CHESTER WATER AUTHORITY

A RESOLUTION

WHEREAS, the Authority is a municipality authority incorporated pursuant to and existing under and is governed by the provisions of the Municipality Authorities Act, 53 Pa.C.S. Ch. 56, as amended (the "Act"), of the Commonwealth of Pennsylvania; and

WHEREAS, the Authority supplies water to approximately 200,000 individuals and businesses throughout southern Chester County, western Delaware County, and the City of Chester (the "City")

WHEREAS, the Authority has a massive infrastructure that is composed of, *inter alia*, 23 storage tanks, 22 booster stations, nearly 700 miles of buried water mains, and a 60-million gallon per day Octoraro Treatment Plant; and,

WHEREAS, it is critical that this infrastructure has regular maintenance so ratepayers are provided with reliable and safe drinking water and water for fire protection; and,

WHEREAS, the Authority's infrastructure maintenance is not only a matter of public safety, but is required to ensure compliance with federal and state water safety laws, regulations, and government permits issued to the Authority; and,

WHEREAS, because many of these projects are large, expensive, and complicated, the Authority has adopted a three-year outlook for maintenance to its capital projects and regularly obtains financing to support its maintenance endeavors in accordance with prudent water supply practices; and,

WHEREAS, the Authority took out financing in the form of bonds for its capital projects in 2014 under and pursuant to a Trust Indenture dated December 1, 2014 (the "Original Indenture"), with Wells Fargo Bank, N.A, as Trustee (the "Original Trustee"), a portion of which remains outstanding thereunder, and under which Original Indenture, as supplemented as

hereinafter described (collectively, the "Senior Indenture"), Computershare Trust Company, N.A., is serving as successor trustee (the "Trustee"); and,

WHEREAS, the Authority has never missed a payment on those bonds; and,

WHEREAS, the proceeds from those bonds were allocated to capital projects from 2014 to 2018; and,

WHEREAS, by 2019, it became necessary for the Authority to obtain new financing for maintenance needs that would be required from 2019 to 2021; and,

WHEREAS, in the first half of 2019 the Authority conducted a public process of securing necessary quotes and approvals for that financing; and,

WHEREAS, based upon the Authority's maintenance needs, it was determined that the 2019 financing should be in an amount of not less than $35 million, which was to be provided by Republic Bank and Malvern Bank; and,

WHEREAS, the Authority had completed all necessary steps and approvals to obtain the 2019 financing, when the City commenced efforts to block said financing; and,

WHEREAS, the Authority was forced to seek emergency judicial relief in the Pennsylvania court system (the "Court") to stop certain actions of the City from impeding the financing; and,

WHEREAS, between August and October 2019, convened a series of emergency hearings, including a hearing on October 16, 2019, at which the Authority presented extensive testimony from its executives and engineers about the need for the 2019 financing; and,

WHEREAS, the Court ordered that certain purported resolutions of the City from August of 2019 were voided to the extent they frustrated the Authority's ability to finance infrastructure

maintenance and improvement necessary for the Authority to comply with governmental laws, regulations, and permits; and,

WHEREAS, regular maintenance and improvement of the Authority's operations as reflected in the capital budget is required to avoid 1) unnecessary cost from outdated equipment or equipment at the end of its useful life; 2) failure in the system that would materially threaten operations and cause incursion of substantially more expense to remediate; and 3) to comply with a host of laws, regulations, and permits governing the Authority, including but not limited to the Pennsylvania Environmental Rights Amendment, the Clean Water Act, the Safe Drinking Water Act, Federal Energy Regulatory Commission (FERC) regulations and directives, the Environmental Protection Agency's Risk Management Plan (RMP), permits from the Susquehanna River Basin Commission, the Clean Air Act, the Water Rights Act, and the Equal Protection clauses of the Federal and Pennsylvania Constitutions; and,

WHEREAS, notwithstanding the Court's Order, the City's actions caused concern among the interested lenders the Authority had originally lined up for the 2019 financing; and,

