

# MOHAWK VALLEY WATER AUTHORITY

## INVESTMENT GUIDELINES

Originally Adopted by Board: June 16, 2008;

Reviewed and Approved: August 19, 2024

### **A. Objectives of Investment Guidelines**

The purpose of these Investment Guidelines is to establish guidelines that will be used by the Upper Mohawk Valley Regional Water Board, dba Mohawk Valley Water Authority (hereafter referred to as the “Water Authority”) in the purchase of investments. These guidelines are intended to:

1. Establish a system whereby current funds on hand in excess of immediate needs are invested to produce maximum earnings on these funds.
2. Assure that the investments are adequately safeguarded and will minimize any risk to the Water Authority.
3. Assure that the Water Authority is receiving a competitive rate of return on its investments.
4. Assure that adequate accounts and records are maintained that accurately reflect all investment transactions.
5. Comply with applicable restrictions imposed by law, including but not limited to Title 10 of Article 5 of the Public Authorities Law, or by trust indentures or similar instruments governing the Water Authority’s bonds, notes or other obligations.

### **B. Types of Permitted Investments**

Moneys held under a trust indenture or similar instrument governing an issue of the Water Authority’s bonds, notes or other obligations shall be invested only in the permitted investments specified therein and only in conformity with the terms and provisions of such trust indenture or instrument, and otherwise as specifically provided herein, it being understood that in the event of conflict the terms and provisions hereof will prevail if they will more fully protect the Water Authority’s interests in the investments. Attached hereto as Schedule A is a list of each such trust indenture or instrument in effect as of the date indicated on Schedule A.

1. Moneys of the Water Authority not held under a trust indenture or similar instrument governing an issue of the Water Authority’s bonds, notes or other obligations:
  - (i) shall be paid to the Comptroller of the Water Authority or his/her designee as the Water Authority may authorize and shall be deposited forthwith in interest bearing accounts in a bank or banks in the State of New York (the “State”) designated by the Water Authority.

(ii) shall be paid out of any such account upon review of the Comptroller after requisitioned by the Water Authority or of such other person or persons as the Water Authority may authorize to make such requisition; and

(iii) shall be secured when on deposit in any such account by obligations of the United States or the State of a market value equal at all times to the amount on deposit.

Any such moneys of the Water Authority not required for immediate use or disbursement may, at the discretion of the Water Authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the State Finance Law and identified in Schedule B hereto.

### **C. Special Considerations and Requirements**

Notwithstanding the terms of Section B, above, the following special considerations and requirements shall apply to any investments authorized therein (“Permitted Investments”).

1. Collateral. The Water Authority’s financial interests in Permitted Investments shall be secured by collateral under certain circumstances. Collateral must be posted with respect to: (a) any Permitted Investment that requires collateral by the terms of the authority referred to in Section B that governs the acquisition of the Permitted Investment by the Water Authority; and (b) any other Permitted Investment selected by the Water Authority if required pursuant to a resolution of the Water Authority, whether or not the Permitted

Investment is otherwise required to be secured by collateral. It is anticipated that the Water Authority will so resolve when the Permitted Investment in question is such that Authority staff, with or without the advice of financial advisors, deems it reasonably prudent to have the Permitted Investment collateralized. The collateral shall be that which is specified for the Permitted Investment by the authorities referred to above in Section B or by the Water Authority in the resolution of the Water Authority described in the immediately preceding sentence. In any event, any collateral for a Permitted Investment acquired by or on behalf of the Water Authority shall be:

(a) held by the Water Authority (or the trustee under a bond resolution or indenture governing Authority obligations) or a third party agent (who shall not be an agent for the obligor of the Permitted Investment) for the benefit of the Water Authority (or said trustee) under written agreement, or registered in the name of the Water Authority (or said trustee) or a third party agent for the benefit of the Water Authority (or said trustee) under written agreement for the express purpose of granting to and perfecting in the Water Authority (or said trustee) a first security interest in the collateral under applicable law;

- (b) market to market no less frequently than monthly; and
- (c) maintained at a market value that is at least equal to 100 percent of the principal amount of the Permitted Investment plus accrued interest (or amortized discount) thereon to the date of calculation.

