



RECEIVER FOR THE CITY OF CHESTER

ORDER

**AUTHORIZING THE FILING OF CASE UNDER CHAPTER 9 OF THE
BANKRUPTCY CODE AND RELATED ACTIONS**

BY THE AUTHORITY VESTED IN THE RECEIVER
FOR THE CITY OF CHESTER
PURSUANT TO PENNSYLVANIA'S ACT 47 OF 1987
MICHAEL T. DOWEARY, THE RECEIVER
ISSUES THE FOLLOWING ORDER:

Whereas, on April 13, 2020, Pennsylvania Governor Thomas Wolf declared a fiscal emergency in the City of Chester (the "City") under the Pennsylvania Municipalities Financial Recovery Act, Act of 1987, P.L. 246, No. 47 ("Act 47"); and

On June 22, 2020, the Commonwealth Court of Pennsylvania determined that a fiscal emergency as defined by Section 602(A) of Act 47 continued to exist in the City and placed the City in receivership under Section 702(c)(2) of Act 47; and

Also on June 22, 2020, the Commonwealth Court appointed Michael T. Doweary (the "Receiver") as receiver for the City; and

Pursuant to an order entered by the Commonwealth Court on December 28, 2021, the City's receivership and Receiver's appointment were extended for up to two years; and

Section 706(a)(9) of Act 47 provides that a receiver shall have the power "[t]o file a municipal debt adjustment action under the Bankruptcy Code ([11 U.S.C. § 101](#) et seq.) and to act on the municipality's behalf in the proceeding. The power under this paragraph shall only be exercised upon the written authorization of the secretary. The filing of a municipal debt adjustment action under this paragraph and any plan of the receiver accepted by the Federal court shall be considered a modification of the recovery plan, except that the modification shall not be subject to judicial review under section 709. A recovery plan submitted to and approved by the Federal court under a Federal municipal debt adjustment action may include Federal remedies not otherwise available under this chapter;" and

On January 14, 2022, the Receiver requested written authorization to file a municipal debt adjustment action under the Bankruptcy Code and to act on the City's behalf in the proceeding

from Dennis M. Davin, then the Secretary (the “Secretary”) of the Pennsylvania Department of Community and Economic Development (the “DCED”); and

By letter dated February 8, 2022, the Secretary provided the Receiver with written authorization to commence a case under chapter 9 of the Bankruptcy Code on behalf of the City; and

Section 711(e) of Act 47 requires that the Receiver “shall consult with the [Municipal financial recovery advisory committee] prior to exercising” his powers under Section 706(a)(9); and

The Receiver did consult with the Municipal financial recovery advisory committee on September 13, 2022, regarding this issue; and

Budget projections show at least a \$46.5 million deficit in 2023, including \$39.8 million for past due pension payments and penalties; and

Section 708(a) of Act 47 provides that “The receiver may issue an order to an elected or appointed official of the distressed municipality or an authority to: (1) implement any provision of the recovery plan; and (2) refrain from taking any action that would interfere with the powers granted to the receiver or the goals of the recovery plan.”; and


Section 704(a) of Act 47 provides that “The confirmation of the recovery plan and any modification to the receiver’s plan under section 703 shall have the effect of: (1) imposing on the elected and appointed officials of the distressed municipality or authority a mandatory duty to undertake the acts set forth in the recovery plan; (2) suspending the authority of the elected and appointed officials of the distressed municipality or authority to exercise power on behalf of the distressed municipality or authority pursuant to law, charter, ordinance, rule or regulation to the extent that the power would interfere with the powers granted to the receiver or the goals of the recovery plan; and (3) superseding the emergency action plan developed by the secretary under section 602.”

It is hereby ordered that:

1. The City shall file a petition for relief under chapter 9 of the Bankruptcy Code (the “Petition”) in the United States Bankruptcy Court for the Eastern District of Pennsylvania (the “Bankruptcy Court”).
2. The Receiver shall have the exclusive authority to act on the City’s behalf in the chapter 9 bankruptcy proceeding.
3. The Receiver’s professionals, financial advisors, and attorneys, as applicable, are hereby authorized and directed, on behalf and in the name of the City, to execute and verify the Petition and related Bankruptcy Court filings and perform any and all such acts as are reasonable, appropriate, advisable, expedient, convenient, proper and necessary to carry out this Order, as and to the extent directed by the Receiver or his designee.

4. Any power granted to the City, elected or appointed officials of the City, or a municipal authority created by the City (as defined in Section 701 of Act 47, an "Authority") is suspended to the extent that such power interferes with the powers granted to the Receiver under Section 706(a)(9) of Act 47 to (a) file a case under chapter 9 of the Bankruptcy Code and (b) act on the City's behalf in the chapter 9 proceeding.
5. The City, its elected and appointed officials, and each Authority shall not interfere with the Receiver's or his professional's performance of duties in furtherance of acting on the City's behalf in the chapter 9 proceeding.
6. If any component of this Order is declared illegal, unenforceable or ineffective in a legal or other forum or proceeding, such component shall be deemed severable so that all other components in this Order shall remain valid and effective.
7. This Order is effective immediately upon the date of execution below and shall remain in effect until the Receiver, in his discretion, modifies, rescinds or replaces this Order in writing.
8. The Receiver may modify, rescind, or replace this Order at any time.
9. This Order shall be distributed to the Mayor and City Council members

Dated: November 10, 2022

By: 
Michael T. Doweary
Receiver
City of Chester

cc: Commonwealth of Pennsylvania DCED
Mayor Thaddeus Kirkland
Members of Chester City Council