



## REQUEST FOR BOARD ACTION

ITEM NO. 6.

**DATE OF MEETING:** October 17, 2011

**REQUESTED BY:** Dave McCole, Finance Officer

**SHORT TITLE:** Resolution Approving Arbitrage Rebate Calculation Contract and Purchase Order to Bingham Arbitrage Rebate Services, Inc.: \$4,100

**BACKGROUND:** The County will be required to have an Arbitrage Rebate Calculation performed on Water Ban Series 2010-2011, Water Bonds Series 2011 and Water Revenue BAN Series 2010, as related to the arbitrage rebate requirements contained in Section 148 of the Internal Revenue Code and those Regulations promulgated there under. The Arbitrage Rebate Calculation is performed to determine whether the county will have to pay back interest that was earned on the proceeds of the bonds. Normally a liability is incurred to the IRS on interest earned on bond proceeds that is higher than the bond yield. Due to the complexity of the Arbitrage Rebate Calculation, it is common practice to hire an outside firm that specializes in performing such returns. The County has contacted Bingham Arbitrage Rebate Services Inc. to perform the Arbitrage Rebate Calculation. The firm has over 22 years experience in performing the Rebate Calculation and has provided such services for several Counties in North Carolina.

**SPECIFIC ACTION REQUESTED:** To consider a resolution to enter into a contract and purchase order with Bingham Arbitrage Rebate Services Inc. to perform the Arbitrage Rebate Calculation.

**COUNTY MANAGER'S RECOMMENDATION**

Respectfully recommend approval.

RB  
Initial

**RESOLUTION**

**NOW, THEREFORE BE IT RESOLVED** by the Pender County Board of Commissioners that:

the Board hereby approves a contract and purchase order with Bingham Arbitrage Services Inc., to prepare the Arbitrage Rebate Calculation for the Water Ban Series 2010-2011, Water Bonds Series 2011 and Water Revenue BAN Series 2010 in the amount of \$4,100.

83-329200 Interest	\$4,100
83-409500 Arbitrage Rebate	\$4,100

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS

YEA VOTES: Brown \_\_\_ Tate \_\_\_ Rivenbark \_\_\_ Ward \_\_\_ Williams \_\_\_

\_\_\_\_\_  
George Brown, Chairman      Date

\_\_\_\_\_  
ATTEST      Date



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August 25, 2011

Mr. David J. McCole  
Finance Officer  
Pender County  
P. O. Box 1578  
Burgaw, NC 28425

RE: \$2,715,419 GO Water BAN Series 2010  
\$2,711,000 GO Water Bond Series 2011  
\$4,955,000 GO Water Revenue BAN Series 2010  
\$17,200,000 GO Water BAN Series 2010  
\$17,500,000 GO Water BAN Series 2011

Dear David,

Bingham Arbitrage Rebate Services, Inc., is pleased to submit this fee quote for arbitrage rebate services on the above referenced tax-exempt issues. This fee quote describes the proposed scope of services and fees associated with the required arbitrage rebate calculations.

**SCOPE OF SERVICES**

Bingham will conduct a comprehensive review of the above-referenced bond issues. The analysis will consist of the items listed below for each issue.

- Review of Certificate Regarding Use, Federal Form 8038-G, Official Statement (where available) and other pertinent closing documents.
- Determination of funds subject to spending exception, arbitrage rebate calculation and/or yield reduction calculation.
- Calculation of bond yield, if applicable.
- Calculation of arbitrage rebate liability due, in compliance with Section 148(f) of the Internal Revenue Code of 1986, and preparation of Federal Tax Form 8038-T if payment is due.
- Provision of written report to Pender County describing the calculation method used, assumptions, and conclusions.

**SCOPE OF SERVICES (continued)**

Factors involved in our fee quotes include the size and complexity of an issue, the number of funds included in the calculation, the type of calculations required, if the issue is a fixed rate or variable rate issue, if the issue is a Build America Bond (BAB), commingled money, qualified hedges and the number of years involved.

