

RESOLUTION 6, 2023

**A RESOLUTION OF THE CITY OF CATLETTSBURG, KY AUTHORIZING
THE MAYOR TO EXECUTE THE LEGAL SERVICES' AGREEMENT RELATED TO
AFFF/PFAS LITIGATION SERVICES**

WHEREAS, the City of Catlettsburg (the "City") is committed to delivering clean drinking water to its customers; and

WHEREAS, the City is also committed to identifying parties and taking reasonable steps to avoid passing on the costs to its consumers for the treatment and remediation of contamination; and

WHEREAS, STAG LIUZZA, L.L.C. has put together a team of uniquely qualified and experienced attorneys (the "Firm") who have joined together to assist public entities facing the challenges posed by contamination with per- and polyfluoroalkyl substances ("PFAS"); and

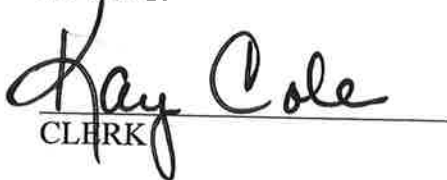
WHEREAS, the Firm is comprised of experienced attorneys in both in PFAS litigation and in the representation of public entities and water suppliers in cases involving groundwater contamination; and

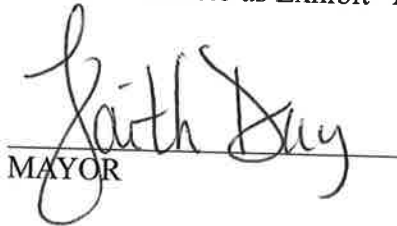
WHEREAS, the Catlettsburg City Council has determined it to be in the City's best interest to enter into the Agreement with the Firm and pursue any claims it may have related to PFAS; and

WHEREAS, the City desires to authorize the execution of the Agreement with the Firm.

NOW THEREFORE BE IT RESOLVED that the is hereby authorized to execute the Legal Services' Agreement with the Firm based upon the terms and conditions set forth herein and, in a manner, substantially similar to the Agreement attached hereto as Exhibit "A."

ATTEST:


CLERK


MAYOR

**CONTRACT FOR LEGAL SERVICES
AFFF/PFAS LITIGATION**

CITY OF CATLETTSBURG, KY (hereinafter the "Client") hereby retains, STAG LIUZZA, L.L.C., (through attorney Michael Stag, LLC) and KENNETH R. REED, ATTORNEY, PSC (through attorney Kenneth R. Reed) (hereinafter the "Attorneys") for the purpose of providing legal services related to the filing and litigation of a civil action for damages due to soil and water contamination against Defendants who manufactured, marketed, distributed, and/or sold products containing per-and polyfluoroalkyl substances ("PFAS"), including but not limited to aqueous film-forming foam ("AFFF"), a firefighting product used to control and extinguish aviation, marine, fuel, and other flammable liquid fires and contains perfluorooctanoic acid ("PFOA") and/or perfluorooctane sulfonic acid ("PFOS"). (Hereinafter the "Client's Claims").

The Attorneys do not represent the Client regarding any other matters. If the Client engages the Attorneys for any related or additional matters, those matters will be described in a separate engagement letter or in a written supplement to this contract. The Client acknowledges that the Attorneys are not tax, bankruptcy, or local or municipal governance legal experts, and if these services are requested or required by or on behalf of the Client, and if the Attorneys agree to provide or advance the cash payments necessary to retain legal counsel for said supplemental legal services, then any resulting attorney fees and expenses will be in addition to the attorney fees and expenses set out herein.

The Attorneys are not the attorneys for any officials, officers, agents, employees, attorneys, or consultants of the Client regarding this matter, and shall not become so unless the Attorneys specifically agree in the future in writing to undertake such representation. The Attorneys will confer, as needed, with such persons to perform the services specified in this Agreement, but no attorney-client relationship shall be created with such persons merely because the Attorneys work with and/or request or receive information from any such persons during their representation of the Client.