The Water Authority, by resolution of the Water Authority, or the Chairman, Executive Director, Comptroller or his/her designee of the Water Authority, in his or her discretion, may require that any

Permitted Investment be accompanied by an opinion of counsel to the issuer of the Permitted Investment or counsel to the Water Authority to the effect that the Permitted Investment is an enforceable obligation of its issuer and that the Water Authority enjoys a first perfected security interest in any collateral pledged therefore, and covering such other items as it, he or she may specify.

2. Written Contracts. The Water Authority (or the trustee under a bond resolution or trust indenture governing Authority obligations) shall enter into written contracts pursuant to which Permitted Investments are acquired, unless the Water Authority shall by resolution determine that a written contract is not practical or that there is not a regular business practice of written contracts with respect to a specific investment or transaction, in which case the Water Authority shall adopt procedures covering such investment or transaction. The Water Authority has made such a determination with respect to the Permitted Investments specified in Schedule C hereto and has adopted the procedures specified in Schedule D hereto. Such contracts and procedures shall include provisions:

- (i) deemed necessary and sufficient to secure in a satisfactory manner the Water Authority's financial interest in each Permitted Investment;
- (ii) covering the use, type and amount of collateral or insurance for each Permitted Investment;
- (iii) establishing a method for valuation of collateral, and procedures for monitoring the valuation of such collateral on a regular basis;
- (iv) for the monitoring, control, deposit and retention of investments and collateral which shall include, in the case of a repurchase agreement, a requirement that the obligations purchased by physically delivered for retention to the Water Authority (or said trustee) or its agent (which shall not be an agent of the party with whom the Water Authority (or said trustee) entered into said repurchase agreement) unless such obligations are issued in book-entry form, in which case the Water Authority (or said trustee) shall take such other action as may be necessary to obtain title to or a perfected security interest in such obligations.

1. Repurchase Agreements. If the Water Authority invests in or acquires a repurchase agreement, the Water Authority shall seek to have the agreement structured and executed in a way that is intended to cause the agreement to be characterized as a sale of securities to the Water Authority. All repurchase agreements which the Water Authority may invest in or acquire shall be in writing and signed by the parties. Notwithstanding any other characterization of a repurchase agreement which the Water Authority may invest in or acquire, however, any such repurchase agreement shall also be viewed in the alternative by the Water Authority as a secured loan from the Water Authority to the provider of the repurchase agreement which must be collateralized, at a minimum, in the manner set forth immediately above under Section C.1.

#### **D. Authorization of Investments**

Subject to the terms and provisions of any indenture or similar instrument governing the terms and provisions of an issue of the Water Authority's bonds, notes or other obligations, and the terms and provisions of these investment guidelines, the Chairman, Executive Director, Comptroller or his/her designee of the Water Authority is authorized to purchase or liquidate Permitted Investments on behalf of the Water Authority.

#### **E. Standards for Selecting Investments**

The Water Authority may encourage the purchase and sale of Permitted Investments through a competitive or negotiated process involving telephone solicitation of bids with three or more banks or investment firms. The Water Authority shall, in any event, comply with all applicable state and federal laws concerning Permitted Investments, including federal requirements that must be satisfied to preserve the federal income tax exemption intended to be afforded to the interest on any of the Water Authority's bonds, notes or other obligations.

Subject to the foregoing, bidding shall take place at the discretion of the Chairman, Executive Director, Comptroller or his/her designee.

It is the Water Authority's intention to achieve a diversification of investments, including diversification with respect to types of investments and firms with which the Water Authority transacts business. Toward this end, the Water Authority shall review periodically (and in any event no less frequently than annually) all investments made by or on behalf of the Water Authority. If, at the time of such a periodic review, less than one-half of the value of all investments held in an account of the Water Authority is derived from U.S. government obligations, the investments held in such account shall be diversified as soon thereafter as practicable in the judgment of the Chairman, Executive Director, Comptroller or his/her designee of the Water Authority such that the Water Authority's risk exposure is spread among at least two obligors other than the United States. For this purpose; (i) an account shall be any discrete fund or account of the Water Authority, whether maintained by or on behalf of the Water Authority pursuant to an indenture or resolution governing the Water Authority's obligations or maintained by the Water Authority for general purposes or any other special purposes; (ii) the value of an investment shall be its historical cost and accrued but unpaid interest, plus or minus any amortized discount or premium; and (iii) U.S. government obligations shall include (a) obligations that are direct obligations of, or are guaranteed by, the United States or an agency or instrumentality thereof with the effect that the same are secured by the full faith and credit of the United States, (b) obligations

that are fully collateralized by obligations described in clause (a), and (c) obligations or deposits that are fully insured, directly or indirectly, by the United States.

