

CITY COUNCIL

The City of Orange Township, New Jersey
230-2020

June 3, 2020

DATE _____

NUMBER _____

TITLE: A RESOLUTION APPROVING THE FUNDING OF GAIL MITCHELL, ESQ. AS THE ATTORNEY TO THE ORANGE MUNICIPAL ZONING BOARD OF ADJUSTMENT OF THE CITY OF ORANGE TOWNSHIP IN MATTERS AS THEY RELATE TO ZONING AND LAND USE IN AN AMOUNT NOT TO EXCEED \$5,000.00.

WHEREAS, Gail Mitchell, Esq., services are required to provide legal advice and legal representation for scheduled Zoning Board of Adjustment Meetings; and

WHEREAS, the Orange Municipal Zoning Board of Adjustment conducted the procurement process for acquiring an attorney; and

WHEREAS, the Local Public Contracts Law N.J.S.A. 40A:11-1 et seq., authorizes the award of a contract for "Professional Services" without competitive bids and that the contract itself be available for public inspection as set forth herein; and

WHEREAS, the Orange Municipal Zoning Board of Adjustment authorized Gail Mitchell, Esq., as the Zoning Board of Adjustment attorney through Zoning Board of Adjustment Resolution No. OZB-01-2020; and

WHEREAS, the Chief Financial Officer of the City of Orange Township has prepared the necessary Certificate of Availability of Funds, contingent upon the passage of CY 2020 budget certifying that funds are available under the appropriate account - Account No. 08-21-185-000519.

NOW, THEREFORE, BE IT RESOLVED that the Municipal Council of the City of Orange Township hereby approves the funding of Gail Mitchell, Esq., 1110 Springfield Road, P.O. Box 1339, Union, New Jersey 07083, as the Zoning Board of Adjustment attorney for the term of January 1, 2020 through December 31, 2020 in an amount not to exceed \$5,000.00 per year.

Adopted:

Joyce L. Lanier
City Clerk

Tency A Eason
Council President

Walter Perchment on behalf of the City Attorney

CITY ATTORNEY



City of Orange Township

ZONING BOARD OF ADJUSTMENT

29 NORTH DAY STREET

ORANGE, N.J. 07050

(973) 266-4001

FAX: (973) 677-7847

RESOLUTION #OZB-01-2020

A RESOLUTION APPOINTING GAIL MITCHELL, ESQ. OF SCHWARTZ, BARKIN AND MITCHELL 1110 SPRINGFIELD ROAD, UNION NJ 07083, TO PROVIDE LEGAL SERVICES TO THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF ORANGE TOWNSHIP IN MATTERS AS THEY RELATE TO ZONING AND LAND USE IN AN AMOUNT NOT TO EXCEED \$5,000.00.

WHEREAS, Gail Mitchell, Esq., services are required to provide legal advice and legal representation for scheduled Zoning Board of Adjustment Meetings; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires a resolution authorizing the award of contracts for "Professional Services" without competitive bids and that the contract itself be available for public inspection as set forth herein; and

WHEREAS, the Zoning Board, at its annual reorganization meeting held on January 27, 2020, voted to appoint Gail Mitchell, Esq. as its Board Attorney; and

WHEREAS, the Chief Financial Officer of the City of Orange Township has prepared the necessary Certificate of Availability of Funds, contingent upon the passage of CY 2020 budget certifying that funds are available under the appropriate account - Account No. 0-01-21-185-000-519.

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board of Adjustment of the City of Orange Township, that a contract be awarded to Gail Mitchell, Esq., not to exceed an annual amount \$5,000.00 per year;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the City of Orange Township, New Jersey as follows:

1. The Zoning Board of Adjustment hereby approves and directed to execute the attached Contract with Gail Mitchell, Esq. specifically set forth in the attached contract for one year effective January 1, 2020 through to December 31, 2020.
2. Notice of this action shall be printed in the Orange Transcript as required by law within ten (10) days of its passage.

RESOLUTION #OZB-01-2020

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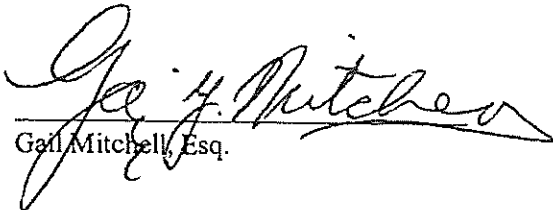
Approved by the following vote:

Board Member	In Favor	Not In Favor	Absent
Murphy Wilson	✓		
Mary Reed-Learmont	✓		
Eddie Grubbs			✓
JoAnne Ware	✓		
Gerard Schubert	✓		
Kenneth Black			✓
Ashanti' Connor	✓		
Louis Harris			✓
Antoinette Hall	✓		
Cheryl Gayle	✓		

THEREFORE AGREED BY THE PARTIES AS FOLLOWS:

1. **CONTRACT AMOUNT:** The contract shall not exceed an annual amount of \$5,000 for Consultant Services to the Zoning Board of Adjustment for one year – January 1, 2020 through December 31, 2020.
2. **IN WITNESS WHEREOF** the City of Orange Zoning Board of Adjustment and Gail Mitchell, Esq. have this Agreement as of this date first herein written.

