

RESOLUTION 2022-10

WHEREAS, there exists a need for an attorney-at-law to serve as General Counsel to The Bordentown Sewerage Authority; 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 22nd day of February, 2022, as follows:

1. Malamut and Associates, LLC, be and the same is hereby appointed to serve as General Counsel to The Bordentown Sewerage Authority. The term of appointment is effective March 1, 2022 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 Chair and Secretary are hereby authorized and directed to execute the professional services contract with Malamut and Associates, LLC.

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: _____

Chair James E. Lynch, Jr.

ATTEST:

Secretary

Aneka Miller

The certificate of availability of funds is attached to this Resolution.

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: General Counsel
CONTRACT NUMBER: 2022-C7
CONTRACTOR: Malamut and Associates, LLC
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.

2/22/22
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.

2/22/22
Date



Elizabeth J. Kwelty
Certifying Finance Officer

F. Compensation proposal.

Schedule A

Malamut & Associates, LLC proposes to represent the Authority on the same terms in the current contract. Those terms are as follows, and as applied to this contract, include providing General Counsel services for a flat fee of \$23,000.00, which will be paid in equal monthly installments of \$4,600.

Miscellaneous costs and expenses for travel, copies, printing, telephone, faxes, postage, computerized legal research, and other miscellaneous expenses shall be billed and paid at a flat rate of \$100.00 per month.

Other costs and expenses that are advanced by the firm's check, or are otherwise paid on account of or on behalf of the Authority, shall be billed at cost.

With respect to additional services, which are defined as follows, this time will be billed separately, at the rate of \$200.00 per hour:

1. Services rendered on behalf of developments that are charged to the escrow accounts of developers;
2. All pending or reasonably anticipated judicial or administrative litigation, hearings, appeals, arbitrations, mediations, or permit appeals or modification proceedings, including all reasonable

and necessary services rendered in investigation, research, or preparation thereto, before any court, administrative agency, arbitration, or mediation tribunal; and

3. Services related to bonding, guaranteed investment contracts, the issuance of debt, or preliminary matters related thereto.