

CITY COUNCIL**The City of Orange Township, New Jersey**DATE March 19, 2024NUMBER 174-2024

TITLE: A RESOLUTION AUTHORIZING AND RATIFYING A MEDIATION AGREEMENT BETWEEN THE CITY OF ORANGE TOWNSHIP AND THE HONORABLE L. ANTHONY GIBSON J.S.C. ret. OF D'ARCY JOHNSON DAY, TO PARTICIPATE IN COURT ORDERED MEDIATION IN CONNECTION WITH THE MATTER IMPRESTATE VS. CITY OF ORANGE TOWNSHIP ESX-C-217-21 WITH MEDIATOR HON L. ANTHONY GIBSON IN AN AMOUNT NOT TO EXCEED \$7,500.00

WHEREAS, there is pending litigation involving the CITY OF ORANGE TOWNSHIP under Docket Number ESX-C-217-21; and

WHEREAS, pursuant to Court Order, in an effort to settle this litigation, and avoid the expense of trial, the Court ordered the parties to enter mediation by way of court order on January 4, 2024; and

WHEREAS, the parties were able to conduct an initial mediation session on February 21, 2024 to comply with the court order; and

WHEREAS, mediation will continue with an additional session on March 20, 2024; and

WHEREAS, the court order required the parties split the cost of mediation; and

WHEREAS, the parties selected from a pool of qualified mediators, all of whom were retired Superior Court Judges; and

WHEREAS, the parties agreed to select the Honorable L. Anthony Gibson, J.S.C. ret. of D'Arcy, Johnson, Day as the mediator pursuant to the court order; and

WHEREAS, N.J.S.A. 40A:11-5(1)(a) does not require professional service contracts for legal services to be publicly bid and time is of the essence due to the Court's scheduling orders; and

WHEREAS, per P.L. 2004, Chapter 19, as amended, provides for the awarding of a contract for "Professional Services" according to the non-fair and open process; and

WHEREAS, the anticipated term of this contract is one year or less and the amount of this contract is capped at \$7,500.00 and said cap cannot be raised without further authorization from the City Council, and;

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

WHEREAS, the Chief Financial Officer of the CITY OF ORANGE TOWNSHIP has prepared the necessary Certificate of Availability of Funds, a copy of which is attached hereto certifying that funds will be available for this purpose in Account No. 4-01-20-155-000-519, contingent upon Council approval and inclusion of said item in the 2024 Temporary Budget and adopted 2024 Budget.



D. Amizrahi

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the **CITY OF ORANGE TOWNSHIP**, in the County of Essex and the State of New Jersey, as follows:

1. that the Agreement attached hereto and made part hereof entered into by Mayor Dwayne D. Warren, Esq. and Hon J. Anthony Gibson of D'Arcy, Johnson, Day, is hereby ratified and authorized as an award of a non-fair and open contract to conduct court ordered mediation in an amount anticipated not to exceed \$7,500.00

A copy of this resolution shall be published in Star Ledger, a newspaper giving coverage in this County, within ten (10) days of its passage and shall be available for public inspection, along with the contract, in the office of the **CITY OF ORANGE TOWNSHIP** Municipal Clerk.

Adopted: **March 19, 2024**

Joyce L. Lanier, RMC
City Clerk

Tency Eason
Council President

CITY OF ORANGE TOWNSHIP
FINANCE DEPARTMENT

CERTIFICATION OF FUNDS
NEXT BUDGET - CURRENT FUND

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 2024 service contract, and the resolution to be presented to the Council for approval, and contingent upon Council approval and inclusion of said item in the Temporary Budget and adopted 2024 Budget, there will be sufficient funds to contract with:

Vendor Name: Anthony L. Gibson

Address: D'Arcy Johnson Day
3120 Fire Road

City: Egg Harbor Township
State: New Jersey
Zip Code: 08234

Purpose: Mediation in connection with Imprestate vs. City of Orange
Docket No. ESX-C-217-21

Vendor ID: GIBSO005

Fund: Current Fund
Line Description LAW - Professional Services
Account Numbers(s): CY24 4-01-20-155-000-519 \$ 7,500.00

Purchase Order # : 24-00795

Amount not to exceed: \$ 7,500.00

Division Head

Date

Nile Clements

3/14/2024

Chief Financial Officer

Date

MEDIATION AGREEMENT

**Re: Imprestate v. Orange Tp.
Our File No.: M-940**

THIS AGREEMENT, made this ___ day of February, 2024 between the Mediator, L. Anthony Gibson, and the parties hereto.

