

RESOLUTION 2022-63

RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR SPECIAL COUNSEL LEGAL SERVICES

WHEREAS, the Bordentown Sewerage Authority has a need to continue the services of Special Counsel, Maraziti Falcon, LLP, to provide legal services concerning litigation with Tower Gate Associates; and

WHEREAS, the contract term is for the time period from August 4, 2022 through February, 2023, as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the Authority's purchasing agent has determined and certified in writing that the value of the contract will exceed \$17,500.00; and

WHEREAS, the anticipated term of this contract is five (7) months, for the time period from August, 2022 through February, 2023, the date of the Authority's annual reorganization; and

WHEREAS, Maraziti Falcon, LLP has submitted a proposal dated July 15, 2022, indicating that they will provide the requested legal services at the rate of \$220.00 per hour for partners and \$195.00 per hour for associates; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Bordentown Sewerage Authority authorizes entry into a contract with Maraziti Falcon, LLP, as described herein; and

BE IT FURTHER RESOLVED that the Business Entity Disclosure Certification and the Determination of Value be place on file with this Resolution; and

BE IT FURTHER RESOLVED that a Notice of the award of this contract shall be printed as a legal advertisement.


DATED: July 18, 2022

THE BORDENTOWN SEWERAGE AUTHORITY

By: 

James E. Lynch, Jr., Chairman

ATTEST:


Aneka Miller, Secretary

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: Special Counsel
CONTRACT NUMBER: 2022-C15
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.

07/18/22

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.

07/18/22

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 2022. 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 to fully resolve the Customer Service Agreement and other issues resulting from 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:

Special Counsel services are billed at our hourly rate of \$220.00 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.