

JOINT RESOLUTION OF THE CITY OF OKLAHOMA CITY AND THE OKLAHOMA CITY WATER UTILITIES TRUST AUTHORIZING THE PARTICIPATION IN THE SETTLEMENT OF MULTI-DISTRICT LITIGATION FOR DRINKING WATER SUPPLY CLAIMS RELATED TO PER- AND POLYFLUOROALKYL SUBSTANCES AND/OR AQUEOUS FILM FORMING FOAMS AND RELATED CHEMICALS AND POLLUTION.

WHEREAS, Oklahoma City Water Utilities Trust (OCWUT) leases and finances the Oklahoma City water system for The City of Oklahoma City (City); and

WHEREAS, the Environmental Protection Agency is expected to designate polyfluoroalkyl substances (PFAS) as a hazardous substance under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) in the near future; and

WHEREAS, Multi-District Litigation cases are pending in the United States District Court of South Carolina and other jurisdictions against the manufacturers of per- and PFAS and aqueous film forming foam (AFFF), which include various causes of action such as damages and expenses resulting from the use of PFAS and AFFF; and

WHEREAS, the City and OCWUT have related, as well as separate and distinct interests regarding PFAS and AFFF contamination that will require costly remediation; and

WHEREAS, on October 24, 2023, the City and OCWUT adopted a Joint Resolution that authorized the engagement of outside counsel and the participation in litigations, class action suits, and/or settlements related to PFAS and/or AFFF and related chemicals and pollution issues, and for the execution of all documents necessary to initiate and participate in the litigations, class action suits, and/or settlements; and

WHEREAS, on November 7, 2023, the City and several of its trusts separately entered into Professional Legal Services Contingency Fee Agreements with McAfee & Taft A Professional Corporation and Fulmer & Sill PLLC (Outside Legal Counsel) for representation and participation in litigations, class actions, and/or settlements related to PFAS and/or AFFF and related chemicals and pollution; and

WHEREAS, 3M Company (3M) and E.I. Du Pont de Nemours and Company (n/k/a EIDP, Inc.), DuPont de Nemours Inc., the Chemours Company, the Chemours Company FC, LLC and Corteva, Inc. (collectively, DuPont), two groups of settling defendants in the AFFF Multi-District Litigation no. 2873 (MDL), have received preliminary approval of their respective settlement agreements from the United States District Court for the District of South Carolina (Settlement Agreements) for only PFAS contamination in public water systems' drinking water; and

WHEREAS, the proposed Settlement Agreements are still subject to final approval by the MDL Judge; and

WHEREAS, Outside Legal Counsel previously recommended OCWUT and the City opt-out and not participate in the settlement but now recommends participation in the Settlement

Agreements since certain concerns with the release language were clarified by class counsel for the Defendants and a joint interpretative guidance document has been provided to clarify settlement terms; and

WHEREAS, OCWUT's General Manager and the Municipal Counselor's Office have reviewed Outside Legal Counsel's analysis, and concur that it is in the best interest of the City and OCWUT to participate in the Settlement Agreements with 3M and DuPont related to the City's public drinking water systems' drinking water.

NOW, THEREFORE, BE IT JOINTLY RESOLVED by The City of Oklahoma City and the Oklahoma City Water Utilities Trust authorizing the participation in the settlement in the multi-district litigation for drinking water supply claims related to per- and polyfluoroalkyl substances and/or aqueous film forming foams and related chemicals and pollution.

ADOPTED by the Oklahoma City Water Utilities Trust and signed by the Chairman this 12TH day of MARCH, 2024.

ATTEST:

OKLAHOMA CITY WATER UTILITIES TRUST

Amy K Simpson
Trust Secretary



J. D. Couch
Chairman

ADOPTED by the City of Oklahoma City and signed by the Mayor this 12TH day of MARCH, 2024.

ATTEST:

THE CITY OF OKLAHOMA CITY

Amy K Simpson
Trust Secretary



David Holt
Mayor

REVIEWED for form and legality.

Patrick Mann
Assistant Municipal Counselor