

EXHIBIT H

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Neal R. Weaver, in his capacity as
Acting Secretary of the Department of
Community and Economic
Development,
Petitioner,

No. 336 MD 2020

v.

City of Chester,
Respondent.

Modification of Amended Recovery Plan

The Receiver submits this modification of the Receiver's Amended Recovery Plan ("Plan Modification") pursuant to Section 703(e) of Act 47.

The City of Chester is at a critical point in its history. Financially, it stands at the brink of bankruptcy with a severe structural deficit that cannot be addressed by one-time "fixes." Operationally, the City cannot reliably provide basic vital and necessary services to its residents, and it does not have the basic internal financial and personnel capabilities and policies to reliably provide basic governmental functions to its employees. Efforts to right Chester's ship up to this point have not worked. For Chester to survive and thrive again, it must take bold and significant steps.

Chester residents have borne the brunt of the City's situation. Despite receiving subpar services, Chester residents are among the highest taxed in the

Commonwealth, paying the second highest earned income tax rate at 3.75% behind only Philadelphia.¹ They have had to endure unwise contracts, such as the parking contract, and pay a myriad of fees including for trash, water, wastewater and stormwater. Chester's school district is also under receivership.

Chester residents also disproportionately bear the responsibility in Delaware County of having waste-related facilities located in their city that serve other municipalities and that harm Chester residents' quality of life. Chester is home to one of the largest trash incinerators in the country which burns not only most of the trash generated in Delaware County but also trash imported from Philadelphia, New York, Delaware and other locations. This facility would not be able to operate today but for grandfathered environmental standards applicable to it.

Additionally, the main sewage treatment facility for the Delaware County Water Control Authority ("DELCORA") is also located in Chester. DELCORA serves approximately a half million people and forty-six municipalities in Delaware and Chester counties. The treatment facility incinerates its sludge in Chester. DELCORA also proposes to construct an approximately 8.5 mile tunnel 100 feet below Chester in large part to convey wastewater from other communities currently being treated in Philadelphia to the Chester sewage treatment facility.

¹ The resident earned income tax rate for most Delaware County municipalities, if the municipality even has one, is 1%.

After over two and a half years in Chester, the Receiver and his team of municipal professionals have tried to address the City's deep financial and operational problems. These problems are by far the worst that the Receiver's team has ever encountered in their many years of financially distressed local government experience. The status quo has not worked, is not working, and will not work. The residents of Chester deserve better.

Having met with many Chester residents, community groups, entrepreneurs, business groups, non-profit organizations, and others who want to see Chester thrive, the Receiver is convinced that addressing Chester's problems is not an impossible task. There is a public will in Chester to change course. Residents are tired of the current situation and the drumbeat of bad financial and operational news. Other Act 47 cities, such as Reading and Scranton, were able to emerge from distressed status because they faced their problems head-on, brought in qualified professional management to run operations, made and executed tough decisions, and stayed the course to see those decisions through. Their leaders collaborated with the Act 47 team assigned to assist them and followed the recovery plans. Unfortunately, this has not happened in Chester.²

² The Receiver explained his approach on page 5 of the Amended Recovery Plan stating, "In my first Recovery Plan, I wrote that receivership provides an opportunity to solve long-standing problems, instead of pushing them out for several years for others to address. My responsibility is to provide an unbiased and candid view of the City's finances and operations and to work with elected City officials to do what is necessary to fix them. I believe in trying in good faith to

As Act 47 requires the Receiver to ensure the provision of vital and necessary services to Chester residents, and as the City is on the verge of a Chapter 9 bankruptcy filing, the Receiver files this Plan Modification to secure Court approval to fulfill his responsibilities as they relate to the provision of vital and necessary services. Through this Plan Modification, the Receiver seeks approval, or in some cases clarification or reaffirmation, of initiatives that allow him to complete the very difficult task that this Court has confirmed him to accomplish. By including many of these initiatives, the Receiver hopes to avoid multiple returns to the Court seeking mandamus.

The Plan Modification is organized into the following sections:

- Preliminary Matters and Definitions
- Receiver's Duty to Ensure Provision of Vital and Necessary Services
- Administrative Duties and Professional Management
- Core Internal Administrative Functions and Ethics
- Parking
- Stormwater Authority of the City of Chester
- Economic Development
- Conclusion

achieve consensus among stakeholders. If consensus cannot be reached, I am committed to using my powers as necessary to achieve fiscal recovery.” The Receiver reaffirms this approach.

Preliminary Matters and Definitions

Form of Plan Modification

Due to the urgency of this matter and for ease of review, rather than file an entirely new complete Plan document, the Receiver has filed only new or modified sections of the existing Amended Recovery Plan. The initiatives in the existing Amended Recovery Plan that are not specifically modified by initiative number will remain as is, but the Receiver will file a new completely modified Plan document if or when ordered by the Court. This Plan Modification only supersedes initiatives from the Amended Recovery Plan where specifically referenced. Unless specifically referenced by initiative number, initiatives from the Amended Recovery Plan as approved by this Court on June 8, 2021, remain in effect.

Severability of Initiatives

If an initiative or any part of an initiative in this Plan Modification is not confirmed by the Court, the Receiver requests that that initiative or that part of the initiative be removed and the remainder of the Plan Modification or initiative remain in effect.

Definition and Use of Word “Authority”

When the Receiver uses the term “authority” to refer to an authority without reference to a particular municipal authority it shall refer to an authority as defined by Section 701 of Act 47. Section 701 defines “authority” as “A municipal authority, parking authority or any other authority or corporate entity that is directly or indirectly controlled by a distressed municipality or to which a distressed municipality has power of appointment. The term shall not include a joint municipal authority.”

Receiver's Duty to Ensure Provision of Vital and Necessary Services

Although the Receiver's counsel has also separately filed a legal memorandum that addresses in detail the legal issues that Receiver expects the City to assert to block the Receiver's initiatives and to limit his authority and ability to remedy the fiscal issues that the City faces, the following section summarizes the Receiver's mandated duties under Act 47 as they relate to the City's provision of vital and necessary services.

In its mandate to the Receiver to ensure the provision of vital and necessary services, the General Assembly clearly tasked the Receiver with addressing City operations, not just finances. Under Act 47, one of the Receiver's key duties through the Recovery Plan is to ensure "continued provision of vital and necessary services." Section 703(b)(1)(i). Act 47 defines "vital and necessary services" as:

"[b]asic and fundamental municipal services, including any of the following:

- (1) Police and fire services.
- (2) Ambulance and rescue services.
- (3) Water supply and distribution.
- (4) Wastewater services.
- (5) Refuse collection and disposal.
- (6) Snow removal.
- (7) Payroll and pension obligations.
- (8) Fulfillment of payment of debt obligations or any other financial obligations." Section 701 (emphasis added).

The General Assembly's decision to not limit the Receiver's powers to a purely financial role was necessary to allow the receivership provisions of Act 47 to be effective and recognizes that municipal finances and operations are inextricably intertwined. A municipality which is in financial distress, particularly one that is on the verge of bankruptcy as Chester is, needs to manage its operations in a way that does more with less. Furthermore, providing vital and necessary services is not just a function of money.³ It requires ensuring that policies, personnel and technology are competent to address the tasks.

It would make little sense for the General Assembly to task the Receiver with ensuring that a municipality provide vital and necessary services, but prohibit the Receiver from actually effectuating that result. In fact, the General Assembly went so far as to impose duties and obligations on elected officials to implement the provisions of an approved plan and to suspend the authority of elected officials if their powers interfered with the receiver's powers or the goals of the recovery plan. Section 704(a) of Act 47 states in relevant part:

(a) Effect of confirmation - - The confirmation of the recovery plan and any modification to the receiver's plan under section 703 shall have the effect of:

³ Notably, the duty imposed on the Receiver in Section 703(b)(i) does not limit the requirement to "fund" vital and necessary services but rather states "provision" of vital and necessary services.

- (1) Imposing on the elected and appointed officials of the distressed municipality or an 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 an 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;

The language affecting the powers of elected and appointed officials in Section 704(a) is very broad and not limited solely to financial as opposed to operational areas.

Furthermore, anticipating arguments that a confirmed recovery plan or modification thereto that expanded or suspended elected officials' powers would constitute an unconstitutional change in the form of government, the General Assembly included a provision in Section 704(b)(1) that specifically declared that such requirements were **not** a change in the form of government. Section 704(b)(1) provides that "Confirmation of the recovery plan and any modification to the plan under section 703 *shall not be construed* to (1) change the form of government of the distressed municipality or an authority...." (emphasis added).

Many initiatives that the Receiver includes in this Plan Modification seek to establish the basic building blocks of a functional city government. To provide "external" vital and necessary services to its residents, a City must have a baseline foundation of core "internal" vital and necessary services such as human resources,

finance, procurement, and legal. Chester does not have this baseline foundation which is materially impacting the Receiver's ability to ensure the provision of "external" vital and necessary services.

As discussed in the Receiver's legal memorandum, the Receiver's initiatives do not change the City's form of government which, despite City official contentions, is not a "commission" form of government under the City's Home Rule Charter. Rather, the initiatives address the City's administrative organization and administrative duties of officials and employees which are set by ordinance and located in the City's Administrative Code.

Given the City's critical financial and operational circumstances, the Receiver cannot afford any further delay. As this Court noted in a December 23, 2020, Order approving the creation of a Chief Operating Officer, "[C]onstant oversight and involvement of this Court is not feasible or contemplated by Act 47, and such would delay actions that, to be fully realized, must occur on a day-to-day basis." December 23, 2020, Order at p. 2.

Administrative Duties and Professional Management

The Receiver includes this section because he does not have any other choice. He has tried to work with City elected officials to improve operations and implement basic city functions. He went to Court earlier this year in a mandamus action, but as will be discussed next, City officials simply ignored this Court's Order from that proceeding as well.

At the end of the day, the Receiver (or the Court) can mandate any initiative, policy or procedure that it wants, but if the individuals responsible for implementing it are incapable of doing so or refuse to do so and face no repercussions, then nothing will ever change and the Receiver will not be able to ensure the provision of vital and necessary services. Through the initiatives in this Plan Modification section, the Receiver seeks to clarify the administrative duties of City officials to eliminate interference and to create a baseline level of professional management required for the basic functioning of the City and for the provision of vital and necessary services.

In support of these initiatives, the Receiver first recounts a very recent incident where the City lost approximately \$400,000 in a "phishing" scheme in June 2022 but did not tell the Receiver until over three months later in violation of

the Court's March 22, 2022, Order from the March 4, 2022, mandamus action.⁴ (the "Original Mandamus Order"). This incident perfectly encapsulates why the Receiver's proposed initiatives addressing City elected officials' administrative duties must be confirmed. For completeness, the Receiver begins with background on the mandamus action.

March 4, 2022, Mandamus Action

On March 4, 2022, the Receiver filed a mandamus action with the Court seeking the enforcement of three Receiver orders, including one which sought to suspend Councilman William Morgan's administrative duties to act as the operational department head of the Department of Accounts and Finance which oversees the City's finance and human resources functions.⁵ (A copy of the Receiver's Mandamus filing is attached at Exhibit A). Chester's Home Rule

⁴ The Court amended paragraph 3 of its Original Mandamus Order on April 11, 2022.

⁵ After the mandamus hearing on March 14, 2022, the Receiver also filed a status report with the Court on March 18, 2022, informing the Court of two subsequent additional incidents involving the City's withholding of critical information. These two incidents were not immediately informing the Receiver of a letter from the IRS regarding approximately \$750,000 in penalties assessed to the City and waiting until three days prior to the resignation of the City's payroll clerk to inform the then-Interim CFO who was the payroll clerk's immediate supervisor. In the status report, the Receiver wrote, "The Receiver suspects that some City officials have either explicitly directed staff not to communicate directly with the Receiver's team or have strongly discouraged them from doing so. The Receiver believes that some City staff are thus placed in a very difficult position where they know that they should fully cooperate with the Receiver's team but are afraid to do so for fear of upsetting elected officials."

Charter permits, but does not mandate, that City Council members can also be appointed as operational department heads.

In the filing and at the hearing, the Receiver provided evidence that the Court relied upon to conclude that “Councilman Morgan and members of his team have engaged in conduct that has impeded Receiver’s ability [to] carry out the goals of the Amended Recovery Plan....” (Original Mandamus Order at p. 10).

As summarized in the Court’s Original Mandamus Order, the issues that the Receiver cited as impeding his ability to implement the Amended Recovery Plan were the following:

- failing to complete monthly bank reconciliations;
- making late and/or inaccurate federal tax payments, which caused the City to incur tax penalties of approximately \$750,000;
- approving reimbursements for the purchase of \$1,500 in gift cards without sufficient documentation;
- making improper “hazard” payments to certain employees totaling \$137,540;
- allowing the Mayor, the City Solicitor Schuster, Councilman Morgan, former Chief Financial Officer (CFO) Nafis Nichols, and three employees in the Human Resources Department to remain on an expensive health care plan that had been discontinued; and
- preventing the Interim CFO, who was appointed by Receiver, from fulfilling her duties and obligations under the Amended Recovery Plan. (Original Mandamus Order at p. 9).

In its decision, in addition to ordering compliance with some but not all provisions in the Receiver’s order, the Court ordered “Councilman Morgan and his team shall immediately share any future correspondence or information they

receive relating to the City's finances with Receiver and the Interim CFO.”

(emphasis added). (Original Mandamus Order at p. 4).

The Court did not require City compliance with the following provisions of the Receiver's Order:

- Mr. Morgan shall not perform any duties, take any actions or make any decisions that interfere with the duties of the Interim CFO (or her successor) or the decisions of such person with respect to any such decisions or duties as detailed in section 120.06 of the City's Administrative Code.
- Mr. Morgan shall not perform any duties, take any actions or make any decisions with respect to the City's day-to-day payroll, or the day-to-day expenditure of funds for any reason without the approval of the Interim CFO, or her successor. This does not prevent Mr. Morgan from voting on appropriations or payments in his capacity as a council member.
- Mr. Morgan shall not perform any duties, take any actions or make any decisions that relate to the oversight of the Finance and Human Resources Department.
- All City finance staff shall report directly to the Interim CFO or her successor. Mr. Morgan shall not have the ability to direct finance staff and shall make any requests of finance staff through the Interim CFO. Mr. Morgan shall not hold meetings with or contact finance staff without the approval of the Interim CFO.
- The City's Chief Operating Officer (COO) Cyrise Dixon shall become the authorized signer of checks. Mr. Morgan shall not be an authorized signer of checks.
- The Interim CFO shall have the ability to approve invoices for payments. Mr. Morgan shall not have the power to approve invoices

for payments.

- The COO shall have the ability to approve wire transfers. Mr. Morgan shall not have the power to approve wire transfers.
- Human Resources staff shall report directly to the COO. Mr. Morgan shall not have the ability to direct human resources staff and shall make any requests of human resources staff through the COO. Mr. Morgan shall not hold meetings with or contact human resources staff without the approval of the COO.
- ARPA project coordination shall be transferred to the Interim CFO and COO. All potential ARPA projects shall be listed on a document that is kept by the Interim CFO and COO and shall not be added to, changed or removed without the express written consent of the Receiver. Mr. Morgan shall not contact UHY which is the third-party providing professional services to the City to ensure compliance with ARPA.

As part of the Receiver's mandamus filing, the Receiver also noted his concerns that in December 2021, Councilman Morgan approved reimbursements to himself, and verbally directed a City employee to reimburse him from City funds for the purchase of \$1,500 in gift cards without sufficient documentation.⁶ With respect to the issue of an investigation into that incident, the Court wrote in its Original Mandamus Order, "At the hearing, City Official's counsel informed the Court that the City Solicitor is presently investigating Receiver's allegations of wrongdoing within the Finance Department and will take any necessary corrective actions resulting from his investigation. The Court will not interfere with the City's

⁶ The Receiver became aware of this incident because it was discovered by the then-Interim CFO Ms. Sheila Winfrey-Brown.

authority under its Home Rule Charter to investigate these matters internally, as long as the investigation is carried out in an ethical and impartial manner, and the City keeps Receiver apprised of its findings as the investigation continues.” (Original Mandamus Order at p. 11).

Per the Receiver’s May 31, 2022, and September 28, 2022, status updates to this Court, and continuing to today, the Receiver has not received any substantive update and does not believe that any such internal investigation ever occurred.

The \$400,000 Phishing Incident

On Friday, October 21, 2022, the Receiver received a call from Councilman Morgan informing the Receiver that the City was going to be sending out a press release that day about an alleged “phishing” incident involving the City where the City wired money at the direction of someone posing as the City’s insurance broker.⁷ Councilman Morgan’s call to the Receiver was the first time that the Receiver or any member of his team had been informed about the alleged incident. When the Receiver asked Councilman Morgan about the amount transferred, Councilman Morgan replied that it was approximately \$400,000.

⁷ “Phishing is a cybercrime in which a target or targets are contacted by email, telephone or text message by someone posing as a legitimate institution to lure individuals into providing sensitive data such as personally identifiable information, banking and credit card details, and passwords. The information is then used to access important accounts and can result in identity theft and financial loss.” <https://www.phishing.org/what-is-phishing>

The text of the City's October 21, 2022, press release, provided:

Notice of Phishing Attack

(CHESTER, PA) – Councilman William Morgan announced that Chester City Hall was impacted by a phishing incident. In response to this discovery, the finance team immediately notified the authorities and an investigation was initiated.

On June 8, 2022, an email was received from an individual posing as the city's insurance broker regarding the monthly insurance invoice. During the same timeline, the city was engaged in email conversations with the city's insurance broker regarding the same invoice. The person posing as the insurance broker used information that was almost identical to the emails received from the city's actual insurance broker. Due to the email chains, occurring at the same time with almost identical information a payment was issued. A wire payment was initiated in June, to the posing insurance broker for the employees' workers compensation insurance.

During an internal review of monthly invoices, this incident was discovered. The authorities and affected partners were contacted. The entities that were contacted included the Chester Police Department, Information Technology Consultant, Insurance Broker, Santander Bank and Chase Bank (receiving bank).

Councilman William Morgan (Director of Accounts and Finance) stated, "we are taking this incident seriously and within the last few months, we have caught multiple phishing attempts. We are continuing to work with the authorities and our partners regarding this incident."

(City's October 21, 2022, press release, attached as Exhibit B).⁸

Later that day on October 21st, the Receiver spoke with the City's Chief Operating Officer ("COO") who told him that he was first told of the incident by Councilman Morgan on the afternoon of October 20, 2022, which was the previous day. The Chief Operating Officer also told the Receiver that he had spoken with

⁸ This press release states that the date Councilman Morgan received the email was June 8, 2022. The police report, discussed in a moment, states that Councilman Morgan received the email on June 6, 2022.

the City's Interim Chief Financial Officer and that she had only learned of it when the Chief Operating Officer told her.⁹

The Receiver then called a meeting for Wednesday, October 26th, for a briefing on the incident. At the meeting, Councilman Morgan provided a document he prepared providing information on the incident from his perspective and stated that he was the individual who received the phishing email and wired the approximately \$400,000.

Also at the meeting, Councilman Morgan stated that he filed a police report with the Chester Police Department when he discovered what allegedly happened. Other than the date of the phishing email, Councilman Morgan's document did not provide other dates. The document provided by Councilman Morgan on the meeting on October 26, 2022, stated the following regarding information with respect to the Chester Police Department. "Report taken to follow their internal process and procedures on a situation of this magnitude. Police report forwarded to the Federal Trade Commission (FTC)."¹⁰

⁹ Note: Neither the Chief Operating Officer nor the current Interim Chief Financial Officer were employed by the City at the time the alleged incident occurred. The Chief Operating Officer began employment on August 15, 2022, and the Interim Chief Financial Officer began serving the City as a contractor on June 27, 2022. As noted in the Receiver's May 31, 2022, Status Update to the Court, Ms. Sheila Winfrey-Brown who was the Interim CFO at the time of the mandamus resigned from that position on April 29, 2022.

¹⁰ The Federal Trade Commission reporting is simply a reporting function. The FTC does not investigate individual matters such as these. From the FTC website: "We can't resolve your

The Receiver subsequently obtained a copy of the police report that Councilman Morgan filed. The report was dated July 12, 2022, and filed with the police officer permanently assigned to security at City Hall. The police report, which is attached at Exhibit C, stated as follows:

“On 07/12/2022 at approximately 1324 hrs. I, Ofc. McClain #317 was dispatched to City Hall in reference to Fraud. Upon arrival I, spoke with Councilman William Morgan B/M/31 of City Hall Council. Councilman Morgan who then advised that on 06/06/2022 about an insurance payment that he thought he made to Conner Strong. Mr. Strong is the city broker for Counter Strong and Buckelew.¹¹ He then received an email letting him know that it was time to pay again and that they never received last months payment. Councilman Morgan then responed to the email and send the invoice showing payment was made. The insurance company then advised Councilman that it was not sent to them, it was sent to a similar address but not the correct address. Also, a former employee name was used who no longer works for them. That is when councilman contacted the bank and police for further investigation.”

Notably, the police report does not mention the amount of the payment. The Receiver does not know whether this was because the information was not provided by Councilman Morgan or that it was provided and not transcribed. At this moment, the Receiver does not have detailed information as to what steps, if any, were taken by the Chester Police Department after the police report was taken. However, the Delaware County Times published an article on the incident on

individual report, but we use reports to investigate and bring cases against fraud, scams, and bad business practices.” See <https://reportfraud.ftc.gov/#/> as accessed on October 28, 2022.

¹¹ The City’s insurance broker is the firm of Conner Strong and Buckelew. There is not a Mr. Strong. Additionally, the police report states that Councilman Morgan received the email on June 6, 2022. The press release states that the date Councilman Morgan received the email was June 8, 2022.

October 22, 2022, that stated, “Police Commissioner Steven Gretskey said he was notified of the payment a few weeks ago, roughly two months after it happened, and that the incident remains under investigation.” A copy of that article is attached as Exhibit D and can be found at:

<https://www.delcotimes.com/2022/10/21/chester-victim-of-phishing-scam/>

On Thursday, October 27th, the Receiver’s Chief of Staff contacted the Delaware County District Attorney’s Office (“District Attorney’s Office”) to inquire whether the Chester Police Department had contacted them. The District Attorney’s Office has a unit that specializes in these types of incidents and was very recently involved in a high-profile cybercrime incident involving the Chester-Upland School District which serves the City’s children.¹² On Friday October 28th, the District Attorney’s Office told the Receiver’s Chief of Staff that they had

¹² In March 2021, the Chester-Upland School District announced that it had contacted the Delaware County District Attorney’s Office after it did not receive a subsidy payment from the Pennsylvania Department of Education. The School District believed that it had been a victim of a hacking or cybercrime. The story was reported in the Philadelphia Inquirer at (<https://www.inquirer.com/news/chester-upland-school-district-investigation-delaware-county-20210304.html>) and was well known in Chester.

Subsequently, on August 26, 2022, the Pennsylvania State Treasurer and Delaware County District Attorney announced that after a long investigation, they had recovered approximately \$10.3 million of the \$13 million subsidy payment. The District Attorney stated that detectives from his office found that, as part of the scheme, hackers hacked into the School District’s system and gained control of an employee’s account. This story was also reported in the Philadelphia Inquirer at (<https://www.inquirer.com/news/chester-upland-school-district-theft-hacker-email-delaware-county-district-attorney-20220826.html?outputType=amp>) and was well known in Chester.

not been contacted by the Chester Police Department until October 26, 2022, which was five days after the Delaware County Times article ran and more than three and a half months after the police report was filed.