We will first test each issue for an exception. The spending exceptions are: the Six Month Exception, the Eighteen-Month Spending Exception or the Two-Year Construction Exception. In order to meet one of the exceptions, the gross proceeds need to be spent as follows:

**SIX-MONTH EXCEPTION**

Within Six Months of Closing	100% *
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\* Under certain conditions, the Six Month Exception can be extended to one year for governmental or 501(c)(3) bonds.

**EIGHTEEN-MONTH SPENDING EXCEPTION**

Within Six Months of Closing	15%
Within Twelve Months of Closing	60%
Within Eighteen Months of Closing	100% *

\* A 5% retainage is allowed at eighteen months as long as the proceeds are fully expended by thirty months.

**TWO-YEAR CONSTRUCTION EXCEPTION**

Within Six Months of Closing	10%
Within Twelve Months of Closing	45%
Within Eighteen Months of Closing	75%
Within Twenty-Four Months of Closing	100% *

\* A 5% retainage is allowed at twenty-four months as long as the proceeds are fully expended by thirty-six months.

If a spending exception is missed, the arbitrage rebate calculation is required. If there is a Debt Service Reserve Fund, that fund will require the arbitrage rebate calculation for the life of the issue.

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**FEE SCHEDULE**

These schedules only apply to the herein-referenced bond issues. Either Scenario A or Scenario B will apply for each issue.

A. Exception Period (if an exception is met for all gross proceeds)	Fee per issue <sup>1</sup>
Six-Month Spending Exception Report	\$650
Eighteen-Month Exception Report	\$650 per semi-annual period
Two-Year Exception Report	\$650 per semi-annual period
Reasonable Retainage, if applicable	\$650

<sup>1</sup> Once gross proceeds are spent in full, our fee stops for that semi-annual period.

B. First Installment Period (if an exception is not met, the ARC is required)	Fee per issue <sup>2</sup>
Bond Year	
1 - 2	\$1,300 per year
3 - 5	\$500 per year
Total First Installment Fee, if 5 years of activity	<b>\$4,100</b>

<sup>2</sup> Once gross proceeds have been spent in full, our fee would stop. Our annual fee would apply even for a partial year of investment activity.

These additional fees may be added if applicable	Fee per issue
Excess Investment Yield Calculation (Years 4 and 5) <sup>3</sup>	\$150 per year
Uncommingling &/ or Transferred Proceeds Fee <sup>4</sup>	\$250 per year

<sup>3</sup> This fee would not be a factor as long as all of the Project proceeds are spent in full prior to the end of the three-year temporary period.

<sup>4</sup> If at any time bond proceeds are mixed with non-proceeds, it may be necessary to uncommingle the fund.

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The documentation and information requested for the arbitrage rebate calculation should cover the entire history of the Bonds. Any investment changes that occur during our review period would be considered necessary.

In order to begin the calculation, the following information would be necessary. Please mail copies and not original statements or documents.

- 1) All trust statements from bonds delivery date through current date for each issue. This includes any funds that were opened on the Bonds delivery date that may have since closed.
- 2) Proof of debt service payments from bond delivery date through current date for each issue.
- 3) All Exhibits to "Certificate Regarding Use and Investment of Note Proceeds and other Related Matters" for each issue.

It would be helpful for our office to receive the future bank statements on a monthly basis. If you would, please coordinate this set up with the bank. By receiving these statements directly from the bank, it relieves your office from having to copy and mail the statements.

Bingham may withdraw, or renegotiate, this contract if our involvement is greater than originally anticipated. This would include Bingham's time commitment increasing if it became necessary to research and locate missing investment activity, or if bond proceeds are mixed with other non-proceeds funds. Invoices will be sent along with our reports. Payment is expected within 30 days of the invoice date.

If this fee quote remains outstanding following 90 days, the quote will expire. Additionally, if the requested information is not sent to Bingham within 90 days, this quote will expire.

If you are in agreement with these terms, please have an authorized representative sign both originals included in this package and return one to Bingham at your earliest convenience.

I hope these fees meet with your approval, and please feel free to call me at (804) 864-9564 if you have any questions. Thank you and I look forward to hearing from you.

Sincerely,



Kim A. Hoyt  
President

KH/mb

**BINGHAM**

SIGNATURE PAGE

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date