with the Water Board’s Policy on the Procurement of Goods and Services, in particular, Section 4 (selection based on the best combination of technical merit and price) and Section 5.i. (prior approval of contracts where the cumulative value exceeds \$100,000), the Board finds the selection of BAH appropriate; be it, therefore,

**RESOLVED**, that the Executive Director is hereby authorized and directed to execute an agreement with BAH to evaluate current and projected expenditures and revenues and alternatives for water, sewer and stormwater rate structures in the City upon such terms and conditions as the Executive Director may deem reasonable and appropriate, provided however that the total compensation for services performed shall not exceed \$1,034,068.

### **Approval of Consultant to Evaluate and Support Fixed Asset Accounting Processes**

The next item on the agenda was approval of a consultant to evaluate and support fixed asset accounting processes. Mr. Lawitts explained that the Board had authorized a contract with Bruce Goodman, LLC (“Bruce Goodman”) in 2006 to provide assistance to DEP with respect to its fixed asset accounting, which impacts the financial statements of the Board as well. He further noted that

Bruce Goodman has been helpful in this matter but that additional work is required in connection with DEP's fixed asset accounting. He then asked the Board to authorize a two year extension of the contract with Bruce Goodman for an additional amount not to exceed \$150,000 with total compensation not to exceed \$237,500.

Mr. Moss then inquired as to whether Bruce Goodman would charge by the hour. Mr. Lawitts replied in the affirmative.

There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted:

**WHEREAS**, pursuant to Section 1045-g(8) of the New York City Municipal Water Finance Authority Act (the "Act"), the Board is authorized to enter into contracts and to retain private consultants on a contract basis for the purpose of obtaining professional or technical services to assist the Board in carrying out its responsibilities; and,

**WHEREAS**, the Board entered into an agreement on December 1, 2006 with Bruce Goodman, now known as Bruce Goodman, LLC ("Goodman"), in the amount of \$50,000 whereby Goodman reviewed and assessed the fixed assets policies and procedures of the New York City Department of Environmental Protection ("DEP") and made recommendations for revisions, the implementation of which would improve DEP's fixed assets reporting ("the Consulting Agreement"); and

**WHEREAS**, on January 2, 2008, the Board executed an amendment to the Consulting Agreement in the amount of \$37,500 for the provision of additional analytical services with respect to DEP's fixed assets policies and procedures; and

**WHEREAS**, the Board requires accurate and timely fixed asset reporting by DEP for purposes of utility plant asset accounting in conformance with generally accepted accounting principles, and the Board and DEP staff have identified a need for further assistance from Goodman in reconciling the Board's fixed assets inventory, DEP's year-end closing of financial transactions for financial reporting purposes and the preparation of the System's annual financial statements; and

**WHEREAS**, in accordance with the Water Board's Policy on the Procurement of Goods and Services, in particular, Section 5.i. (prior Board approval of contracts where the cumulative value exceeds \$100,000) and Section 6.iv. (waiver of competitive solicitation where the procurement is a continuation of existing services and it is desirable for purposes of continuity and compatibility), the Board finds such justification reasonable and appropriate in the present circumstances; it is therefore,

**RESOLVED**, that the Executive Director is hereby authorized and directed to execute a second amendment to the Consulting Agreement with Goodman to provide the additional services, upon such terms and conditions as the Executive Director may deem reasonable and appropriate, for an additional amount not to exceed \$150,000. Total compensation for services performed under the Consulting Agreement and its two subsequent amendments shall not exceed \$237,500.

**Approval of Amendment to Contract with Environmental Health and Safety Advisory Panel Member – Nautilus Consulting Group LLC (James Krantz)**

The next item on the agenda was approval of an amendment to the contract with Environmental Health and Safety Advisory Panel member Nautilus Consulting Group LLC. Mr. Lawitts informed the Board that the Commissioner of DEP had planned to be present to discuss this amendment but a scheduling conflict developed and she is unable to be here today. He apologized for the late submission of the item and explained that the need arose quickly in the last month. He further explained that a large number of audits with respect to environmental health and safety compliance must be performed by the end of December 2009 and that Jim Krantz and Nancy Penner of Nautilus Consulting Group have been working intensely on this project. The continuation of their work will facilitate meeting the requirements of the federal monitor with respect to DEP's compliance. He mentioned that the Arcadis contract had been extended previously and that the Arcadis and Nautilus contracts complement each other.