On Monday, October 31, 2022, the Receiver sent a memorandum to the Mayor and City Council members summarizing what he had learned up to that point regarding the incident and asking for information.¹³ The Receiver asked the following questions:

1. Why, despite the fact that City employees knew of the approximately \$400,000 payment on July 12, 2022, and despite the Court's Order, did no one tell me or any member of my team until October 21, 2022, which is over three months later?
2. What other City officials or employees were made aware of the incident prior to me learning about it on October 21, 2022, and when were they made aware of it?
3. What investigation did the Chester Police Department do in regards to this incident? I am not requesting sensitive investigatory information, but rather information regarding the process such as when (or if) this was assigned to the Detective Bureau and whether and when any other outside agency was contacted for assistance.
4. Why did the Chester Police Department wait until October 26, 2022, to contact the District Attorney's Office which is the entity that investigates these types of crimes?

Putting aside the initial wiring of the money, Councilman Morgan's (and possibly other members of the finance department and others) subsequent action of not immediately informing the Receiver or the Interim CFO of the incident is a

¹³ A copy of that memorandum is attached as Exhibit E.

clear violation of the Court's Original Mandamus Order. In Paragraph 4 of its Original Mandamus Order, the Court ordered, "Councilman Morgan and his team shall immediately share any future correspondence or information they receive relating to the City's finances with Receiver and the Interim CFO." (emphasis added). A non-budgeted \$400,000 payment is undisputedly information "relating to the City finances." Three months transpiring from the filing of the police report to notifying the Receiver is undisputedly not "immediately."

As the Court knows from the mandamus action and prior status updates, this is not the first time that critical information was not provided to the Receiver in a timely manner and, based on the statements of Mayor Kirkland in a November 2, 2022, Delaware County Times article entitled "Chester loses \$400,000 to June 'phishing' scheme and didn't tell receiver until October," the Receiver has little hope that it will be the last. The following are excerpts from the article including both direct quotes from Mayor Kirkland and summaries of his statements by the reporter:¹⁴

... "I appreciate the work that Councilman Morgan has put into his efforts in catching this before it got real, real bad," said Kirkland. "I'm quite sure that Councilman Morgan was trying his best to find out if, in fact, this was really happening to the city. He wanted to make sure

¹⁴ The full article can be found at <https://www.delcotimes.com/2022/11/02/chester-loses-400000-phishing-didnt-tell-receiver/> and is attached as Exhibit F.

before he informed everyone else that this was real and not some kind of fake situation.”

...

Kirkland said that whether the information was provided in a time that suits the receiver or not, he has now been briefed and the matter is in the hands of the proper officials to investigate.

He added that even when county council knew right away that it had been the victim of a hacking scheme last year, it still eventually ended up having to pay a \$500,000 ransom to get key systems back in place.

“You’re darned if you do and you’re darned if you don’t,” he said. “From the receiver’s perspective, it would have been great if we could have informed them earlier. However, earlier, later, \$400,000 was transferred and it was caught, and no more money has been transferred. In hindsight, should something have been said earlier? Possibly so, but it still would be \$400,000 gone.”

The City is on the verge on bankruptcy, cash flow to make payroll and continue operations was then and remains now a top concern and a non-budgeted \$400,000 expense that the Receiver and his team only find out about three months after City officials discover it is stunning. The Receiver uses financial information provided by the City in his financial projections which he reports to the public, City creditors, this Court and potentially to a bankruptcy judge. The Receiver is left with the question of what else is out there that he and his team are not being

told?¹⁵ Even with an explicit court order, the City still continues its practice of withholding information from the Receiver, and the Mayor's cavalier response to a \$400,000 loss, which is almost the amount of one month's worth of pension checks from the police pension fund, is dumbfounding.

The Receiver is also concerned that this incident was not immediately reported upon discovery to the District Attorney's Office, which has a unit that specializes in these types of investigations and which was already engaged in a very high profile matter involving the Chester-Upland School District. It is possible that the incidents involving the Chester-Upland School District and the City could have been linked. Furthermore, it is also possible that the City may continue to have vulnerabilities and would have benefitted from the District Attorney's Office providing guidance, especially given what they may have learned from the Chester Upland School District incident. Finally, an investigation must take place to clear any City employee who may have been involved in the matter. The Receiver cannot fathom any legitimate reason for why this matter wasn't immediately referred to the District Attorney's Office and has not been provided with one.

¹⁵ It is also inexplicable that the Receiver's finance team was not made aware of this earlier. The Receiver's finance team meets weekly with City finance officials including Councilman Morgan and there were numerous opportunities for this information to be communicated.

This situation also needs to be viewed from an employment perspective. Regardless of Councilman Morgan's stated intent, his actions clearly violated this Court's order requiring him to immediately provide information "relating to the City's finances" to the Receiver. However, the response of the Mayor, who under the City Charter is tasked with "supervis[ing] the conduct of all city officers..." is to praise his actions. This sends other City employees the message that there are no negative employment consequences for refusing to provide relevant information to the Receiver in a timely fashion.

Additional Support for Plan Modification Initiatives

The phishing incident clearly demonstrates why the Receiver sought mandamus in March and why he is including the initiatives in this section. As will be further explained, the current administrative duties of elected officials effectively serving as autonomous department heads who can act (or not act) without consequence undermines the Receiver's ability to do his job and the City's Chief Operating Officer's ability to do his. Based on his nearly two-and-a-half year experience in Chester, the Receiver believes that the City's current administrative organization and allocation of duties is the single greatest operational obstacle to the City's ability to provide vital and necessary services.

City departments currently operate with little to no accountability and with department heads who are not qualified to run them. Managing the operations of a city, especially one that is on the brink of bankruptcy, requires a special skill set. If individuals serving as department heads do not possess such a skill set, and/or simply disregard City policies, no initiative in any recovery plan will be able to ensure the continued provision of vital and necessary services. To address Chester's significant operational needs, the focus must be on the effectiveness of providing vital and necessary services.

While the addition of a Chief Operating Officer (COO) has helped, City departments still effectively operate as different fiefdoms with little coordination between them and no clear person who is "in charge." City employees are caught in a no-win situation where they have been directed to do one thing by the COO or Receiver, but are then told not to comply by council members.

Multiple employees confidentially have told the COO that City elected officials have directed them not to comply with instructions from the COO or the Receiver.¹⁶ In these situations, the elected official does not inform the COO that they disagree with his directive. Rather, the elected official goes directly to the employee. The COO only finds out when he follows up with the employee to find

¹⁶ The Receiver will subpoena the COO to testify to these statements at any Plan Modification confirmation hearing the Court sets.

out why the employee has not executed the directive. Because the elected official cannot currently be disciplined or removed for their actions while they function as a department head, the COO and the Receiver are then placed in the position of deciding whether to discipline the employee even though it was the elected official who directed the employee to act otherwise. Publicly, of course, the employee will not say that the elected official told them not to follow the directive for fear of upsetting the elected official.

In such a system, there is no way ensure to accountability and consequently no way to effectively manage the workforce or implement the Amended Recovery Plan. At the moment, there is no ability for the COO or the Receiver to suspend an elected official's administrative abilities to serve as a department head if they refuse to follow City policies and therefore it is impossible to hold them accountable and fairly enforce City-wide policies. A further example, which will be discussed in the next section, involved the City making unauthorized payments to an employee who was incarcerated and not working for the City and not informing the Receiver of that situation. From a management perspective, the current situation is completely untenable and can only be solved by suspending elected official's administrative abilities to act as operational department heads.

Not only does the current administrative arrangement allow interference by elected officials with employees, but it also does nothing to ensure that the

individuals serving as department heads are even qualified for those important positions. Other than being designated by the Mayor, there are no further qualifications necessary for a council member to serve as a department head. There is no mandatory training nor any requirement to demonstrate basic competence in the areas the council member is overseeing.

To demonstrate that the aforementioned concerns are real and not simply hypothetical, the Receiver cites the following example. Prior to January 2022, a council member served as the department head for Parks and Public Property which is responsible for park maintenance, building maintenance and recreation activities. In January 2022, Mayor Kirkland appointed this council member as the head of Public Safety which oversees the fire department and the codes department. No public management professional would recommend a city replace its public safety director with the individual overseeing the parks and public property department who has no experience in public safety. Yet that's exactly what happened in Chester under the current administrative system.

The current City Administrative Code provides for a position that has similar powers to a City Manager. This position, which is currently vacant, is called the Chief of Staff. The enumerated powers and duties of the Chief of Staff position listed in the Administrative Code are broad and deal with the general management of the City and with oversight over the City's operations. Those powers and duties

include being responsible for “the proper and efficient administration of the affairs of the City,” “supervis[ing] and be[ing] responsible for the activities of all City Departments,” “see[ing] that all laws and ordinances are duly enforced,” and “establish[ing] lines of administrative direction and control for all City departments and agencies, and provid[ing] personal direction of all operating personnel through the establishment of administrative lines of procedure whereby he shall recommend the appointment or removal of all City-operating employees, not subject to civil service.” (Administrative Code Section 112.06).

Through the Receiver’s initiatives in this section, the Receiver seeks to empower the Chief Operating Officer to do his job. Both the Receiver and a unanimous City Council approved the hiring Mr. Leonard Lightner on July 27, 2022, after a nationwide search conducted by a professional search firm. Mr. Lightner previously served as the Chief Operating Officer for the City of Allentown and is also a 27-year U.S. Army veteran retiring at the rank of Command Sergeant Major. Mr. Lightner is qualified to serve in this role, has earned the respect and trust of City employees, and should be allowed to do his difficult job without being undermined by City elected officials.

Initiatives

The following initiatives are envisioned to work together to ensure professional management of the City's operations and therefore to ensure the provision of vital and necessary services to Chester residents.

Initiative WF03: Chief Operating Officer ("COO")

This initiative replaces initiative WF03 in the Amended Recovery Plan in its entirety.

The Chief Operating Officer position shall be made permanent. In addition to his current powers, the Chief Operating Officer shall also have the powers of the Chief of Staff as set forth in the City's Administrative Code.

New Initiative: COO Reporting

The COO shall report to the Receiver. City elected officials may contact the COO for the purposes of inquiry, but they shall not direct the COO relating to any matter in the line of his responsibilities.

New Initiative: Administrative Duties of Elected Officials

The administrative duties of City elected officials with respect to day-to-day operations shall be suspended and transferred to the COO or his designee. City elected officials may not direct a City employee relating to any matter in the line of the employee's employment. This initiative shall not apply to investigations by the Mayor pursuant to Section 11.3-303 of the City's Charter or to Section 11.3-304 relating to the emergency power of the Mayor.

New Initiative: Compliance with COO directives

City employees must follow the directives of the Chief Operating Officer relating to any matter in the line of their employment.

New Initiative: Interference with COO and Receiver Directives

City elected officials shall not interfere with the directives of the COO or the Receiver. Authority Board members shall not interfere with the directives of the Receiver.

New Initiative: Duty to Provide Information

All City elected officials, employees and contractors shall be required to provide any information in furtherance of their responsibilities that the Receiver or the COO requests. This initiative shall also apply to authorities with respect to information requested by the Receiver.

New Initiative: Ability to Audit

The Receiver shall have the ability to conduct or to have conducted operational, financial or forensic audits or studies of any part of the City or any Authority. City and Authority Officials and employees, including elected officials and board members, shall be required to fully comply with such audits or studies by providing all information requested including emails, texts, and other documents and by speaking with any individual conducting such audit or study.

New Initiative: Council and Board Agendas

Consistent with the situation of not being provided with information in a timely manner, the Receiver and his team have been surprised on numerous occasions by agenda items appearing on Council agendas that Receiver was not made aware about in a timely fashion so that he and his team could study them and ascertain their impact on the City's finances or operations. Such instances result in the Receiver and members of his team having to drop other important issues they are working on and turn their attention to the agenda item. Such agenda items often have deadlines attached to them such that if Council does not take action, then a potential negative consequence may occur.

For example, on the night of Wednesday, October 19, 2022, the Receiver received the agenda for a deliberative meeting on October 24, 2022, which included an item for approval of a significant stormwater project for the construction of what effectively is a lake-like stormwater basin in one of the City's parks. This project

raises many significant issues for the City including but not limited to liability, maintenance agreements, indemnification, and zoning.

The project had previously been raised conceptually with the Receiver months before on the weekly legal calls between the Receiver and the City and was a standing agenda item on those calls from May through mid-July. At the time, the City expressed concerns about liability issues for a body of water on City-owned property. The Receiver was told that no action was planned with the project and so it was removed from the weekly agenda list. Indeed, the last discussion at those weekly meetings was on June 7, 2022, where the City reported that it would recommend a meeting among the Stormwater Authority, the Receiver and the City. This was the last communication the Receiver received from the City on this project until the October 19, 2022, email with the agenda item for Council approval.

On Friday, October 21, 2022, the Receiver directed that the project be removed from the Council agenda pending a meeting to address the legal and liability concerns. The Receiver was then told that approval needed to be given at the next Council meeting or else the Stormwater Authority might not be able to receive a grant to fund the project.

On Monday, October 24, 2022, the Receiver and his Chief of Staff were contacted by the Mayor's executive assistant to ask if they could participate in a meeting with the Stormwater Authority that had already commenced at the time they were contacted. Neither the Receiver nor his Chief of Staff could participate. The Receiver reiterated his directive that he would not allow this item to proceed.

A meeting was then convened on Tuesday, October 25, 2022, among the City, the Stormwater Authority, and the Receiver to discuss the matter. The Receiver also convened a meeting with DELCORA to understand the wastewater aspects of the project. Ultimately, with caveats, the Receiver permitted the matter to proceed.¹⁷

However, on November 7, 2022 (the day prior to filing this Plan Modification), an agenda item again showed up on the Council agenda for the November 7, 2022, meeting eliminating the need for this matter to go through the City Planning Commission. In his email conditionally allowing this matter to go forward, the Receiver specifically advised that it may require submission to the City and County Planning Commissions since it involves land development. The agenda item, which again came out of the blue, appears to eliminate that requirement.

¹⁷ A copy of the Receiver's position is attached as Exhibit G.

Although in this situation the Receiver and the City were initially able to reach consensus to proceed, it was not clear whether the City would have acted on the project in contravention of the Receiver's directive. At least two days were lost having to scramble to gather a baseline amount of information on a substantial capital project. These occurrences where agenda items "pop up" are more than inconveniences. They require considerable time and attention and lead to decisions being made without full information. Furthermore, it is never clear whether Council will pull the agenda item or whether they will simply act on it.¹⁸ Additionally, as evidenced by the November 7, 2022, item, it is never clear that the City will adhere to decisions made previously.

Consequently, the Receiver shall have the authority to direct the City or Authority to remove items from their Council or Board agenda.

¹⁸ An instance where the City ignored the Receiver's directive to pull an agenda item was the subject of the March 4, 2022, mandamus filing where the Receiver became aware of agenda item which supported an application for an economic development liquor license, including consent for the use of the license, to a property partially owned by a City employee, who at the time was employed as the City's Business Development Director and is the ex-son-in-law of the Mayor.

Core Internal Administrative Functions and Ethics

Chester's ability to provide vital and necessary services to its residents depends on a basic level of core internal vital and necessary services including human resources, finance, procurement, and legal. If a city lacks such core internal services, it cannot manage its employees, cannot manage its money, cannot procure goods and services and risks violating the law. Chester lacks a basic foundation in all of these areas.

Since the Receiver's appointment, he and his team have had to expend considerable time trying to both develop and manage around significant and critical deficiencies in these core internal service areas. Because the deficiencies are so fundamental, the Receiver cannot ignore them, and the time he and his team need to spend on these issues is time that they cannot spend on other pressing City issues. He and his team have experienced the following:¹⁹

Human Resources

- Lack of basic City-wide employment policies and procedures (e.g., Family and Medical Leave Act (FMLA), etc.)
- Inconsistent administration and enforcement of policies and procedures that do exist

¹⁹ The Receiver and his team can provide specific examples and additional information on the following at any hearing the Court decides to set on the Plan Modification confirmation.

- Personnel decisions made by elected officials without consulting human resources or legal resulting in needing to re-do basic due process procedures for employees and potentially exposing the City to liability
- No centralized attendance or leave management
- Lack of basic human resources tools such as organizational charts and complete job descriptions
- Lack of management of employees on workers compensation or leave
- Inability to conduct basic employment investigations
- Allowing the Mayor, the City Solicitor Schuster, Councilman Morgan, former Chief Financial Officer (CFO) Nafis Nichols, and three employees in the Human Resources Department to remain on an expensive health care plan that had been discontinued

Budget and Finance

- Repeated incorrect payroll payments to employees requiring recalculations and retroactive adjustments
- Lack of basic financial reports such as budget-to-actual reports
- Extremely late audits (2019 audit should be released very soon; preliminary work is beginning for 2020 audit)
- Lack of internal controls resulting in situations such as the phishing incident described in the previous section of the Plan Modification
- Lack of budget process with departments such that departments do not know what their budgets are or how much they have left to spend
- Failure to seek reimbursement money for awarded grants

- IRS penalties of \$750,000 because of incorrect and late payroll reports
- Backlog of bills needed to be paid
- Inability to produce expenditure reports to the Receiver or City Council in a reasonable time prior to Council meetings at which they are approved

Procurement

- Lack of clear and transparent procurement policies and procedures

Legal

- Inability for City departments to receive timely legal advice
- Lack of training and guidance to departments to avoid employment and other liability

The Receiver recounts an incident that occurred earlier this year of an unauthorized payment to an incarcerated employee that demonstrates the needs for significant reform in the City's core functions as well as emphasizing need for professional management as outlined in the previous section of the Plan Modification. The Receiver informed the Court of this incident in a September 28, 2022, Status Update, but includes it here again for completeness.

At the end of June 2022, prior to the hiring of the City's COO, as part of a routine backpay calculation process for a previously ratified collective bargaining agreement, the Receiver's finance team identified a public works employee who

sporadically appeared in the payroll runs for the first four months of 2022. When the Receiver's team inquired about this employee, they were informed for the first time that the employee had been incarcerated since February 9, 2022, on multiple charges of crimes against a child.²⁰

During the time this employee was incarcerated, he was paid for 120 vacation hours in the pay period ending on March 27, 2022. In addition to the fact that 120 hours equates to 5 more days than the normal pay period, the collective bargaining agreement applicable to the employee does not provide for vacation to be paid out in this manner. Additionally, throughout the time the employee was incarcerated, the employee continued to receive City-paid health benefits.

The Receiver directed that the termination process move forward with this employee and he was finally terminated on July 29, 2022. However, the Receiver needed to direct an additional Loudermill hearing to occur because the City did not properly conduct the first one.²¹

²⁰ Despite having qualified labor counsel and a weekly human resources call with the Receiver and labor counsel where such matters are discussed, the City again did not inform the Receiver or labor counsel about this situation. Other employment matters, involving much less sensitive issues, are routinely brought to this call. The Receiver only discovered the situation because of questions stemming from his team's review of payroll records.

²¹ A Loudermill hearing provides an employee with the opportunity to present their side of an issue before an employer decides to terminate an employee.

After attempting to obtain information as to why this employee received these payments while incarcerated and not being satisfied with the answers, the Receiver issued an order on August 1, 2022, that labor counsel conduct an investigation and provide him with a written report as to what occurred. The order noted that labor counsel would be in contact with City officials to meet individually, and that information including documents and emails must be provided to them. A copy of that order is attached as Exhibit H.

Labor counsel has repeatedly attempted to set up a meeting to speak with Councilwoman Portia West and the Public Works director, but they have ignored these requests.

This incident, which should have been handled in a routine manner, highlights significant failures in several core areas:

Human Resources

- The individual was allowed to remain employed after exhausting his leave benefits
- The collective bargaining agreement applicable to the employee did not provide for vacation to be paid out in this manner
- There is no documentation indicating who approved the vacation payout
- Human resources did not contact labor counsel to discuss how to handle this sensitive matter

- The initial Loudermill hearing was not conducted properly

Finance

- Payroll paid the individual for 120 hours of vacation time in a pay period which equates to 5 more days than the normal pay period. This should have been a red flag in and of itself.
- There does not appear to be any documentation indicating who approved the vacation payout and subsequent inquiries by the Receiver have not produced an answer.

Legal

- Legal did not contact labor counsel to discuss how to handle this sensitive matter
- Legal did not ensure that the initial Loudermill hearing was conducted properly.
- Legal permitted the individual to be paid despite the collective bargaining agreement applicable to the employee not providing for vacation to be paid out in this manner.

The previous example is but one of the situations that the Receiver and his team have experienced where the City mishandles a routine matter and the Receiver's team needs to address it so that the City avoids potential liability. The fact that City funds were paid to an employee when he was not entitled to them demonstrates the lack of internal controls in and across these functional areas. In addition to the loss of funds, such action creates potential labor liability as this employee's union could argue that such a payment constitutes a past practice.

Finally, this incident also creates the impression that this employee received preferential treatment because he was liked by his department's leadership. One significant reason to have strong internal controls and to adhere to policies is to ensure that all employees are treated equitably regardless of any personal relationship they may have. This incident clearly demonstrates the need for professional management.

The Receiver requests the Court approve the following initiatives involving the City's basic administrative core functions and ethical operations.

Personnel and Human Resources Initiatives

The Receiver's ability to ensure that Chester provides vital and necessary services to its residents is directly related to his ability to ensure that the City has the proper personnel and policies to provide those services. Furthermore, a City on a brink of bankruptcy needs to manage its personnel as effectively as possible since it does not have the money to hire more people and it needs to ensure continued operations. Finally, if employees cannot perform their required duties at an appropriate level, and if City officials cannot or will not take action to address the situation, the Receiver must have the ability to make changes.

The first three initiatives in the human resources section deal with the need to ensure that City has qualified individuals to provide vital and necessary services.

Initiative WF02: Receivership controls to manage staffing levels and personnel

Note: This initiative replaces Initiative WF02 in the Amended Recovery Plan in its entirety.

“The City may not hire,rehire, suspend or terminate any personnel without the Receiver’s review and written approval. The City shall not create new positions or add to the City’s complement without the Receiver’s review and written approval.

The Receiver shall have the sole ability to initiate or approve any hiring; enact layoffs and/or terminations; convert full-time positions to part-time; restructure department operations including through consolidations or outsourcing; or reassign personnel, subject to the provisions of collective bargaining agreements if applicable. This shall include employees appointed by city elected officials per the Home Rule Charter. In making such decisions, the Receiver shall meet and discuss with the Mayor and City Council, but the Receiver shall have the power to enact any such decisions.

The Plan Modification also incorporates all other cost-control provisions of the Emergency Action Plan (EAP) which were also included in the Court-approved initial Recovery Plan including:

- Receiver approval is required for overtime incurred by non-police and non-firefighter personnel. Overtime usage for the police and fire departments shall be submitted to the Receiver for review, and the Receiver will monitor this closely because of its impact on the budget and pension liabilities.
- Where a legal obligation does not exist to continue providing benefits for former employees, the City shall cease providing benefits for those former employees and ensure that appropriate notice is provided to impacted individuals.”

New Initiative: Receiver ability to hire contractors on behalf of City or Authority

The Receiver shall have the sole ability to hire contractors (either individuals or firms) on behalf of the City or Authority to perform services for the City or the Authority. These services include services already being provided by the City or Authority. Additionally, new collective bargaining agreements shall include provisions that allow the Receiver or City to hire contractors to perform City services (i.e., to contract out) including but not limited to the collection of any taxes, fees or payments of any kind.

New Initiative: Residency requirement

The City has struggled to find qualified individuals to fill key roles within City government. Section 11.9-903(c) of the City's Charter provides that, "Where special skills are required, Council may at its discretion, employ qualified non-residents of the City in such cases where there are no qualified City residents available for the particular position involved." This initiative substitutes "the Receiver" for "Council."

The next group of initiatives involve the operations of the City's human resources department and seek to ensure the development, implementation and enforcement of basic City-wide human resources policies and procedures. The Receiver intends to obtain input from City elected officials and to work through the City's Chief Operating Officer to develop such policies and procedures. However, the Receiver must have the ultimate ability to ensure that such policies are developed, implemented and enforced.

New Initiative: Human Resources Policy Development, Implementation and Enforcement

The Receiver shall have the sole ability to develop, implement and enforce City-wide human resources policies and procedures and ensure that they are followed by all City departments through the COO. Such policies and procedures include but are not limited to workers' compensation, disability, leave, attendance, discipline, ethics and conduct. The Receiver's intent is to work through the City's COO to develop, implement, and enforce these City-wide policies and procedures.

