

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF FORT WORTH, TEXAS, AUTHORIZING THE CITY ATTORNEY OR DESIGNEE TO OPT THE CITY OUT OF THE 3M AND DUPONT CLASS ACTION SETTLEMENTS FOR DRINKING WATER CONTAMINATION; AUTHORIZING RELATED MEMORANDA OF UNDERSTANDING WITH THE CITY'S WHOLESALE WATER CUSTOMERS; AND AUTHORIZING LITIGATION AGAINST 3M, DUPONT, AND OTHER PARTIES AS NECESSARY, INCLUDING, BUT NOT LIMITED TO, THE DEPARTMENT OF DEFENSE.

WHEREAS, per- and polyfluoroalkyl substances (“PFAS”) are a class of man-made chemicals that do not naturally break down and have been linked to negative health and environmental outcomes; and

WHEREAS, the U.S. Environmental Protection Agency has proposed to regulate certain PFAS under the Safe Drinking Water Act and Comprehensive Environmental Response, Compensation, and Liability Act; and

WHEREAS, thousands of lawsuits relating to harms caused by PFAS have been combined into multi-district litigation in the U.S. District Court for the District of South Carolina, *In re Aqueous Film-Forming Foams Products Liability Litigation*, No. 2:18-mn-2873-RMG (“MDL”); and

WHEREAS, U.S. public water systems have brought hundreds of lawsuits currently pending in the MDL alleging contamination of their water supplies by PFAS manufacturers such as 3M Company (“3M”), which is or was a predominant manufacturer of PFAS, and DuPont de Nemours, Inc. and several associated companies (collectively, “DuPont”), which are or were major players in the PFAS market; and

WHEREAS, the MDL court preliminarily approved two proposed class action settlement agreements between a nationwide class of public water systems and 3M as well as DuPont, in the cases *City of Camden, et al. v. 3M Company*, Case No. 2:23-cv-03147-RMG (D.S.C.), and *City of Camden, et al. v. E.I. DuPont de Nemours and Company, et al.*, No. 2:23-cv-03230-RMG (D.S.C.); and

WHEREAS, the City of Fort Worth constitutes a public water system under the settlements’ definitions and is therefore a putative class member in both settlements; and

WHEREAS, any putative class member will be held to participate in each settlement unless it affirmatively files a request for exclusion, or “opts out” of the settlement class; and

WHEREAS, putative class members have until December 4, 2023 to opt out of the DuPont settlement and until December 11, 2023 to opt out of the 3M settlement; and

WHEREAS, if it participates in the settlements, the City of Fort Worth would release any and all claims against 3M and DuPont related to PFAS found in the city's drinking water supplies in return for an amount in compensation that would be inadequate to meet the city's needs; and

WHEREAS, the City Council of the City of Fort Worth finds that it is in the public interest to opt out from the settlement classes in both the 3M and DuPont settlement agreements and to seek funding for PFAS treatment by alternative means.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, THAT:

1. The City Attorney or her designee is authorized to opt the City out of the 3M and DuPont settlements.
2. The City of Fort Worth is hereby authorized to enter into Memoranda of Understanding with its wholesale water customers regarding the rights and responsibilities of these customers with respect to the matters in the class action preliminary settlement agreements proposed in *City of Camden, et al. v. 3M Company*, Case No. 2:23-cv-03147-RMG (D.S.C.), and *City of Camden, et al. v. E.I. DuPont de Nemours and Company, et al.*, No. 2:23-cv-03230-RMG (D.S.C.).
3. The City of Fort Worth is hereby authorized to commence litigation in the MDL against 3M, DuPont, and other AFFF manufacturers, including: Tyco Fire Products LP (successor-in-interest to The Ansul Company); AGC, Inc. (f/k/a Asahi Glass Co., Ltd.); AGC Chemicals Americas, Inc.; Amerex Corporation; Archroma Management Llc; Archroma U.S., Inc.; Arkema Inc.; BASF Corporation; Buckeye Fire Equipment Company; Carrier Global Corporation; Chemdesign Products, Inc.; Chemguard, Inc.; Chemicals Incorporated; Chubb Fire, Ltd.; Clariant Corporation; Daikin America, Inc.; Deepwater Chemicals, Inc.; Dynax Corporation; Kidde-Fenwal, Inc.; Kidde PLC, Inc.; Nation Ford Chemical Company; National Foam, Inc. (successor-in-interest to Angus Fire Armour Corp.); Raytheon Technologies Corporation (f/k/a United Technologies Corporation); and UTC Fire & Security Americas Corporation, Inc. The City of Fort Worth is hereby also authorized to commence litigation against other necessary defendants including, but not limited to, the United States Department of Defense, after fulfilling Federal Tort Claims Act jurisdictional prerequisites.

Adopted this _____ day of _____ 2023.

ATTEST:

By: _____
Jannette S. Goodall, City Secretary