ADOPTED: January 27, 2020


Gail Mitchell, Esq.


Murphy Wilson, Chairperson

**CONTRACT FOR LEGAL SERVICES
TO THE CITY OF ORANGE TOWNSHIP
ZONING BOARD OF ADJUSTMENT**

THIS AGREEMENT is made on _____ between the City of Orange Township (“the City”) with its principal place of business located at 29 North Day Street, Orange, New Jersey, and Gail Mitchell, Esq., 1110 Springfield Road, P.O. Box 1339, Union, New Jersey 07083.

Recitals

WHEREAS, Gail Mitchell, Esq., has established herself as a competent, knowledgeable attorney, with a working understanding of the status and case law governing Zoning Board of Adjustment matters; and

WHEREAS, the City of Orange Township is in need of an attorney of Ms. Mitchell’s caliber and capability to serve in a legal capacity to the Zoning Board of Adjustment of the City; and

WHEREAS, the City desires to retain the services of counsel and more specifically those of Gail Mitchell, Esq., to provide such services.

WHEREAS, this contract is authorized by the City Council pursuant to Resolution #

NOW, THEREFORE, in consideration of the Recitals and mutual covenants contained in this Agreement, the contracting parties agree as follows:

Scope of Services

Ms. Mitchell will be required to serve as the legal advisor and representative to the Zoning Board of Adjustment and to attend all meetings as so required by the Board.

Compensation

In consideration for the rendering of her legal services to the Zoning Board of Adjustment, Ms. Mitchell shall be compensated by the City in an amount not to exceed Five Thousand (\$5,000.00) dollars.

Term of Contract

This Contract shall run for a period of twelve months (CY-2020) January 1, 2020 to December 31, 2020.

Authority to Award Contract

This Contract is awarded without competitive bidding as a "Professional Service" Contract pursuant to N.J.S.A. 40A:11-5(a) of the Local Public Contracts Law.

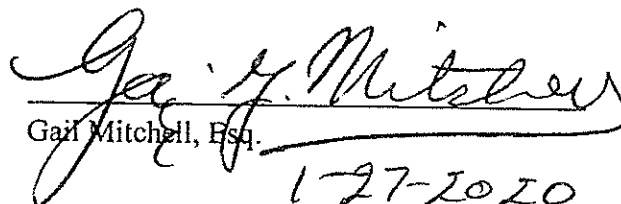
Attest:

CITY OF ORANGE TOWNSHIP

Joyce L. Lanier, City Clerk

By: _____
Dwayne D. Warren, Esq., Mayor

Witness


Gail Mitchell, Esq.
1-27-2020

Approved as to Form and Sufficiency

GRACIA ROBERT MONTILUS, CITY ATTORNEY

TITLE: Contract for OZB Attorney FY2020

CITY OF ORANGE TOWNSHIP
FINANCE DEPARTMENT

CERTIFICATION OF FUNDS
NEXT BUDGET

I, Nile Clements, Chief Financial Officer for the City of Orange Township, do hereby confirm that based on the Quote or RFP, RFQ, bid results or "extraordinary unspecifiable services" without competitive bids for 2020 service contract, and the resolution presented to the Council for approval, and contingent upon Council approval and inclusion of said item in the Temporary Budget and adopted 2020 Budget, there will be sufficient funds to contract with:

Vendor Name: Schwartz, Barkin & Mitchell
Gail Mitchell, Esq.
Address: 1100 Springfield Road
City: Union
State: New Jersey
Zip Code: 07083

Purpose: Legal Services for Orange Municipal Zoning Board
Vendor ID: SCHWA020

Temporary Budget: \$ 1,900.00
Fund: Current Fund
Line Description OZB - Zoning Board - Professional Services
Account Numbers(s): CY'20 0-01-21-185-000-519

The remainder of: \$ 3,100.00
will be provided in
Fund: Current Fund
Line Description OZB - Zoning Board - Professional Services
Account Numbers(s): CY'20 0-01-21-185-000-519


Purchase Order Number : 20-00912

Amount not to exceed: \$ 5,000.00

Division Head

Date


Chief Financial Officer


Date

BUSINESS ENTITY DISCLOSURE CERTIFICATION
FOR NON-FAIR AND OPEN CONTRACTS
Required Pursuant To N.J.S.A. 19:44A-20.8
CITY OF ORANGE TOWNSHIP, NEW JERSEY

The following is statutory text related to the terms and citations used in the Business Entity Disclosure Certification form.

