

RESOLUTION NO. 2022-11R

A RESOLUTION OF THE BOARD OF DIRECTORS OF WYLIE NORTHEAST SPECIAL UTILITY DISTRICT OF COLLIN COUNTY, TEXAS, APPROVING A RETAINER AGREEMENT WITH NAPOLI SHKOLNIK, PLLC FOR LEGAL SERVICES TO RECOVER COSTS FOR TESTING, TREATING, AND REMEDIATING PFAS CONTAMINATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Wylie Northeast Special Utility District (the "District") is a political subdivision of the State of Texas created under authority of Section 59, Article XVI, Texas Constitution, and operating pursuant to Chapters 49 and 65 of the Texas Water Code; and

WHEREAS, Per- and Polyfluoroalkyl Substances (PFAS) are a group of hazardous man-made chemicals that are known as "forever chemicals" due to their persistence and stability in the environment; and

WHEREAS, the Environmental Protection Agency (EPA) is in the process of establishing an enforceable maximum contaminant level under the Safe Drinking Water Act making any level of detection of PFAS a violation of the act; and

WHEREAS, the Texas Rural Water Association and National Rural Water Association sent notice encouraging Texas retail public water utilities to register with the Napoli Shkolnik, PLLC law firm for a PFAS Cost Recovery Program to protect the District and its rate payers from the financial burden for testing, treating, and remediating PFAS contamination regardless of known exposure; and

WHEREAS, to register for the PFAS Cost Recovery Program the District must retain Napoli Shkolnik, PLLC, at no cost to the District, to prosecute legal claims for negligence against PFAS manufacturers; and

WHEREAS, the Board finds entering into the attached Retainer Agreement with Napoli Shkolnik, PLLC to be in the best interests of the District and its rate payers.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF WYLIE NORTHEAST SPECIAL UTILITY DISTRICT THAT:

SECTION 1. Recitals Incorporated. The findings and recitals above are incorporated herein by reference.

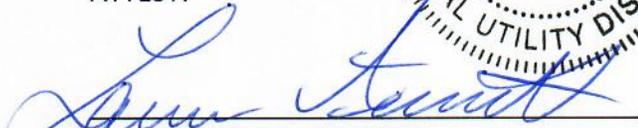
SECTION 2. Approval of Contract. The attached Retainer Agreement by and between the District and Napoli Shkolnik, PLLC is hereby approved and the President of the Board is hereby authorized to execute the agreement for and on behalf of the District.

SECTION 3. Effective Date. This Resolution shall become effective from and after its passage by the Board of Directors.

PASSED and ADOPTED on this the 13th day of February, 2023, by the Board of Directors of Wylie Northeast Special Utility District.

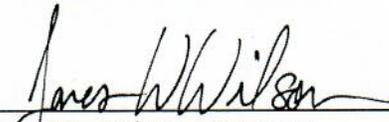


ATTEST:


Lance Ainsworth, Secretary,
or Amanda Horst, Assistant Secretary


Jimmy C. Beach, President

APPROVED AS TO FORM:


James W. Wilson, Attorney



RETAINER AGREEMENT

THIS CONTRACT IS SUBJECT TO ARBITRATION UNDER THE FEDERAL ARBITRATION ACT AND THE STATE OF TEXAS GENERAL ARBITRATION STATUTES

Wylie Northeast Special Utility District, a political subdivision of the State of Texas (Client), retains the Law Firm of Napoli Shkolnik PLLC, as our attorneys to prosecute any legal claim for negligence (or other viable causes of action) against any and all parties individuals and/or corporations that are found to be liable under the law for injuries and/or property damages suffered by us and/or our members arising out of the contamination of water supplies by per- and polyfluoroalkyl and related substances (PFAS/PFOA), 1,4 Dioxane and other emerging hazardous contaminants. We specifically agree as follows:

1. FEE PERCENTAGE: Client and Law Firm agree that the Law Firm shall be paid Twenty-Five Percent (25%) of the sum recovered, whether by suit, settlement or otherwise. Client will not be liable to pay the Law Firm any legal fee if there is not any form of recovery.

2. DISBURSEMENTS: In the event there is no recovery, the Client shall not be obligated to pay the Law Firm a legal fee for services rendered. Disbursements may include some of the following expenses: court filing fees, sheriff fees, medical and hospital report/record fees, doctor's report, court stenographer fees, deposition costs, expert fees for expert depositions and court appearances, trial exhibits, computer on-line search fees, express mail, postage, photocopy charges, document management charges, long distance telephone charges among other charges. Document management charges are the fees charged by the law firm for processing documents during litigation, such as medical records, documents produced by defendant(s) and/or other parties, etc. Processing of the documents may include but is not limited to the following: (1) scanning; (2) conversion of native files to PDF documents; (3) OCR (optical code recognition); and/or (4) indexing. At the time of settlement and distribution of proceeds, these expenses shall be deducted from the Client's share after computation of the Attorney's Fee.