New Initiative: Compliance with Human Resources Policies and Procedures

All City officials and employees must comply with City human resources policies and procedures. Consistent with Initiative WF02, the Receiver may ensure compliance through the COO including but not limited to termination.

New Initiative: Employee Investigations

As has been demonstrated repeatedly, City elected officials have failed to conduct internal investigations into personnel matters, including those that involve the expenditure of City funds.

The Receiver shall have the power to conduct investigations into City and Authority personnel matters and to review and approve any such investigation conducted by the City or Authority. City employees and elected officials and Authority Board members and employees must comply with and cooperate in the conducting of such investigations including but not limited to providing documents, emails, and statements and meeting with individuals conducting such investigations.

This initiative does not preclude City elected officials or Authority Board members from conducting their own investigations, but rather provides the Receiver with such an ability to do so and to review any investigation conducted by the City or Authority.

Finance/Budget

The first set of finance/budget initiatives involves the internal operations of the finance department to ensure proper internal controls, reporting and transparency of the expenditure of City funds.

New Initiative: Internal Controls

The Receiver shall be able to ensure that the City or any Authority has the proper internal controls for spending money. This initiative shall include the Receiver's

ability to analyze any current internal controls and develop, implement and enforce any internal controls that the Receiver believes are necessary.

New Initiative: Timely Expenditure Reports Prior to City Council Passage

At their meetings, City Council approves City specific expenditures to be paid. However, the finance department often does not provide City Council or the Receiver with those expenditure reports that Council will be approving until the actual day of the Council meeting or sometimes not at all. This prevents City Council and the Receiver from reviewing this important information in a reasonable time to ensure that the payments are appropriately approved.

Therefore, the City must provide Accounts Payable listings prior to any check run. The listing must be provided at least 24 hours prior to any transfer of funds.

Expenditure reports must be provided to the Receiver and City Council members at least six (6) days prior to any Council meeting at which they will be approved. Expenditure reports must include all checks, wire, ACH payments and transfers from all City bank accounts.

New Initiative: Auditor Selection

As of the filing of this Plan Modification, the most recent City audit completed is from 2018. The Receiver expects the 2019 audit to be released very soon. Work on the 2020 audit is just beginning.

It goes without saying that a municipality, particularly a financially distressed municipality, must have timely independent audits not only to report on the City's financial condition, but also to ensure that standards are being adhered to.

Therefore, the Receiver shall have the sole ability to determine the auditing firm who will perform City or Authority audits.

The second set of finance/budget initiatives involve City expenditures.

New Initiative: Budget and Budget Amendment Passage

The Receiver cannot ensure the continued provision of vital and necessary services without an appropriate budget or budget amendments being implemented to fund City operations. While the Receiver makes every attempt to reach consensus with City elected officials on City spending, there are times when the Receiver and City elected officials disagree. As the individual responsible for the provision of vital and necessary services and the individual tasked with addressing the City's financial condition, the Receiver must have the ability to enact those spending decisions that he believes are consistent with the Amended Recovery Plan, the goals of the Amended Recovery Plan and the goals of receivership.

Therefore, City elected officials shall be required to act to pass any budget or amendment to the budget as directed by the Receiver that does not violate Section 703(c)(1) which prohibits the recovery plan from unilaterally raising taxes.

New Initiative: Expenditure of American Rescue Plan Act Funds and Any Other Current or Future Federal and State Funds

Through the American Rescue Plan Act (ARPA), the City received \$30.4 million. This funding, along with the \$5 million received from the Commonwealth Department of Community and Economic Development, has prevented the City from running out of money.

The City is able to use some of this money to pay for positions which were eliminated during the pandemic and those whose job duties meet the health/economic impact provisions of ARPA. Currently, ARPA funds 12.5 City positions. ARPA also allows the City to spend a certain amount of money for general operations using a calculation referred to as "revenue replacement" which is based on the City 2019 revenues and revenues in the respective year. For 2022, the revenue replacement amount is approximately \$3 million. In 2025, however, due to the expiration of ARPA, the City will not be able to use any remaining funds to fund the employee positions or to support City operations which results in a significant projected deficit for 2025.

ARPA funds are a critical source of money to keep the City financially afloat. The City's financial condition may quickly change for a variety of reasons including possible earned income tax diversion to the Chester-Upland School District, health

insurance costs growing faster than projected, potential costs associated with Advanced Life Support (ALS) ambulance services, and the cost of any large, emergency repairs to City-owned buildings or vehicles which are in very poor condition. The Receiver must have the ability to access these funds in such a case.

It is also possible that in the future, the federal government or the Commonwealth of Pennsylvania may provide the City or an authority with funds such as for infrastructure either through a direct grant or via an application. Those funds would also help address the City's financial, operational and capital needs.

Therefore, the Receiver shall have the sole ability to direct how City ARPA funds are spent and any current or future federal or Commonwealth funds. This shall include but not be limited to Community Development Block Grant (CDBG) program funds. Additionally, the Receiver shall have the ability to develop policies and procedures regarding such spending and the reporting thereof which all City officials and employees must comply with.

Procurement

Fundamental fairness and compliance with the law requires a city to have a transparent and legal process for procuring goods and services. The City lacks a basic and consistent process for procuring services and executing contracts.

Section 706(a)(6) of Act 47 specifically provides the Receiver with the ability "to approve, disapprove, modify, reject, terminate or renegotiate contracts and agreements with the distressed municipality or authority, except to the extent prohibited by the Constitutions of the United States and Pennsylvania." The Receiver believes that the following initiatives are already authorized by Section 706(a)(6) of Act 47, but includes them here to avoid the need to seek mandamus with the Court in the event of a dispute with City officials.

Initiative: Development, Implementation and Enforcement of Procurement Policies

The Receiver and his team shall have the power to develop and implement procurement policies and procedures for the City that are transparent and compliant with the law. The Receiver shall also have the power to develop and implement such procurement policies for authorities as defined in Section 701 of Act 47. City and authority officials and employees must comply with such policies and procedures.

Initiative: Prompt Execution of Contracts

City officials and employees, including the City Solicitor, shall promptly execute contracts.

Initiative: Selection Committee for Request for Proposals

The Receiver shall have the sole ability to determine the members of a selection committee for a City or Authority request for proposals or any other procurement where a selection committee is convened. At least one member of City Council or Board Member of an Authority as defined in Section 701 of Act 47 (as applicable), selected by the Receiver, will be on any selection committee.

Initiative: Receiver Power to Enter into Contracts and Agreements on Behalf of the City and to Direct that Expenditures Be Made or Eliminated

The Receiver shall have the power to sign contracts and agreements on behalf of the City and any authority. Further, the Receiver shall have the power to direct expenditures be made in furtherance of implementing the Amended Recovery Plan and in fulfilling his duties under Act 47. City elected official and Authority Board members shall be required to appropriate any funds as directed by the Receiver for those contracts, agreements and expenditures. To ensure that appropriations do not violate Section 703(c)(1)'s prohibition against unilaterally levying taxes, and to ensure budget stability, City elected officials and Authority Board members shall also be required to eliminate budgeted expenditures as directed by the Receiver.

Legal

Initiative: Timely Written Legal Advice to City Departments

The City Solicitor shall provide timely written legal advice to City departments. This shall include but not be limited to the drafting and review of contracts and agreements.

Initiative: Disclosure of Non-Compliance with Court Orders or Amended Recovery Plan

As an officer of the Court, the City Solicitor has a duty to ensure that City officials and employees comply with any order of this Court. Additionally, as an appointed official, the City Solicitor is subject to Section 704(a)(1) which imposes “a mandatory duty to undertake the acts set forth in the recovery plan.” Therefore, should the City Solicitor become aware of a situation where a City official or employee is not complying with an order of this Court or with a confirmed recovery plan or plan modification, he shall immediately instruct the City official or employ to comply and he shall immediately inform the Receiver.

Ethics

As evidenced in the March 4, 2022, mandamus, the Receiver has expressed concerns about ensuring that the City is perceived as an ethical place that is attractive for companies to do business in it. In that mandamus, the Receiver objected to City Council passing a resolution in support of an economic development liquor license, including consent for the use of the license, at a property that was partially owned by the then-City Business Development Director who was previously the City’s Chief of Staff and who was also the ex-son-in-law

of the Mayor. At no point at the Council meeting, either before the vote or after, was it disclosed that this individual was a City employee or a relative of the Mayor.

In his order attempting to require that City Council reverse its action, the Receiver explained:

The ethical issues of this action should be obvious. If the City is to attract businesses to invest in it, which it desperately needs, businesses need to be assured that there is a level playing field in the City and that certain individuals, especially those related to elected officials, will not get preferential treatment.

Actions like these, which are not transparent and which directly benefit existing City employees who are also related to elected officials, create exactly the opposite perception and hurt Chester's ability to attract business investment.

While the Court found that the resolution supporting the economic development liquor license did not itself conflict with the stated goals or initiatives in the Amended Recovery Plan, the Court did conclude that "the Mayor and Council certainly should have been more transparent in the proposal and adoption of [the resolution]." (Original Mandamus Order at p. 8).

As the Receiver's Amended Recovery Plan states, "[Chester's] resurgence will be built upon a strong local economy and expanded tax base, which requires a strategic effort to attract and retain businesses and create job opportunities for the

local workforce that provide a living wage.” (Amended Recovery Plan at p. 89).

If businesses perceive the City as a place where certain individuals receive preferential treatment, they will not locate in Chester.

Initiative: Development, Implementation and Enforcement of Ethics Policy

The Receiver and his team shall have the ability to develop and implement an ethics policy for City elected officials, Authority Board members and City and authority employees that covers areas including but not limited to conflicts of interest, personnel decisions, and disclosure. City and Authority Officials shall be required to comply with this ethics policy.

Initiative: Receiver Ability to Conduct Investigations

The Receiver shall have the ability to initiate and conduct investigations. City and Authority officials and employees shall be required to comply with these investigations. The Receiver’s ability to conduct these investigations does not prohibit City or Authority officials from conducting investigations of their own.

Parking

The Court is well aware of the long saga involving the parking contract that the City entered into with PFS VII, LLC. On September 19, 2022, this Court found that the City's parking contract was void because the City did not follow the proper procurement procedures. The Receiver now needs to move forward with obtaining the services of another parking manager and conducting an independent parking study that is in the best interests of the residents and businesses of Chester.

Unfortunately for residents, but unsurprisingly, City officials are dragging their feet with allowing the Receiver to issue an RFP. At the request of the Receiver, the authorization to issue an RFP for parking services was before City Council at their meeting on September 28, 2022, however Council voted to table the resolution 2-1 (Councilmembers Morgan and West in support of tabling resolution, and Councilmember Roots against). The Receiver's Chief of Staff spoke at the public comment of that meeting expressing the Receiver's frustration that Council tabled the motion, which only sought authorization to issue an RFP.

Immediately following the Council meeting, the Receiver and the Receiver's Chief of Staff met with Councilman Morgan and Councilwoman West to ask why authorization for a parking RFP had been tabled. Both council members said that they were not prepared to tell the Receiver why at that time, but would be ready to meet the following week.

The Receiver and council members met the following week on October 5, 2022, to discuss the City's concerns. The City indicated that it believed that the appropriate RFP issuer should be the City's Parking Authority.²² On October 6, 2022, the Receiver emailed Mr. Duane Lee who is serving as the interim chairperson of the Parking Authority requesting a meeting with the Parking Authority members to discuss moving forward with a plan for parking in Chester.²³

The Receiver and his Chief of Staff met with Mr. Lee and other Parking Authority board members on October 11, 2022, to request that the Parking Authority act to authorize an RFP that would provide temporary parking enforcement services (including for the residential parking permit program) and a third-party parking study. Mr. Lee stated that the Parking Authority would review the matter and would let the Receiver know their position. The City's COO emailed Mr. Lee a draft of the proposed RFP later that same day.

Despite inquiries from the COO, as of the date of this filing which is nearly a month after the Receiver's meeting with the Parking Authority, the Receiver still

²² The City's Parking Authority is a superfluous entity that needs to be dissolved. Unlike other cities, Chester does not have the parking assets that necessitate a separate parking authority. In addition to being superfluous from an operational perspective, having a separate authority requires spending money on separate audits and separate counsel as well as needing to comply with administrative requirements. The City's parking authority was dormant for many years and its charter expired in 2016. The City re-established the Parking Authority on April 24, 2019.

²³ Mr. Lee is also employed by the City as the Deputy Director of Parks and Public Property.

has not received a decision from the Parking Authority. The COO told the Receiver that Mr. Lee said that the Parking Authority “had some questions” but did not provide those questions.

Nearly two months have passed from the Court’s decision finding the parking contract void. The Receiver is ready to have an RFP issued so that the City can move forward.

Initiatives

New Initiative: Dissolution/Termination of City Parking Authority

The City shall dissolve or terminate the Parking Authority at the Receiver’s direction. The City shall take all action, including passing resolutions and ordinances, to have any assets previously owned by the Parking Authority revert to the City and to bring parking management and enforcement back to the City proper.

New Initiative: Provision of Parking Services

Consistent with the initiative in the procurement section, the Receiver is specifically authorized to contract with a vendor for the provision of parking services including but not limited to enforcement, design of a comprehensive parking plan and implementation of a comprehensive parking plan. This authorization shall include but not be limited to the ability to issue a request for proposals, determine the selection committee, negotiate and execute a contract with a vendor for parking services including for equipment. The Receiver may do so either through the City or the Parking Authority.

Stormwater Authority of the City of Chester

The Stormwater Authority of the City of Chester (“SAC”) was incorporated by City Council under the Municipalities Authorities Act on October 12, 2016.²⁴ (A copy of SAC’s articles of incorporation is attached as Exhibit I). City Council appointed the first members of SAC’s board and have appointed or re-appointed all board members since this time. Section 7.4 of SAC’s bylaws, attached as Exhibit J, state “Any vacancy on the board shall be filled by the municipal governing body.” Therefore, the SAC is an “authority” as defined by Section 701 of Act 47 and is subject to the Receiver’s jurisdiction as further set forth in Act 47.

SAC levies fees on residents and businesses in Chester who must also pay Chester’s high taxes and other fees. The Receiver does not have clarity as to how SAC determines the specific rates charged to these residents and businesses; however, the SAC budget overview for FYE June 2021 (attached as Exhibit K) lists stormwater revenue excluding certificate fees to be \$3,482,608.51. This amount is approximately 35% of the City’s expected property tax revenues for 2023.

²⁴ On September 12, 2018, the City transferred to SAC, for \$1, its stormwater inlets via resolution.

According to the SAC's 2021 audit, SAC engaged the services of a collection agency in July 2021 and reports that the collection firm began the collections process on approximately 3,800 parcels. As of November 4, 2022, the Delaware County public access court system lists 1,588 municipal liens that SAC has placed on residents and businesses in Chester for stormwater payments owed.

By contrast, the same system lists 1,071 municipal liens that the Chester Water Authority, a larger entity that provides services to Chester residents, has placed on Delaware County residents and businesses. Further, according to the system, the Chester Water Authority has not filed a municipal lien matter after 2019. According to the system, SAC filed 4 municipal lien cases in 2018, 1,051 in 2021 and 538 in 2022.

Additionally, since its incorporation, SAC has applied for and received millions of dollars in loans from Pennvest for projects. Per SAC's 2021 audit, "[t]otal funding presently provided by Pennvest is \$33,084,941." (See SAC audit attached as Exhibit L at p. 7). This is obviously a significant amount of taxpayer dollars that will be required to be repaid through fees charged to SAC customers.

As the Court is aware, Chester residents and businesses already pay the second highest earned income tax rate in the Commonwealth. Additionally, they pay a myriad of other fees. Given the City's financial situation, taxes and fees may

further need to increase on these same residents. The Receiver wants to do his due diligence to ensure that the taxes and fees residents and business pay are set at the appropriate levels necessary to provide the services or whether some can be reduced through more efficient management or operations.

Furthermore, the Receiver is also concerned about what appear to be the very high number of SAC municipal liens on residents, businesses and non-profits. While he understands that individuals must pay their bills, it raises the question in his mind as to whether the fees that are being charged are appropriate.

Finally, given the City's grave financial condition, every option must be on the table including monetization of City assets. As the Receiver is pursuing the monetization of the Chester Water Authority, he also needs the ability to monetize the assets of the SAC if necessary.

Initiatives

New Initiative: Monetization of City Authorities

The Receiver shall have the sole authority and discretion to monetize any authority as defined in Section 701 of Act 47 including but not limited to the Parking Authority and the Stormwater Authority.

Initiative Clarification: SAC Included in Definition of Authority for Other Plan Modification Provisions

The Receiver notes that it is his specific intent that SAC is included in the definition of "authority" for other initiatives in this Plan Modification.

Economic Development

The Receiver's Amended Recovery Plan devotes an entire chapter to economic development within the City. The Receiver will not repeat this section and instead refers the Court to pages 89-100 of the Amended Recovery Plan. In this Plan Modification, the Receiver includes the following specific initiatives relating to the need for a comprehensive plan and relating to economic development incentives.

Initiatives

New Initiative: City and Authority Compliance with Update to Municipal Comprehensive Plan Without Delay

Initiative ECD03 in the Amended Recovery Plan provided that the “the City will work collaboratively with the Delaware County Planning Department, the Delaware Valley Regional Planning Commission and DCED to update its Municipal Comprehensive Plan (Vision 2020) which was created in 2012 and serves as the primary resource document for long-term land use planning decisions.” The City received a grant from DCED to pay for this study. Unfortunately, due to delays from the City Planner in providing information to the selected vendor after a long and unnecessarily difficult procurement process, the Receiver paused the Municipal Comprehensive Plan update so as not to waste taxpayer dollars.

The Receiver wishes to restart this critical study, but must ensure that the City, particularly the City Planner, as well as any authority cooperate by providing the information that the vendor requires, participating fully in the process, and not further delaying the update. Therefore, City and Authority officials and employees shall be required to cooperate with the Municipal Comprehensive Plan update by providing the information that the vendor requires, participating fully in the process, fully engaging the Receiver's team in every aspect of the process and by not further delaying the update. Consistent with Initiative WF02, the Receiver

may terminate any City or Authority official or employee who does not comply with this initiative.

New Initiative: Approval of Economic Development Incentives

From time to time, the City is presented with a project requesting an economic development incentive such as a reduction in the payment of property taxes that it would have otherwise have had to pay. Such economic development incentives obviously will impact City revenues. Therefore, any economic development incentive for a particular project must be approved by the Receiver.

Conclusion

The City of Chester is at a pivotal moment in its history and must take bold and significant steps simply to survive. The Receiver believes that he owes it to the City's residents, its employees, its retirees, and others to be candid and honest about what he sees and what he believes must happen to change Chester's course. Chester's residents deserve better. The Receiver respectfully requests that the Court confirm this Plan Modification in its entirety so that the Receiver can ensure that the City provides its residents with vital and necessary services.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Neal R. Weaver, in his capacity as
Acting Secretary of the Department of
Community and Economic
Development,
Petitioner,

No. 336 MD 2020

v.

City of Chester,
Respondent.

Exhibits to Modification of Amended Recovery Plan

- Exhibit A: Receiver Mandamus Filing (March 4, 2022)
- Exhibit B: City Press Release re Phishing Incident (October 21, 2022)
- Exhibit C: Police Report from Phishing Incident (July 12, 2022)
- Exhibit D: “Chester Victim of \$400,000 ‘Phishing’ Scam.” Delaware County Times (October 21, 2022)
- Exhibit E: Receiver Memorandum to City re Phishing Incident (October 31, 2022)
- Exhibit F: “Chester Loses \$400,000 to June ‘Phishing’ Scheme and Didn’t Tell Receiver Until October.” Delaware County Times (November 2, 2022)
- Exhibit G: Receiver Email to City Council re Stormwater Project Position (October 26, 2022)
- Exhibit H: Receiver Order re Payments to Incarcerated Employee (August 1, 2022)
- Exhibit I: Stormwater Authority Articles of Incorporation
- Exhibit J: Stormwater Authority By-laws
- Exhibit K: Tab Stormwater Authority Budget Overview FYE June 2021
- Exhibit L: Stormwater Authority Financial Statements June 30, 2021 and 2020

Exhibit A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Dennis Davin, in his capacity as
Secretary of the Department of
Community and Economic
Development

Petitioner,

v.

City of Chester,
Mayor Thaddeus Kirkland and Council
Members William Morgan, Elizabeth
Williams, Portia West, and Stefan
Roots,

Respondents.

No. 336 MD 2020

ORDER

And now, this ____ day of March 2022, upon the consideration of the
Petition for Writ of Mandamus by the Receiver for the City of Chester, in
accordance with Section 709 of Act 47 as amended, and the City's response
thereto, it is hereby ORDERED that the elected and appointed officials of the City
of Chester, specifically Mayor Thaddeus Kirkland and Council Members William
Morgan, Elizabeth Williams, Portia West, and Stefan Roots, shall:

1. IMMEDIATELY RESCIND the \$10,000 salary increases that certain City
elected officials granted themselves for 2022 in violation of WF27 of the
Receiver's Modified Fiscal Recovery Plan;

2. Reverse Resolution 28-2022 which supported an application for an economic development liquor license, including consent for the use of the license, to a property partially owned by a current City employee;
3. Comply with the Receiver's March 2, 2022 Order regarding the City's finance and human resources departments' staff and internal controls.

BY THE COURT:

_____J

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Dennis M. Davin, in his capacity as
Secretary of the Department of
Community and Economic
Development

Petitioner,

v.

City of Chester,
Mayor Thaddeus Kirkland and Council
Members William Morgan, Elizabeth
Williams, Portia West, and Stefan
Roots,

Respondents.

No. 336 MD 2020

Receiver for the City of Chester Petition for Mandamus

The Receiver for the City of Chester (the “Receiver”), Michael Doweary (“Doweary”), files this Petition for Mandamus pursuant to Section 709 of the Municipalities Financial Recovery Act, 53. [P.S. Section 1107.709](#), as well as 53 [P.S. Section 1107.704](#), [1101.706](#) and [1101.708](#) of the same law and the Receiver’s Amended Fiscal Recovery Plan (the “Plan”) for the City of Chester (the “City”), which was approved by this Court on June 7, 2021, and thus made binding on the City and its elected officials.

*The Urgency of This Matter
and the Critical State of the City*

The City of Chester is running out of time. The City stands on the brink of bankruptcy. But for federal rescue plan funding and a \$5 million emergency loan

from the Commonwealth's Department of Economic and Community Development (DCED), the City would have run out of cash last year. The City's fiscal situation is just as precarious this year. The City owes its pension funds approximately \$37,000,000 in missed payments, its police pension fund has the equivalent of approximately 6-7 months of benefits left, and pension costs are expected to again increase significantly next year. Simply put, the City desperately needs help and the actions that some of its elected officials have taken which have necessitated this filing not only violate the Amended Recovery Plan and its goals, but also make it much more difficult to obtain that help and to put the City back on solid financial footing.

The Receiver files this Petition asking this Court to enforce the Plan and the powers of the Receiver. The relief the Receiver requests is clearly envisioned by and an integral part of Chapter 7 of Act 47. The Receiver has attempted to work with the City, but it is clear that without Court intervention, some of the City's elected officials will continue to block the Receiver's efforts and will refuse to comply with the Plan. The Receiver and the residents of Chester simply do not have the luxury of time to allow this interference by some elected officials to continue.