WHEREAS, as a result of the City's actions in 2019, the Authority was able to obtain only approximately $28 million in financing rather than the $35 million originally contemplated, as described in further detail below; and,

WHEREAS, the Authority, pursuant to powers vested in it by the Act, in 2019, undertook a capital project (the "2019 Capital Project") consisting of certain Capital Additions to the Water System (as both such capitalized terms are defined under the Indenture hereinafter defined); and,

WHEREAS, to obtain funds to finance a portion of the 2019 Capital Project, the Authority authorized and issued a series of water revenue bonds, *i.e.*, its $20,000,000 principal amount of Water Revenue Bond, Series of 2019 (the "2019 Bond") under and secured by the Senior Indenture, as amended and supplemented, in particular, by a Supplemental Trust Indenture, dated November 6, 2019

("First Supplemental Indenture"), between the Authority and the Original Trustee, the proceeds from the sale thereof used, together with money and funds otherwise available for the purposes, for and toward payment of the costs of the 2019 Project including the payment of the costs and expenses associated with the issuance of the 2019 Bond; and,

WHEREAS, to obtain additional funds to complete the 2019 Capital Project, the Authority issued an additional series of water revenue bonds, *i.e.*, its $8,000,000 principal amount of Water Revenue Bond, Series A of 2019 (the "2019A Bond"; together with the 2019 Bond, the "2019 Capital Project Bonds") under and secured by the Senior Indenture, as amended and supplemented, in particular, by a Second Supplemental Trust Indenture, dated December 31, 2019 (the "Second Supplemental Indenture"), between the Authority and the Original Trustee, the proceeds from the sale thereof used, together with other money available for the purposes, for and toward the payment of a portion of the costs of the 2019 Capital Project including the payment of the costs and expenses associated with the issuance of the 2019A Bonds; and,

WHEREAS, the 2019 Capital Project Bonds were privately placed with, *i.e.,* directly purchased by Republic Bank, and as of the date of the 2022 Financing Resolution hereinafter defined, were outstanding in the principal amount of $26,465,000; and,

WHEREAS, the terms of the 2019 financing included a balloon payment in the amount of $24,845,000, defined under the 2019 indenture as "Balloon Indebtedness," due December 1, 2024, which terms were not part of the original structure the Authority had arranged and which the Authority was forced to accept as a direct result of the City's actions; and,

WHEREAS, if the Authority had not refinanced the outstanding 2019 Capital Project Bonds, customer rates would have to have been raised significantly to cover the Balloon Indebtedness; and,

WHEREAS, the Authority therefore determined to refinance the outstanding 2019 Capital Project Bonds to avoid the rate increase that would have resulted from the Balloon Indebtedness; and,

WHEREAS, of the proceeds of the financing authorized by the 2022 Financing Resolution the Authority used $26,174.784.73 to refinance the outstanding 2019 Capital Project Bonds and $18,625,315.27 for the Capital Maintenance and improvements comprising the Authority's 2019-2021 capital plan and for the 2022 component of the Authority's 2022-2024 capital plan (collectively, the 2022 Water Revenue Bonds"); and,

WHEREAS, the 2022 Water Revenue Bonds were privately placed with, *i.e.,* directly purchased by Republic Bank, and are currently outstanding in the principal amount of $42,820,000; and,

WHEREAS, the 2022 Water Revenue Bonds have a balloon payment in the amount of $40,140,000 due December 1, 2026; and,

WHEREAS, if the Authority does not refinance the outstanding 2022 Water Revenue Bonds, the Authority will have to raise customer rates dramatically to pay said Balloon Indebtedness; and,

WHEREAS, the Authority therefore desired to initiate steps to refinance the outstanding 2022 Water Revenue Bonds to avoid the Balloon Indebtedness and the consequent rate increase and to finance the 2023 and 2024 components of the Authority's current (2022-2024) capital plan; and,

WHEREAS, to accomplish the refinancing of the 2022 Water Revenue Bonds and the financing of the remainder of the current capital plan, the Authority determined to issue its 2024 Water Revenue Bonds in the aggregate principal amount of $58 million (the "Proposed 2024 Bond Issue"); and

