

PROFESSIONAL LEGAL SERVICES CONTINGENCY FEE AGREEMENT

THIS AGREEMENT is made the 31ST day of December 2024, between the City of Oklahoma City, Oklahoma (the “City”), and McAfee & Taft A Professional Corporation, and the Frantz Law Group, APLC (collectively the “Attorneys”).

WHEREAS, the City believes that it has a cause of action against certain pharmacy benefit managers, manufacturers and others (collectively, the “Defendants”) for damages and equitable relief arising out of the conduct of the Defendants in connection with the pricing of insulin and other drugs (the “Claims”).

WHEREAS, the City represents that they are the owner of certain Claims and have not assigned, modified, settled or received payment for its Claims, or entered into any prior fee agreement with any other attorney(s) with respect to its Claims.

WHEREAS, it is the desire of the Mayor and Council of The City of Oklahoma City that participation in said litigation occur at no cost to the taxpayers of The City of Oklahoma City; and

WHEREAS, it is further the express desire of the Mayor and Council that payment for the legal services provided under the terms of the contract and any cost of the litigation be contingent upon recovery of damages by The City of Oklahoma City; and

WHEREAS, the Attorneys assembled a team of attorneys and experts with the experience and resources necessary to prosecute litigation against the Defendants; and

WHEREAS, a professional services agreement has been negotiated with the Attorneys that provides for the Attorneys to initiate, prosecute and pursue litigation on behalf of the City, subject to the terms of a contingency fee arrangement for costs and fees, which only allows for Attorneys’ fees to be paid as a percentage of any settlement recovery or judgment and which agreement places the financial burden on the Attorneys for the costs of their time in handling the litigation and the burden of all related costs, (except in the case of an award of attorneys’ fees or costs in favor of the Defendants sued in the litigation by the City for initiating the litigation consistent with Paragraph 5 below), which the parties agree shall come solely from the recovery of damages, so that the taxpayers of Oklahoma City incur no cost or expenses if there is no favorable financial recovery or judgment in favor of the City.

NOW, THEREFORE, IT IS AGREED between the City and the Attorneys as follows:

1. This Agreement is effective on the date fully executed and unless otherwise terminated as permitted herein, is to remain in full force and effect through the termination of litigation authorized under this Agreement or at the completion of the services requested (the “Term”).
2. This Agreement may be terminated before the end of the Term:
 - a. By mutual consent of the parties; or

- b. From the date written notice is received by either party from the other; provided that if the City terminates this Agreement, then it is acknowledged that the Attorneys have a statutory lien against the Recovery the City may have in said litigation for the reasonable value of the services rendered and the Costs (as defined in Paragraph 5) expended up to the date of termination if the City pursues the litigation to a final judgment or a reasonable settlement. To the extent the City declines to pursue the litigation that has commenced to its finality or resolve the case by a reasonable settlement, the City shall be liable to reimburse Attorneys for the reasonable Costs incurred by the Attorneys and the reasonable value of the Attorneys' services in pursuing the litigation on the City's behalf.
3. **Contingent Fee.** In consideration of the services to be rendered by the Attorneys in connection with the Claims against Defendants, if the City obtains a Recovery on their Claims, the City agrees for the Attorneys to deduct from the Recovery proceeds the following attorneys' fees for the risks of prosecuting this case on a contingency fee basis:
 - a. If a respective case is settled prior to empanelment of a jury, a sum equal to fifteen-percent (15%) of the Recovery for said respective case; or
 - b. If a case is settled after empanelment of a jury with a defendant that is currently in MDL 3080 located in the United States District Court District of New Jersey, or a final judgment in favor of the City is obtained, a sum equal to twenty percent (20%) of the Recovery for said respective case;
 - c. If a case is settled after empanelment of a jury with a defendant that is not currently in the MDL 3080 located in the United States District Court District of New Jersey, or a final judgment in favor of the City is obtained against such defendant(s), a sum equal to twenty-five percent (25%) of the Recovery for said respective case;