The Client specifically authorizes the Attorneys to undertake negotiations and/or file suit or institute legal proceedings necessary on the Client's behalf. The Client further authorizes the Attorneys to retain and employ the services of any experts, as well as the services of other outside contractors, as the Attorneys deem necessary or expedient in representing the interests of the Client.

The Client has disclosed all potential adverse parties to the Attorneys, and neither the Attorneys nor the Client perceive any conflict of interest in the Attorneys undertaking this engagement on behalf of the Client. If either the Client or the Attorneys, during the course of the representation, receive information indicating that a potential conflict of interest may develop or exist, the Client and the Attorneys agree to bring such information to the immediate attention of the other, and the Attorneys shall proceed to take such steps as may be appropriate in the circumstances.

The Attorneys agree to diligently institute and prosecute the Client's Claims to determination in the appropriate court and make all reasonable and necessary efforts to collect any judgment that may be rendered therein in the Client's favor. In the event of a judgment

unfavorable to the Client in said court, Attorneys will, if in their sole opinion good grounds exist, appeal said cause to the appropriate court of appeals and prosecute same to a final determination therein.

1. **ATTORNEYS' FEES.** As compensation for legal services, the Client agrees to pay the Attorneys, as follows:

The maximum contingent attorneys' fees for the representation in question shall be paid at the sole option of the Attorneys the higher of (i) the sums set forth in this paragraph under *Option ONE: Fees Set by Courts of Agreement with Defendants* or (ii) the sums set forth in this paragraph under *Option TWO: Contingency Fee*.

OPTION ONE: Fees Set by Court or by Agreement with Defendants

If Attorneys for the Client secure a cash settlement of the claim(s) either by demand, conference, mediation, arbitration, negotiation, suit, complaint, or other manner or obtain a final definitive judgment and payment of the judgment, Attorneys are to receive as compensation for their services, reimbursement of reasonable expenses, as well as one the following:

- a. The total sum of attorneys' fees awarded by the Court related to representation of the Client. This excludes attorney fees paid related to common benefit work in the MDL.
- b. The total sum of attorneys' fees agreed to be paid by the settling Defendant(s) related to representation of the Client in the event of a settlement. This excludes attorney fees paid related to common benefit work in the MDL.

OPTION TWO: Contingency Fee

For legal services rendered and to be rendered on account of the Client's Claims, the Client shall pay the Attorneys' fees (hereinafter "Attorneys' Fees"). The Attorneys' Fees shall be forty percent (40%) of the Gross Amount Recovered. These Attorneys' Fees shall all be calculated before the deduction of costs and expenses, as set forth in Section 2 herein. Notwithstanding the above, if attorneys' fees awarded by a court are more than the Attorneys' Fees calculated with the applicable percentage(s) above, then the Attorneys' Fees shall be in the amount of the Court-awarded attorney's fees instead of as calculated with the applicable percentage(s) above, regardless of whether there is an award of damages.

If the Client's Claims are set for trial by court order, the Attorneys' Fees shall be increased by an additional five percent (5%) of the Gross Amount Recovered if the Client's Claims, or any constituent claims, are settled thereafter or collected after any judgment. If after trial any defendant takes an appeal, the Attorneys' Fees shall be increased by an additional five percent (5%), to recompense the Attorneys for their services on appeal.

"Gross amount recovered" herein means principal, interest, penalties, punitive damages, treble damages, attorney's fees, and all other amounts recovered, including the value of any structured settlement, future payments, or other relief achieved, whether by settlement, judgment or otherwise. "Constituent claims" herein means any one or more claims of the Client constituting

less than the entirety of the Client's Claims, including a partial settlement or judgment with less than all defendants.

The Client agrees to pay all costs and expenses, as set forth in Section 2 herein, which, in the event of a successful recovery, shall be deducted from the Client's share of that recovery.