WHEREAS, the Authority intended to use approximately $43 million of the proceeds of the Proposed 2024 Bond Issue to refinance the outstanding 2022 Water Revenue Bonds and the remaining proceeds thereof, approximately $15 million, to cover the cost of capital maintenance and improvements for the completion of the remaining components in the Authority's current capital plan; and

WHEREAS, the capital improvements and maintenance intended to be financed by the Proposed 2024 Bond Issue are routine and necessary for public safety, system efficiency to maintain low rates, and compliance with governmental laws, regulations, and permits; and,

WHEREAS, any interreference or delay in this critical capital maintenance and improvement could decrease system reliability, increase costs, and risk violation of governmental laws, regulations, and permits; and,

WHEREAS, the Authority's comprehensive and ongoing maintenance and capital improvement plan has been very successful, as demonstrated by:

(1) a steady reduction of main breaks per mile over the last two decades;

(2) the Authority's water treatment plant consistently receiving an industry award for quality, the Partnership for Safe Water's Phase IV 5-Year Excellence in Water Treatment Award;

(3) the Authority's treatment plant being recognized by the Commonwealth's Department of Environmental Protection which awarded Authority with the Area-Wide Optimization Program Award (AWOP);

(4) the Authority consistently delivering water that meets or exceeds all governmental safety and testing criteria;

(5) the Authority delivering efficient and cost-effective service, with water rates that are among the lowest in the region and far below the rates of Aqua Pennsylvania, Inc.; and

WHEREAS, the Proposed 2024 Bond Issue would have enabled the Authority to maintain its financial and operational stability; and,

WHEREAS, since 2019, the Authority has been embroiled in legal proceedings relating to, *inter alia,* the attempt by the City to assert a right to terminate the existence of the Authority and to seize the Authority's assets and, most recently, in particular, the filing by the City of a municipal debt adjustment action under the United States Bankruptcy Code, as more particularly described in Exhibit "A" annexed hereto and made a part hereof (collectively, the "Chester Bankruptcy Proceedings");

WHEREAS, as a result of the Chester Bankruptcy Proceedings, on September 3, 2024, Moody's Investors Service, a national credit rating agency now known as "Moody's Ratings"), publicly announced that it had placed the "Aa2" rating applicable to the Authority's publicly offered Water Revenue Bonds under review for a possible downgrade (the "Moody's Rating Announcement"), specifically citing the uncertainty about the bonds generated by the Chester Bankruptcy Proceedings, in particular, the Plan of Adjustment contemplating the termination of the Authority, transfer of its assets, and possible assumption of the Authority's debt by a less credit-worthy entity; and,

WHEREAS, as a result of the Moody's Rating Announcement, the Authority received no viable responses from customarily solicited financial institutions to a request for proposals for the purchase of the revenue bonds comprising the Proposed 2024 Bond Issue (the "2024 Bonds RFP"); and,

WHEREAS, further as a result of the Moody's Rating Announcement, to gain access to the capital markets the Authority solicited the issuance of municipal bond insurance policies from Assured Guaranty and BAM Mutual, the two industry-recognized municipal bond insurers, to cover the debt service on the Proposed 2024 Bond Issue and was denied by both Assured Guaranty and BAM Mutual; and,

WHEREAS, if the Authority is unable to refinance the 2022 Bonds promptly it will be necessary to impose a substantial rate increase on the Authority's customers; and,

WHEREAS, accordingly, the Authority authorized its professionals, Kutak Rock LLP, bond counsel, and Acacia Financial Group, Inc., Financial Advisor, to contact a firm that specializes in public finance transactions which conventional financial institutions are reluctant to engage in; and,

WHEREAS, that firm, Saybrook Fund Advisors, LLC ("Saybrook"), after review of the 2024 Bonds RFP, submitted a proposal setting forth the proposed terms of a series of water revenue bonds that Saybrook would consider purchasing from the Authority (the "Purchase Proposal") in an arms-length transaction; and,