(the "Contingency Fee"). In calculating the Contingency Fee, the Recovery will first be reduced by the Costs as defined in paragraph 6 of this Agreement, and increased by any court awarded attorneys' fees to the City as the prevailing party in the litigation.
4. **Recovery.** The term "Recovery" as used herein shall mean all sums and things of value received pursuant to any demand upon or litigation against Defendants whether said sums are received pursuant to respective settlement(s), court proceeding(s), or otherwise.
5. **Court-Awarded Attorneys' Fees.** To the extent a contingency fee fund is established by a settlement or Court order that permits Attorneys to apply for a portion of their attorney fees owed by this Agreement and Attorneys are awarded payment from such contingency fee fund, then the amount of attorney fees owed by the City under this Agreement will be reduced by the award of attorney fees paid from the contingency fee fund. Any attorney fees awarded directly to Attorneys from a common benefit fund or Court order for common benefit work for work that benefits other cases shall not be deemed part of the Recovery, will not reduce the amount of attorney fees owed by the City under this Agreement and shall paid solely to Attorneys. The City understands that if they do not prevail on certain claims that may be asserted against the Defendants, there is a potential for the Court to

award attorneys' fees and costs in favor of Defendants. City understands and agrees that if there is any such award in favor of Defendants and against the City, then the City will be solely liable to satisfy such judgment. Attorneys will not be liable for a judgment of attorneys' fees or costs awarded in favor of Defendants. Prior to filing litigation, the Attorneys will discuss each cause of action brought against a Defendant with the Municipal Counselor's Office for the City and provide a reasonable analysis of the risk that attorneys' fees may be assessed against the City in the event a Defendant is successful in its defense of the cause of action. Attorneys may proceed with said claims in the litigation based upon the consent of the Municipal Counselor's Office.

6. **Costs.** All reasonable and necessary costs and expenses incurred in connection with the Claims, including but not limited to court costs, deposition costs, expert witness fees, witness expenses, bankruptcy fees including retained counsel to assist with the any bankruptcy matter filed by Defendants, computer forensic expenses, vendors expenses, e-discovery, copying, litigation supplies, Westlaw and/or other legal research fees, settlement expenses, telephone, travel and lodging expenses to prosecute claims against the Defendants by the Attorneys ("Costs") shall initially be paid for by the Attorneys. The law firms will use reasonable professional judgment as to the necessity for the number of attorneys at formal settlement conference, pretrial conference or trial. Costs may include case specific expenses for claims of the City and the City's pro rata or proportionate share of any general case expenses or assessments shared in common with any other plaintiff(s). General case expenses are those expenses incurred in the prosecution of the City's Claims for the benefit of the City that may also arise for other similarly situated municipalities, counties, and other parties involved in the litigation against PBMs and manufacturers for the pricing of insulin and other drugs. If it is determined that the City must pay an assessment to the MDL proceedings for attorneys' fees, legal expenses and/or costs connected to the MDL (the "MDL Assessment"), then the MDL Assessment shall be treated as Costs under this Agreement and will be deducted from the Recovery prior to the calculation of the Recovery. All costs incurred by Attorneys shall be deducted from any amounts received and repaid to Attorneys before the Recovery is calculated. To the extent the City receives an award of costs from the Court, the amount received shall be credited towards the cost to be reimbursed to Attorneys under this Agreement. If no Recovery is obtained, City will have no obligation to pay Costs incurred by the Attorneys.
7. **Settlement Decisions.** All decisions relative to acceptance or rejection of any settlement offer will remain the sole discretion of the City, provided, however, if the City neglects to accept the Attorneys' advice on whether to accept any settlement offer, the City agrees it will become liable for all costs incurred in said action and any attorneys' fees billed after the date the City receives written notification from Attorneys that they should accept the settlement offer.
8. **Communications to Municipal Counselor's Office.** The Attorneys shall maintain communication and coordinate with the assigned Assistant Municipal Counselor all aspects of the representation and legal services provided under this Agreement.

9. **Meetings and Executive Sessions.** Attorneys shall be present and shall participate in meetings or proceedings of the City Council related to said litigation, including executive sessions when requested by the Municipal Counselor's Office.
10. **Attorneys' Obligations.** The Attorneys agree that they will complete, prepare and submit necessary pleadings, discovery requests and responses and otherwise engage in all actions necessary to prosecute litigation in favor of the City against those reasonably responsible and to recover all the damages sustained by the City. Attorneys agree that they will diligently institute and prosecute said action to a final determination, make all reasonable and necessary efforts to collect any judgment that may be rendered therein in favor of the City; that they will promptly communicate to the City any offers of compromise; and that, in the event of a judgment unfavorable to the City, they will, if in the Attorneys' sole judgment reasonable grounds therefore exist, appeal said cause and prosecute the same to final determination. Attorneys shall staff this matter with such attorneys and legal assistants as they deem appropriate. Attorneys shall perform all legal services on behalf of the City as determined by the Attorneys necessary to successfully prosecute the litigation in favor of the City.
11. **Notices.** Any notice, request, demand, instruction, or other document to be given under this Agreement shall be in writing and shall be delivered in person or by FedEx or a similar overnight courier or by United States certified mail, return receipt requested, with postage prepaid, and addressed to the parties at the respective addresses below. Delivery shall be effective (i) upon receipt if delivered in person prior to 5:00 p.m. local time at the address of the addressee, or on the next business day if delivered after 5:00 p.m. local time or on a Saturday, Sunday or legal holiday, (ii) one business day after having been delivered to FedEx or a similar courier for next-day delivery, and (iii) five business days after mailing if mailed. A party may change its address by service of a notice of such change in accordance with this section.