3. COMPUTATION OF FEES. The contingency fee shall be computed on the gross recovery, resulting in a net settlement (or judgment), from which all appropriate

disbursements in connection with the institution and prosecution of this claim is deducted, as set forth in paragraph 2 above. Examples of how a contingency fee is computed are as follows:

Gross settlement	\$100.00
25% Attorney's Fee	\$ <u>25.00</u>
Net settlement	\$ 75.00
Disbursements	-<u>\$ 10.00</u>
Net to Client	\$ 65.00

4. WITHDRAWAL: The Law Firm expressly reserves the right to withdraw its representation at any time upon reasonable notification to the client. In the event that the client advises the Law Firm to discontinue the handling of this claim, or if the client fails to cooperate with the Law Firm in the handling of this claim, client agrees to compensate the Law Firm a reasonable amount for its services, and for the time spent on this claim on an hourly basis or under such other arrangement that may be agreed upon by the parties. The client understands that the Law Firm have conditionally accepted this case based upon independent confirmation of all facts and injuries claimed to have been sustained by Client. In the event that the client desires to transfer the file from this office, the client shall be responsible to compensate the Law Firm for the reasonable value of their services. Such transfer shall not include documents or attorney work product regarding the general liability of the defendants.

5. APPEALS: The above contingency fee does not contemplate any appeal. The Law Firm are under no duty to perfect or prosecute such appeal until a satisfactory fee arrangement is made in writing regarding costs and counsel fees.

6. STATUTE OF LIMITATIONS: We understand that any lawsuit must be commenced within a certain limited time period, (that may vary, depending upon the defendant) starting from the "discovery of the injury" or of "the date when through the exercise of reasonable diligence such injury should have been discovered... whichever is earlier". We further understand that the Statute of Limitations period for any case must be investigated, and that this Agreement is made subject to that investigation as well as an investigation of the entire case.

7. FINANCING OF CASE: If the firm borrows money from any lending institution to finance the cost of the client's case, the amounts advanced by this firm to pay the cost of prosecuting or defending a claim or action or otherwise protecting or promoting the client's interest will bear interest at the highest lawful rate allowed by applicable law. In no event will the interest be greater than the amount paid by the firm to the lending institution.

8. 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. We further understand that we must immediately report any changes in address and telephone number to the Law Firm.

9. APPROVAL NECESSARY FOR SETTLEMENT: Attorneys are hereby granted a power of attorney so that they may have full authority to prepare, sign and file all legal instruments, pleadings, drafts, authorizations, and papers as shall be reasonably necessary to conclude this representation, including settlement and/or reducing to possession any and all monies or other things of value due to the Client under the claim as fully as the Client could do so in person. Attorneys are also authorized and empowered to act as Client's negotiator in any and all negotiations concerning the subject of this Agreement.

10. ASSOCIATION OF OTHER ATTORNEYS: The Law Firm may, at its own expense, use or associate other attorneys in the representation of the aforesaid claims of the Client. Client understands that Law Firm employs numerous attorneys that may work on Client's case.

11. ASSOCIATE COUNSEL: The Law Firm may participate in the division of fees in this case and assume joint responsibility for the representation of the client either in the event that the Attorney retains associate counsel or that the client later chooses new counsel, provided that the total fee to the client does not increase as a result of the division of fees and that the attorneys involved have agreed to the division of fees and assumption of joint responsibility. The Client will be advised of such joint responsibility and full disclosure will be made to Client regarding the division of fees so that the consent of the Client can be obtained.

12. OR APPLICABLE LAW TO APPLY: This Agreement shall be considered construed under and in accordance with the laws of the State of Texas or applicable law and the rights, duties and obligations of Client and of Attorneys regarding Attorney's representation of Client and regarding anything covered by this Agreement shall be governed by the laws of the State of Texas or applicable law.

13. ARBITRATION: Any and all disputes, controversies, claims or demands arising out of or relating to (1) this Agreement or (2) any provision hereof or (3) the providing of services by the Law Firm to Client or (4) the relationship between the Law Firm and Client, whether in contract, tort or otherwise, at law or in equity, for damages or any other relief, shall be resolved by binding arbitration pursuant to the Federal Arbitration Act in accordance with the Commercial Arbitration Rules then in effect with the American Arbitration Association. Any such arbitration proceeding shall be conducted in Collin County Texas. This arbitration provision shall be enforceable in either federal or state court in Collin County Texas pursuant to any award rendered in

such arbitration proceeding may seek a judgment upon the ward and that judgment may be entered by any Collin County having jurisdiction.

14. PARTIES BOUND: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representative, successors and assigns. Client or the Law Firm can execute this document electronically, by indicating "I agree" (or similar language) via electronic mail after receiving the Agreement via electronic mail. By indicating "I agree" (or similar language) Client will be bound by the terms of the Agreement and is executing the document electronically via Client's electronic signature, indicated as "/s/" in the signature field and elects the Law Firm advance disbursements.

15. LEGAL CONSTRUCTION: In case any one or more of the provisions contained in this Agreement shall for any reason be held 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.

16. PRIOR AGREEMENTS SUPERSEDED: This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understandings or written or oral agreement between the parties respecting the within subject matter.

We certify and acknowledge that we have had the opportunity to read this Agreement and have answered any questions pertaining thereto. We further state that we have voluntarily entered into this Agreement fully aware of the terms and conditions.

SIGNED AND ACCEPTED ON THIS _____ day of _____,
20_____

**THIS CONTRACT IS SUBJECT TO ARBITRATION
UNDER THE FEDERAL ARBITRATION ACT AND
TEXAS GENERAL ARBITRATION STATUTE**

**WYLIE NORTHEAST SPECIAL UTILITY
DISTRICT**

NAPOLI SHKOLNIK, PLLC

By: _____
Jimmy C. Beach, President

Printed Name of Attorney

Address: 745 Parker Road
Wylie, Texas 75098
Phone: (972) 442-2075