The Requested Relief

As detailed further below, and in the accompanying memorandum of law incorporated herein by reference, the Receiver requests this Court to issue a Writ of Mandamus upon Mayor Thaddeus Kirkland, in his official capacity, and all other members of the City of Chester City Council, William Morgan, Elizabeth Williams, Portia West, and Stefan Roots, (the “Elected Officials”), directing and mandating that they:

- a. Comply with the Receiver’s Order dated December 23, 2021, Act 47 and the Plan by rescinding the \$10,000 salary increases that certain elected officials granted themselves for 2022. [The Receiver’s December 23, 2021 Order is attached thereto as Tab “A”];
- b. Reverse Resolution 28-2022 which supported an application for an economic development liquor license, including consent for the use of the license, to a property partially owned by a current City employee [March 2, 2022 Order regarding Resolution 28-2022 attached thereto as Tab “B”]; and
- c. Comply with the Receiver’s March 2, 2022, Order regarding the City’s finance and human resources departments’ staff and internal controls. [March 2, 2022 regarding Compliance with Plan attached thereto as Tab “C”].

In support of this Petition, the Receiver avers as follows:

The Parties

1. The City is a city of the Third Class under Pennsylvania law, which prior to June 22, 2021, was operating under a Home Rule Charter.
2. The Respondents are the Mayor and the elected members of City Council for the City. Those individuals include Elected Officials identified previously.
3. This action is being brought against all of the foregoing individuals in their official capacities in their respective positions as elected officials for the City.

The City's Receivership Status

4. The City was designated as a distressed city under Act 47 in 1995.
5. On June 22, 2020, this Court determined that a fiscal emergency, as defined by Section 602(A) of Act 47, continued to exist in the City and declared the City to be in Receivership pursuant to Section 702(c)(2) of Act 47.
6. On June 22, 2020, this Court also appointed Michael Doweary as the Receiver for the City.
7. Pursuant to Act 47 and the Court's June 22, 2020, Order the Receiver submitted an initial Recovery Plan which this Court confirmed in an order dated October 19, 2020.
8. Pursuant to the Court's October 19, 2020, Order, the Receiver submitted a Modified Recovery Plan (the "Plan") on April 7, 2021.

9. Hearings on the Receiver's Plan were conducted before this Court on May 5 and May 7, 2021.
10. The City participated in those hearings and made no objections to any of the Plan provisions referenced in this mandamus petition.
11. In an order dated June 7, 2021, this Court approved the Receiver's Plan.
12. In an order dated December 28, 2021, this Court extended the Receivership for the City for up to two (2) years.

Count I: Mandamus

The City Council's Decision to Award Certain City Council Members a Pay Raise in Direct Violation of Workforce Initiative WF27 of the Plan, the Receiver's Order to Comply with WF27 and Act 47

The City's Budgeting and Salary Ordinance Process

13. Paragraphs 1 through 12 above are incorporated herein by reference as if the same were fully set forth herein.
14. The Third Class City Code requires the City to pass a budget no later than December 31 of a given year. [11 Pa. C.S.A. Section 11809\(a\)](#). The City's budget encompasses the funding for all the City's personnel positions, including the salaries for all elected officials, such as the Mayor and City Council.
15. As noted in the Plan, prior to 2020, each City Council member and the elected Controller earned \$35,000 and the Mayor earned \$41,000.
16. In 2018, prior to Receivership, the Mayor and City Council acted to raise the salaries of Council members and the elected Controller by \$25,000 (or 71.4%) to

\$60,000 and the salary of the Mayor received by \$34,000 (or 82.9%) to \$75,000.

The salary increases took effect in 2020 for the Mayor and two Council Members.

17. Later in 2020, the Governor declared a fiscal emergency in the City and the City was placed in Receivership under Act 47. [Court's June 22, 2020 Order.]

18. During the 2021 budget process, the City agreed to lower the salary of the Mayor from \$75,000 to \$65,000, the Controller's salary from \$60,000 to \$50,000 and City Council members set to earn \$60,000 to \$50,000. Council members who were due to earn \$35,000 in 2021 did not receive a salary reduction.

19. The reduced salaries were part of a budget agreement between the City and the Receiver negotiated in 2020 to have City Council pass the 2021 budget. As part of the agreement, the Receiver agreed to the City's request to keep certain individuals employed, including the Mayor's son-in-law Ronald Starr, even though the Receiver had wanted to eliminate those positions. The reduction in salary was not a one-time gratuity as clearly evidenced by the Plan provision, Initiative WF27.

20. Initiative WF27 specifically addressed the issues at hand and provided:

WF27: Mayor, City Council and Controller salaries

Prior to 2020, each City Council member and the elected Controller earned \$35,000 and the Mayor earned \$41,000. In 2020, two Council members and the elected Controller received \$25,000 increases to \$60,000 and the Mayor received a \$34,000 increase to \$75,000.

During the 2021 budget process, the City agreed to lower the salary of the Mayor from \$75,000 to \$65,000, the Controller's salary from \$60,000 to \$50,000 and City Council members set to earn \$60,000 to \$50,000. Council members who were due to earn \$35,000 in 2021 did not receive a salary reduction.

The City shall take action to change City ordinances to reflect that the new salary going forward for the Mayor is \$65,000, and the new salary for Council Members and the Controller is \$50,000. The new salary level for Council members currently earning \$35,000 will take effect at the beginning of the new term for those particular Council seats.

[The Plan, WF 27, at 83-84 (the Plan is attached hereto as Tab "D")].

21. The City and the Mayor participated in the hearings for the Receiver's Modified Recovery Plan which were conducted before this Court on May 5 and May 7, 2021 and objected to one portion of the Plan which it subsequently withdrew, but did not object to the WF 27 Initiative.

22. The \$10,000 reduction in salary still provided the Mayor with a \$24,000 increase (or 58.5%) over his pre-2020 salary and other elected officials with a \$15,000 increase (or 42.9%) over their pre-2020 salaries.

23. As part of the 2022 budget process with the Receiver and the Receiver's team (including the Receiver's lead municipal finance consultant and the Receiver's Chief of Staff) and the City, Mayor Thaddeus Kirkland and Councilman William Morgan told the Receiver that the budget that City Council would pass would restore the \$10,000 salary increases that were eliminated in 2021

and by WF27 of the Plan. The City's attempt to restore those \$10,000 increases violated the Plan that this Court had approved on June 7, 2021. The Receiver's team objected to restoring those increases.

24. On December 23, 2021, after receiving notice of the City's intent to violate the Plan, the Receiver directed the Mayor and City Council that a budget be introduced and approved with salaries for Elected Officials that complied with the Plan. [Attached as Tab "A"].

25. On December 27, 2021, Councilman William Morgan responded to the Receiver's December 23, 2021, Order stating that the City Council intended to restore the \$10,000 salary increases [Attached as Tab "E"].

26. On December 29, 2021, the City Council passed a budget that restored the \$10,000 salary increases in violation of the Plan and the budget.

27. Furthermore, on January 11, 2022, the Receiver brought the elected official salary increase issue to the Municipal Financial Recovery Advisory Committee ("MFRAC") for discussion. [A copy of the presentation by the Receiver's Chief of Staff is attached as Tab "F"].

28. At that public meeting, which was live-streamed and recorded, Mayor Kirkland and Councilman William Morgan again reiterated that they would not comply with WF27.

29. In a January 13, 2022, article in the Delaware County Times on this issue, Mayor Kirkland is quoted taking the position that the 2021 agreement to reduce elected official salaries by \$10,000 was temporary, a position that is completely contradicted by the plain language of WF27. [A copy of that article is attached at Tab G]. It can also be found online at:

<https://www.delcotimes.com/2022/01/13/receiver-intends-to-go-to-court-over-chester-elected-officials-salaries/>.

30. The Plan contains a variety of action items and initiatives, including Initiative WF27 which directly addresses this very situation. Initiative WF27 is quoted previously. [The Plan, WF27, at 83-84 (Tab “D”).]

31. Plan Initiative WF27 provides the authority for the Receiver to take the actions that he took in this case, including issuing his December 23, 2021 Order and filing this Petition.

32. The Receiver issued his December 23, 2021, Order pursuant to section 1101.708 of Act 47 to implement the plan, specifically WF27.

33. Pursuant to 53 P.S. Section 11701.709(a), the Receiver files this Petition for Mandamus to “secure compliance with the order issued under section 708” of Act 47.

34. The Court’s approval of the Plan on October 19, 2021 had the effect of imposing the Plan on the City and its elected and appointed officials regardless of

any law, charter, ordinance, rule or regulation to the contrary. 53 P.S. Section 11701.704(a).

35. Section 704(a) of Act 47 mandates that this Court’s approval of the Plan “impos[es] on the elected and appointed officials of the distressed municipality [i.e., the City] **a mandatory duty** to undertake the acts set forth in the recovery plan.” 53 P.S. Section 11701.704(a)(1).

36. Section 704(a)(2) of Act 47 further commands that the approval of the plan “suspend[s] the authority of the elected and appointed officials of the distressed municipality...pursuant to law, charter, ordinance, rule or regulation to the extent that power would interfere with the powers granted to the receiver or the goals of the recovery plan.” 53 P.S. Section 11701.704(a)(2).

37. Act 47 further authorizes the Receiver broad authority to effectuate and enforce the Plan’s provisions, including the authority to require the City to act as necessary to implement the Receiver’s Plan. 53 P.S. Section 11701.706(a)(1).

38. Specifically, section 706(a)(1) instructs that “[n]otwithstanding any other provision of law, the receiver shall” have the power and duty to “require the distressed municipality [the City]...to take actions necessary to implement the recovery plan under section 703.” 53 P.S. Section 11701.706(a)(1).

39. The Plan has already been approved by this Court, and as a result, the powers of the City’s elected officials that may otherwise exist under applicable law

are suspended with respect to all issues relating to the Receiver's attempt to effectuate WF27 and the City's officials have the "mandatory duty" to undertake all acts set forth in the Plan. [53 P.S. Section 11701.704\(a\)\(1\)](#).

40. Those suspended powers include but are not limited to the powers to prepare a salary ordinance that is contrary to Initiative WF27 or otherwise interferes with the Receiver's implementation of the Plan or the goals of the Plan.

41. Any power that the City or the Elected Officials may have had or thought they had with respect to any issue provided under the Plan, including WF27, is suspended to the extent it interferes with the implementation of the Plan and the goals of the Plan. [53 P.S. Section 11701.704\(a\)\(2\)](#).

42. The issuance of a mandamus pursuant to [53 P.S. Section 11701.709](#) upon an elected official is appropriate where, as here, it is "necessary to secure compliance with the Plan."¹

¹ Generally, mandamus is an extraordinary writ which "lies to compel the performance of a ministerial act or mandatory duty where there is a clear legal right in the plaintiff, a corresponding duty in the defendant, and a lack of any other adequate and appropriate remedy at law." *Township of Bensalem v. Moore*, [620 A.2d 76, 79](#) (Pa. Commw. 1993); *Bobick v. Fitzgerald*, [207 A.2d 878, 880](#) (Pa. 1965). This standard is different from the standard contained in [53 P.S. Section 1101.709\(a\)](#). The Receiver maintains the correct standard in this action is that found in Section 709 of Act 47, but the facts of this matter would clearly satisfy the general mandamus standard based upon the duties and rights of the Receiver and the impact of the Plan as mandated by the Legislature in Act 47. Furthermore, the Legislature clearly contemplated the time sensitive nature of a receiver's mandamus petition, as Section 709(a) requires the court to grant or deny the petition within fourteen days of the filing.

43. As a result of the Plan and the provisions of Act 47 cited above, the Mayor and all elected officials in the City have a legal and affirmative duty to undertake the acts set forth in and to implement the Plan, particularly to pass a budget with salaries of elected officials and the Mayor as mandated by the Plan. 53 P.S. Section 1101.704(a).

44. Initiative WF27 provides the Receiver with the authority to take the action that was taken in this matter.

45. The City's actions are patently and directly contrary to Initiative WF27 and interfere with the Receiver's implementation of the Plan which was approved by this Court.

46. The issuance of a mandamus upon an elected official is appropriate in this matter. Based on the legislative mandate found in section 704(a)(1) and (2) and 706(a)(1), the Elected Officials have a duty and obligation to comply with the Plan, including WF27.

47. Through their actions highlighted above, the Elected Officials have done just the opposite. They have failed to comply with WF27 and have attempted to interfere with the implementation of the Plan by unilaterally increasing their own salaries while the compensation of many City employees has been reduced and other employees have been laid off.

48. Section 709(a) provides that this Court “shall grant the relief requested” in the Receiver’s Petition if the Court determines that the Receiver’s order “was issued in compliance with this chapter.

49. Essentially, the Receiver is merely requesting the Court to order the City’s officials to comply with an Order and Plan that was previously issued and approved by this Court when it approved the Plan on June 7, 2021.

50. The City officials’ refusal to cooperate with the Receiver has caused delay and has impeded the implementation of the Plan as required by Act 47.

51. The delay caused by City officials is prejudicing the Receiver by preventing the implementation of WF27 Initiative and further by unnecessarily complicating the Receiver’s ability to fully engage in other critical issues, such as negotiations with the City’s unions and retirees to deal with pension issues.

52. As explained by the Receiver’s Chief of Staff at the January 11, 2022, MFRAC meeting, reinstating these salary increases makes it even more difficult to achieve necessary changes in collective bargaining agreements, or with retiree pensions and health care, or with tax/fee increases as affected individuals will and have asked why they are being asked for give-backs when elected officials have had their salaries increased by over 71% in the last two years.

Count II: Mandamus

City Council's Refusal to Comply with the Receiver's Directive to Refrain from Supporting an Application for an Economic Development Liquor License, Including Consent for the Use of the License, to a Property Partially Owned by a City Employee

53. Paragraphs 1 through 52 above are incorporated herein by reference as if the same were fully set forth herein.

54. On February 22, 2022 the Receiver became aware of an agenda item for the February 23, 2022 City Council Meeting involving Resolution 28-2022, which supported an application for an economic development liquor license, including consent for the use of the license, to a property partially owned by Ronald Starr, who is currently employed as the City's Business Development Director and is the son-in-law of the Mayor.

55. On February 22, 2022, the Receiver emailed the Mayor, City Council and the Solicitor and requested that Resolution 28-2022 be pulled from the agenda in order to "discuss ethical issues surrounding this resolution." [Tab "H"].

56. After the City Solicitor informed the Receiver's Chief of Staff that the City intended to move forward with the resolution, the Receiver sent a subsequent email to directly order that the Resolution be removed from the agenda. [Tab "H"].

57. The Mayor and City Council disregarded the order and passed the resolution anyway without disclosing that Mr. Starr was a current City employee and relative of the Mayor.

58. The Amended Recovery Plan directly addresses economic development and states that “The City’s resurgence will be built upon a strong local economy and expanded tax base, which requires a strategic effort to attract and retain businesses and create job opportunities for the local workforce that provides a living wage.”

See Tab D, P. 89.

59. The Amended Recovery Plan highlights the importance of economic development and the need to attract businesses to invest in the City.

60. However, businesses must be assured that there is a level playing field in the City and that no person or business receives preferential treatment from City Administration or elected officials because of who they work for or who they are related to.

61. Actions like Resolution 28-2022, which was done without any level of transparency and benefited a City employee who was related to the Mayor, create the opposite perception and hurt the City’s ability to attract business investment.

62. On March 2, 2022, the Receiver issued an Order to the Mayor and City Council to reverse Resolution 28-2022. See Tab B.

63. On March 2, 2022, the Mayor verbally informed the Receiver that he and the Council would not comply with the Order.

64. It is appropriate to issue a Mandamus due to the Mayor’s refusal to comply with the Receiver’s March 2, 2022 Order regarding Resolution 28-2022.

65. The Order was issued in order to protect the City's Economic Development, which is an integral part of the Amended Recovery Plan (See Tab D, p. 89-100) and a part of the Receiver's statutory duty under Act 47.

66. The City's action is directly contrary to the Amended Recovery Plan which was approved by this Court.

67. The issuance of a Mandamus is proper in this matter, as the Elected Officials have a duty and obligation to comply with the Plan, including the Economic Development section.

68. Section 709(a) provides that this court "shall grant the relief requested" in the Receiver's Petition if the Court determines that the Receiver's order was "issued in compliance with this Chapter."

69. The Receiver is requesting that this Court order the City's officials to comply with the March 2, 2022 order regarding reversing Resolution 28-2022, as that action has impeded the implementation and goals of the Plan as required by Act 47.

Count III: Mandamus

The City's Repeated Violation of the Receiver's Orders to Implement Changes Required by the Plan and Necessary to Achieve the Goals of the Plan to Fix Competency and Performance Issues in the City's Finance and Human Resources Department that are Interfering with the Receiver's Ability to Implement the Amended Recovery Plan and Threaten the City's Ability to Provide Vital and Necessary Services as Defined Under Act 47

70. Paragraphs 1 through 69 above are incorporated herein by reference as if the same were fully set forth herein.
71. Act 47 mandates that the Receiver's Plan ensures that the City will be able to provide vital and necessary services, which is defined to include the payment of payroll and pension obligations. Section 701 and 703(b)(1).
72. The City's Finance and Human Resources departments are integral to the Receiver's ability to continue to provide for vital and necessary services for the City.
73. Councilman William Morgan ("Councilman Morgan") has served as the Director of Accounts and Finance which supervises the City's Finance and Human Resources departments since September 2016.
74. The Receiver's team has encountered a number of actions taken by Councilman Morgan which impede the Receiver's ability to fulfill his statutory duty under Act 47 and to implement the Amended Recovery Plan.

75. Because of those actions, on March 2, 2022, the Receiver issued an order to the City which addressed staffing and internal controls of the City's Finance and Human Resources departments . [Tab "C"].
76. Councilman Morgan's actions that led to the Receiver's directives are detailed at length in the Order. [Tab "C"].
77. By way of example, these actions include the following:
1. Incorrect payment of salaries and longevity to police officers and firefighters. These incorrect payments directly violate Initiative WF 08 of the Amended Recovery Plan, p. 74.
 2. Mr. Morgan verbally instructed payroll staff to pay certain employees a total of \$137,540 in violation of a directive and the law. Additionally, this amount was not budgeted or formally authorized by Council, and the City will need to make cuts to account for the unauthorized payment. This action violated FIN 03 on p. 60 of the Amended Recovery Plan.
 3. The City has incurred IRS Tax penalties of approximately \$750,000 due to late or inaccurate payments. FIN 02 on p. 60 of the Amended Recovery Plan specifically addresses the needed improvements of and importance of accurate financial reporting.
 4. Councilman Morgan has refused to allow the Interim CFO to fulfill her duties [which was the subject of a previous order by the Receiver dated November 8, 2021 and is attached thereto as Tab "I"] by refusing to give her access to the buildings, financial system, an email address, excluding her from meetings and has directed staff to seek his approval from before providing her with information.²

² After the City's former CFO left the City, Councilman Morgan, with the support of the Mayor, expressed his desire to become the City's CFO. The Receiver instead selected another individual to serve in that role and Councilman Morgan became very upset. Upon meeting with the Interim CFO that the Receiver selected, Councilman Morgan told her that she was a "outsider."

5. In December 2021, Councilman Morgan approved reimbursements to himself, and verbally directed a City employee to reimburse him for the purchase of \$1,500 in gift cards without sufficient documentation, and to date, has not provided the requested documentation to the Interim CFO.
 6. In November 2020, while conducting a review of employees on the City's health care plans, the Receiver's team discovered seven City employees who remained on a very expensive health care plan that had been discontinued for active employees. Those seven employees were Mayor Thaddeus Kirkland, Solicitor Ken Schuster, Councilman William Morgan, the former Chief Financial Officer, and the three other employees of the City's human resources department. After the Receiver brought this to the attention of the former City Chief Financial Officer, those employees were removed from those health care plans. FIN 01 on p. 59 of the Amended Recovery Plan directly involves employees on the wrong health care plan.
78. These actions, as well as the other actions detailed in the March 2, 2022 Order, impede the Receiver from implementing the Amended Recovery Plan and fulfilling his statutory duties.
79. On March 2, 2022, Solicitor Ken Schuster, at a meeting with the Mayor and all other council members except Councilmember Roots, verbally informed the Receiver that the City would not comply with all of the provisions of the March 2, 2022 order regarding the Departments of Finance and Human Resources.
80. As such, the Receiver is requesting that this Court issue the Writ of Mandamus and require the City to comply with the March 2, 2022 order.
81. Section 704(a) of Act 47 mandates that this Court's approval of the Plan "impos[es] on the elected and appointed officials of the distressed municipality

[i.e., the City] a mandatory duty to undertake the acts set forth in the recovery plan.” [53 P.S. Section 11701.704\(a\)\(1\)](#).

82. Section 704(b) of Act 47 further commands that the approval of the plan “suspend[s] the authority of the elected and appointed officials of the distressed municipality...pursuant to law, charter, ordinance, rule or regulation to the extent that power would interfere with the powers granted to the receiver or the goals of the recovery plan”. [53 P.S. Section 11701.704\(a\)\(2\)](#).

83. Here, the Receiver requests this Mandamus to protect his ability to implement the Plan under Section 704(a) and (b), as this Mandamus seeks to have Councilman Morgan’s authority suspended only in his role as the Director of the Finance and Human Resources departments, as his role in that capacity has impeded the Receiver’s ability to implement the Plan.

WHEREFORE, based on the foregoing, the Receiver requests this Court to issue the attached Writ of Mandamus to require all elected and appointed officials in the City of Chester to take all necessary action to comply with WF27 and immediately rescind such salary increases; to reverse Resolution 28-2022 which supported an application for an economic development liquor license, including

consent for the use of the license to a property partially owned by a current City employee; and to comply with the Receiver's March 2, 2022 Order regarding the City's finance and human resources departments' staff and internal controls."

Respectfully submitted

Dated: March 4, 2022

By: 

John P. McLaughlin, Esquire
Attorney I.D. No. 49765
Tiffany Allen
Attorney I.D. 323629
Benjamin Patchen, Esquire
Attorney I.D. No. 316514
Campbell Durrant, P.C.
One Belmont Avenue,
Suite 300
Bala Cynwyd, PA 19004
Email: jmclaughlin@cdblawn.com
tallen@cdblawn.com
bpatchen@cdblawn.com

*Attorneys for Receiver for the City of
Chester, Michael Doweary*


CERTIFICATE OF SERVICE

I, John P. McLaughlin, hereby certify that on this day I served the foregoing document upon Mayor Thaddeus Kirkland, and Council Members William Morgan, Elizabeth Williams, Portia West, and Stefan Roots, in their official capacities, in the manner indicated below, which service satisfies the requirements of Pa. R.A.P. 121:

Kenneth R. Schuster
334 Front Street
Media, PA 19063
Solicitor for the City of Chester
Via First Class Mail

Kenneth R. Schuster
334 Front Street
Media, PA 19063
Solicitor for the City of Chester
Via email at ken@schusterlaw.com

Dated: March 4, 2022

By: 
John P. McLaughlin
Campbell Durrant, P.C.
One Belmont Avenue,
Suite 300
Bala Cynwyd, PA 19004
Email:
jmclaughlin@cdblaw.com

*Attorneys for Receiver for the
City of Chester, Michael
Dowearry*

VERIFICATION

I, Vijay Kapoor, Chief of Staff for the Receiver for the City of Chester, verify that the statements made in the foregoing ***Petition For Mandamus*** are true and correct to the best of my knowledge and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

By: _____


Vijay Kapoor

Exhibit B



City of Chester Office of Mayor Thaddeus Kirkland Press Release

Office of Mayor Thaddeus Kirkland

Chester City Hall
1 Fourth Street
Chester, PA 19013

Date: Friday, October 21, 2022
FOR IMMEDIATE RELEASE

Contact: Amanda Johnson
Press Secretary
Cell: 484.213.5695, Office: 610.447.7718
ajohnson@chestercity.com

Notice of Phishing Attack

(CHESTER, PA) – Councilman William Morgan announced that Chester City Hall was impacted by a phishing incident. In response to this discovery, the finance team immediately notified the authorities and an investigation was initiated.

