

RESOLUTION 2021-56

WHEREAS, there exists a need for an attorney-at-law to serve as Special Counsel to The Bordentown Sewerage Authority for the limited purpose of representing the Authority concerning current litigation with Tower Gate Associates and any other matter deemed appropriate; and

WHEREAS, funds are available for the 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 4th day of August, 2021, as follows:

1. The Maraziti Falcon, LLP, be and the same is hereby appointed to serve as Special Counsel to The Bordentown Sewerage Authority. The term of appointment is effective August 4, 2021.

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 Chairwoman and Secretary are hereby authorized and directed to execute the professional services contract with the Maraziti Falcon, LLP.

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: M. Ellen Gulbinsky
M. Ellen Gulbinsky, Chairwoman

ATTEST:

Joseph R. Malone, III
Joseph R. Malone, III, 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.

Thomas J. Coleman, III
Thomas J. Coleman, III, Esquire
General Counsel

CERTIFICATE OF AVAILABILITY OF FUNDS

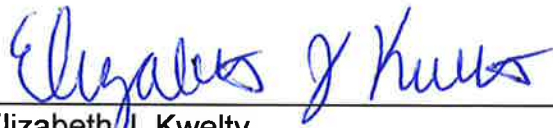
I, Elizabeth J. Kwelty, Administrative Manager and Certifying Finance Officer of The Bordentown Sewerage Authority, do hereby certify, pursuant to the rules of the Department of Community Affairs, Division of Local Government Services (N.J.A.C. 5:34-5.1 et seq.), that there are available adequate funds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

CONTRACT: Special Counsel
CONTRACT NUMBER: 2021-C16
CONTRACTOR: Maraziti Falcon, LLP
CONTRACT AMOUNT: See Schedule A
BUDGETARY LINE ITEM: 01-001-610F

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

8/04/21

Date



Elizabeth J. Kwelty
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.

8/04/21
Date



Elizabeth J. Kwelty
Certifying Finance Officer

SCHEDULE A

Proposal

This letter will serve to set forth our Proposal for the provision of special counsel services to Bordentown Sewerage Authority during 2021. The services shall include, but not be limited to, giving routine legal advice and opinions, examination and drafting of pertinent legal documents, attendance at meetings, as requested, defense and prosecution of litigation, being available as needed for consultation with the Authority, the Executive Director and staff and, in general, handling all requested special counsel legal work in the interest of the Authority. These services will be provided for such period of time as may be required by the Authority.

While the firm has experience litigating sewer issues involving developers of inclusionary projects, each turns on the specific facts and available information and therefore, it is difficult to anticipate the amount of time and effort that will be required in the matter of *Tower Gate Associates and AATGMN Property LLC v. Bordentown Sewerage Authority*, in order to provide an estimate of our fee. We maintain precise records of time associated with each matter and submit detailed statements on a monthly basis. The statement will include not only our fee for services rendered, but also our disbursements made on behalf of the Authority. Such disbursements would include computerized research fees, court costs and fees, delivery fees, telephone, telecopy and postage charges, document reproduction and transcript fees which are charged at cost. As specific tasks are identified, estimates of the cost for these services can be provided. It is understood that the Authority would be free to terminate this relationship at any time.

Fee Proposal:

General Counsel services are billed at our hourly rate of \$250.00 per hour for partners, \$195 per hour for services of associates.

We maintain precise records of time associated with each matter and submit detailed statements on a monthly basis. The statement will include not only our fee for services rendered, but also our disbursements made. Such disbursements would include computerized research fees, court costs and fees, delivery fees, telephone, telecopy and postage charges, document reproduction and transcript fees which are charged at cost. As specific tasks are identified, estimates of the cost for these services can be provided.

We will submit fee statements on a monthly basis. Such disbursements may include, but not be limited to, computerized research fees (as billed to us), court costs and fees (as required), messenger and delivery fees (using least expensive service available), long distance telephone (as billed to us), telecopy (\$1.00/page), and postage charges (as required), document reproduction (\$0.15/page) and transcript fees (as billed to us). Support staff time is not separately billed. No retainer will be required. Travel expenses will not be charged. The firm will comply with the General Terms and Conditions required by the Authority and enter into the Authority's standard Professional Services Contract.

SCHEDULE A (cont)

From: Diane Alexander <dalexander@mfhenvlaw.com>
Sent: Thursday, July 29, 2021 10:55 AM
To: Ellen Gulbinsky <Ellen22g@hotmail.com>
Cc: Brad Carney <bcarney@mfhenvlaw.com>
Subject: RE: Bordentown Sewerage Authority Proposal for Special Environmental Attorney

It was great speaking with you today.

We are very interested in working out these complex issues with you and the Bordentown Sewerage Authority. To demonstrate our desire to assist in this effort, we are lowering the rates quoted in our proposal from \$250/hour for partners to \$220/hour for partners. Associates rates would remain at \$195/hour.

I have always enjoyed working with you on behalf of AEA and hope that we can work together again on this, or other projects, in the future.

Thank you again for the opportunity to assist Bordentown as it navigates a path forward.

Best regards,
Diane

Diane Alexander, Esq.

MARAZITI FALCON, LLP

Maraziti Falcon, LLP has moved! Our office is now located at:

240 Cedar Knolls Road, Suite 301

Cedar Knolls, NJ 07927

Please note that our phone number remains: 973-912-9008.

973.912.6811 (Direct) | 973.912.9008 (Phone) | 973.912.9007 (Facsimile)

dalexander@mfhenvlaw.com | <http://www.mfhlaw.com> ABA-

EPA Law Office Climate Challenge Partner

 Please consider the environment before printing this email.