Ms. Davis then inquired as to whether the goal was completion of the audits or taking corrective action after the audits and Mr. Lawitts responded that the goal comprised both items.

Ms. Gelber then inquired as to the necessity for the Arcadis contract. Ms. Levine explained that Arcadis is providing support to enable projects that are no longer under supervision to meet required timelines.

Ms. Gelber further inquired as to the accomplishments of the consultants. Mr. Lawitts enumerated various achievements of Nautilus including reorganization of the Bureau of Water Supply to enable it to better to achieve environmental health and safety compliance and work with the office of the Chief of Staff to delineate the responsibilities of that office and individual bureaus.

Mr. Capoccia asked if other consultants would be required. Mr. Lawitts responded that- at this point, excepting agreements covered by the following item, additional consultants are not

anticipated. He explained that there was a meeting with the federal monitor and the monitor did not identify new areas that would need new consultant resources.

Mr. Moss asked if the Board could be provided with a spreadsheet of contracts approved by the Board without public letting since July 2007. Mr. Lawitts responded that he would provide a full set of currently active contracts divided between competitively procured contracts and extensions of contracts that were originally competitively procured.

Mr. Tripp then raised the issue of when supervision by the federal monitor will end. Mr. Levine described steps being taken and indicated that February 2009 would be the first opportunity.

It was then decided not to vote on this item until the following agenda item was discussed.

**Approval of Amendments to Consulting Agreements for Environmental Health and Safety Advisory Panel Members: Robert McGuire, Martin P. Lanahan and Deidre Daly**

Ms. Levine explained to the Board that under the environmental health and safety program there must be timely response to environmental health and safety concerns raised by employees under the complaint procedure. She noted that employees can use the telephone or e-mail to express concerns and that there is a 24/7 365 day hotline for these matters. She explained that if the concern is routine it is handled internally but if it relates to either retaliation or being ordered to do a job in violation of the environmental health and safety requirements, there is an investigation by the Investigatory Report Review Committee (the "IRRC"). She explained that for the last year the IRRC has included outside members consisting of Robert McGuire, Deidre Daly and Martin P. Lanahan. She further explained that the contracts with these individuals are coming to an end while the role of the IRRC continues. She enumerated their contributions so far, noting that they have been invaluable and requesting that their terms of employment be extended. She then asked that Robert McGuire's contract be renewed for a year with no additional funding as the amount of the current contract has not all been expended and with an option to renew for \$75,000; that -Martin P. Lanahan's contract be extended for one year at \$75,000 with an option to renew for an additional year at the same amount; and that Ms. Daly's contract be renewed for an additional year and amended to provide for an option to renew for an additional year. She noted that Ms. Daly had done work in a number of categories.

A discussion then ensued with respect to the kinds and volume of activities the different individuals billed for and the outcome of the complaints made by employees.

Mr. Capoccia questioned the need for the second year extensions and Ms. Levine responded that it would be possible to just extend for one year.

Mr. Tripp then summarized this modification to the original proposal, stating that the Nautilus contract would cover the current fiscal year and the following one and that the amendments with respect to Mr. McGuire, Mr. Lanahan and Ms. Daly would be for only one year.

There being no further discussion, upon motion duly made and seconded, the following resolutions with respect to the two preceding agenda items were unanimously adopted:

**Nautilus Consulting Group**

**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; and

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

**WHEREAS**, the Board and DEP both wish to ensure that the Systems are operated and maintained in a manner that complies with all applicable laws, rules and regulations; and

**WHEREAS**, in furtherance of this important objective the Board executed a consulting agreement (the “Agreement”), dated July 1, 2005 in the amount of \$100,000 between the Board and James Krantz (DBA the Nautilus Consulting Group, LLC), hereafter the “Consultant” to provide advisory services to DEP in the development and implementation of its Environmental Health and Safety (“EH&S”) Compliance Program; and

**WHEREAS**, on May 30, 2006, the Board executed an amendment to the Agreement in the amount of \$100,000 for a continuation of EH&S advisory services by the Consultant; and

**WHEREAS**, on September 15, 2006, the Board authorized a continuation of EH&S advisory services by the Consultant with the execution of a combined second and third amendments to the Agreement dated October 1, 2006 for an additional amount not to exceed \$150,000; and