The Water Authority shall also periodically review the firms with which it does business and solicit bids or requests for proposals and engage in other similar methods of engaging the most qualified providers of goods and services, as and when the Water Authority shall deem necessary or appropriate.

#### **F. Standards for Financial Institutions**

It is the Water Authority's intention that there be imposed standards for the qualification of investment bankers, brokers, agents, dealers and other investment advisers and agents who transact business with the Water Authority ("Financial Institutions"), such as criteria covering quality, reliability, experience, capitalization, size and any other factors that, in the judgment of the Water Authority, make a firm qualified to transact business with the Water Authority. Toward this end, the Water Authority, unless it shall determine that special circumstances prevail and dictate a different course of action, shall seek competitive bids from at least two parties each time the Water Authority intends to retain a Financial Institution, which bids shall be in response to a request for proposals from the Water Authority that shall solicit information regarding financial standing, experience, staffing and parties from whom recommendations may be obtained.

#### **G. Audit of Investments**

An independent audit of the Water Authority's investments shall be conducted annually in conformance with Section 1226(w) of the Public Authorities Law. This audit will be performed in connection with the annual audit of the Water Authority's financial statements. This audit will be performed by an independent Certified Public Accountant and will cover investments for the fiscal year and is being audited. The results of the audit will be available to the Water Authority at the time of the annual review and approval of these investment guidelines by the Water Authority. This investment report will be prepared in conformance with Generally Accepted Auditing Standards and will be included in the Water Authority's year-end financial statements.

#### **H. Reporting**

The Chairman, Executive Director, Comptroller or his/her designee shall periodically review these Investment Guidelines and recommend changes to the Water Authority. Such recommended changes could result from changes in investment opportunities, changes in economic conditions or changes in the Investment Guidelines for Public Authorities as issued by the New York State Comptroller.

The Chairman, Executive Director, Comptroller or his/her designee will prepare quarterly investment reports outlining investments purchased and investments liquidated, the inventory of existing investments and the selection of any investment bankers, brokers, agents, dealers or auditors.

The Water Authority shall annually prepare and approve an investment report which shall include the Investment Guidelines, amendments to such Investment Guidelines since the last investment report, and explanation of the Investment Guidelines and amendments, the results of the annual independent audit, the investment income record to the Water Authority and a list of the total fees, commissions or other charges paid to each investment banker, broker, agent, dealer and adviser rendering investment associated services to the Water Authority since the last investment report. Such investment report may be a part of any other annual report that the Water Authority is required to make. The investment report shall be submitted annually to the State Department of Audit and Control. The Water Authority shall make available to the public copies of its investment report upon request therefore.

#### SCHEDULE A

1. Trust Indenture (Bond Resolution), dated as of \_December 1, 1996, by and between the Water Authority and The United States Trust Company of New York or its successor, as trustee.  
(SEE ATTACHED)

SCHEDULE B

Investments described in Section 98-a of the State Finance Law that are Permitted Investments for the Water Authority. Section 98-a reads as follows:

§ 98-a. Investment of general funds, bond proceeds, and other funds not immediately required.

1. Except as otherwise provided in subdivision two of this section, any moneys in the general fund of the state or moneys received from the sale of any bonds or notes issued by the state, any moneys in any fund or account of the state, heretofore or hereafter established, the investment of which is not otherwise authorized and which are not immediately required may be invested by the comptroller.

Such moneys may be invested only in obligations of the categories specified in subdivisions one to five, both inclusive, and subdivision seven, subdivision fourteen, as added by chapters seven hundred ninety-seven and nine hundred thirty-two of the laws of nineteen hundred sixty-three, respectively, subdivisions fifteen, sixteen and seventeen of section ninety eight of this article, maturing or redeemable at the option of the holder within twelve years of the date of such investment, subdivisions two-a, eighteen, nineteen and twenty of section ninety-eight of this article or in a certificate of deposit of a bank or trust company in this state.