WHEREAS, the Authority has determined to take the necessary steps to prepare for the issuance of such series of Bonds and direct sale thereof to Saybrook; and,

WHEREAS, Section 17.01 of the Original Indenture authorizes the amendment without the consent of the Bondholders by a supplemental indenture authorized by resolution of the Authority filed with the Trustee to, *inter alia*, "(b) cure any ambiguity or formal defect or omission in this Indenture, …(m) to make any change that does not materially adversely affect the rights of the Bondholders or the Trustee.", and,

WHEREAS, the Authority desires to adopt a supplemental indenture that does not adversely affect the interest of any bondholder or the Trustee for the purposes of clarifying some ambiguities; and,

WHEREAS, the Authority has the legal power to enact this Resolution pursuant to, among other sources, (1) the Pennsylvania Municipality Authorities Act, (2) Article 1, Section 27 of the Pennsylvania Constitution, and (3) laws, regulations, and permits governing the delivery of safe and reliable water for drinking and fire protection; and,

WHEREAS, the Authority must carry out its mandate to, *inter alia*, "exercise all powers necessary or convenient for the carrying out of the purposes set forth in the Municipality Authorities Act" including, the provision of waterworks, water supply works and water distribution systems. *See* 53 Pa.C.S. § 5607(a)(10), (d). The Authority is expressly obligated to "determine by itself exclusively the services and improvements required to provide adequate, safe and reasonable service, including extensions thereof, in the areas served." 53 Pa.C.S. § 5607(d)(9); and,

WHEREAS, the Authority has determined at this time that the 2025 Direct Loan Subordinate Bonds would be issued as Subordinate Bonds, as authorized by the Senior Indenture by a supplemental and subordinate indenture designated the "2025 Direct Loan Supplemental and Subordinate Indenture", to be dated as set forth therein in a principal amount not to exceed sixty million dollars ($60,000,000) (hereinafter, the "2025 Direct Loan Subordinate Bonds"); and,

WHEREAS, the Authority has determined to authorize and to approve all actions as shall be necessary and to facilitate the issuance of the 2025 Direct Loan Subordinate Bonds; and,

WHEREAS, time is of the essence for the Authority to obtain the financing hereby authorized; and,

WHEREAS, any interreference or delay in this critical capital maintenance and improvement could decrease system reliability, increase costs, and risk violation of governmental laws, regulations, and permits;

NOW, THEREFORE, BE IT RESOLVED by the Board of the Authority, as follows:

1. The definitive terms of the 2025 Direct Loan Subordinate Bonds shall be as set forth in the 2025 Direct Loan Supplemental and Subordinate Indenture with the following limitations: (i) maximum aggregate principal amount of $60,000,000; (ii) final maturity date not more than five (5) years from date of issue; (iii) maximum interest rate of twelve percent (12%) per annum; (iv) minimum aggregate purchase price of 95% of the principal amount thereof.

2. The Authority shall issue, sell and deliver the 2025 Direct Loan Subordinate Bonds to the Purchaser. The 2025 Direct Loan Subordinate Bonds shall be in the form, bear the interest rate, contain the interest payment dates, maturity dates and redemption provisions and have other terms and provisions as provided in the 2025 Direct Loan Supplemental and Subordinate Indenture and shall be substantially in the form included in the 2025 Direct Loan Supplemental and Subordinate Indenture.

3. The 2025 Direct Loan Subordinate Bonds shall be secured by the 2025 Direct Loan Supplemental and Subordinate Indenture, to the extent and in the manner provided therein; the appointment of the Trustee to act as trustee under the 2025 Direct Loan Subordinate Indenture and to act as registrar and paying agent for the Bonds, is hereby ratified and confirmed. The Authority shall enter into the 2025 Direct Loan Supplemental and Subordinate Indenture with the Trustee, which shall be in the form as recommended by the Authority's Bond Counsel and financial advisor and approved by the officers executing the same.

