

RESOLUTION NO. 23-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPOINTING THE FERRARO LAW FIRM, P.A., AS SPECIAL COUNSEL TO REPRESENT THE CITY OF FORT LAUDERDALE IN CONNECTION WITH THE PER- AND POLYFLUOROALKYL SUBSTANCES ("PFAS") LITIGATION, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 4.10 of the Charter of the City of Fort Lauderdale, Florida, provides, in part, that "[t]he city commission may, by resolution, authorize one (1) or more special counsel to be retained for the purpose of performing such legal duties as may be prescribed by said resolution. Each such resolution shall further prescribe the compensation to be paid the special counsel."; and

WHEREAS, the City Commission desires to appoint The Ferraro Law Firm, P.A., as special counsel to represent the City of Fort Lauderdale in connection with civil litigation to be promptly filed to pursue all available legal and equitable remedies in connection with the harm incurred by the City as a result of the unlawful, wrongful, deceptive, and fraudulent practices of Per- and Polyfluoroalkyl Substances ("PFAS") manufacturers, which representation shall last through resolution of the lawsuit including through any and all appellate proceedings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That The Ferraro Law Firm, P.A., is hereby appointed as special counsel to represent the City of Fort Lauderdale in connection with civil litigation to be promptly filed to pursue all available legal and equitable remedies in connection with the harm incurred by the City as a result of the unlawful, wrongful, deceptive, and fraudulent practices of PFAS manufacturers, which representation shall last through resolution of the lawsuit including through any and all appellate proceedings.

SECTION 2. That The Ferraro Law Firm, P.A., shall be compensated for such services assigned after the effective date of this Resolution, on a contingency fee basis as more fully set forth in the proposed retainer agreement attached hereto.

SECTION 3. That the City Attorney shall serve as liaison to such special counsel.

SECTION 4. That such special counsel hereby appointed shall serve at the pleasure of the City Commission of the City of Fort Lauderdale, Florida.

SECTION 5. That the City Attorney is authorized to execute such documents as are necessary to secure the services of special counsel.

SECTION 6. That this Resolution shall take effect immediately upon its adoption.

ADOPTED this ____ day of _____, 2023.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
DAVID R. SOLOMAN

APPROVED AS TO FORM
AND CORRECTNESS:

Interim City Attorney
D'WAYNE M. SPENCE

Dean J. Trantalis _____

John C. Herbst _____

Steven Glassman _____

Pamela Beasley-Pittman _____

Warren Sturman _____

PFAS LITIGATION RETAINER AGREEMENT

TO: THE FERRARO LAW FIRM, P.A.
600 Brickell Avenue, Suite 3800
Miami, Florida 33131

I, _____ of the City of Fort Lauderdale ("Fort Lauderdale"), retain the law office of The Ferraro Law Firm, P.A., ("Law Firm") as my attorneys to investigate and prosecute a claim against any and all parties individuals and/or corporations that are found to be liable under the law, for wrongs end injury suffered by Fort Lauderdale arising out of groundwater supply and soil contamination by Per- and Polyfluoroalkyl Substances ("PFAS") containing with any and all products including, but not limited to, Aqueous Film Forming Foam ("AFFF").

The Law Firm has both the financial and legal resources to provide Fort Lauderdale with the highest level of representation. The Law Firm is prepared to investigate PFAS contamination of the groundwater and soil on behalf of Fort Lauderdale upon the signing of this Retainer Agreement ("Agreement"). If upon the conclusion of the Law Firm's initial investigation it is determined there are actionable claims for PFAS contamination, the Law Firm shall bring suit on behalf of Fort Lauderdale. The Law Firm is prepared to finance the entire litigation including all out-of-pocket expenses and disbursements and handle the lawsuit on a contingent fee basis. This guarantees that Fort Lauderdale will not be responsible for any costs of this litigation whether the Law Firm is successful or not.

The purpose of this litigation is to seek reimbursement of the costs incurred and to be incurred to investigate and remediate soil, groundwater and surface water and design, construct and operate drinking water treatment systems arising out of contamination caused by the conduct of the defendants in this litigation. By way of example, the aim of this litigation is to seek reimbursement of costs including, but not limited to, those associated with potential soil and groundwater contamination at the City of Fort Lauderdale Fire Training Facility and the installation and continued maintenance of filtration systems at the Fort Lauderdale's water treatment plants.

1. CONTINGENCY FEE PERCENTAGE, COSTS, FEE/COST CAPS: In consideration, Fort Lauderdale agrees the gross recovery shall be calculated on the amount obtained before the deduction of costs and expenses. The agreed contingency fee percentage and fee/cost caps shall be determined by the stage of litigation, as set forth in the Schedule below:

- 8% of any gross recovery obtained before the filing of the complaint in this litigation. Total fees and expenses shall not exceed 9% of any gross recovery.

- 15% of any gross recovery following the commencement of plaintiff's obligation to produce discovery. Total fees and expenses shall not exceed 16% of any gross recovery.

- 18% of any gross recovery obtained following disclosure of expert reports. Total fees and expenses shall not exceed 20% of any gross recovery.
- 19% of any gross recovery obtained following briefing of summary judgment or *Daubert* after expert discovery. Total fees and expenses shall not exceed 20% of any gross recovery.
- Total fees and expenses shall not exceed 20% of any gross recovery after jury selection begins.