Any certificate of deposit shall be fully secured by the issuer thereof depositing with the comptroller stocks, bonds, or notes of any county, town, city, village, fire district or school district of this state issued pursuant to law and maturing within five years from the date of issuance of such certificate of deposit, bonds or notes or direct or guaranteed obligation of the United States of America or its agencies or of the state of New York or bonds and notes issued for any of the corporate purposes of the municipal assistance corporation for the city of New York in an amount equal to the amount of such certificate of deposit.

Any bonds, notes or certificates of deposit purchased with moneys of the general fund shall be available always to pay any lawful appropriation in force. Any bonds, notes or certificates of deposit purchased with moneys received from the sale of any bonds or notes issued by the state shall be available always for the purposes or purpose for which such bonds or notes were issued. Any bonds, notes or certificates of deposit purchased with moneys of any other funds shall be available always for the purpose for which such fund was created.

Unless otherwise required by law, income received on any moneys invested pursuant to this section shall be credited to the fund or funds from which such moneys were invested, provided, however, the comptroller is hereby precluded from crediting interest earnings to funds/accounts which: (a) are funded entirely from the general fund; or (b) are, or were, authorized to receive temporary loans pursuant to subdivision five of section four of the state finance law; or (c) are federal funds, except such funds which are required to earn such interest pursuant to a court

order or federal law or regulation; or (d) are agency funds, except such funds which are held pending the outcome of litigation or are required to earn interest pursuant to a court order, contractual obligation, or state or federal law or regulation, or are appropriated. Notwithstanding the provisions of paragraph (b) of this subdivision, the comptroller shall credit or charge interest to fund/accounts which are authorized to receive temporary loans if so requested by the state department or division responsible for such fund/account within thirty days of the beginning of each fiscal year or thirty days following the final approval of any bill containing language authorizing such temporary loans, whichever is later, and interest must be credited or charged from the first day of such fiscal year. Within ten days of the beginning of each month, the comptroller shall credit or charge interest to such funds/accounts based upon the average daily balance of the preceding month of such funds/accounts and shall provide notification to the director of the budget and the chairs of the senate finance and assembly ways and means committees of such funds/accounts to be credited or charged interest. Provided, however, that income received from the investment of moneys of the local assistance account, the state purposes account and the capital projects fund may be credited in whole or in part to one or more of such funds to the extent necessary to reimburse first instance appropriations for interest on temporary obligations issued on behalf of the fund or funds to be credited. Notwithstanding any other provision of this section or of any other general or special law, all moneys available and retained on deposit for the payment of lottery prizes may be invested in obligations by the comptroller as herein provided, except that such obligations need not mature or be redeemable at the option of the holder within seven years of the date of such investment. Income received from such investments may be used for the payment of prizes awarded and made payable in more than one payment, including prizes awarded and made payable throughout the lifetime of the lottery prize winner.

2. Notwithstanding any provision of law to the contrary, investment of bond proceeds and other funds not immediately required may be invested by the comptroller in linked deposits pursuant to article fifteen of this chapter. If any moneys are invested by the comptroller in linked deposits pursuant to article fifteen of this chapter, the comptroller shall compute the monthly earnings for all funds, other than the general fund, as if no such moneys had been invested in such linked deposits.

### SCHEDULE C

Permitted Investments for which written contracts will not be required:

CERTIFICATES OF DEPOSIT

SCHEDULE D

Procedures covering the acquisition of Permitted Investments identified on Schedule C in the absence of written contracts.

The Water Authority will take possession of the certificate of deposit. In each case the certificate of deposit will be payable to the Mohawk Valley Water Authority (the "Water Authority"). The certificate of deposit shall be fully insured by the Federal Deposit Insurance Company ("FDIC") or fully secured by obligations of the State of New York or obligations of local governments within New York State or obligations of local governments within New York State or obligations of the United States or obligations of federal agencies of which the principal and interest are guaranteed by the United States. Any collateral shall be either delivered to the Water Authority or held by a third-party custodial bank acting as agent of the Water Authority. The value of the collateral will be valued by the Water Authority or its designee on a monthly basis. The market value of the collateral will be at least equal to the principal amount of the certificate of deposit plus interest thereon.