4. A copy of the 2025 Direct Loan Supplemental and Subordinate Indenture as executed and delivered shall be delivered to the Secretary of the Authority and shall be attached to this Resolution and deemed made a part hereof and approved by this reference.

5. The Authorized Officers are authorized and directed to execute, to attest, to seal, to acknowledge and to deliver, as applicable, the 2025 Direct Loan Supplemental and Subordinate Indenture and to deliver the same to the Trustee for execution, attestation and acknowledgment, in the form approved hereby, their execution and delivery thereof to constitute conclusive evidence of such authorization and approval.

6. The Authorized Officers are authorized and directed to execute and attest execution of the 2025 Direct Loan Subordinate Bonds by manual or facsimile signature; the seal of the Authority or a facsimile thereof shall be affixed upon the 2025 Direct Loan Subordinate Bonds; and said Authorized Officers of the Authority are authorized and directed to deliver the 2025 Direct Loan Subordinate Bonds to the Trustee for authentication. The execution, attestation and delivery of the 2025 Direct Loan Subordinate Bonds in the manner set forth herein shall constitute conclusive evidence of such authorization and approval.

7. The Trustee is requested and is authorized to authenticate the 2025 Direct Loan Subordinate Bonds in accordance with the Senior Indenture, as supplemented by the First Supplemental Indenture and the Second Supplemental Indenture (collectively, the "Indenture") and the instructions of the Purchaser and to deliver the 2025 Direct Loan Subordinate Bonds, as appropriate, upon the receipt of a written order or request of the Chairperson or Vice Chairperson and Secretary or Assistant Secretary of the Authority, as provided in the Indenture.

8. The Authority shall deposit or cause the proceeds of the sale of the 2025 Direct Loan Subordinate Bonds to be deposited in accordance with the terms and provisions of the Indenture.

9. The Authorized Officers of the Authority are authorized and directed to proceed promptly with the undertakings herein contemplated and deemed to be necessary or appropriate and to take any and all actions necessary or desirable to effect, among other things: the issuance and sale of the 2025 Direct Loan Subordinate Bonds and the undertaking of the financing authorized hereby.

10. The Authorized Officers of the Authority are authorized and directed to execute, to deliver, implement and/or approve such other documents, instruments, certificates or policies and to do such other things and to take such other actions as may be necessary to carry out the terms and provisions of this Resolution and the Indenture, including, but not limited to, such acts and documents, instruments, certificates or policies as may be necessary to comply with requirements of Section 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended, and with any regulations applicable.

11. The Authority hereby authorizes and requests the Trustee to invest all funds held under the Indenture in the manner contemplated thereby and authorizes appropriate officers of the Authority to present written investment directions to the Trustee, from time to time, and to enter into investment agreements, if desired, regarding the investment of said funds.

12. The Authority approves, ratifies, and confirms all action heretofore taken by officers and other persons on behalf of the Authority in connection with the undertakings herein contemplated and authorizes the Trustee to pay the costs of issuance of the 2025 Direct Loan Subordinate Bonds at closing therefor.

13. The Authority confirms its appointments of Kutak Rock LLP, as its bond counsel, and Acacia Financial Group, Inc., as its financial advisor, in connection with the authorization, issuance and sale of the 2025 Direct Loan Subordinate Bonds.

14. This Resolution shall become effective immediately.

15. In the event any provision, section, sentence clause or part of this Resolution shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Resolution, it being the intent of the Authority that such remainder shall be and shall remain in full force and effect.

16. All resolutions or parts of resolutions inconsistent herewith expressly are repealed.

DULY ADOPTED, this 24th day of April, 2025, by the Board of Chester Water Authority, in lawful session duly assembled.