**WHEREAS**, on June 19, 2007, the Board authorized a continuation of EH&S advisory services by the Consultant with the execution of a fourth amendment to the Agreement dated July 1, 2007 for an additional amount not to exceed \$150,000; and

**WHEREAS**, the current Agreement with the Consultant expires on June 30, 2008; and

**WHEREAS**, DEP identified additional unanticipated services in the amount of \$101,000 which it required the

Consultant to perform in FY2008 which necessitates an adjustment of the Consultant's authorized compensation amount for FY2008; and

**WHEREAS**, DEP has identified a need for continued EH&S related advisory services from the Consultant during the upcoming FY2009; and

**WHEREAS**, DEP has requested the Board to authorize an adjustment to the Consultant's authorized compensation for FY2008 and has determined it is necessary and desirable to continue to retain the services of the Consultant as DEP moves forward with its EH&S Compliance Program in FY2009; and

**WHEREAS**, the Board concurs in such determination and finds such requests reasonable and appropriate; and

**WHEREAS**, in accordance with the Water Board's Policy on the Procurement of Goods and Services, in particular, Section 5.i (prior Board approval of contracts where the cumulative value exceeds \$100,000) and Section 6.iv (waiver of competitive solicitation where the procurement is a continuation of existing services and it is desirable for purposes of continuity and compatibility), the Board finds such justification reasonable and appropriate in the present circumstances; it is therefore,

**RESOLVED**, that the Executive Director is hereby authorized and directed to execute a fifth amendment to the Agreement with the Consultant to compensate the Consultant for additional unanticipated services provided in FY2008 in the amount of \$101,000 and to provide for continued expert EH&S advisory services during FY2009 in an amount not to exceed \$252,000, and upon such other terms and conditions as the Executive Director considers reasonable and appropriate, provided that the maximum compensation payable to the Consultant including all previously authorized amounts shall not exceed \$853,000.

**Robert McGuire, Martin P. Lanahan and Deidre Daly**

**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; and

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

**WHEREAS**, the Board and DEP both wish to ensure that the Systems are operated and maintained in a manner that complies with all applicable laws, rules and regulations; and

**WHEREAS**, in furtherance of this important objective, the Board previously authorized the execution and delivery of consulting agreements between the Board and Robert McGuire, Martin P. Lanahan and Deirdre Daly, Esq. (the “Consultants”), to provide assistance to DEP in serving on the Investigatory Review Committee (IRC) pursuant to DEP’s Employee Concerns procedure; and

**WHEREAS**, the Board entered into agreements with Robert McGuire and Martin P. Lanahan on March 15, 2007 and with Deirdre Daly on July 1, 2007 to provide such assistance, each for a term of one year (the “Consulting Agreement(s)”); and

**WHEREAS**, the Consultants have not completed the work provided for in their Consulting Agreements; and

**WHEREAS**, DEP has determined that it is necessary and desirable to continue to retain the services of the Consultants as DEP moves forward with its Employee Concerns procedure; and

**WHEREAS**, DEP requests that the Board authorize an additional one-year extension of Mr. McGuire’s Consulting Agreement, without allocation of additional funds, and a renewal of Mr. Lanahan’s Consulting Agreement for one year, for an amount not to exceed \$75,000, so that Mr. McGuire and Mr. Lanahan may provide the additional services DEP requires; and

**WHEREAS**, DEP requests that the Board exercise its option to extend its Agreement with Ms. Daly for an additional year with fees and expenses not to exceed \$150,000; and

**WHEREAS**, in accordance with the Water Board’s Policy on the Procurement of Goods and Services, in particular, Section 5.i (prior Board approval of contracts where the cumulative value exceeds \$100,000) and Section 6.iv (waiver of competitive solicitation where the procurement is a continuation of existing services and it is desirable for purposes of continuity and compatibility), the Board finds such justification reasonable and appropriate in the present circumstances; it is therefore,

**RESOLVED**, that the Executive Director is hereby authorized and directed to execute amendments to the Consulting Agreements with each of the Consultants to provide for continued advisory services as follows: for Robert McGuire, a term of one (1) year without additional compensation (total authorized compensation to date shall not exceed \$75,000); for Martin P. Lanahan, a term of one year provided that maximum compensation for fees and expenses during such term shall not exceed \$75,000 (total authorized compensation to date shall not exceed \$150,000); and, for Deidre Daly, a term of one year provided that maximum compensation for fees and expenses during such term shall not exceed \$150,000 (total authorized compensation to date shall not

exceed \$500,000), and upon such other terms and conditions as the Executive Director considers reasonable and appropriate.

