



Legislation Text

File #: 2051-2023, Version: 1

BACKGROUND: The City of Columbus is committed to delivering clean drinking water to its citizens and to identifying responsible parties and taking reasonable steps to avoid passing on the costs to its consumers for the treatment and remediation of contaminated water. Towards this end, the City Attorney's office, on behalf of the Department of Public Utilities, has been exploring the various legal options that may be available to assist the City in investigating and assessing potential claims arising out of the possible presence of contaminants in water supply wells affecting the City's water systems and, if warranted, to represent the City in any civil action that may be filed ("Legal Action"). The City Attorney's office is in need of special legal counsel to assist in pursuing these legal options.

Taft Stettinius & Hollister, LLP; Law Office of Kevin Madonna, PLLC; SL Environmental Law Group PC; Douglas & London, P.C.; Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey, P.A., Kelley Drye & Warren LLP (collectively the "Firms") are together a team of uniquely qualified and experienced attorneys who have joined together to assist public entities facing the challenges posed by contamination with per- and polyfluoroalkyl substances ("PFAS"). The Firms are comprised of the foremost attorneys in the nation with experience both in PFAS litigation and in the representation of public entities and water suppliers in cases involving groundwater contamination. After consideration, the City Attorney has selected the Firms to serve as special legal counsel for this matter.

FISCAL IMPACT: While there is no cost to the City as a result of this contract, City Council approval is being sought due to the legally binding commitment being made therein to pay attorney fees and reimburse for reasonable litigation expenses solely on a contingency basis from any recovery related to the portion of any matter resolved in favor of the City.

To authorize the City Attorney, on behalf of the Department of Public Utilities, to enter into contract with Taft Stettinius & Hollister, LLP; Law Office of Kevin Madonna, PLLC; SL Environmental Law Group PC; Douglas & London, P.C.; Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey, P.A., Kelley Drye & Warren LLP for special legal counsel services regarding Legal Action pertaining to the treatment and remediation of water contaminated by PFAS; and to declare an emergency.

WHEREAS, the City of Columbus is committed to delivering clean drinking water to its citizens and to identifying responsible parties and taking reasonable steps to avoid passing on the costs to its consumers for the treatment and remediation of contaminated water; and

WHEREAS, the City Attorney's office, on behalf of the Department of Public Utilities, has been exploring the various legal options that may be available to assist the City in investigating and assessing potential claims arising out of the possible presence of contaminants in water supply wells affecting the City's water systems and, if warranted, to represent the City in any civil action that may be filed ("Legal Action"); and

WHEREAS, the City Attorney has a need for special legal services with regard to Legal Action pertaining to the possible presence, treatment, and remediation of water contaminated by PFAS affecting the City; and

WHEREAS, there are approximately 500 cases currently pending in a multidistrict litigation in the United States District

Court for the District of South Carolina, MDL. 2873; and

WHEREAS, after consideration, the City Attorney has selected the law firms of Taft Stettinius & Hollister, LLP; Law Office of Kevin Madonna, PLLC; SL Environmental Law Group PC; Douglas & London, P.C.; Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey, P.A., Kelley Drye & Warren LLP (collectively the "Firms") to serve as special legal counsel for these matters; and

WHEREAS, while there is no upfront cost to the City, City Council approval is being sought due to the legally binding commitment being made therein to pay attorney fees and reimburse for reasonable litigation expenses solely on a contingency basis from any recovery related to the portion of any matter resolved in favor of the City; and

WHEREAS, an emergency exists in the usual daily operation of the City Attorney's office in that it is necessary to authorize the City Attorney to enter into a contract with the Firms in order to allow the assistance of special counsel to commence immediately during this ongoing Legal Action all for the preservation of the public health and safety; **NOW, THEREFORE,**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That the City Attorney, on behalf of the Department of Public Utilities, is hereby authorized to enter into contract with Taft Stettinius & Hollister, LLP; Law Office of Kevin Madonna, PLLC; SL Environmental Law Group PC; Douglas & London, P.C.; Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey, P.A., Kelley Drye & Warren LLP for special legal counsel services pertaining to the possible presence of PFAS contaminants in water supply wells affecting the City's water systems.

Section 2. That said contract shall provide that there shall be no obligation by the City to pay any fee to special legal counsel or reimburse them for reasonable litigation expenses if nothing is recovered from any adversary and that the City agrees to pay attorney fees and reimburse for reasonable litigation expenses solely on a contingency basis from any recovery related to the portion of any matter resolved in favor of the City.

Section 3. That for the reasons stated in the preamble hereto which are hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and immediately after its passage and signature by the Mayor, or within 10 days thereafter if the Mayor neither signs nor vetoes the same.