CHESTER WATER AUTHORITY

By: _____
Chairperson

Attest:

_____
Secretary

[Seal]

EXHIBIT "A"

THE CWA SUPREME COURT PROCEEDINGS AND THE CHESTER BANKRUPTCY PROCEEDINGS

On November 10, 2022, the City of Chester, acting through its Receiver, Michael Doweary, filed a municipal debt adjustment action under the United States Bankruptcy Code. *See In re: City of Chester*, U.S. Bank. Ct. E. D. Pa., No. 22-13032 (the "Bankruptcy Proceeding;" the "Debtor" herein is the City of Chester as represented by its Receiver, Michael Doweary). Initially, CWA participated in the Bankruptcy Proceeding as a creditor to whom the City owes significant funds for water service. By Order dated December 16, 2022, CWA, along with certain other interested parties, was ordered to participate in mandatory mediation with the Debtor concerning the Debtor's claim that it can unilaterally dissolve the CWA and utilize its assets to ameliorate the City's unrelated fiscal distress.

At the time the Bankruptcy Proceeding was filed, CWA and the City, along with other interested parties, were scheduled for argument before the Pennsylvania Supreme Court on November 30, 2022 on the discrete issues of whether:

(1) the City of Chester [has] a right to seize the assets of the Chester Water Authority pursuant to Section 5622(a) of the Municipality Authorities Act . . . and sell those assets to address its own unrelated financial distress, while overriding the representational rights granted by Act 73 of 2012, 53 Pa.C.S. §§ 5610(a.1), 5612(a.1), to Delaware and Chester Counties?

(2) the Commonwealth Court commit[ted] reversible error by failing to follow *Burke v. N. Huntingdon Twp. Mun. Auth.*, 390 Pa. 588, 136 A.2d 310, 313-14 (1957), which is controlling precedent that only an authority can authorize transfer under the predecessor to Section 5622(a)?[ ]

In re Chester Water Auth. Tr., 276 A.3d 203, 204 (Pa. 2022) (the "Pennsylvania Supreme Court Appeals"). The Pennsylvania Supreme Court accepted the foregoing questions by permission, and for discretionary review. The Pennsylvania Supreme Court Appeals are the culmination of years of interrelated litigations between the CWA, the City and other parties detailed above regarding the City's rights – if any – *vis a vis* the Authority.

On what was effectively the eve of argument on the Pennsylvania Supreme Court Appeals, the City initiated the Bankruptcy Proceeding and, one day later, filed a Suggestion of Bankruptcy with the Pennsylvania Supreme Court, opining that that, pursuant to Section 362(a) of the Bankruptcy Code, the filing of its voluntary petition operated as a stay of, *inter alia*, the Pennsylvania Supreme Court Appeals. On November 17, 2022, the Pennsylvania Supreme Court entered an order staying the appeals. For nearly two years the CWA has participated in good faith in the mediation with, *inter alia*, the Debtor. On August 26, 2024, the Debtor filed a Plan of

Adjustment wherein notwithstanding the mediation, the Receiver set forth his intent to solicit public bids for the purchase, management, and operation of, amongst other entities, the CWA.[1]

On September 25, 2024, CWA filed a motion with the Bankruptcy Court requesting a finding that the automatic stay does not apply to the Pennsylvania Supreme Court Appeals or in the alternative, if the Court determines the stay applies, that good cause exists pursuant to 11 U.S.C. § 362(d)(1) to lift the stay and permit the Pennsylvania Supreme Court Appeals to move forward. Fundamentally, the CWA argues that due to issues involving state sovereignty and limitations on the bankruptcy court's jurisdiction under, *inter alia*, the Tenth Amendment, the Pennsylvania Supreme Court is the only constitutional forum to address the predicate issue of the City's right *vis a vis* the CWA.

On November 20, 2024, the Bankruptcy Court entered into a stipulated order determining that, to the extent those appeals are stayed under Section 362(a) of the Bankruptcy Code, the stay is hereby modified solely to the extent necessary to permit the appeals to proceed through and including an opinion or other nonprocedural order by the Pennsylvania Supreme Court.

Oral argument in the Pennsylvania Supreme Court is scheduled for May 14, 2025.

[1] The Receiver's proffered request for proposals will encompass not only CWA, but the Delaware County Regional Water Quality Control Authority ("DELCORA") and the Chester Stormwater Authority (the "CSWA").