On June 8, 2022, an email was received from an individual posing as the city’s insurance broker regarding the monthly insurance invoice. During the same timeline, the city was engaged in email conversations with the city’s insurance broker regarding the same invoice. The person posing as the insurance broker used information that was almost identical to the emails received from the city’s actual insurance broker. Due to the email chains, occurring at the same time with almost identical information a payment was issued. A wire payment was initiated in June, to the posing insurance broker for the employees’ workers compensation insurance.

During an internal review of monthly invoices, this incident was discovered. The authorities and affected partners were contacted. The entities that were contacted included the Chester Police Department, Information Technology Consultant, Insurance Broker, Santander Bank and Chase Bank (receiving bank).

Councilman William Morgan (Director of Accounts and Finance) stated, “we are taking this incident seriously and within the last few months, we have caught multiple phishing attempts. We are continuing to work with the authorities and our partners regarding this incident.”

Exhibit C



Incident Report

CITY OF CHESTER POLICE DEPARTMENT
24TH DISTRICT
160 E 7TH ST
CHESTER, PA 19013

Phone: (610)447-7931

| | | | | | | |
|------------------|-------------|-------------|--------------------|----------------|----------------------------|--------------------------|
| Incident # | | Reference # | | Municipality | CHESTER CITY (301) | |
| 2022-20255 | | | | Report Type | OFFENSE | |
| | | | | Location | 1 E 4TH - CHESTER 19013 | |
| | | | | Landmark | | |
| | | | | Premise | GOVERNMENT/PUBLIC BUILDING | |
| Criminal Code | Title | : | 10 | Point of Entry | | |
| | Section | : | 162.12 | Meth. of Entry | | |
| | Sub-Section | : | | Patrol Zone | MAD Grid | |
| | Description | : | Records to be Kept | Reported | 07/12/2022 @ 13:24 (Tues) | |
| UCR Codes | 1100 FRAUD | | | | Discovered | 07/11/2022 @ 09:00 (Mon) |
| | | | | | Last Secure | 07/11/2022 @ 09:00 (Mon) |
| | | | | | Received | 13:24 Dispatched 13:24 |
| | | | | | Arrived | 13:24 Cleared 13:35 |
| | | | | | Status | FURTHER INVESTIGATION |
| | | | | | Disposition | |
| | | | | Clear Date | 07/12/2022 | |
| | | | | Badge | 317 - OFF DAVID MCCLAIN | |

Investigating Officer

Signature

Date

Approving Officer

Signature

Date

CITY OF CHESTER POLICE DEPARTMENT

Printed by: KYLE BATTINIERI (10/27/2022 10:34:17 AM)

Persons Involved

MORGAN, WILLIAM

Arrest Date :

Disposition Date :

| Role | Incident Classification | How Charged | Disposition |
|-----------------|-------------------------|-------------|-------------|
| REPORTING PARTY | 1100 FRAUD | | |

Alias
Age-DOB - / /
Race **BLACK**
Sex **MALE**
Ethnicity **NON-HISPANIC**
Marital Stat **SINGLE**
Residency **Resident**
SSN
Gang
Tattoo
Clothing
GBM Id
-Entered / /
-Released / /
OLN/State
Injury

Height **'56"**
Weight **155**
Hair **BLACK**
Eyes **BROWN**
Build **MEDIUM**
Complex. **MEDIUM**

Home Addr
Home Ph #
Work Ph # **(610)447-7790 Ext:7981**
Cell Ph #
Other Ph #
E-Mail
Employer
Occupation
Addl Addr **None**

No Photo

Main Narrative

OFF DAVID MCCLAIN (317)



07/12/2022 15:27 - 317 OFF DAVID MCCLAIN

On 07/12/2022 at approximately 1324 hrs I, Ofc. McClain #317 was dispatched to City Hall in reference to Fraud. Upon arrival I, spoke with Councilman William Morgan B/M/31 of City Hall Council. Councilman Morgan who then advised that on 06/06/2022 about an insurance payment that he thought he made to Conner Strong. Mr. Strong is the city broker for Counter Strong and Buckelew. He then recieved an email letting him know it was time to pay again and that they never recieved last months payment. Councilman Morgan then responed to the email and sent the invoice showing payment was made. The insurance company then advised Councilman that it was not sent to them, it was sent to a simalar address but not the correct address. Also, a former employee name was used who no longer works for them. That is when councilman contacted the bank and police for futher investigation.

Exhibit D

NEWS > CRIME AND PUBLIC SAFETY

Chester victim of \$400,000 'phishing' scam

Paid undisclosed amount to person posing as
insurance broker





wk1003mike // Shutterstock

Chester victim of \$400,000 'phishing' scam

By **ALEX ROSE** | arose@delcotimes.com | The Delaware County Daily Times

PUBLISHED: October 21, 2022 at 2:36 p.m. | UPDATED: October 21, 2022 at 4:38 p.m.

CHESTER – The city may have paid a hacker posing as a broker for the employees' workers compensation insurance company approximately \$400,000 in June as part of a "phishing" scheme, according to a spokesperson for city Receiver Michael Doweary.

City Councilman William Morgan, who serves as the city's director of accounts and finance, announced in a release Friday that the city had fallen prey to the scheme in June, but did disclose the amount paid out.



"The receiver's office first leaned about this on Friday morning," said Kapoor.

"There's still a lot of questions that we obviously have about what happened.

To the best of our knowledge, based on the information that has been provided to us, we understand the amount may be around \$400,000, but we haven't been able to confirm that."

A city employee received an email June 8 from someone posing as the city's insurance broker regarding a monthly insurance invoice, according to a release from Chester Press Secretary Amanda Johnson.

The city was engaged in email conversations at the same time with the actual insurance broker about the same invoice, according to the release.

"The person posing as the insurance broker used information that was almost identical to the emails received from the city's actual insurance broker," the release says. "Due to the email chains, occurring at the same time with almost identical information, a payment was issued. A wire payment was initiated in June to the posing insurance broker for the employees' workers compensation insurance."

The release states that the incident was discovered during an internal review of monthly invoices, but does not state when that review took place. Johnson did not immediately return calls for more information.

Chester alerted the Chester Police Department, its Information Technology consultant, the insurance broker, Santander Bank and Chase Bank, which the release indicates was the receiving bank for the payment.

Police Commissioner Steven Gretskey said he was notified of the payment a few weeks ago, roughly two months after it happened, and that the incident remains under investigation.

"We are taking this incident seriously and within the last few months, we have caught multiple phishing attempts," said Morgan. "We are continuing to work with the authorities and our partners regarding this incident."

Cybercrime has been an ongoing concern for local governmental institutions in recent years. District Attorney Jack Stollsteimer announced in August that an international thief or thieves [stole approximately \\$3 million from the Chester](#)



Delaware County also had to pay a \$500,000 ransom last year after hackers disrupted systems and demanded cash to free up police reports, payroll, purchasing and other databases.



Alex Rose | Reporter

Join the Conversation

We invite you to use our commenting platform to engage in insightful conversations about issues in our community. We reserve the right at all times to remove any information or materials that are unlawful, threatening, abusive, libelous, defamatory, obscene, vulgar, pornographic, profane, indecent or otherwise objectionable to us, and to disclose any information necessary to satisfy the law, regulation, or government request. We might permanently block any user who abuses these conditions.



Exhibit E



MEMORANDUM

TO Mayor and Members of City Council

FROM Michael Doweary, Receiver

DATE October 31, 2022

RE Receiver Questions/Concerns Regarding Phishing Incident

On the morning of Friday, October 21, 2022, I received a call from Councilman William Morgan informing me that the City was going to be sending out a press release that day about an alleged "phishing" incident involving the City where the City wired money at the direction of someone posing as the City's insurance broker. Councilman Morgan's call to me was the first time that the I or any member of my team had been informed about the alleged incident. When I asked Councilman Morgan about the amount transferred, he replied that it was approximately \$400,000.

Later that day on October 21st, I spoke with the City's Chief Operating Officer who told me that he was first told of the incident by Councilman Morgan on the afternoon of October 20, 2022, which was the previous day. The Chief Operating Officer also told me that he had spoken with the City's Interim Chief Financial Officer and that she had only learned of it when the Chief Operating Officer told her.

I called for a meeting on the incident for Wednesday, October 26th, to be briefed. At the meeting, Councilman Morgan provided a document which he prepared providing information on the incident from his perspective and stated that he was the individual who received the email and wired the money. Also at the meeting, Councilman Morgan stated that he filed a police report when he discovered what allegedly happened. His document read, in part, "Report taken to follow their [police department] internal process and procedures on a situation of this magnitude. Police report forwarded to the Federal Trade Commission (FTC)."

Subsequently, I obtained a copy of the police report Councilman Morgan filed. The report was dated July 12, 2022, and was taken by Officer David McClain who is assigned to security at City Hall.

I do not have any information as to what steps, if any, were taken by the Chester Police Department after the police report was taken. However, the Delaware County Times ran an article on the incident on October 22, 2022, that stated, "Police Commissioner Steven Gretskey said he was notified of the payment a few weeks ago, roughly two months after it happened, and that the incident remains under investigation."

As you are well aware, the Chester-Upland School District was the victim of a well-publicized cybercrime in 2021. The Delaware County District Attorney's Office participated in the investigation of that matter and was able to recover a substantial amount of the money taken. The Chester Police Department does not have a cybercrimes unit and I understand the District Attorney's Office to be the proper authority to be contacted for such an incident.

My Chief of Staff contacted the Delaware District Attorney's Office to ask whether they had been contacted by the Chester Police Department about this incident. He was told that they had only been contacted on Wednesday, October 26th, which was five days after the City's press release, and three and a half months after the police report was filed.



In March of this year, I went to Commonwealth Court seeking to enforce several orders through a mandamus action. In Judge Ceisler's Order, she ordered that "Councilman Morgan and his team shall immediately share any future correspondence or information they receive relating to the City's finances with Receiver and the Interim CFO." Clearly, a non-budgeted approximately \$400,000 payment is information relating to the City finances.

The entire incident is extremely troubling for many reasons, not the least of which is the City's financial condition. However, there are four questions that I need the answers to immediately:

1. Why, despite the fact that City employees knew of the approximately \$400,000 payment on July 12, 2022, and despite the Court's Order, did no one tell me or any member of my team until October 21, 2022, which is over three months later?
2. What other City officials or employees were made aware of the incident prior to me learning about it on October 21, 2022, and when were they made aware of it?
3. What investigation did the Chester Police Department do in regards to this incident? I am not requesting sensitive investigatory information, but rather information regarding the process such as when (or if) this was assigned to the Detective Bureau and whether and when any other outside agency was contacted for assistance.
4. Why did the Chester Police Department wait until October 26, 2022, to contact the District Attorney's Office which is the entity that investigates these types of crimes?

Should you have any questions regarding my request, please do not hesitate to contact me.

Exhibit F

NEWS > CRIME AND PUBLIC SAFETY

Chester loses \$400,000 to June ‘phishing’ scheme and didn’t tell receiver until October

Police had been investigating and now the DA’s office is as well.





MEDIANEWS GROUP FILE PHOTO

Chester Receiver Michael Doweary said he was not made aware of the loss of \$400,000 in June until the same day a press release went out from the city about it. (DAILY TIMES)

By **ALEX ROSE** | arose@delcotimes.com | The Delaware County Daily Times
PUBLISHED: November 2, 2022 at 6:11 a.m. | UPDATED: November 2, 2022 at 10:52 a.m.



CHESTER – City Receiver Michael T. Doweary is pressing Chester City Council for answers on what he deemed an “extremely troubling” incident in which Councilman William Morgan allegedly sent an estimated \$400,000 to an unknown scammer during a “phishing” incident in June.



MEDIANEWS GROUP FILE PHOTO

Chester Receiver Michael T. Doweary.

Doweary sent Mayor Thaddeus Kirkland and council members a memo Monday seeking additional information on the June 8 transfer, which was first revealed in an Oct. 21 press release from the city.



Gone phishing

The Oct. 21 release indicated someone with the city — later determined to be Morgan — received an email June 8 from a hacker posing as an insurance broker regarding a monthly insurance invoice.

Morgan, the city's director of accounts and finance, was engaged in email conversations at the same time with the actual insurance broker concerning the same invoice, according to the release, and the hacker was using information that was "almost identical" to the emails received from the broker.

"Due to the email chains occurring at the same time with almost identical information, a payment was issued," according to the release. "A wire payment was initiated in June to the posing insurance broker for the employees' workers compensation insurance."

The release stated that the incident was discovered during an internal review of monthly invoices, but did not provide a date for that review.

The release also said the Chester Police Department was notified along with Chester's Information Technology consultant, the insurance broker, and Santander Bank and Chase Bank — the sending and receiving banks, respectively — but there was likewise no timeline provided.

Police Commissioner Steven Gretskey said Oct. 21 that he had been made aware of the payment a few weeks prior, roughly two months after it happened, and that it was being investigated. James Nolan, chief of the Delaware County District Attorney's Office Criminal Investigation Division, said at that time that he was unaware of the incident.

Checking all the boxes

"From our end, the memo kind of speaks for itself about what we've been made aware of and the questions that the receiver has," said Doweary Chief of Staff Vijay Kapoor. "They really boil down to, No. 1, given the city's extreme financial condition, why were we not informed about a \$400,000 payment until three months after city officials discovered it. And the other real main question we have ... is why was the District Attorney's office — who specializes in these matters, who was helping the Chester Upland School District in a cybercase — not contacted until last week, which is more than three and a half months after city officers were contacted about this?"

Morgan said Tuesday that he discovered the fraud about a month after the transfer had taken place. He immediately filed a police report, and contacted the two banks involved, the IT company and the broker.





Chester City Councilman William Morgan. (PETE BANNAN-DAILY TIMES)

Morgan said he did not go straight to the receiver about the incident because he wanted to be able to present all pertinent information about exactly how the transfer took place, what steps were taken to investigate it and whether the city could get the money back.

He said he heard from Santander Bank about three weeks to a month ago that it likely could not recoup the money.

"It was really just an internal investigation," said Morgan. "Once we knew that we wouldn't be able to recoup the funds, I wanted to notify all of council."

Dowearry says in the memo that he met with Kirkland and Morgan on Oct. 26, during which Morgan reported that he had filed a police report after learning what happened and that the report had been forwarded to the Federal Trade Commission.

Dowearry indicated he received a copy of that police report, dated July 12 and taken by Officer David McClain, who is assigned at City Hall.

Morgan said he remembered filing the report and notifying the other players at about the same time, so likely on or around that same date.

"I know all representatives that should have been contacted were contacted to say, 'Hey, this has happened, do what you need to do as far as going through your processes and procedures,'" Morgan said. "I followed my chain on my end as far as notifying everybody I needed to notify."

Morgan said he has no say in how police procedures are carried out, so whether CID or another agency was



Gretsky said he reached out to Nolan personally to assist last week after learning of the amount of money involved. Nolan confirmed he did get the case last week and assigned it to a detective on Oct. 27, but had no other information because that investigation has only just begun.

Goldschmidt will continue to assist, said Gretsky.

Other attempts

"I appreciate the work that Councilman Morgan has put into his efforts in catching this before it got real, real bad," said Kirkland. "I'm quite sure that Councilman Morgan was trying his best to find out if, in fact, this was really happening to the city. He wanted to make sure before he informed everyone else that this was real and not some kind of fake situation."

Kirkland said Chester is currently investigating whether the transfer is covered by insurance. City Solicitor Ken Schuster did not return a call for comment.

There had been other attempts to breach the system, Kirkland said, but he could not recall if they happened before or after the June transfer. All other attempts had been intercepted before they could do any harm, he said.

Morgan said at least two other phishing attempts were caught in September and TechGuides Inc., the city's IT provider, was directed to block those email addresses and make sure there hadn't been any breaches in the system.

A person answering phones at TechGuides on Tuesday said the company would have to get permission to discuss Chester's current security situation. TechGuides didn't respond further.

Morgan said IT security for Chester has been moved to the front burner as a result of this incident and the city hopes to spend American Rescue Plan Act funds to work on that infrastructure.

Kirkland also said the city is working with Chief Operating Officer Leonard Lightner to upgrade its technology security and hopefully ensure no other attempts get through.



Mayor Thaddeus Kirkland



Kapoor noted the receiver indicated in September that Chester is facing a potential deficit of \$46.5 million next year, and that projection had not changed as of October.

"Every dollar matters over here," he said. "A \$400,000 impact is big on the city. Given the city's financial condition, every year we try to manage that, at a minimum, the city doesn't run out of money and then a \$400,000 hit is very big for the city's cash flow. This is a material hit to the city and it's something we need to know about so we can make some adjustments."

Dowear's memo notes that a Commonwealth Court judge in March ordered Morgan and his team to share "any future correspondence or information they receive relating to the city's finances with (the) receiver and the Interim CFO," Chenora Burkett.

"Clearly, a non-budgeted approximately \$400,000 payment is information relating to the city finances," the memo said.

Kirkland said that whether the information was provided in a time that suits the receiver or not, he has now been briefed and the matter is in the hands of the proper officials to investigate.

He added that even when county council knew right away that it had been the victim of a hacking scheme last year, it still eventually ended up having to pay a \$500,000 ransom to get key systems back in place.

"You're darned if you do and you're darned if you don't," he said. "From the receiver's perspective, it would have been great if we could have informed them earlier. However, earlier, later, \$400,000 was transferred and it was caught, and no more money has been transferred. In hindsight, should something have been said earlier? Possibly so, but it still would be \$400,000 gone."

Kirkland acknowledged that alerting the receiver or other authorities earlier may have made a difference, however. State Treasurer Stacy Garrity said at a press conference in August that her office was able to begin clawing back \$10.3 million for the Chester Upland School District that was almost lost in a similar scheme only because her employees began investigating on a Friday rather than waiting until the following Monday.

"It may have," Kirkland said. "We don't know. It may have given them that ability. That's a question that should be posed to them. ...The hope now is that this opens our eyes a little better, as well as other groups or agencies or municipalities, to keep our eyes open a little wider looking for these types of criminal activities."



Alex Rose | Reporter

Join the Conversation

We invite you to use our commenting platform to engage in insightful conversations about issues in our community. We reserve the right at all times to remove any information or materials that are unlawful, threatening, abusive, libelous, defamatory, obscene, vulgar, pornographic, profane, indecent or otherwise objectionable to us, and to disclose any information necessary to satisfy the law, regulation, or government request. We might permanently block any user who abuses these conditions.



Exhibit G

Vijay Kapoor

From: Vijay Kapoor
Sent: Wednesday, October 26, 2022 8:55 AM
To: Thaddeus Kirkland; stormwaterauthority@gmail.com; Portia West; ewilliams@chestercity.com; William Morgan; Stefan Roots; Michael Galante; llightner@chestercity.com
Cc: mdoweary@pa.gov; adi.pise@hdrinc.com
Subject: Receiver Position on Proposed Stormwater Project Resolution
Attachments: Agenda 102622.pdf

Good morning,

The following message is from Receiver Michael Doweary regarding the Council resolution for the proposed Stormwater Authority Project in Veterans Memorial Park (see attached):

Based on my office's meetings yesterday with the Stormwater Authority, Delcora and the information that was provided by the Stormwater Authority yesterday, I am providing you with my position on the Council resolution involving the proposed stormwater project in Veterans Memorial Park.

I remain concerned that there is not a memorandum of understanding or other document that clearly outlines the responsibilities of the City and the Stormwater Authority, particularly as it relates to liability. Additionally, I am concerned that my office only learned about this project moving forward to Council at the end of last week when the City Council agenda was provided to us. My office has had to rush to respond.

That said, I am not objecting to Council passing this resolution with the following caveats:

1. The project is located within a City of Chester park and is a large-scale improvement requiring continual maintenance. The plans do not define limits of maintenance or liability. Stormwater Authority's legal team and the City's Solicitor must determine the ownership and liability limits. It is recommended that the applicant Subdivide the Portion of the property where the improvements will take place and provide easements around the proposed stormwater management basin in non-subdivided areas. The subdivision and easements will need to be recorded with the Delaware County recorder of deeds. Additional comments may apply if City Council accepts the recommendation for a subdivision or some form of legal documentation recorded and accessible through the county to show evidence of the Stormwater Authority's responsibilities and/or ownership of the said parcel. This comment may not be applicable if all the improvements are being dedicated. If dedication is proposed, the City would need to accept the dedication and follow a dedication process.

The Stormwater Authority must take ownership of the improvements and indemnify the City for the construction of proposed improvements and working on public land. All required documentation must be received and recorded based on the City's ordinances and all necessary approvals.

2. The Stormwater Authority must speak with the City Planner on the need for any Zoning or Planning Approvals. At a minimum, the project will require a resolution from Council, but since it is Land Development, it may require submission to the City and County Planning Commission.

If these conditions are not met or if other information/issues come to light, I reserve the right to revisit my position on this project and to direct that it be modified, changed, stopped, or terminated.

Michael Doweary
Receiver for the City of Chester

Exhibit H



ORDER

TO All Chester City Elected Officials, City Solicitor, Interim COO, City HR and Finance Staff, City Public Works Staff

FROM Michael Doweary, Receiver

DATE August 1, 2022

RE Order Regarding Information re [REDACTED] Employment Actions

On June 30, 2022, I emailed this group requesting information regarding the handling of an employment situation involving City employee [REDACTED]. In that email, I requested information about why he was not terminated after his arrest on charges of child rape in February 2022 and why he was paid and continued to receive City-paid health benefits during a period in which he was incarcerated. I noted in that June 30, 2022 email, that I and my staff did not become aware of [REDACTED] situation until June 27, 2022.

On July 7, 2022, I participated in a call with Councilman Morgan, Councilwoman West, Solicitor Schuster, COO Dixon, HR Director Pettiford, Kelley Settles, Vijay Kapoor and attorney Ben Patchen of Campbell Durrant where this matter was discussed and at which I directed that the City move forward with the termination process of [REDACTED]. After a second Loudermill hearing on July 26, 2022, (again ordered by me), [REDACTED] was finally terminated on July 29, 2022.

I continue to have questions surrounding how [REDACTED] was treated and why the City approved the following payments to him while he was incarcerated:

- Pay period ending 2/13/2022: 64 regular hours 16 admin hours
- Pay period ending 2/27/2022: No hours
- Pay period ending 3/13/2022: No hours
- Pay period ending 3/27/2022: 120 vacation hours (note that this equates to 15 days which is 5 more than the normal pay period)
- Pay period ending 4/10/2022: 80 regular hours

So that I can properly fulfill my duties as Receiver, I have requested outside labor counsel Campbell Durrant to provide me with a written report as to what occurred and why regarding [REDACTED]. The attorneys will be in contact with you to meet individually. The attorneys may also request information such as documents and emails which must be provided to them.

I have asked for this report to be completed as soon as possible. Should you have any questions, please let me know.

Exhibit I

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS
401 NORTH STREET, ROOM 206
P.O. BOX 8722
HARRISBURG, PA 17105-8722
WWW.CORPORATIONS.PA.GOV

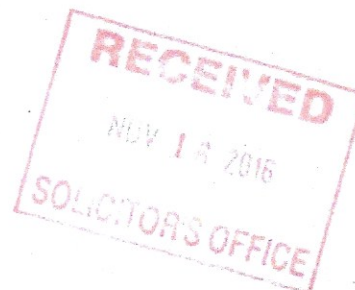
City of Chester Pennsylvania
One Fourth Street
Chester PA 19013

Stormwater Authority of the City of Chester

THE BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS IS HAPPY
TO SEND YOUR FILED DOCUMENT. THE BUREAU IS HERE TO SERVE YOU AND WE WOULD
LIKE TO THANK YOU FOR DOING BUSINESS IN PENNSYLVANIA.

IF YOU HAVE ANY QUESTIONS PERTAINING TO THE BUREAU, PLEASE VISIT OUR
WEBSITE AT www.dos.pa.gov/BusinessCharities OR YOU MAY CONTACT US BY TELEPHONE AT
(717)787-1057. INFORMATION REGARDING BUSINESS AND UCC FILINGS CAN BE FOUND ON
OUR SEARCHABLE DATABASE AT www.corporations.pa.gov/Search/CorpSearch.