"Local Unit Pay-To-Play Law" (P.L. 2004, c.19, as amended by P.L. 2005, c.51)

19:44A-20.6 Certain contributions deemed as contributions by business entity.

5. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.

19:44A-20.7 Definitions relative to certain campaign contributions.

6. As used in sections 2 through 12 of this act:

"business entity" means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction;

"interest" means the ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate;

Temporary and Executing

12. Nothing contained in this act shall be construed as affecting the eligibility of any business entity to perform a public contract because that entity made a contribution to any committee during the one-year period immediately preceding the effective date of this act.

~~~~~  
The New Jersey Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.)

**19:44A-3 Definitions.** In pertinent part...

p. The term "political party committee" means the State committee of a political party, as organized pursuant to R.S.19:5-4, any county committee of a political party, as organized pursuant to R.S.19:5-3, or any municipal committee of a political party, as organized pursuant to R.S.19:5-2.

q. The term "candidate committee" means a committee established pursuant to subsection a. of section 9 of P.L. 1973, c.83 (C.19:44A-9) for the purpose of receiving contributions and making expenditures.

r. the term "joint candidates committee" means a committee established pursuant to subsection a. of section 9 of P.L.1973, c.83 (C.19:44A-9) by at least two candidates for the same elective public offices in the same election in a legislative district, county, municipality or school district, but not more candidates than the total number of the same elective public offices to be filled in that election, for the purpose of receiving contributions and making expenditures. For the purpose of this subsection: ...; the offices of member of the board of chosen freeholders and county executive shall be deemed to be the same elective public offices in a county; and the offices of mayor and member of the municipal governing body shall be deemed to be the same elective public offices in a municipality.

**19:44A-8 and 16 Contributions, expenditures, reports, requirements.**

*While the provisions of this section are too extensive to reprint here, the following is deemed to be the pertinent part affecting amounts of contributions:*

"The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2)

**BUSINESS ENTITY DISCLOSURE CERTIFICATION**  
**FOR NON-FAIR AND OPEN CONTRACTS**  
 Required Pursuant To N.J.S.A. 19:44A-20.8  
**CITY OF ORANGE TOWNSHIP, NEW JERSEY**

**Part I - Vendor Affirmation**

The undersigned, being authorized and knowledgeable of the circumstances, does hereby certify that

Gail J. Mitchell, Esq. (Contractor)

has not made and will not make any reportable contributions pursuant to N.J.S.A. 19:44A-1 et seq. that, pursuant to P.L. 2004, c. 19 would bar the award of this contract in the one year period preceding the date of reorganization to any of the following named candidate committee, joint candidates committee; or political party committee representing the elected officials of the **CITY OF ORANGE TOWNSHIP** as defined pursuant to N.J.S.A. 19:44A-3(p), (q) and (r).

|                        |  |
|------------------------|--|
| Dwayne D. Warren, Esq. |  |
| Tency A. Eason         |  |
| Donna K. Williams      |  |
| Adrienne Wooten        |  |
| Christopher Jackson    |  |
| Harold J. Johnson, Jr. |  |
| Kerry Coley            |  |
| Jamie Summers-Johnson  |  |
|                        |  |
|                        |  |

**Part II - Ownership Disclosure Certification**

I certify that the list below contains the names and home addresses of all owners holding 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business entity:

- Partnership     Corporation     Sole Proprietorship     Subchapter S Corporation  
 Limited Partnership     Limited Liability Corporation     Limited Liability Partnership

| Name of Stock or Shareholder | Home Address |
|------------------------------|--------------|
|                              |              |
|                              |              |
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|                              |              |
|                              |              |
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|                              |              |
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|                              |              |

**Part 3 - Signature and Attestation:**

The undersigned is fully aware that if I have misrepresented in whole or part this affirmation and certification, I and or the business entity, will be liable for any penalty permitted under law.

Name of Business Entity: Schwartz Barkin + Mitchell  
 Signed: Gail J. Mitchell Title: ATTORNEY  
 Print Name: Gail J. Mitchell Date: 1-27-2020

|                                                             |                                                        |
|-------------------------------------------------------------|--------------------------------------------------------|
| Subscribed and sworn before me the _____ day of _____, 20__ | _____ (Affiant)                                        |
| My Commission expires:                                      | _____ (Print name & title of affiant) (Corporate Seal) |



N.J.S.A. 10:5-31 and N.J.A.C. 17:27  
**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE**  
**Goods, Professional Services and General Service Contracts**  
**(Mandatory Affirmative Action Language)**

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting for the provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2 or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval  
Certificate of Employee Information Report  
Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance and EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

\* Aware of obligation to the State pursuant to N.J.S.A. 10:5-31 et. seq.

Vendor: *Yvonne J. Mitchell* Date: 1-27-2020