- a. in the case of the City is addressed (or delivered personally) to:

Municipal Counselor's Office
Attention: Matthew A. Collins, Deputy Municipal Counselor
200 N. Walker, 4th Floor
Oklahoma City, Oklahoma 73012
matthew.collins@okc.gov

with copies to:
City Clerk
City of Oklahoma City
200 N. Walker, 2nd Floor
Oklahoma City, OK 73102

- b. in the case of the Attorneys, is addressed (or delivered personally):

Todd Court, Vice President
McAfee and Taft
Eighth Floor

Two Leadership Square
211 N. Robinson
Oklahoma City, OK 73102-7103

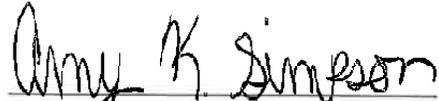
11. **Withdrawal.** Attorneys may withdraw from representation of City's Claims at any time with thirty (30) days written notice. In the event of a withdraw prior to a final judgment or settlement, the Attorneys forfeit any Attorney Fees pursuant to Paragraph 3 or Costs pursuant to Paragraph 5 unless otherwise agreed to by the parties.
12. **No Guarantee.** The City acknowledges that the Attorneys have made no guarantee regarding the successful prosecution of the Claims, nor any guarantee regarding the Recovery or the type of relief, if any, which the City may obtain therefrom. Further, the City acknowledges that the Attorneys do not warrant or represent the validity of the Claims, the results of any action or the collectability of any judgment.
13. **Multiple Representation.** The City understands and agrees that Attorneys may represent other clients, including governmental entities, in connection with claims against Defendants. The City also agrees that Attorneys may retain or work with other attorneys, consultants and/or experts, including Matt Sill and Alex Yaffe; however, such will not increase the contingency fees paid by the City pursuant to Paragraph 3 herein.
14. **Conflict Waiver.** The City recognizes that McAfee & Taft and the other Attorneys are multiservice law firms that practice in multiple areas, some that deal with municipal law. The City agrees that it will not use the Attorneys' representation of the City or this Agreement to unreasonably assert a conflict of interest against McAfee & Taft or the other attorneys or members of such law firms, and hereby presumptively waives any such potential conflict of interest; provided that this waiver shall not apply to a conflict with respect to Attorneys' representation of any defendant which the City asserts claims against in the litigation concerning the pricing of insulin and other drugs by PBMs and manufacturers to the extent such representation relates to the litigation involving the PBMs and manufactures. The City also acknowledges that Attorneys' representation of clients in matters adverse to the City will not: (i) adversely affect the relationship between attorneys and the City relating to Attorneys' representation of the City in the litigation concerning the pricing of insulin and other drugs by PBMs and manufacturers contemplated by this Agreement; or (ii) materially limit Attorneys' representation in such matters.
15. **Hold Harmless.** Attorneys shall defend, indemnify and save harmless the City from any and all claims and causes of action against the City for damages or injury to any person or property arising solely out of, or relating to, the negligent performance or negligent acts of Attorneys, their agents, retained experts or employees of same under the terms of this Agreement.
16. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions thereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

17. **Amendments and Modifications.** The City and the Attorneys specifically acknowledge and agree that this Agreement constitutes the entirety of their agreement and supersedes and replaces any and all prior agreements, negotiations, or discussions between them; and, that this Agreement shall not be amended, modified, or changed in any manner whatsoever unless such amendments, modifications, or changes shall be in writing and signed by all the parties hereto.
18. **Choice of Law.** This Agreement shall be construed in accordance with the laws of the State of Oklahoma.

[signatures on page below]

APPROVED BY The City of Oklahoma City this 31ST day of December, 2024.

ATTEST:



Amy Simpson, City Clerk



THE CITY OF OKLAHOMA CITY



MAYOR DAVID HOLT

REVIEWED as to form and legality.



Deputy Municipal Counselor

ATTORNEYS:

McAfee & Taft



By: Todd Court, Vice President

Frantz Law Group, APLC



By: James P. Frantz