ENTITY NUMBER : 6428462



BILL NO. _____

1ST READING _____

PASSED 10/12/16

Entity# : 6428462

Date Filed : 10/28/2016

Pedro A. Cortés

Secretary of the Commonwealth

NO. 17, 2016

A N O R D I N A N C E

**AN ORDINANCE OF THE CITY OF CHESTER,
DELAWARE COUNTY, PENNSYLVANIA, SIGNIFYING
THE INTENTION OF THE CITY OF CHESTER TO
ORGANIZE A STORMWATER AUTHORITY UNDER
THE MUNICIPAL AUTHORITIES ACT**

THE COUNCIL OF THE CITY OF CHESTER DOES ORDAIN:

SECTION 1. The City of Chester hereby signifies its intention to organize a Stormwater Authority under the provisions of Municipal Authorities Act.

SECTION 2. The Mayor and the City Clerk of the City of Chester are hereby authorized and directed to execute on behalf of the City of Chester Articles of Incorporation for said Authority, in substantially the following form:

ARTICLES OF INCORPORATION

To the Secretary of the Commonwealth, Commonwealth of Pennsylvania:

In compliance with the requirements of the Municipal Authorities Act, the Council of the City of Chester, a municipal corporation of the County of Delaware and Commonwealth of Pennsylvania (the "City"), desiring to organize a Stormwater Authority thereunder, does hereby

1. The name of the Stormwater Authority is "Stormwater Authority of the City of Chester."
2. Said Stormwater Authority is to be formed under the Municipal Authorities Act.
3. The City previously organized the following authorities under the Municipal Authorities Act or its predecessor statute which remain in existence: Chester Economic Development Authority, Chester Redevelopment Authority and Chester Parking Authority.
4. The name of the incorporation municipality is the City of Chester, and the names and addresses of its municipal officers are as follows:

Name

Address

Title

Thaddeus Kirkland

1 Fourth Street, Chester, PA 19013

Mayor

PA DEPT. OF STATE

OCT 28 2016

TML 161028JD1420

BILL NO. 17

PAGE 2

| | | |
|-------------------------|------------------------------------|---|
| Portia West | 1 Fourth Street, Chester, PA 19013 | Deputy Mayor/ Director of Streets and Public Improvements |
| William Morgan | 1 Fourth Street, Chester, PA 19013 | Director of Accounts and Finance |
| Elizabeth Williams | 1 Fourth Street, Chester, PA 19013 | Director of Parks, Public Property and Recreation |
| William A. Jacobs, Esq. | 1 Fourth Street, Chester, PA 19013 | Director of Public Safety |
| Candice Thompson | 1 Fourth Street, Chester, PA 19013 | City Clerk |

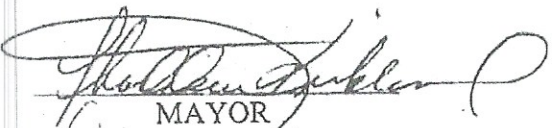
5. The Names and Addresses and terms of office of the First members of the board of said Stormwater Authority are as follows:

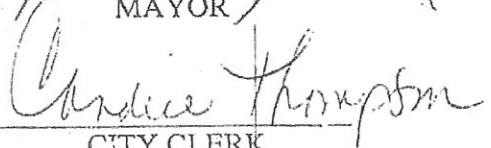
| <u>Name</u> | <u>Address</u> | <u>Term of Office</u> |
|-----------------|---|-----------------------|
| Livia Smith | 930 E. 18 th Street, Chester, PA 19013 | 5 years |
| Joan Neal | 1704 W. 7 th Street, Chester, PA 19013 | 4 years |
| Latifah Griffin | 1105 Meadow Lane, Chester, PA 19013 | 3 years |
| John Shelton | 138 E. 18 th Street, Chester, PA 19013 | 2 years |
| William Riley | 918 Lloyd Street, Chester, PA 19013 | 1 year |

6. The City retains the right to approve any plan of said Stormwater Authority.

SECTION 3. That all Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed, including, without limitation Ordinance No. 7, 2016.

WE HEREBY CERTIFY that this Ordinance passed Council this 12th day of October, A.D. 2016.


MAYOR

Attest: 
CITY CLERK

Copy of Notice or Publication
AD# 1153756

Proof of Publication of Notice in Delaware County Daily Times

Under Newspaper Advertising Act, No. 587, Approved May 16, 1929

State of Pennsylvania,
County of Delaware, }

ss.

Heather Lawler

designated agent of CENTRAL STATES PUBLISHING, INC.,

being duly sworn, deposes and says that the DELAWARE COUNTY DAILY TIMES, a daily newspaper of general circulation as defined in the above-mentioned Act, published at Primos, Delaware County, Pennsylvania, was established September 7, 1876, and issued and published continuously thereafter for a period of 100 years and for a period of more than six months immediately prior hereto, (under the name Chester Times prior to November 2, 1959) in the City of Chester, County of Delaware and further says that the printed notice or publication attached hereto is an exact copy of a notice or publication printed and published in the regular edition and issues of the DELAWARE COUNTY DAILY TIMES on the following dates, viz.:

October 17th

A.D. 20 16

and that said advertising was inserted in all respects as ordered.

Affiant further deposes that he is the proper person duly authorized by CENTRAL STATES PUBLISHING, INC. publisher of said DELAWARE COUNTY DAILY TIMES, a newspaper of general circulation, to verify the foregoing statement under oath and that affiant is not interested in the subject matter of the aforesaid notice or advertisement, and that all allegations in the foregoing statements as to time, place and character of publication are true.

Sworn to and subscribed before me this

17th

day of

October

20 16

Notary Public

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

Joan McCarty Bablak, Notary Public
Upper Darby Twp., Delaware County
My Commission Expires April 19, 2020
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

NOTICE OF ADOPTED ORDINANCE

NOTICE IS HEREBY GIVEN that The City Council of the City of Chester adopted an ordinance signifying the intention of the City of Chester to organize a Stormwater Authority. The substance of the ordinance reads as follows:

SECTION 1. The City of Chester hereby signifies its intention to organize a Stormwater Authority under the provisions of Municipal Authorities Act.

SECTION 2. The Mayor and the City Clerk of the City of Chester are hereby authorized and directed to execute on behalf of the City of Chester Articles of Incorporation for said Authority, in substantially the following form:

ARTICLES OF INCORPORATION

To the Secretary of the Commonwealth, Commonwealth of Pennsylvania:

In compliance with the requirements of the Municipal Authorities Act, the Council of the City of Chester, a municipal corporation of the County of Delaware and Commonwealth of Pennsylvania (the "City"), desiring to organize a Stormwater Authority thereunder, does hereby certify:

1. The name of the Stormwater Authority is "Stormwater Authority of the City of Chester."
2. Said Stormwater Authority is to be formed under the Municipal Authorities Act.
3. The City previously organized the following authorities under the Municipal Authorities Act or its predecessor statute which remain in existence: Chester Economic Development Authority, Chester Redevelopment Authority and Chester Parking Authority.
4. The name of the incorporation municipality is the City of Chester, and the names and addresses of its municipal officers are as follows:

| Name | Address | Title |
|-------------------------|------------------------------------|---|
| Thaddeus Kirkland | 1 Fourth Street, Chester, PA 19013 | Mayor |
| Portia West Streets | 1 Fourth Street, Chester, PA 19013 | Deputy Mayor/Director of and Public Improvements |
| William Morgan | 1 Fourth Street, Chester, PA 19013 | Director of Accounts and Finance |
| Elizabeth Williams | 1 Fourth Street, Chester, PA 19013 | Director of Parks, Public Property and Recreation |
| William A. Jacobs, Esq. | 1 Fourth Street, Chester, PA 19013 | Director of Public Safety |
| Candice Thompson | 1 Fourth Street, Chester, PA 19013 | City Clerk |

5. The Names and Addresses and terms of office of the First members of the board of said Stormwater Authority are as follows:

| Name | Address | Term of Office |
|-----------------|---------------------------------------|----------------|
| Livia Smith | 930 E. 18th Street, Chester, PA 19013 | 5 years |
| Joan Neil | 1704 W. 7th Street, Chester, PA 19013 | 4 years |
| Latifah Griffin | 1 Fourth Street, Chester, PA 19013 | 3 years |
| John Shelton | 138 E. 18th Street, Chester, PA 19013 | 2 year |
| William Riley | 918 Lloyd Street, Chester, PA 19013 | 1 year |

6. The City retains the right to approve any plan of said Stormwater Authority.

SECTION 3. That all Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed, including, without limitation, Ordinance No. 7, 2016.

The articles of Incorporation shall be filed with the Secretary of the Commonwealth of Pennsylvania on October 31, 2016.

OCT, October 17, a-1

Candice Thompson, City Clerk

which remain in existence: Chester Economic Development Authority, Chester Redevelopment Authority and Chester Parking Authority.

4. The name of the incorporation municipality is the City of Chester, and the names and addresses of its municipal officers are as follows:

Name, Title, Address

Thaddeus Kirkland, Mayor, 1 Fourth Street, Chester, PA 19013

Portia West, Deputy Mayor/Director of Streets and Public Improvements, 1 Fourth Street, Chester, PA 19013

William Morgan, Director of Accounts and Finance, 1 Fourth Street, Chester, PA 19013

Elizabeth Williams, Director of Parks, Public Property and Recreation, 1 Fourth Street, Chester, PA 19013

William A. Jacobs, Esq., Director of Public Safety, 1 Fourth Street, Chester, PA 19013

Candice Thompson, City Clerk, 1 Fourth Street, Chester, PA 19013

5. The names and addresses and terms of office of the first members of the board of said Stormwater Authority are as follows:

Name, Term of Office, Address

Livia Smith, 5 years, 930 E. 18th Street, Chester, PA 19013

Joan Neil, 4 years, 1704 W. 7th Street, Chester, PA 19013

Latifah Griffin, 3 years, 1 Fourth Street, Chester, PA 19013

John Shelton, 2 years, 138 E. 18th Street, Chester, PA 19013

William Riley, 1 year, 918 Lloyd Street, Chester, PA 19013

6. The City retains the right to approve any plan of said Stormwater Authority.

SECTION 3. That all Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed, including, without limitation, Ordinance No. 7, 2016.

The articles of incorporation shall be filed with the Secretary of the Commonwealth of Pennsylvania on October 31, 2016.

Candice Thompson, City Clerk

Oct. 28

COMMONWEALTH OF PENNSYLVANIA

Department of State

TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

BE IT KNOWN THAT,

CERTIFICATE OF INCORPORATION

has been granted to:

Stormwater Authority of the City of Chester

Under the authority of Act 22 of 2001, known as the Municipal Authority Act.

Filed this thirty-first day of October, 2016



Pedro A. Contes

Secretary of the Commonwealth

DELAWARE COUNTY BAR ASSOCIATION

Owner and Publisher of

DELAWARE COUNTY LEGAL JOURNAL

PROOF OF PUBLICATION OF NOTICE

STATE OF PENNSYLVANIA }
COUNTY OF DELAWARE } SS:

TRACY E. PRICE, Director of Communications and Public Relation of the DELAWARE COUNTY LEGAL JOURNAL, the duly designated legal newspaper for DELAWARE COUNTY, Pennsylvania, which legal newspaper was established in 1948, and its place of business and publication is at 335 West Front Street, Media, Delaware County, Pennsylvania 19063; and that a copy of the printed notice of publication is attached hereto exactly as printed or published in the issue or issues of said legal newspaper on the following date or dates: Friday, October 28, 2016 A.D.

COPY OF NOTICE

SERVICE BY PUBLICATION

NOTICE OF ADOPTED ORDINANCE

NOTICE IS HEREBY GIVEN that the City Council of the City of Chester adopted an ordinance signifying the intention of the City of Chester to organize a Stormwater Authority. The substance of the ordinance reads as follows:

SECTION 1. The City of Chester hereby signifies its intention to organize a Stormwater Authority under the provisions of Municipal Authorities Act.

SECTION 2. The Mayor and the City Clerk of the City of Chester are hereby authorized and directed to execute on behalf of the City of Chester Articles of Incorporation for said Authority, in substantially the following form:

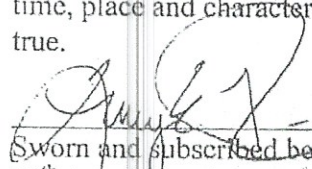
ARTICLES OF INCORPORATION

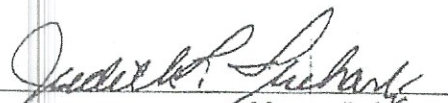
To the Secretary of the Commonwealth, Commonwealth of Pennsylvania:

In compliance with the requirements of the Municipal Authorities Act, the Council of the City of Chester, a municipal corporation of the County of Delaware and Commonwealth of Pennsylvania (the "City"), desiring to organize a Stormwater Authority thereunder, does hereby certify:

1. The name of the Stormwater Authority is "Stormwater Authority of the City of Chester."
2. Said Stormwater Authority is to be formed under the Municipal Authorities Act.
3. The City previously organized the following authorities under the Municipal Authorities Act or its predecessor statute

That affiant further states that he/she is the designated agent of the DELAWARE COUNTY BAR ASSOCIATION, the owner of said legal newspaper that he/she is not interested in the subject matter of the aforesaid notice or advertising, and that all allegations of the aforesaid statement as to time, place and character of publication are true.


Sworn and subscribed before me this
28th day of October, 2016 A.D.


Notary Public

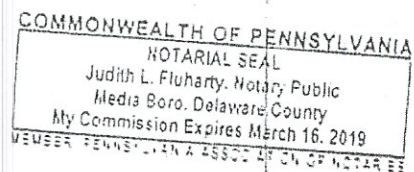


Exhibit J

BYLAWS: STORMWATER AUTHORITY OF THE CITY OF CHESTER

1.0 AUTHORITY

These by-laws are adopted under authority granted by the Home Rule Amendment of the Pennsylvania, the Home Rule statutes and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the Mayor, Council and residents of the City of Chester at the January 14, 2016 Chester City Council Meeting.

2.0 PURPOSE

The purpose of the Stormwater Authority of the City of Chester (SAC) is to regulate discharges to the Municipal Separate Storm Sewer System (MS4), to regulate discharges to the Municipal Combined Sewer System, to protect the City of Chester & Delaware County's water bodies and groundwater and to safeguard the public health, safety, welfare and the environment.

Increased and contaminated Stormwater runoff associated with construction sites, developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater. This is accomplished through the following:

- 2.1 Institute water resource protection measures identified in the Commonwealth of Pennsylvania Environmental Master Plan 25 Section 9.1.2.2
- 2.2 Protect groundwater and surface water from degradation.
- 2.3 Promote groundwater recharge
- 2.4 Require practices to control the flow of Stormwater from new and redeveloped sites into the City storm drainage system in order to prevent flooding and erosion
- 2.5 Require practices that eliminate soil erosion and sedimentation and control the volume and rate of Stormwater runoff resulting from land disturbance activities
- 2.6 Prevent pollutants from entering the City's municipal separate storm sewer system (MS4) and minimize discharge of pollutants from the MS4

BYLAWS: STORMWATER AUTHORITY OF THE CITY OF CHESTER

2.7 Ensure that soil erosion and sedimentation control measures and Stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;

2.8 Ensure adequate long-term operation and maintenance of structural Stormwater best management practices so that they work as designed

2.9 comply with state and federal statutes and regulations relating to Stormwater discharges

2.10 Establish the city's authority to ensure compliance with the provisions of these by-laws through inspection, monitoring, and enforcement.

2.11 These by-laws are intended to complement the requirements of either, the City of Chester & Delaware County zoning Bylaw, General Bylaw, or any other Bylaw that may be adopted by the City of Chester & Delaware County. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

3.0 DEFINITIONS

Definitions that apply in the interpretation and implementation of these Bylaws shall be included as part of any Stormwater Regulations promulgated as permitted under Section 9.0 of this Bylaw

4.0 APPLICABILITY

No person undertaking construction activity that requires a Stormwater Authority of the City of Chester (SAC) review (including new residential subdivisions and multi-family development, new commercial/industrial development or commercial/industrial redevelopment), a Building Permit (such as new single family residential development or redevelopment), utility line work, or any other threshold set forth in sections 2.2, 2.4, or 2.9, of these by-laws may proceed without obtaining a Stormwater Management Permit (SMP) or a simple Stormwater Management Permit (SSMP) from the Stormwater Authority of the City of Chester (SAC) .

5.0 STORMWATER MANAGEMENT

A Stormwater Management Permit (SMP) is required for the following:

BYLAWS: STORMWATER AUTHORITY OF THE CITY OF CHESTER

5.1 Any activity that will disturb or alter 20,000 square feet or more of land, or which is part of a common plan for development that will disturb or alter 20,000 square feet or more of land.

5.2 Any activity that must undergo Site plan Review per the Stormwater Authority of the City of Chester (SAC) Site Plan Review Rules and Regulations.

5.3 Simple Stormwater Permit (SSMP)

A Simple Stormwater Management Permit (SSMP) is required for the following:

5.3.1 Any activity, except as exempted under Section 6.0 that will disturb or alter less than 10,000 square feet of land, or which is part of a common plan for development that will disturb or alter less than 10,000 square feet of land.

5.3.2 Construction or maintenance and repair of utility lines or systems (gas, water, electric, telephone, fire alarms, drainage, etc.) that will disturb or alter less than 10,000 square feet of land and that will temporarily or permanently alter terrain, ground cover, or drainage patterns.

6.0 EXEMPTIONS

No person shall disturb or alter land within the City of Chester & Delaware County without having obtained a Stormwater Management Permit (SMP) or Simple Stormwater Management Permit (SSMP) for the property with the following exceptions:

6.1 Normal maintenance and improvement of land in agricultural use as defined by the Damp Safety and Encroachment Act under Chapter 105 of [PA Code Title 25](#).

6.2 Maintenance of existing Landscaping, gardens or lawn areas.

6.3 Creating impervious area consisting of a previously existing unpaved driveway for a single family dwelling, or expansion of an existing paved driveway for a single family dwelling.

BYLAWS: STORMWATER AUTHORITY OF THE CITY OF CHESTER

6.4 The construction of fencing that will not alter existing terrain or drainage patterns.

6.5 Construction or maintenance and repair of utility service lines (gas, water, electric, telephone, fire alarms, etc.) other than drainage lines or systems, which will not alter terrain, ground cover, or drainage patterns.

6.6 Emergency repairs to any Stormwater management facility or situation that poses a threat to public health or safety, or as deemed necessary by the Stormwater Authority of the City of Chester (SAC).

6.7 Any work or projects for which all necessary approvals and permits, including building permits, have been issued before the effective date of this Bylaw.

6.8 Construction of decks, patios, walkways, driveways, sheds, swimming pools, tennis or basketball courts, or replacement of septic systems on lots having an existing dwelling.

6.9 An increase in the footprint of a house by less than 600 square feet.

6.10 Repair or upgrade of septic systems when required by the Board of Health for the protection of public health.

7.0 ADMINISTRATION

The Authority shall administer, implement and enforce these by-laws. Any powers granted to or duties imposed upon the Stormwater Authority of the City of Chester (SAC) may be delegated in writing by the Stormwater Authority of the City of Chester (SAC) to its employees or agents.

7.1 Board of Directors; subject to the provisions of the Pennsylvania Municipal Authorities Act and any limitations in the Articles of Incorporation, the business affairs of the Stormwater Authority of the City of Chester shall be managed, and Authority powers shall be exercised, by or under the direction of the board of directors.

7.2 Number and Qualification of Directors; the authorized number of directors shall be at least five (5) but not more than eleven (11). The directors must be residents of the City of Chester.

BYLAWS: STORMWATER AUTHORITY OF THE CITY OF CHESTER

7.3 Term of Office of Directors; the term of office for directors shall be set forth by the municipal governing body.

Terms of board members expire on the first Monday in January. After a vacancy has occurred because of the expiration of a member's term, the municipal governing body appoints a member for a term of five years from the date of the expiration of the prior term. Appointments cannot be made by a Municipality until the vacancy actually exists, in other words, until the existing member's term has expired.

7.4 Election and Vacancies; Any vacancy on the board shall be filled by the municipal governing body.

7.5 Resignations; Except as provided in this paragraph, any director may resign, on giving written notice to the Board Chairperson or the Board of Directors, then submitted to the Mayor and Council for approval.

7.6 Place of Meetings; Regular meetings of the board of directors may be held at any place within the City of Chester which are open to the public. Special meetings of the board of directors shall be held any place within or outside of the City of Chester that has been noticed and may be held by conference telephone or similar communication equipment.

7.7 Meetings; Public board meetings shall be held at least six times a year with proper public notice given to the public by way of publication.

7.8 Record of Meeting; Minutes of each meeting shall be taken and distributed to each member of the board within a reasonable time after the meeting. A reasonable time is at least one (1) week before the next meeting.

7.9 Fees and Compensation of Directors; Directors may receive such compensation, if any, for their services, and such reimbursement of expenses, as may be determined by resolution of the board of directors to be just and reasonable.

Board members can be compensated for all expenses that they incur on behalf of the Authority. However, all compensation of board members is determined by the establishing Municipality. No salary increase can be made during the existing term of a Board member. Any salary change will

BYLAWS: STORMWATER AUTHORITY OF THE CITY OF CHESTER

be effective only for subsequently appointment members. Any change in the salary for authority board members must be approved by the governing body of the incorporating municipality. Salary increases can only be made by a Municipality for the new term of any Board member.

8.0 OFFICERS

8.1 Officers; The officers of the authority shall be the Board Chairperson, Board Vice-chairperson, Board Secretary, Executive Manager, Executive Secretary, and Chief Financial Officer (CFO).

8.2 Appointment of Officers; The officers of the authority shall be chosen by the board of directors and each shall serve until removed or resigned, subject to the rights, if any, of an officer under any contract of employment

8.2.1 Board Chairperson; the chair of the board shall preside at meetings of the board of directors and exercise and perform such powers and duties as may be from time to time assigned by the board of directors or prescribed by the bylaws.

8.2.2 Board Vice-chairperson; in absence of Chairperson, shall perform the duties

8.2.3 Board Secretary; shall sign all loan and grant documents

8.2.4 Executive Manager; Subject to such supervisory powers as may be given by the board of directors, the Executive Manager shall, subject to the control of the board of directors, generally supervise, direct and control the business and the officers of the authority. The Executive Manager may not enter into any contractual obligation on behalf of the authority, including but not limited to, vendors' contracts, construction contracts, service contracts, employment contracts, settlement agreements, etc., without approval of the board of directors

8.2.5 Executive Secretary; the secretary shall keep a book of minutes of all meetings and actions of the board of directors with the time and place of such meetings, whether regular or special, the names of those present at the meetings, and the proceedings of such meetings.

BYLAWS: STORMWATER AUTHORITY OF THE CITY OF CHESTER

8.2.6 Chief Financial Officer (CFO); the chief financial officer shall keep and maintain adequate and correct books and records of accounts of the properties and business transactions of the authority, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained funds, and other matters customarily included in financial statements. The records of such accounts shall be open to inspection by any director at all reasonable times.

8.3 Removal of Officers; Subject to any contract of employment, any officer may be removed from office, with or without cause, by a majority vote of directors at any regular or special meeting.

8.4 Resignation of Officers; An officer may resign at any time by giving written notice to the authority.

8.5 Vacancies in Officers; A vacancy in any office because of death, resignation, removal, disqualification, or any other such cause shall be filled within a reasonable time

9.0 RULES AND REGULATIONS

The Stormwater Authority of the City of Chester may adopt, and periodically amend, Rules and Regulations relating to the tariffs, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this comprehensive Stormwater Management Bylaw by majority vote of the Stormwater Authority of the City of Chester (SAC) , after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven

(7) Days prior to the hearing date. After public notice and public hearing, the Stormwater Authority of the City of Chester (SAC) may promulgate Rules and Regulations to effectuate the purposes of this Bylaw. Failure by the Stormwater Authority of the City of Chester (SAC) to promulgate such Rules and Regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

10.0 STORMWATER MANAGEMENT HANDBOOK.

The Stormwater Authority of the City of Chester (SAC) will utilize the policy, criteria and information including specifications and standards of the latest edition of the Pennsylvania Stormwater Management standards and Handbook for

BYLAWS: STORMWATER AUTHORITY OF THE CITY OF CHESTER

execution of the provisions of this Bylaw. This Handbook includes a list of acceptable Stormwater treatment practices, including the specific design criteria for each Stormwater practice. The standards and handbook may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the city of Chester & Delaware county Stormwater Regulations, Stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Pennsylvania water quality standards.