Total fees and expenses shall not exceed twenty percent (20%) of the gross recovery. Fort Lauderdale grants the Law Firm an interest in a fee based on the gross recovery. If a court awards attorneys' fees, the Law Firm shall receive the "greater of" the gross recovery-based contingent fee or the attorneys' fees awarded. **There is no fee if there is no recovery.**

The Law Firm agrees to advance all necessary litigation expenses necessary to prosecute these claims. The litigation expenses may include, but will not be limited to, court costs and filing fees, process serving fees, investigators' fees, product investigation and testing fees, trial related expenses, including but not limited to, audiovisual, court reporter, exhibits, expert witnesses, demonstrative aids, and computer research charges. **These Litigation expenses will only be incurred if they pertain directly to Fort Lauderdale's claim. Additionally, there is no reimbursement of litigation expenses if there is no recovery.**

With respect to travel costs and travel-related expenses, the Law Firm agrees to adhere to Section 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses, including employee lodging, transportation, per diem, and all miscellaneous travel related costs and fees.

At the conclusion of the matter, Fort Lauderdale will have the right to receive and approve a closing statement before a fee is deducted. The statement will list all of the financial details of the entire case, including the amount recovered, an itemized list of all expenses incurred, and a precise statement of the Law Firm's fees.

To be clear, the Law Firm shall not be paid nor receive reimbursement from public funds. However, any judgment arising from successful prosecution of the case, or any consideration arising from a settlement of the matter, whether monetary or equitable, shall not be considered public funds for purposes of calculating the contingent fee. Fort Lauderdale and the Law Firm agree to make a good faith effort to seek a monetary payment in any settlement that includes a non-monetary equitable remedy.

2. FEDERAL MULTIDISTRICT LITIGATION ("MDL"): The litigation authorized by this Agreement may become part of The Federal Multidistrict Litigation ("MDL,") docket, on which one or more attorneys from the Law Firm currently serve on plaintiff management or executive committees, performing work that benefits multiple clients of the Law Firm, as well as clients of other attorneys involved in similar litigation. As a result, the court or courts where an MDL is pending may order that one or more Law Firms is to receive additional compensation for time and effort which has benefitted all claimants in the MDL. Compensation for this work and

effort, known as "common benefit work," may be awarded to the Law Firm and paid out of the MDL court's assessments against settlements, including settlements on behalf of Fort Lauderdale and others who have filed claims that are pending in the MDL court. This common benefit compensation is separate and distinct from any fees or costs owed under this Agreement.

3. CONTACT COUNSEL AND COMMUNICATION WITH CLIENT: The Law Firm shall appoint a contact person to keep Fort Lauderdale reasonably informed about the status of the matter in a manner deemed appropriate by Fort Lauderdale. The identity of the contact person designated by the Law Firm may change over the course of the investigation and litigation to best match the contact person with the stage of investigation and litigation and to best meet the needs of Fort Lauderdale. Fort Lauderdale at all times shall retain the authority to decide the disposition of the case and personally oversee and maintain absolute control of the litigation. Fort Lauderdale, acting through its Mayor, shall be the ultimate decision maker on all matters relating to the investigation and/or litigation, including whether to file litigation and whether and what terms to settle such litigation. The Law Firm shall consult with and obtain the approval of Fort Lauderdale, acting through its Mayor, concerning all important issues regarding the investigation, litigation, and any settlement, including but not limited to the complaint and all dispositive motions, selection of consultants, experts and other professional services, discovery, pre-trial proceedings, trial, and settlement offers, demands, or negotiations. All draft filings in Fort Lauderdale's individual case shall be provided to the Mayor sufficiently in advance of filing to permit Fort Lauderdale's review. Regular status meetings shall be held as requested by the Mayor. The Mayor may designate an alternate point or points of contact from within Fort Lauderdale to be available to the Law Firm's contact person as appropriate. The Law Firm shall consult with and obtain the approval of the Mayor, or the Mayor's designated alternate contact, prior to making or releasing any press release, news release, media release, press statement or public statements regarding Fort Lauderdale's role in or position on this litigation or any matters related thereto.

4. CLOSING STATEMENT: Upon conclusion of this matter, the Law Firm shall provide Fort Lauderdale with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to Fort Lauderdale and the method of its determination. The closing statement shall specify the matter in which the compensation was determined under the Agreement, any costs and expenses deducted by the Law Firm from the judgment or settlement involved, and, if applicable, the actual division of the lawyers' fees with a lawyer not in the same firm, as required in Rule 4-1.5 (f)(5) of the Florida Rules of Professional Conduct. The closing statement shall be signed by Fort Lauderdale and each attorney among whom the fee is being divided.

5. ASSOCIATION WITH ADDITIONAL COUNSEL: The Law Firm may retain associate counsel to assist with litigation pursuant to this Agreement. The associate counsel selected by the Law Firm shall be subject to Fort Lauderdale's approval.

6. STATUTE OF LIMITATIONS: I understand that the Statute of Limitations period for the case must be investigated, and that this Agreement is made subject to that investigation as well as an investigation of the entire case.

7. RESULTS NOT GUARANTEED: No attorney can accurately predict the outcome of any legal matter, accordingly, no representations are made, either expressly or impliedly, as to the final outcome of this matter.

I certify and acknowledge that I have had the opportunity to read this Agreement and have answered any questions pertaining thereto. I further state that I have voluntarily entered into this Agreement fully aware of the terms and conditions. This contract may be cancelled by written notification to the attorney at any time within 3 business days of the date the contract was signed, as shown below, and if cancelled the client shall not be obligated to pay any fees to the attorneys for the work performed during that time. If the Law Firm has advanced funds to others in representation of Fort Lauderdale, the firm is entitled to be reimbursed for such amounts as the attorneys have reasonably advanced on behalf of the client. The undersigned has, before signing this contract, received and read the **Statement of Client's Rights** and understands each of the rights set forth therein. The undersigned client has signed the statement and received a signed copy to refer to while being represented by the undersigned attorneys.

SIGNED AND ACCEPTED ON THIS _____ day of _____, 2023.

The Ferraro Law Firm, P.A.

Name:

Position:

City of Fort Lauderdale

Name:

Position: