

## RESOLUTION 2012-015

WHEREAS, there exists a need for the services of an Attorney-At-Law to serve as Bond Counsel for The Bordentown Sewerage Authority; and

WHEREAS, funds are available for this purpose and a certificate of availability of funds has been provided by the designated certifying finance officer and is attached hereto; and

WHEREAS, the Local Public Contracts Law N.J.S.A. 40A:11-1 et seq. requires that the Resolution authorizing the award of Contract for "professional services" without competitive bids and the resulting contract must be available for public inspection; and

WHEREAS, the Local Public Contracts Law further requires that a Notice of the award of the contract be printed as a legal advertisement; and

WHEREAS, this Contract was awarded after a fair and open process.

NOW, THEREFORE, BE IT RESOLVED, by The Bordentown Sewerage Authority this 21<sup>st</sup> day of February, 2012 as follows:

1. Capehart & Scatchard, P.A., be and the same is hereby appointed as Bond Counsel for The Bordentown Sewerage Authority. The term of appointment is effective March 1, 2012 and shall be for a term of one year.

2. This Contract is awarded without competitive bidding after a fair and open process as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said contract encompasses a professional service recognized, and regulated by law.

3. The Chairman and Secretary are hereby authorized and directed to execute the professional services contract with Capehart & Scatchard, P.A.

4. Notice of this action shall be published once as a legal advertisement in the official newspaper of The Bordentown Sewerage Authority within ten days of its adoption.


THE BORDENTOWN SEWERAGE AUTHORITY

By:   
Ronald L. Marino, Chairman

ATTEST:

  
Nancy A. Liberman, Secretary

I have reviewed this resolution and the certificate of availability of funds and am satisfied that an appropriate certificate of availability has been provided.

  
Edward A. Kondracki, Esquire  
General Counsel

**CERTIFICATE OF AVAILABILITY OF FUNDS**

I, Richard D. Eustace, Executive Director and Certifying Finance Officer of The Bordentown Sewerage Authority, do hereby certify, pursuant to the rules of the Department of Community Affairs, Division of Local Government Services (N.J.A.C. 5:34-5.1 et seq.), that there are available adequate funds for the following proposed contract:

CONTRACT: Bond Counsel  
CONTRACT NUMBER: 2012-C8  
CONTRACTOR: Capehart & Scatchard, P.A.  
CONTRACT AMOUNT: Not to exceed \$20,000.00  
See Attachment A for breakdown of fees.  
BUDGETARY LINE ITEM: 02-004-7610

I certify that the same funds have not been certified as available for more than one pending contract.

2/21/12

Date



Richard D. Eustace  
Richard D. Eustace  
Certifying Finance Officer

**Special situations (check all that apply):**

- A.) The Authority is operating under a temporary budget and:
- 1. the full cost of the contract is certified against the temporary budget; or
  - 2. only the pro rata amount of the contract is charged against the temporary budget and the contract contains a clause making its continuation past the date subject to a further appropriation of sufficient funds.
- B.) This contract is an open-ended contract for goods at a unit price up to a maximum amount and:
- 1. the full maximum amount permitted by the contract is being certified; or
  - 2. the amount of the purchase shall be certified at the time that such goods are ordered by attaching the certificate of availability to the file copy of the purchase order.
- C.) This 12-month contract does not coincide with the fiscal year and:
- 1. the full cost of the contract is hereby certified against the budget of the year in which the contract is awarded; or
  - 2. the amounts for which liability is to be incurred is hereby certified against the two respective budgets at this time.
- D.) This is a multi-year contract and:
- 1. this contract is for construction and related services and the full amount of the contract is hereby certified to the current budget; or
  - 2. this is not a construction contract, and the availability of funds will be certified to the respective budgets at the time that the goods or services are ordered.

2/21/12

Date



Richard D. Eustace  
Certifying Finance Officer

ATTACHMENT A

**F. Compensation proposal.**

In public finance transactions, we generally bill our clients at the conclusion of the financing for our fees and disbursements based upon fixed fee schedules or hourly rates and out-of-pocket expenses, taking into consideration the size and complexity of the financing and the extent of our responsibilities. We also consider on a case-by-case basis providing either an estimate or a "cap" on our fees and disbursements or a "discount" from normal hourly rates.

In this case, we propose the following fee structure:

- A. For all legal services with respect to the authorization and the issuance of a permanent bond issue involving the preparation of a General Bond Resolution or trust indenture and is publicly offered, the fee will be \$35,000 plus \$1.10 per thousand dollars of bonds issued. If the financing consists of an issue of Additional Bonds pursuant to a supplemental bond resolution, the fee will be \$25,000 plus \$1.10 per thousand dollars of bonds issued.
- B. For legal services rendered with respect to a temporary financing the fee will be (I) \$7,500 if the financing is less than \$10,000,000 and no official statement is prepared in connection with the financing, (II) \$10,000 if the financing is less than \$10,000,000 and an official statement is prepared in connection with the financing, and (III) \$1.00 per thousand dollars of notes, if the financing is greater than \$10,000,000.
- C. For all legal services rendered in connection with a financing through the New Jersey Environmental Infrastructure Trust, a fee of \$20,000.
- D. Any work on Service Agreements, leases or other similar documents as they relate to the issuance of the bonds will be billed at hourly rates in effect when the services are performed.
- E. In the event of an advance refunding bond issue providing for an escrow agreement and an investment of the proceeds consistent with the restrictions of the Internal Revenue Code to provide for the payment of a prior issue of bonds, there will be a fee of \$5,000 in addition to the fees described herein.
- F. In the event that bonds are not sold after initial work has been undertaken, bond counsel services will be billed at the hourly rates in effect when the services are rendered.
- G. Services rendered beyond the scope of those described above will be billed at the hourly rates for attorneys and paralegals in effect when the services are rendered. The present hourly rates range from \$65 to \$195 per hour depending on the attorney involved.
- H. Customary disbursement also will be added to the fees referred to above.