

CWA Chester Water Authority

P.O. Box 467
Chester, Pennsylvania 19016-0467
Tel: (610) 876-8185

April 15, 2021

VIA EMAIL

Mayor Thaddeus Kirkland
City of Chester
c/o Ken Schuster, Esquire
Schuster Law
334 W Front St,
Media, PA 19063
ken@schusterlaw.com

RE: Ending the City of Chester's Receivership and Dispute with the Chester Water Authority

Dear Mayor Kirkland:

On behalf of the Chester Water Authority, we write to invite a final end to the litigation between the City and the Authority through an amicable resolution that also facilitates the City's economic recovery and ends the Commonwealth imposed receivership over it.

The American Rescue Plan, the \$1.9 trillion COVID-19 relief package President Biden just signed into law, includes \$31 million for the City of Chester. *See* "President Biden to visit Delaware County Tuesday," Kathleen Carey, March 11, 2021, available at https://www.delcotimes.com/news/president-biden-to-visit-delaware-county-tuesday/article_6265213e-827d-11eb-8627-0f0d372392ed.html.

The Receiver's 2021 budget for the City was compiled before the law was enacted. Thus, the 2021 budget does not include any portion of this \$31 million.

Yet even without including the \$31 million in federal aid, the 2021 City budget: (1) makes the full 2021 Minimum Municipal Obligation payments for each of the City's three pension funds; (2) makes full payment for debt service on the City's outstanding bonds; (3) "fund[s] all obligations to sustain vital and necessary services during 2021." *See* Status Updates the Receiver filed on 12/2/2021 and 3/5/2021.

These statements from the Receiver are important because they mean that the City no longer qualifies for a receivership. Specifically, the receivership must terminate once the City is projected to be solvent for 180 days and “is able to ensure the continued provision of vital and necessary services.” 53 P.S. §§ 11701.608 and 710. By the Receiver’s own admission, both conditions are now satisfied even **without** considering the additional \$31 million in federal aid to the City. Once the \$31 million is also considered, it is clear beyond any doubt that the City meets the legal criteria for ending the receivership.

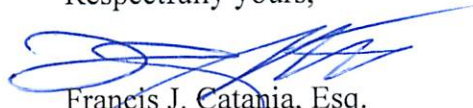
Importantly, this \$31 million is not the only funding available to the City. As you know, years ago the City and the Authority were close to finalizing a settlement. But the Commonwealth pushed the City to suddenly break off negotiations in June 2019.

The Authority has reached out to the Receiver several times to try to re-start those discussions. The most recent instance was a letter the Authority sent the Receiver on March 24, 2021. A copy of that letter is attached. The Receiver has not responded with any such desire to resume settlement negotiations. The Receiver’s total silence is puzzling. He seems to be ignoring the good that a negotiated settlement can do for the people and businesses of the City while also ensuring that the supply of pure drinking water remains in public control and the rates remain affordable on a long-term basis. He is also ignoring that if a settlement is not reached soon, and litigation continues, there is a distinct possibility that the City ends up with no further funding beyond the \$31 million in federal funds.

Given the Receiver’s silence and that the City has now met the legal criteria for ending the Receivership, the Authority is reaching out directly to the City to see if there is a desire to resume settlement discussions.

It was shortsighted, unnecessary, and greedy for the City’s state overseers to break off settlement discussions and instead push for an outright hostile takeover of the Authority. It is long past time to resolve this matter for the good of the Authority and the City.

Respectfully yours,



Francis J. Catania, Esq.
Solicitor, Chester Water Authority

Attachment



CWA Chester Water Authority
P.O. Box 467
Chester, Pennsylvania 19016-0467
Tel: (610) 876-8185

March 24, 2020

VIA EMAIL

Michael T. Doweary
Receiver for the City of Chester
c/o John P. McLaughlin, Esquire
Campbell Durrant, P.C.
One Belmont Avenue, Suite 300
Bala Cynwyd, PA 19004
jmclaughlin@cdblaw.com

RE: Ending the City of Chester's Dispute with the Chester Water Authority

Dear Mr. Doweary:

The American Rescue Plan, the \$1.9 trillion COVID-19 relief package President Biden just signed into law, includes \$31 million for the City of Chester. See "President Biden to visit Delaware County Tuesday," Kathleen Carey, March 11, 2021, available at https://www.delcotimes.com/news/president-biden-to-visit-delaware-county-tuesday/article_6265213e-827d-11eb-8627-0f0d372392ed.html.

Your 2021 budget for the City was compiled before the law was enacted. Thus, the 2021 budget does not include any portion of this \$31 million. The same goes for all of your status updates to the Court. Accordingly, your projected budget and status updates have been massively supplemented.

Yet even without including the \$31 million in federal aid, your 2021 City budget: (1) makes the full 2021 Minimum Municipal Obligation payments for each of the City's three pension funds; (2) makes full payment for debt service on the City's outstanding bonds; (3) "fund[s] all obligations to sustain vital and necessary services during 2021." See Status Updates the Receiver filed on 12/2/2021 and 3/5/2021.

March 24, 2021

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If the City can fund its pension and provide vital and necessary services without this additional \$31 million, then imagine what the City can do with that money.

Importantly, this \$31 million is not the only funding available to the City. As you know, years ago the City and the Authority were close to finalizing a settlement. But the Commonwealth pushed the City to suddenly brake off negotiations in June 2019. Since your appointment, we have reached out to your office several times to try to re-start those discussions. Your office has not responded with any such desire.

Consider the good that a negotiated settlement can do for the people and businesses of the City while also ensuring that the supply of pure drinking water remains in public control and the rates remain affordable on a long-term basis. Also consider that if a settlement is not reached soon, and litigation continues, there is a distinct possibility that the City ends up with no further funding beyond the \$31 million in federal funds.

You specifically stated in your status report to the Court that the City's 2021 budget did not include any funds from a possible monetization of the Authority. *See* Status Updates the Receiver filed on 12/2/2021. In fact, you even removed potential monetization funds from an earlier budget draft the City provided. *Id.* Yet even without any funds from the Authority, you were able to project a City budget for 2021 that is healthy enough to trip the statutory criteria for ending the fiscal emergency, now bolstered by an additional \$31 million in federal funds.

It was shortsighted, unnecessary, and greedy for the City's state overseers to break off settlement discussions and instead push for an outright hostile takeover of the Authority. It is long past time to resolve this matter for the good of the Authority and the City.

End the City's dispute with the Authority and deliver long term low water rates for the City's residents and businesses.

Respectfully yours,

/s/ Francis J. Catania

Francis J. Catania, Esq.
Solicitor, Chester Water Authority