### **Approval of Discretionary Authority for Executive Director to Terminate Board's Contract with the Huron Consulting Group**

#### **Next Meeting**

The next item on the agenda was approval of discretionary authority for the Executive Director to terminate the Board's contract with the Huron Consulting Group. Mr. Lawitts noted that there was potential for litigation with respect to this item and requested that the meeting go into executive session. Mr. Tripp suggested that the dates for future meetings be discussed first. Pursuant to a discussion with respect to scheduling, the following schedule of meetings of the Board was agreed:

September 12, 2008

October 24, 2008

November 20, 2008

December 18, 2008

There being no further discussion, upon motion duly made and seconded, a motion for the meeting to go into executive session was unanimously adopted.

Subsequent to the meeting coming out of executive session, during which no formal action was taken, upon motion duly made and seconded, the following resolution was unanimously adopted:

**WHEREAS**, pursuant to Section 1045-g(8) of the New York City Municipal Water Finance Authority Act (the "Act"), the Board is authorized to enter into contracts and to retain private consultants on a contract basis for the purpose of obtaining professional or technical services to assist the Board in carrying out its responsibilities; and,

**WHEREAS**, in the interest of improved efficiency and reliability in operating the City's drinking water and wastewater collection infrastructure, the New York City Department of Environmental Protection ("DEP") had previously identified to the Board a need for the services of a management consultant to develop a Benchmarking and Best Practices Model for DEP's Bureau of Water and Sewer Operations ("BWSO"); and

**WHEREAS**, a Request for Proposals (“RFP”) in connection with said Benchmarking and Best Practices Model was issued on July 2, 2007 to a total of twenty-eight potential consulting firms, four of which submitted technical and cost proposals for consideration and review by BWSO staff; and

**WHEREAS**, on December 21, 2007 the Board approved the selection of Huron Consulting Group (“Huron”) to perform the necessary services for BWSO based on Huron having proffered the best combination of technical merit and price and thereafter the Executive Director on January 10, 2008 executed an agreement (“the Consulting Agreement”) with Huron in the amount of \$830,000; and

**WHEREAS**, DEP and BWSO staff have indicated to the Board that Huron’s performance to date has been less than satisfactory and the Executive Director has requested the authority to i) terminate the Consulting Agreement with Huron upon such terms and conditions as the Executive Director deems reasonable and appropriate if in his judgment Huron will not be able to provide satisfactory performance of the tasks set forth in the Consulting Agreement and ii) commence negotiations for an immediate replacement with the second highest-rated consulting firm that submitted a proposal in response to the July 2, 2007 RFP and to execute a new agreement with such second highest-rated consulting firm to perform the necessary services, upon such terms as the Executive Director finds reasonable and appropriate, provided that compensation under a new contract shall not exceed the second highest-rated consulting firm’s offer of \$790,000 adjusted for a reasonable allowance for inflation over the period of time elapsing since the original submission of proposals; and

**WHEREAS**, in accordance with the Water Board’s Policy on the Procurement of Goods and Services, in particular, Section 4 (selection based on the best combination of technical merit and price) and Section 5.i. (prior approval of contracts where the cumulative value exceeds \$100,000), the Board finds such justification reasonable and appropriate in the present circumstances; it is therefore,

**RESOLVED**, that the Executive Director is hereby authorized to terminate the Consulting Agreement with Huron if conditions warrant and upon such terms and conditions as the Executive Director may deem reasonable and appropriate; and be it further

**RESOLVED**, that the Executive Director is hereby authorized and directed to execute a new agreement with the second highest-rated consulting firm that submitted a proposal in response to the July 2, 2007 RFP, upon such terms and conditions as the Executive Director may deem reasonable and appropriate,

provided however that the total compensation for services performed shall not exceed \$790,000 plus a reasonable allowance for inflation over the period of time elapsing since the original date proposals were submitted.

**Adjournment**

There being no further business to come before the board, upon motion duly made and seconded, the meeting was duly adjourned.

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