11.0 SIMPLE STORMWATER MANAGEMENT PERMIT (SSMP)

The Stormwater Authority of the City of Chester (SAC) shall have the authority to develop a Simple Stormwater Management Permit (SSMP) for specific types of projects and thresholds as defined in Section 2.0 of this Bylaw. Requirements of the SSMP shall be defined and included as part of any Stormwater Regulations promulgated as a result of this Bylaw.

12.0 ACTIONS

The Stormwater Authority of the City of Chester (SAC) may take any of the following actions as a result of an application for a Stormwater Management permit as more specifically defined as part of Stormwater Regulations promulgated as a result of this Bylaw: Approval, Approval with Conditions, or Disapproval.

13.0 APPEALS OF ACTIONS

A decision of the Stormwater Authority of the City of Chester (SAC) shall be final. Further relief of a decision by the Stormwater Authority of the City of Chester (SAC) made under this Bylaw shall be reviewable in the Superior Court in and action filed within 60 days thereof, in accordance with Damp safety and Encroachment Act under Chapter 105 of [PA Code Title 25](#).

14.0 PERMITS AND PROCEDURES

Permit procedures and Requirements shall be defined and included as part of any Rules and Regulations promulgated as permitted under Section 9.0 of this Bylaw.

15.0 WATER RESOURCES MITIGATION FUND.

The Stormwater Authority of the City of Chester (SAC) may allow the applicant to contribute to the City of Chester & Delaware County water Resources Mitigation Fund in lieu of an onsite Stormwater facility where it has been demonstrated that there are not sufficient conditions for onsite Stormwater best management practices in order to meet the Performance Standards as described in the

BYLAWS: STORMWATER AUTHORITY OF THE CITY OF CHESTER

Regulations promulgated under this Bylaw. Funds may be used to design and construct storm water projects that will improve the quality and quantity of surface waters in Chester by treating and recharging storm water from existing impervious surfaces that is now discharged to said waters with inadequate treatment or recharge. The fee for contribution to the fund shall be determined by the Stormwater Authority of the City of Chester (SAC).

16.0 ENFORCEMENT

Any person who violates any provision of this By-law shall be punished by a fine of \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. The Stormwater Authority of the City of Chester (SAC) or an authorized agent of the Stormwater Authority of the City of Chester (SAC), shall enforce this Bylaw and Regulation promulgated hereunder by means including without limitation, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any Stormwater Regulations promulgated as permitted under Section 9.0 of this Bylaw. As an alternative to criminal prosecution or civil action, the Stormwater Authority of the City of Chester (SAC) may elect to use the non-criminal disposition procedure set forth in Damp safety and Encroachment Act under chapter 105 of PA Code Title 2s, in which case the authorized agent of the Stormwater Authority of the City of Chester (SAC) shall be the enforcing person. The penalty for violation shall be \$900.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

17.0 SEVERABILITY

If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

Exhibit K



Stormwater Authority of the City of Chester

BUDGET OVERVIEW: SAC FYE JUN 2021

| | |
|--|-----------------------|
| Income | |
| Certification Fees | 5,000.00 |
| Stormwater Revenue - In House billing | 565,000.00 |
| Stormwater Revenue - Minol | 2,917,608.51 |
| Total Income | \$3,487,608.51 |
| Expenses | |
| Advertising & Marketing | 6,933.98 |
| Bad Debts Allowance | 475,000.00 |
| Bank Charges & Fees | 1,500.00 |
| Billing Co Fees | 225,000.00 |
| Charitable Contributions | 30,500.00 |
| Contractors | 5,300.00 |
| Depreciation Expense | 120,000.00 |
| Gas | 13,000.00 |
| Insurance - Liability, Worker Comp | 38,445.60 |
| Insurance - Medical, Dental | 154,700.00 |
| Job Supplies | 2,150.00 |
| Legal & Professional Services | 177,570.79 |
| Meals & Entertainment | 3,500.00 |
| Miscellaneous Expenses | 3,000.00 |
| New Vehicle | 35,000.00 |
| Office Supplies & Software | 23,000.00 |
| Other Business Expenses | 100,875.95 |
| Outside Services | 6,500.00 |
| Payroll Processing Fees | 2,800.00 |
| Payroll Taxes - Employer | 68,321.32 |
| Payroll Wages & Salary | 995,000.00 |
| Pensions and Fringe Benefits | 57,250.00 |
| Petty Cash | 300.00 |
| Private Partnership (Gen'l Contractor) | 63,000.00 |
| Repairs & Maintenance | 28,000.00 |
| SAC Staff Expenses | 3,000.00 |
| Supplies & Materials | 3,000.00 |
| Taxes & Licenses | 3,000.00 |
| Telephone | 10,000.00 |
| Travel | 3,000.00 |
| Utilities | 15,000.00 |
| Interest Paid (debt service) | 50,000.00 |
| Total Expenses | \$2,725,647.64 |

Exhibit L

**STORMWATER AUTHORITY OF THE
CITY OF CHESTER**

FINANCIAL STATEMENTS

JUNE 30, 2021 AND 2020

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
TABLE OF CONTENTS
JUNE 30, 2021 AND 2020**

| | <u>PAGE</u> |
|--|-------------|
| INDEPENDENT AUDITOR'S REPORT | 1 |
| MANAGEMENT'S DISCUSSION AND ANALYSIS | 3 |
| FINANCIAL STATEMENTS | |
| Statements of Net Position | 8-9 |
| Statements of Revenues, Expenses and Changes in Net Position | 10 |
| Statements of Cash Flows | 11 |
| Notes to Financial Statements | 12 |
| REQUIRED SUPPLEMENTARY INFORMATION | |
| Statement of Revenues and Expenses – Actual vs. Budget and Change in Net Position | 19 |



940 West Sproul Road, Suite 101, Springfield, PA 19064 | PHONE: 610.544.5900 | FAX: 610.544.7455

INDEPENDENT AUDITOR'S REPORT

To the Board of Directors
Stormwater Authority of the City of Chester
Chester, Pennsylvania

We have audited the accompanying financial statements of the business-type activities of the Stormwater Authority of the City of Chester ("the Authority"), as of and for the years ended June 30, 2021 and 2020, and the related notes to the financial statements, which collectively comprise the Authority's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the business-type activities of the Stormwater Authority of the City of Chester, as of June 30, 2021 and 2020, and the respective changes in financial position and cash flows thereof for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and budgetary comparison on pages 3 through 7 and on page 19 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.



Brinker Simpson & Company, LLC
Springfield, Pennsylvania
June 2, 2022

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2021 AND 2020**

This section of the annual financial report of the Stormwater Authority of the City of Chester, hereafter referred to as "the Authority", presents management's analysis of the Authority's financial condition, changes in financial position, and cash flows for the year ended June 30, 2021. Please consider the information presented here in conjunction with the accompanying financial statements and related footnotes.

The Stormwater Authority of the City of Chester is a municipal authority under the Commonwealth of Pennsylvania established by the City of Chester, Pennsylvania in October 2016. The purpose of the Authority is to continue maintaining drainage and flood control facilities related to the operation of the infrastructure, as well as plan, fund, and construct improvements to the infrastructure within the Authority's boundaries.

Financial Highlights

The Authority's Board adopts its rates at an annual Board meeting. The operating expenses, capital spending and debt service budgeted determines the rate to charge property owners within the area the Authority oversees stormwater runoff. Budgeted Operating Revenue is then allocated based on each parcel's square footage that may contribute to managing the stormwater runoff.

For the fiscal year ended June 30, 2021, the total assets increased \$10,863,619 to reflect total Assets of \$25,864,659. The total liabilities increased \$10,372,497 to reflect total Liabilities of \$22,577,854. This resulted in an increase in Net Position of \$419,122 to reflect total Net Position of \$3,286,805.

Capital Assets and Construction in Progress during the fiscal year ended June 30, 2021 increased \$11,409,626. Depreciation expense related to Capital Assets during this fiscal year was \$454,617 resulting in a net increase of \$10,955,009 of Capital Assets and Construction in Progress to reflect total Capital Assets and Construction in Progress of \$23,226,453.

Operating revenues were \$3,496,100, which is an increase of \$120,860 or 3.6% compared to the prior year. Total operating revenues were in line with the budgeted amount.

Operating expenses, excluding depreciation expense, for the year were \$2,417,092. This is a decrease of \$389,894 or 15.0% over the prior year operating expenditures. Total operating expenses, excluding depreciation were under budget by \$226,667, mainly due to a reduced amount recorded as bad debt expense. Non-operating income and expenses are not included in this analysis. Additional efforts to collect on past due amounts contributed to a lesser amount of bad debt expenses recorded in the current fiscal year.

The Authority has continued its efforts to collect past due outstanding amounts owed through mailing delinquent notices and having successfully defending itself in the courts against an attempted injunction to cease collection of fees. Beginning in July 2021, the Authority engaged the services of a collection agency to pursue outstanding amounts owed. The collection firm has begun collections process on approximately 3,800 parcels with delinquent amounts.

Overview of Annual Financial Statements

Management's Discussion and Analysis (MD&A) serves as an introduction to, and should be read in conjunction with, the independent auditor's report and the Authority's audited financial statements and supplementary information, which follow this section.

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2021 AND 2020**

The notes provide additional information that is essential to a full understanding of the data provided in the financial statements.

The annual report consists of three parts: the MDA, the financial statements, and supplementary information.

The financial statements report information about the Authority using full accrual accounting methods similar to those used by the private sector.

The financial statements include: Statements of Net Position; Statements of Revenues, Expenses and Changes in Net Position; Statements of Cash Flows; and the related Notes to Financial Statements along with required Supplementary information.

The **Statement of Net Position** presents the financial position of the Authority on a full accrual, historical cost basis. This statement presents information on the Authority's assets and liabilities with the difference, or total assets in excess of total liabilities, reported as net position.

While the Statement of Net Position provides information about the nature and amount of resources and obligations at fiscal year-end, the **Statement of Revenues, Expenses and Changes in Net Position** present the results of the business activities and the amount by which the net position changed at the end of the fiscal year. Changes in net position are reported as an underlying event giving rise to the change that occurs, regardless of the timing of the related cash flows. These statements also provide certain information about the Authority's recovery of its capital costs.

The **Statement of Cash Flows** reports changes in cash and cash equivalents resulting from; operating activities; capital and related financing activities; and investing activities. This statement presents cash receipts and cash disbursements information, without consideration of the earnings event; when an obligation arises; or depreciation of capital assets.

The **Notes to Financial Statements** provide required disclosures and other information that are essential to a full understanding of the financial data provided in the financial statements. The notes present information about the Authority's accounting policies, significant account balances and activities, material risks, obligations, commitments, contingencies and subsequent events, if any.

The Supplementary Information includes the Statement of Revenues, Expenses and Changes in Net Position compared to the Authority's approved operating budget.

The financial statements were prepared from the books and records of the Authority and audited annually by an independent external audit firm.

Summary of Organization and Business

Changes made to the Pennsylvania Municipal Authorities Act in 2013 allows for the formation of stormwater authorities to address stormwater-related issues through planning, management, and implementation of stormwater controls. In response to these changes, the Stormwater Authority of the City of Chester was formed to regulate discharges to the Municipal Separate Storm Sewer System (MS4) to protect the City of Chester and Delaware County's water Bodies and groundwater and to safeguard the public health, safety, welfare and the environments. The Authority is a body created in October 2016 under the provisions of the PA Municipal Authority Act. The governing body of the Authority is a Board consisting of five members. The Board consists of a Chairperson, Vice-

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2021 AND 2020**

Chairperson, Secretary and Treasurer and such other Board members as the Officers deem necessary. The Board appointed an Executive Manager who shall have general and active management responsibility of the affairs of the Authority and shall jointly with the Chairperson execute all contracts of the Authority.

Financial Analysis

The following is a condensed statement of net position of the Authority at June 30, 2021 and 2020:

| | 2021 | 2020 |
|----------------------------|----------------------|----------------------|
| Assets: | | |
| Current assets | \$ 2,638,206 | \$ 2,729,596 |
| Capital assets | 10,684,530 | 2,538,760 |
| Construction in progress | 12,541,923 | 9,732,684 |
| Total Assets | \$ 25,864,659 | \$ 15,001,040 |
| Liabilities: | | |
| Short-term liabilities | \$ 2,095,961 | \$ 1,652,264 |
| Long-term liabilities | 20,481,893 | 10,553,093 |
| Total Liabilities | \$ 22,577,854 | \$ 12,205,357 |
| Net Position: | | |
| Invested in capital assets | \$ 1,360,300 | \$ 742,130 |
| Restricted | 1,926,505 | 2,053,553 |
| Total Net Position | \$ 3,286,805 | \$ 2,795,683 |

For the year ended June 30, 2021, the Authority's current assets are comprised of; cash in banks of \$748,297; accounts receivable, net of doubtful accounts of \$1,854,146, and prepaid expenses of \$35,763. The capital assets during this same period are comprised of; infrastructure, buildings, equipment and vehicles net of accumulated depreciation of \$2,855,593 representing \$10,684,530. Two construction projects were completed during the year ended June 30, 2021, and associated costs were capitalized as additions to infrastructure. Depreciable infrastructure cost recovery reflected in the statement of revenues, expenses and changes in net position is based on recovery of costs over the next twenty-five years once placed in service. The amount added to infrastructure from construction in progress is \$7,697,881. Construction in progress costs represents three existing projects with additional capital spending during this fiscal year of \$9,377,989 totaling \$12,541,923 as of June 30, 2021. The Authority's short-term liabilities are comprised of; accrued costs related to construction and operating expenses of \$1,783,135. Short-term liabilities also include a remaining payment related to acquired real property deferred to be paid within the next twelve months of \$312,826. The long-term liabilities represent deferred income from acquiring the existing infrastructure from the City of Chester in the amount of \$463,681 amortized to income over the next twelve and a half years, and \$20,018,212 representing the long-term portion of Pennvest loans. Each Pennvest loan funds a separate construction project of which there were five projects in progress with two completed during this fiscal year. Under the terms of each loan from Pennvest, no principal payments are required on the loans for up to 36 months beginning at the loan origination date, but interest is due on any amounts borrowed from the approved amounts.

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2021 AND 2020**

The following is a condensed statement of revenues, expenses, and changes in net position for the Authority for the years ended June 30, 2021 and 2020:

| | 2021 | 2020 |
|-----------------------------------|---------------------|---------------------|
| Operating Revenues: | | |
| Storm drainage utility fees | \$ 3,496,100 | \$ 3,375,240 |
| Total Operating Revenues | <u>3,496,100</u> | <u>3,375,240</u> |
| Operating Expenses: | | |
| Expenses except depreciation | 2,417,092 | 2,806,986 |
| Depreciation | 454,617 | 165,413 |
| Total Operating Expenses | <u>2,871,709</u> | <u>2,972,399</u> |
| Other Nonoperating Revenue | | |
| Interest income | 193 | 538 |
| Rental income | 10,050 | - |
| Total Nonoperating Revenue | <u>10,243</u> | <u>538</u> |
| Other Nonoperating Expense | | |
| Interest expense | (143,512) | (65,781) |
| Change in Net Position | 491,122 | 337,598 |
| Net Position - Beginning | 2,795,683 | 2,458,085 |
| Net Position - Ending | <u>\$ 3,286,805</u> | <u>\$ 2,795,683</u> |

The Authority was created by the City of Chester establishing a Stormwater Authority to improve existing infrastructure and to transfer the City's infrastructure they maintained, to manage, maintaining, and improve the stormwater system.

During this fiscal year ended, two construction projects, funded from Pennvest loans, were completed. Three projects remain in progress. During this fiscal year, the Authority began servicing debt on two Pennvest loans associated to two completed projects.

Economic Factors and Next Year's Budget and Rates

The Stormwater Authority of the City of Chester continues to focus on improving the stormwater management and enhancing the present infrastructure. The Authority is in the final stages of attaining a \$9.9 million dollar grant to continue capital improvements to infrastructure and redirect the flow of stormwater away from a waste water treatment plant.

The annual budget is developed initially by anticipating operating revenues based on historical trends of anticipated amounts collected. The budgeted expenses represent anticipated costs of operating expenses, capital expenditures and debt service. Actual costs include bad debt expense and depreciation which are considered noncash amounts and were considered part of the budget.

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEARS ENDED JUNE 30, 2021 AND 2020**

The Authority continues to invest in improvements to the existing infrastructure from available funding provided by Pennvest. Total funding presently provided by Pennvest is \$33,084,941. At the time of the release of these financial statements, the Authority has borrowed \$25,266,800 to continue the process of enabling the stormwater management system to efficiently manage water runoff and reduce contaminants from entering the region's fresh water system.

This report is designed to provide a general overview of the Authority's finances for all interested parties. Questions concerning any of the information provided or requests for additional information should be addressed to the Director of Finance and Administration at:

Stormwater Authority of the City of Chester
31 East 5th Street
Chester, PA 19013
Phone # 610-872-1000

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
STATEMENTS OF NET POSITION
JUNE 30, 2021 AND 2020**

| | <u>ASSETS</u> | |
|--|-----------------------------|-----------------------------|
| | <u>2021</u> | <u>2020</u> |
| Current Assets | | |
| Cash and Cash Equivalents: | | |
| BMT#6847 Tranche 5 (72818) Checking | \$ 5,821 | \$ 233,961 |
| BMT#5577 Tranche 4 (78023) Checking | 5,188 | 279,216 |
| BMT#5740 Tranche 3 (72817) Checking | 11,873 | 159,163 |
| BMT#8023 Tranche 2 (72701) Checking | 22,322 | 14,586 |
| BMT#8090 Tranche 1 (72811) Checking | 3,618 | 339,272 |
| BMTC #8451 (Operational) | 219,595 | 204,175 |
| Covenant CK #8895 | 3,710 | 40,459 |
| Covenant MM #8779 | 101,025 | 53,872 |
| BMTMM #4554 ICS | 375,145 | 12,864 |
| Total Cash and Cash Equivalents | <u>748,297</u> | <u>1,337,568</u> |
| Accounts Receivable: | | |
| Accounts receivable | - | 18,068 |
| Accounts receivable - Minol | 4,673,646 | 3,978,960 |
| Allowance for bad debts | (2,819,500) | (2,605,000) |
| Total Accounts Receivable | <u>1,854,146</u> | <u>1,392,028</u> |
| Other Current Assets | | |
| Prepaid Expenses | | |
| Total Other Current Assets | <u>35,763</u> | <u>-</u> |
| Total Current Assets | <u>2,638,206</u> | <u>2,729,596</u> |
| Capital Assets- Fixed Assets | | |
| Land | 89,516 | 31,516 |
| Buildings: | | |
| 3215 W 3rd St | 348,975 | - |
| 29 E 5th St | 175,432 | 173,537 |
| 31 E 5th St | 725,110 | 724,410 |
| 410 Welsh St | 163,633 | 142,533 |
| Infrastructure | 11,090,462 | 3,392,581 |
| Vehicles, Equipment, Furniture | 946,995 | 475,159 |
| Accumulated depreciation | (2,855,593) | (2,400,976) |
| Net Fixed Assets | <u>10,684,530</u> | <u>2,538,760</u> |
| Capital Assets - Construction in Progress | | |
| CIP- Tranche 1 | - | 3,014,455 |
| CIP- Tranche 2 | - | 3,554,295 |
| CIP- Tranche 3 | 2,727,742 | 1,511,244 |
| CIP- Tranche 4 | 6,210,723 | 1,132,765 |
| CIP- Tranche 5 | 3,603,458 | 519,925 |
| Total Construction in Progress | <u>12,541,923</u> | <u>9,732,684</u> |
| Total Assets | <u>\$ 25,864,659</u> | <u>\$ 15,001,040</u> |

See accompanying notes.

STORMWATER AUTHORITY OF THE CITY OF CHESTER
STATEMENTS OF NET POSITION
JUNE 30, 2021 AND 2020

LIABILITIES AND NET POSITION

| | <u>2021</u> | <u>2020</u> |
|---|----------------------|----------------------|
| Liabilities | | |
| Current Liabilities: | | |
| Property settlement payable | \$ 312,826 | \$ - |
| Accrued expenses | 1,742,319 | 1,527,285 |
| Accrued interest | 3,523 | 7,957 |
| Accrued payroll and taxes | 37,293 | 28,031 |
| Term Loan - Covenant | - | 88,991 |
| Total Current Liabilities | <u>2,095,961</u> | <u>1,652,264</u> |
| Long-term Liabilities: | | |
| Deferred Revenue - Infrastructure | 463,681 | 501,661 |
| Pennvest Loan A #72811- Tranche 1 | 4,227,076 | 3,546,906 |
| Pennvest Loan B #72701- Tranche 2 | 3,818,885 | 3,240,752 |
| Pennvest Loan C #72817- Tranche 3 | 2,634,185 | 1,451,417 |
| Pennvest Loan D #78023- Tranche 4 | 6,001,603 | 1,335,072 |
| Pennvest Loan E #72818- Tranche 5 | 3,336,463 | 477,285 |
| Total Long-term Liabilities | <u>20,481,893</u> | <u>10,553,093</u> |
| Total Liabilities | <u>22,577,854</u> | <u>12,205,357</u> |
| Net Position | | |
| Invested in capital assets | 1,360,300 | 742,130 |
| Restricted | 1,926,505 | 2,053,553 |
| Total Net Position | <u>3,286,805</u> | <u>2,795,683</u> |
| Total Liabilities and Net Position | <u>\$ 25,864,659</u> | <u>\$ 15,001,040</u> |

See accompanying notes.

STORMWATER AUTHORITY OF THE CITY OF CHESTER
STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
YEARS ENDED JUNE 30, 2021 AND 2020

| | <u>2021</u> | <u>2020</u> |
|--|---------------------|---------------------|
| Operating Revenues | | |
| Certification fees | \$ 18,105 | \$ 6,829 |
| Stormwater revenue - in-house billing | 700,831 | 450,058 |
| Stormwater revenue - Minol | <u>2,777,164</u> | <u>2,918,353</u> |
| Total Operating Revenues | <u>3,496,100</u> | <u>3,375,240</u> |
| Operating Expenses | | |
| Advertising and marketing | 11,320 | 1,319 |
| Bad debts expense | 214,500 | 850,000 |
| Bank charges and fees | 1,416 | 622 |
| Billing company fees | 226,613 | 224,072 |
| Charitable contributions | 49,500 | 17,540 |
| Depreciation expense | 454,617 | 165,413 |
| Dues and subscriptions | 2,794 | 586 |
| Gas | 18,721 | 10,439 |
| Insurance - liability, worker compensation | 26,498 | 28,034 |
| Insurance - medical, dental | 177,447 | 158,163 |
| Job supplies | 2,989 | 1,420 |
| Legal and professional services | 282,194 | 246,583 |
| Meals and entertainment | 2,310 | 3,402 |
| Office supplies and software | 9,951 | 12,484 |
| Outside services | 35,683 | 8,861 |
| Payroll processing fees | 2,083 | 3,150 |
| Payroll taxes - employer | 84,706 | 70,473 |
| Payroll wages and salary | 1,067,020 | 832,081 |
| Permits and inspections | 1,000 | 55,305 |
| Fringe benefits | 93,591 | 57,237 |
| Refund | 2,799 | 1,259 |
| Rent expense | 9,100 | - |
| Repairs and maintenance | 51,518 | 195,300 |
| SAC staff expenses | - | 2,900 |
| Supplies and materials | 10,771 | 2,210 |
| Taxes and licenses | 6,218 | 90 |
| Telephone | 4,792 | 9,412 |
| Travel | - | 2,827 |
| Utilities | 20,759 | 10,444 |
| Utilities-Delcora | 799 | 773 |
| Total Operating Expenses | <u>2,871,709</u> | <u>2,972,399</u> |
| Net Operating Income | <u>624,391</u> | <u>402,841</u> |
| Nonoperating Revenues | | |
| Rental Income | 10,050 | - |
| Interest income | 193 | 538 |
| Nonoperating Expenses | | |
| Interest expense | <u>(143,512)</u> | <u>(65,781)</u> |
| Net Nonoperating Revenues (Expenses) | <u>(133,269)</u> | <u>(65,243)</u> |
| Net Income | 491,122 | 337,598 |
| Net Position - Beginning of Fiscal Year | <u>2,795,683</u> | <u>2,458,085</u> |
| Net Position - End of Fiscal Year | <u>\$ 3,286,805</u> | <u>\$ 2,795,683</u> |

See accompanying notes.