The Client acknowledges that multiple lawsuits have been filed relating to the same subject matter as Client's Claims. The Client acknowledges that these suits, including any suit for the Client's Claims, might be removed to a federal court as part of multi-district litigation. Further, the Client acknowledges that the court governing the multi-district litigation might appoint committees of attorneys to litigate common issues of law and fact to facilitate the resolution of those lawsuits for common benefit of all claimants, including the Client. As a result, the Client might be obliged to pay from any Gross Amount Recovered a share of its recovery to satisfy an assessment of common benefit fees, costs, and expenses in an amount as determined by the court.

Neither the Attorneys nor the Client shall have the right, without the written consent of the other, to settle, compromise, release, discontinue, or otherwise dispose of the Client's Claims.

2. COSTS AND EXPENSES. In addition to paying Attorneys' Fees, in the event of a successful recovery, the Client agrees to reimburse all costs and expenses, as set forth herein only in the event of a successful, sufficient recovery, shall be deducted from the Client's share of that recovery. Attorneys shall advance all litigation expenses on behalf of Client, and Client shall not be responsible for incurring or reimbursing costs of the litigation even if the amount of recovery is less than the costs incurred. Client shall only reimburse litigation costs or expenses in the event of a recovery by settlement or judgment. If no recovery is made, Attorneys shall bear all unreimbursed costs and expenses incurred, and client shall not be liable for any such costs or expenses incurred by Attorneys. Further, if recovery is insufficient to fully reimburse litigation costs, Attorneys shall bear, and Client shall not be liable for, all costs in excess of the amount of recovery. Subject to the foregoing terms, the Client agrees to reimburse the Attorneys' litigation costs and expenses upon receipt of any settlement funds or collected judgment.

The Attorneys shall have the right and authority, without prior approval of the Client, to incur such litigation costs and expenses as may be necessary or advisable in furtherance of Client's Claims. Litigation costs and expenses may include (but are not limited to) the following: filing fees; deposition costs; expert witness fees; transcript costs; witness fees; subpoena costs; sheriff's and service of process fees; trial consultant fees; mock trial costs; shadow jury fees; mediation fees; court costs; trial exhibit costs; copy costs; photographic, electronic or digital evidence production or presentation; investigation fees; travel expenses; and any other case-specific expenses directly related to the representation undertaken. Additionally, the Client specifically authorizes the Attorneys to charge as recoverable costs such items such as: computer legal research charges (e.g. Westlaw and/or Lexis); long distance telephone expenses; postage charges; Federal Express, UPS, and other delivery service charges; internal photocopying at a rate of \$.30 per page; facsimile costs at a rate of \$.25 per page; and mileage and outside courier charges, all of which must be incurred solely for the purposes of the representation undertaken. Finally, the Client acknowledges that Client will not be charged costs and expenses for any overhead costs of the Attorneys' practice, including office rent; utility costs; charges for local telephone service; office supplies; fixed asset expenses; and ordinary secretarial and staff services.

3. **NO GUARANTEE.** The Client acknowledges that the Attorneys have made no promise or guarantee regarding the outcome of my legal matter. The Client acknowledges that the Client's Claims may be subject to defenses that could lead to dismissal before, at, or after trial, and no recovery. The Client further acknowledge that the Attorneys shall have the right to cancel this agreement and withdraw from this matter if, in the Attorneys' professional opinion, the matter does not have merit, the Client does not have a reasonably good possibility of recovery, the Client refuses to follow the recommendations of the Attorneys, the Client fails to abide by the terms of this agreement, the Client fails to provide requested information or to produce witnesses to appear for deposition or trial, if the Attorneys' continued representation would result in a violation of the Rules of Professional Conduct, or at any other time as permitted under the Rules of Professional Conduct. No guarantee or representation has been made to the Client as to what type or amount of recovery, if any, may be expected on the Client's Claims.

The Attorneys have the right to withdraw from this representation after giving reasonable notice. If the Attorneys resign, are discharged, or are disqualified or otherwise cease to serve as the Client's legal counsel prior to a settlement or final judgment, then the withdrawing, discharged, or disqualified Attorneys shall receive as compensation for services reasonable fees based on all of the facts and circumstances of its representation.