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
STATEMENTS OF CASH FLOWS
YEARS ENDED JUNE 30, 2021 AND 2020**

| | <u>2021</u> | <u>2020</u> |
|---|--------------------|---------------------|
| Cash Flows From Operating Activities | | |
| Cash received from service fees | \$ 2,781,501 | \$ 1,926,921 |
| Cash paid to and on behalf of employees | (1,201,097) | (962,405) |
| Cash paid for administrative activities | (935,376) | (934,352) |
| Cash Flows Provided by Operating Activities | <u>645,028</u> | <u>30,164</u> |
| Cash Flows From Capital and Related Financing Activities | | |
| Debt incurred | 10,023,671 | 7,291,036 |
| Debt retired | (56,891) | - |
| Interest paid | (147,946) | (49,800) |
| Capital expenditures | (780,090) | (1,353,149) |
| Construction in progress | (10,194,295) | (6,260,451) |
| Cash Flows Used in Capital and Related Financing Activities | <u>(1,155,551)</u> | <u>(372,364)</u> |
| Cash Flows From Non-Capital and Related Financing Activities | | |
| Debt retired | (88,991) | (148,463) |
| Rental income | 10,050 | - |
| Interest paid | - | (10,039) |
| Cash Flows Used in Non-Capital and Related Financing Activities | <u>(78,941)</u> | <u>(158,502)</u> |
| Cash Flows From Investing Activities | | |
| Interest income | 193 | 538 |
| Net Decrease in Cash and Cash Equivalents | (589,271) | (500,164) |
| Cash and Cash Equivalents, Beginning | <u>1,337,568</u> | <u>1,837,732</u> |
| Cash and Cash Equivalents, Ending | <u>\$ 748,297</u> | <u>\$ 1,337,568</u> |
| Reconciliation of operating income to cash flows provided by operating activities | | |
| Operating income | \$ 624,391 | \$ 402,841 |
| Adjustments to reconcile operating income to cash flows provided by operating activities; | | |
| Depreciation expense | 454,617 | 165,413 |
| Bad debt expense | 214,500 | 850,000 |
| Changes in: | | |
| Accounts receivable | (676,618) | (1,410,338) |
| Prepaid expenses | (35,763) | - |
| Escrow for permits | - | 47,500 |
| Accrued expenses | 101,881 | 12,729 |
| Deferred revenue | (37,980) | (37,981) |
| Cash Flows Provided by Operating Activities | <u>\$ 645,028</u> | <u>\$ 30,164</u> |

See accompanying notes.

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
NOTES TO FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2021 AND 2020**

**NOTE 1: NATURE OF OPERATIONS AND SUMMARY OF SIGNIFICANT ACCOUNTING
POLICIES**

The Stormwater Authority of the City of Chester ("the Authority") was incorporated on October 28th of 2016. The Authority, under the provisions of the Municipal Authorities Act, will enhance, protect and safeguard the water bodies and groundwater and improve the public health, safety within the Authority's boundaries.

Reporting Entity

The Authority is a separate governmental entity. The Authority's board of directors consists of City of Chester council members and directors along with two board members of the Chester Water Authority.

The Authority was established to repair and improve the existing infrastructure, and design and develop an infrastructure separate from the existing waste water infrastructure, which the Authority is presently part of. The Authority took legal possession of the stormwater infrastructure in September 2018. Work began on improving the infrastructure prior to receiving legal ownership from grants and loans. Funding for repairs and improvements to the infrastructure presently consists of five active projects in place as of June 30, 2021.

The Authority follows Governmental Accounting Standards Board ("GASB") accounting pronouncements which provide guidance for determining which governmental activities are to be included within the financial reporting entity. GASB pronouncements set forth the financial accountability of the government governing body. Financial accountability includes, but is not limited to, the appointment of a majority of the organization's governing body, who has the ability to impose its will on the organization.

The Authority is not financially accountable for any other organization, nor is the Authority a component unit of any other primary governmental entity.

Measurement Focus, Basis of Accounting, and Financial Statement Presentation

The Authority's financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows.

The Authority adheres to the provisions of GASB Statement No. 34, "Basic Financial Statements - and Management's Discussion and Analysis - for State and Local Governments" and GASB Statement No. 38, "Certain Financial Statement Note Disclosure". Both GASB's establish standards for external financial reporting for all state and local governmental entities.

Budgets and Budgetary Accounting

The Authority's management prepares the Authority's operating budget. The Authority's Director submits a proposed operating budget to its Board of Directors before the beginning of the fiscal year. The Board adopts the budget and passes the appropriation resolution. After commencement of the fiscal year, the appropriation is irrevocable. However, the Board may adopt supplemental appropriations by resolution due to circumstances which could not be foreseen at the time of the adoption of the original budget. The budget lapses at the end of each year.

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
NOTES TO FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2021 AND 2020**

**NOTE 1: NATURE OF OPERATIONS AND SUMMARY OF SIGNIFICANT ACCOUNTING
POLICIES (continued)**

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Statement of Cash Flows

For purposes of the statement of cash flows, the Authority considers highly liquid investments with a maturity of three months or less when acquired to be cash equivalents.

Accounts Receivables

Accounts receivables are expressed net of allowances for doubtful accounts. On June 30, 2021, an additional allowance was recorded to reflect compliance in the early phase of charging residents the fee based on an assessment established from the beginning of operations. An increase to the allowance of \$214,500 was recorded to adjust the reserve for doubtful accounts during this fiscal year. The allowance is determined based on collection rates and management's analysis of specific accounts.

Capital Assets

Capital assets, which include infrastructure, property, and equipment, are reported in the financial statements. Capital assets are defined by the Authority as assets with an estimated useful life greater than one year. The Authority has set a threshold of \$1,500 in determining expenditures to be capitalized and depreciated over a useful life as follows:

| | |
|-------------------------------|----------|
| Infrastructure | 25 years |
| Buildings | 30 years |
| Office furniture and fixtures | 7 years |
| Vehicles | 5 years |

Certain capital expenditures related to construction in progress of the infrastructure ("CIP") are not depreciated. When construction projects are complete, the project cost is transferred to the infrastructure account and depreciation of the capital cost begins. On September 12, 2018, the mayor of the City of Chester transferred the infrastructure assets they maintained over to the Stormwater Authority of the City of Chester to continue maintaining and to seek funding for improving the infrastructure. These assets are continuing to be depreciated over their remaining useful lives.

Expenditures for maintenance, repairs and minor replacements, which do not improve or extend the life of the asset, are expensed as incurred.

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
NOTES TO FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2021 AND 2020**

**NOTE 1: NATURE OF OPERATIONS AND SUMMARY OF SIGNIFICANT ACCOUNTING
POLICIES (continued)**

Compensated Absences

The Authority's policy is to accrue as an expense and liability for employee vacation, sick leave, and compensatory time when the employee vests in such benefits. This policy has been incorporated into the Authority's company policy as of the date of these financial statements. \$34,957 and \$0 has been accrued for compensated absences and recorded as Accrued Expenses at June 30, 2021 and 2020, respectively.

Net Position

Net position comprises the various net earnings from operating income, nonoperating revenues and expenses, and capital contributions. Net position is classified in the following components:

Net investment in capital assets - This component of net position consists of capital assets, net of accumulated depreciation and reduced by the outstanding balances of any borrowings that are attributed to the acquisition, construction or improvement of those assets.

Restricted - This component of net position consists of constraints imposed by creditors, grantors, contributors, or laws or regulations of other governments or constraints imposed by law.

Unrestricted - This component of net position consists of net position that does not meet the definition of net investment in capital assets, or restricted.

New Accounting Pronouncements

GASB Statement No. 87 – In June 2017, GASB issued Statement No. 87, *Leases*. The objective of this Statement is to better meet the information needs of financial statement users by improving accounting and financial reporting for leases by governments. This Statement increases the usefulness of governments' financial statements by requiring recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and recognized as inflows of resources or outflows of resources based on the payment provisions of the contract. It establishes a single model for lease accounting based on the foundational principle that leases are financings of the right to use an underlying asset. Under this Statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources, thereby enhancing the relevance and consistency of information about governments' leasing activities. The Statement is effective for the reporting periods after June 15, 2021. This pronouncement does not impact the Authority for the year ended June 30, 2021.

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
NOTES TO FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2021 AND 2020**

NOTE 2: CREDIT RISK

Custodial Credit Risk

Investments of the Authority may be exposed to custodial credit risk for amounts in excess of the federal depository insurance amount of \$250,000 per bank. At June 30, 2021, both banks, Bryn Mawr Trust and Covenant, established pools to protect amounts held by each to eliminate credit risk.

Concentration of Credit Risk

More than eighty percent of the Authority's depository accounts are in one bank.

NOTE 3: CAPITAL ASSETS

Capital asset activity for the year ended June 30, 2021 was as follows:

| | Balance July 1, 2020 | Increases | Decreases | Balance June 30, 2021 |
|---------------------------------------|----------------------------|----------------------|-----------------------|-----------------------------|
| Capital assets not being depreciated: | | | | |
| Land | \$ 31,516 | \$ 58,000 | \$ - | \$ 89,516 |
| Construction-in-progress | 9,732,684 | 9,377,989 | (6,568,750) | 12,541,923 |
| Capital Assets Not Being Depreciated | 9,764,200 | 9,435,989 | (6,568,750) | 12,631,439 |
| Capital assets being depreciated: | | | | |
| Buildings | 1,040,480 | 372,670 | - | 1,413,150 |
| Infrastructure | 3,392,581 | 7,697,881 | - | 11,090,462 |
| Vehicles, Equipment and Furniture | 475,159 | 471,836 | - | 946,995 |
| Capital Assets Being Depreciated | 4,908,220 | 8,542,387 | - | 13,450,607 |
| Less accumulated depreciation | (2,400,976) | (454,617) | - | (2,855,593) |
| Net Capital Assets Being Depreciated | 2,507,244 | 8,087,770 | - | 10,595,014 |
| Net Capital Assets | <u>\$ 12,271,444</u> | <u>\$ 17,523,759</u> | <u>\$ (6,568,750)</u> | <u>\$ 23,226,453</u> |

NOTE 4: DEBT

The Authority had a term loan with Covenant Bank bearing an interest at 3.75% which was a line of credit and converted to a term loan during September 2018. The loan was paid off during the year ended June 30, 2021. There are five Pennvest loans (Pennsylvania Infrastructure Investment Authority) bearing interest at a rate of 1.0%, which represent funding for individual infrastructure projects. The approved amount of each loan is listed below. The proceeds of each Pennvest loan during this fiscal year and beyond are disbursed periodically based on reimbursing costs incurred during the progress on completion of each project. The Authority's future planning and related capital spending on infrastructure continues to utilize the loan proceeds. The loan amounts provided to the Authority from Pennvest are listed below. Each project is individually accounted for.

The terms of each loan from Pennvest provide the Authority to pay interest only at 1% rate for up to 36 months from the amortization date, adjusted, as the Authority continues borrowing from approved loan amounts. Principal payments began during 2021 on one of the loans. The loan will be amortized over twenty years.

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
NOTES TO FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2021 AND 2020**

NOTE 4: DEBT (continued)

| | Balance July 1, 2020 | Borrowings | Repayments | Balance June 30, 2021 |
|-------------------------------------|----------------------------|----------------------|---------------------|-----------------------------|
| Covenant - term loan | \$ 88,991 | \$ - | \$ (88,991) | \$ - |
| Pennvest - \$4,888,205 - Tranche #1 | 3,546,906 | 680,170 | - | 4,227,076 |
| Pennvest - \$4,822,315 - Tranche #2 | 3,240,752 | 635,024 | (56,891) | 3,818,885 |
| Pennvest - \$3,447,464 - Tranche #3 | 1,451,417 | 1,182,768 | - | 2,634,185 |
| Pennvest - \$9,980,156 - Tranche #4 | 1,335,072 | 4,666,531 | - | 6,001,603 |
| Pennvest - \$9,946,801 - Tranche #5 | 477,285 | 2,859,178 | - | 3,336,463 |
| | <u>\$ 10,140,423</u> | <u>\$ 10,023,671</u> | <u>\$ (145,882)</u> | <u>\$ 20,018,212</u> |

The principal and interest payments on the individual loans for the future are as follows. The Covenant loan was paid off during the fiscal year ended June 30, 2021. Each Pennvest loan represents a separate project. The Authority is working towards improving the management of water runoff issues that have existed for many years. Each Pennvest loan, from the closing date, has a deferral of principal payments of up to 36 months with interest only payments at 1% during this time. Future principal and interest payments are based on amounts borrowed on each project up through the end of March 2022. In addition to the \$25,209,889 of existing debt service itemized below, an additional \$7,818,161 of approved loan proceeds are available to the Authority. As each project progresses additional borrowings will increase the future debt service listed below. Pennvest future debt service, listed below, exceeds present liability balances presented on the Statement of Net Position, because of continued borrowings against the loans, subsequent to the end of this fiscal year end of June 30, 2021. Interest is paid monthly to Pennvest at a 1% annual rate on amounts drawn down from the approved loan amounts listed below. See Subsequent Events, Note 9, for additional information.

Future principal payments are as follows:

| For the Years Ending June 30: | Pennvest #1 | Pennvest #2 | Pennvest #3 | Pennvest #4 | Pennvest #5 | Total |
|----------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|
| 2022 | \$ 170,899 | \$ 180,648 | \$ - | \$ - | \$ - | \$ 351,547 |
| 2023 | 229,651 | 231,088 | 109,595 | 316,804 | 160,668 | 1,047,806 |
| 2024 | 231,957 | 233,409 | 165,769 | 479,182 | 485,228 | 1,595,545 |
| 2025 | 234,288 | 235,753 | 167,434 | 483,995 | 490,103 | 1,611,573 |
| 2026 | 236,642 | 238,123 | 169,116 | 488,858 | 495,027 | 1,627,766 |
| Thereafter | 3,184,165 | 2,719,888 | 2,022,271 | 5,926,824 | 5,122,504 | 18,975,652 |
| | <u>\$ 4,287,602</u> | <u>\$ 3,838,909</u> | <u>\$ 2,634,185</u> | <u>\$ 7,695,663</u> | <u>\$ 6,753,530</u> | <u>\$ 25,209,889</u> |

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
NOTES TO FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2021 AND 2020**

NOTE 4: DEBT (CONTINUED)

Future interest payments are as follows:

| For the Years Ending June 30: | Pennvest #1 | Pennvest #2 | Pennvest #3 | Pennvest #4 | Pennvest #5 | Total |
|----------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|---------------------|
| 2022 | \$ 42,007 | \$ 37,191 | \$ 28,288 | \$ 70,063 | \$ 54,279 | \$ 231,828 |
| 2023 | 40,116 | 35,042 | 27,451 | 76,034 | 67,335 | 245,978 |
| 2024 | 37,809 | 32,721 | 25,816 | 71,596 | 63,709 | 231,651 |
| 2025 | 38,346 | 30,677 | 24,164 | 66,782 | 58,834 | 218,803 |
| 2026 | 33,125 | 28,008 | 22,495 | 61,920 | 54,911 | 200,459 |
| Thereafter | 205,566 | 144,976 | 133,529 | 320,191 | 258,247 | 1,062,509 |
| | <u>\$ 396,969</u> | <u>\$ 308,615</u> | <u>\$ 261,743</u> | <u>\$ 666,586</u> | <u>\$ 557,315</u> | <u>\$ 2,191,228</u> |

NOTE 5: DEFERRED REVENUES

On September 12th, 2018, after a resolution signed by the mayor of the City of Chester, the stormwater infrastructure they maintained was transferred to the Authority. The value received, determined by remaining depreciable value, is being realized as annual revenue by the Authority over a 15-year period beginning on the date the resolution was signed by the mayor of the City of Chester.

NOTE 6: COMMITMENTS

During December 2017, the Authority entered into an agreement with a utility billing service company. The billing company provides customer billing services, collection of payments, and customer services on a monthly basis, based on an agreed upon fee schedule. The agreement was for a period of 36 months, expiring in November 2020, at which point the agreement continued on a month-to-month basis.

As of June 30, 2021, the Authority has agreements in place with various contractors to complete the open construction in progress projects. The balance to finish, including retainage, on these agreements prior to any subsequent change orders was approximately \$7,800,000.

NOTE 7: CONTINGENCIES – LEGAL PROCEEDINGS

The Authority is subject to various disputes and legal proceedings, including billing disputes, which arise in the normal course of its operations. Management's belief with respect to these activities is that the outcome, if any, will not be material to the Authority's financial condition, partially attributable to maintaining a reserve for doubtful collections of accounts receivable.

NOTE 8: RISKS AND UNCERTAINTIES

The 2019 novel coronavirus (or "COVID-19") has adversely affected, and may continue to adversely affect, economic activity globally, nationally and locally. These economic and market conditions and other effects of the COVID-19 outbreak may continue to cause volatility. The full extent of any adverse impact of the COVID-19 outbreak on the Authority's financial statements cannot be predicted at this time.

**STORMWATER AUTHORITY OF THE CITY OF CHESTER
NOTES TO FINANCIAL STATEMENTS
YEARS ENDED JUNE 30, 2021 AND 2020**

NOTE 9: SUBSEQUENT EVENTS

Subsequent events have been evaluated by management through June 2, 2022, which is the date the financial statements were available to be issued.

Collection Efforts

During July 2021, The Authority engaged legal representation (collection firm) to communicate with property owners with delinquent accounts related to their past due stormwater fee assessments. The Collection firm has begun contacting property owners and collecting on past due accounts. Challenges by property owners have failed to deter the Authority's right to assess. The Authority has prevailed in challenges up through the date noted in subsequent events.

Additional Projects and Financing

The Authority is expecting to receive a \$9,900,000 grant during 2022, to continue to improve infrastructure and redirect the flow of stormwater away from a waste water treatment plant.

The Pennvest funding for existing and subsequent projects to these financial statements are as follows through the date of the March 2022:

Loan #72811 -Tranche #1 – Origination date - December 2018, \$4,888,205 was approved; \$4,287,602 has been drawn against this loan. Principal payments begin in October 2021. The loan matures in September 2041.

Loan #72701 Tranche #2 - Origination date - November 2018, \$4,822,315 was approved; \$3,838,909 has been drawn against this loan. Principal payments began in April 2021. The loan matures in March 2041.

Loan #72817 Tranche #3 - Origination date - May 2019, \$3,447,464 was approved; \$2,634,185 has been drawn against this loan. Principal payments begin in November 2021. The loan matures in October 2041.

Loan #78023 Tranche #4 – Origination date - February 2020, \$9,980,156 was approved; \$7,695,663 has been drawn against this loan. Principal payments begin in November 2022. The loan matures in October 2042.

Loan #72818 Tranche #5 – Origination date – May 2020, \$9,946,801 was approved; \$6,753,530 has been drawn against this loan. Principal payments begin in March 2023. The loan matures in February 2043.

As of the end of March 2021, five projects have approved funding through Pennvest totaling \$33,084,940. From available funding, \$25,266,780 has been borrowed and invested in improvements of the infrastructure and supporting assets.

The terms of each loan from Pennvest allow the Authority to pay interest only at a 1% rate for up to 36 months. Afterwards, principal and interest payments will begin on the existing loans starting in 2021 and amortized over 20 years to pay back these loans in full during the years; 2041, 2042 and 2043, relative to the loan origination dates.

STORMWATER AUTHORITY OF THE CITY OF CHESTER
STATEMENT OF REVENUES AND EXPENSES - ACTUAL VS. BUDGET
AND CHANGE IN NET POSITION
YEAR ENDED JUNE 30, 2021

| | <u>Actual</u> | <u>Budget</u> | <u>Variance Favorable (Unfavorable)</u> |
|--|---------------------|-------------------|---|
| Operating Revenues | | | |
| Certification fees | \$ 18,105 | \$ 17,000 | \$ 1,105 |
| Stormwater revenue - in-house billing | 700,831 | 830,000 | (129,169) |
| Stormwater revenue - Minol | <u>2,777,164</u> | <u>2,595,955</u> | <u>181,209</u> |
| Total Operating Revenues | <u>3,496,100</u> | <u>3,442,955</u> | <u>53,145</u> |
| Operating Expenses | | | |
| Advertising and marketing | 11,320 | 7,800 | (3,520) |
| Bad debts allowance | 214,500 | 475,000 | 260,500 |
| Bank charges and fees | 1,416 | 1,430 | 14 |
| Billing company fees | 226,613 | 226,650 | 37 |
| Charitable contributions | 49,500 | 50,000 | 500 |
| Depreciation expense | 454,617 | 430,000 | (24,617) |
| Dues and subscriptions | 2,794 | 2,793 | (1) |
| Gas | 18,721 | 19,000 | 279 |
| Insurance - liability, worker compensation | 26,498 | 39,000 | 12,502 |
| Insurance - medical, dental | 177,447 | 195,000 | 17,553 |
| Job Supplies | 2,989 | 6,500 | 3,511 |
| Legal and professional services | 282,194 | 265,000 | (17,194) |
| Meals and entertainment | 2,310 | 2,350 | 40 |
| Office supplies and software | 9,951 | 8,500 | (1,451) |
| Outside services | 35,683 | 19,500 | (16,183) |
| Payroll processing fees | 2,083 | 3,000 | 917 |
| Payroll taxes - employer | 84,706 | 92,000 | 7,294 |
| Payroll wages and salary | 1,067,020 | 1,122,000 | 54,980 |
| Fringe benefits | 93,591 | 55,000 | (38,591) |
| Permits and inspections | 1,000 | 1,000 | - |
| Refund | 2,799 | 2,500 | (299) |
| Repairs and maintenance | 51,518 | 57,000 | 5,482 |
| Rent expense | 9,100 | 5,600 | (3,500) |
| Supplies and materials | 10,771 | 10,200 | (571) |
| Taxes and licenses | 6,218 | 370 | (5,848) |
| Telephone | 4,792 | 5,000 | 208 |
| Utilities | 20,759 | 20,000 | (759) |
| Utilities-Delcora | 799 | 800 | 1 |
| Total Operating Expenses | <u>2,871,709</u> | <u>3,122,993</u> | <u>251,284</u> |
| Net Operating Income | <u>624,391</u> | <u>319,962</u> | <u>304,429</u> |
| Nonoperating Revenues | | | |
| Interest income | 193 | - | 193 |
| Rental income | 10,050 | 10,000 | 50 |
| Nonoperating Expenses | | | |
| Interest expense | 143,512 | 200,000 | 56,488 |
| Net Nonoperating Revenue (Expenses) | <u>(133,269)</u> | <u>(200,000)</u> | <u>66,731</u> |
| Net Income | 491,122 | <u>\$ 119,962</u> | <u>\$ 371,160</u> |
| Net Position - Beginning of Fiscal Year | <u>2,795,683</u> | | |
| Net Position - End of Fiscal Year | <u>\$ 3,286,805</u> | | |