4. **ELECTRONIC DATA COMMUNICATION AND STORAGE.** In the interest of facilitating our services to the Client, the Attorneys may communicate by facsimile transmission, send data over the internet, store electronic data via computer software applications hosted remotely on the internet, or allow access to data through third-party vendors' secured portals or clouds. Electronic data that is confidential to the Client may be transmitted or stored using these methods. The Attorneys may use third-party service providers to store or transmit this data. In using these data communication and storage methods, the Attorneys employ measures designed to maintain data security. The Attorneys will use reasonable efforts to keep such communications and data access secure in accordance with the Attorneys' obligations under applicable laws and professional standards. The Attorneys also require all of the Attorneys' third-party vendors to do the same. However, the Client acknowledges that some information transmitted to the Attorneys will be public records, and the Client has no expectation that public records will be confidential.

Client acknowledges that the Attorneys have no control over the unauthorized interception or breach of any communications or data once it has been sent or has been subject to unauthorized access, notwithstanding all reasonable security measures employed by us or our third-party vendors, and the Client consents to our use of these electronic devices and applications and submission of confidential client information to third-party service providers during this engagement.

5. **PRIVILEGE.** The Client acknowledges that this contract is intended to and does hereby assign, transfer, set over, and deliver unto the Attorneys as its fee for representation of the Client in this matter an interest in the claim(s), the proceeds, or any recovery therefrom under the terms and conditions aforesaid, in accordance with the provisions any state law that applies to this contract.

6. **MODIFICATION.** It contains the entire and complete understanding between the parties

and can only be modified by written amendment signed by all parties.

7. TERMINATION OF REPRESENTATION. The Client acknowledges that the Client has the right to terminate the representation upon written notice to that effect. The Client acknowledges that Client will be responsible for any fees or costs incurred prior to the discharge or termination, based on all the facts and circumstances, including the risk taken by the Attorneys in accepting Client's legal representation on a contingency fee basis.

The Client agrees to cooperate with Attorneys and to comply with all reasonable requests of Attorneys. The Client warrants and represents to the Attorneys that all information the Client has provided to, or will in the future provide to, the Attorneys regarding the Client's Claim is true and correct to the best of the Client's knowledge, information, and belief.

At the conclusion of this matter, the Attorneys will retain the Client's legal files for a period of five (5) years after the Attorneys close their files. At the expiration of the five-year period, the Attorneys may destroy these files unless the Client notifies the Attorneys in writing that the Client wishes to take possession of the files. The Attorneys reserve the right to charge administrative fees and costs associated with retrieving, copying, and delivering such files.

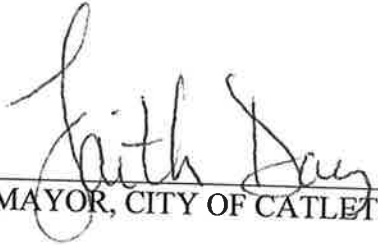
8. ENTIRE AGREEMENT. The undersigned Client Representative has read this agreement, a copy of which he has received, in its entirety and he agrees to and understands the terms and conditions set forth herein. The Client acknowledges that there are no other terms or oral agreements existing between the Attorneys and the Client. This agreement may not be amended or modified in any way without the prior written consent of the Attorneys and the Client.

9. AUTHORITY. The Client acknowledges having been advised to and given the full opportunity to obtain independent representation in the making of this agreement and voluntarily entering into this agreement after such opportunity. The Client representative signing below represents that the Client enters into this agreement with proper authorization and approval under state and local law, and that the Client representative is specifically authorized to execute this agreement.

EFFECT OF SIGNING

The Client understands that this is a binding legal document. The Client further understands that this Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

8-17-23
Date


MAYOR, CITY OF CATLETTSBURG, KY

Date

STAG LIUZZA, L.L.C.

Date

KENNETH R. REED, ATTORNEY, PSC