1. **Mediation Process**: The mediation process may be conducted by the mediator in whatever manner will most expeditiously permit full discussion and resolution of the issues. During the mediation session, the mediator may have joint and separate meetings with the parties and their counsel or with each counsel separately.

2. **Confidentiality/Disqualification**: Other than the fact of the mediation, the details of the mediation and the mediation submissions are to be considered confidential by counsel, the parties and the mediator. Unless all parties and the mediator otherwise agree in writing, the mediator will be disqualified as a witness, whether in person or by way of affidavit, and/or as a witness, consultant or expert in any pending or future investigation, action, motion or proceeding relating to the subject matter of the mediation; nor will any documents and information supplied to the mediator as part of the process be subject to subpoena in any such investigation, action or proceeding. It is further understood and agreed that any materials submitted to the mediator by counsel as well as the remainder of the mediator's file will be destroyed upon the expiration of a period of six months following the conclusion of the mediation.

3. **Mediator's Fee**: The parties to the mediation agree to share the payment of the fee to the mediator as follows: each party shall pay one-half of the total fee. The mediator's time will be billed at an hourly rate of \$600.00 and that rate will apply to preparation, the conduct of the mediation, travel if any and all of his related services. Out-of-pocket expenses and Zoom manager fee, if any, including research costs will be added to the hourly rate on a dollar-for-dollar basis. Although an invoice will be issued at the conclusion of the mediation, an initial deposit is required from each of the parties

in the amount of \$1500.00. Said deposit is to be paid within days of the signing of this agreement.

4. Cancellation Fee: It is to be acknowledged herein that the mediator will be reserving time in behalf of the parties and, by doing so, will be excluding other employment. Accordingly, any mediation day that is reserved at the parties' request and is then cancelled or postponed by one or more of the parties with less than twenty days notice, will trigger a cancellation fee of \$1,000.00. Responsibility for the cancellation fee will be assessed to the canceling party or, where appropriate, divided evenly between or among the parties.

MEDIATOR

ATTORNEY FOR IMPRESTATE

L. Anthony Gibson, Esquire

By: _____
Paul Schafhauser, Esquire

Dated: _____

Dated: _____

ATTORNEY FOR ORANGRE TP.

By: _____
Avram White, Esquire

Dated: February 4, 2024

FILED

JAN - 5 2024

Prepared by the court.


Hon. Jodi Lee Alper, P.J.Ch.

<p>Imprestate, LLC,</p> <p style="text-align: center;">v.</p> <p>City of Orange,</p>	<p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION ESSEX COUNTY</p> <p>DOCKET NO.: C-217-21</p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">ORDER</p>
--	---	---

THIS MATTER having come before the court by way of various applications, plaintiff appearing through its counsel, Paul Schafhauser of Greenberg Traurig and defendant appearing through its counsel, Avram White, and the court determining that mediation of the matter is appropriate based upon the issues and posture of the case,

IT IS on this 5th day of January, 2024 hereby:

1. **ORDERED** that the parties shall jointly choose a mediator to work with them toward a resolution of the claims raised in the Complaint; and it is further
2. **ORDERED** that the mediator shall be chosen with an understanding that the first meeting for the mediation shall commence on or before February 26, 2024; and it is further
3. **ORDERED** that the costs for the mediator shall be divided evenly between the parties; and it is further
4. **ORDERED** that the Pretrial Conference currently scheduled for January 18, 2024 is carried to April 9, 2024 at 3:00 p.m.; and it is further
5. **ORDERED** that the trial of this matter currently scheduled for February 14, 2024 is carried to May 2, 2024 at 9:30 a.m.; and it is further
6. **ORDERED** that in all other respects the Amended Case Management Order entered on August 25, 2023 shall remain in full force and effect.



 Jodi Lee Alper, J.S.C.

Request for Taxpayer Identification Number and Certification

Give Form to the
 requester. Do not
 send to the IRS.

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.
 See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. L. Anthony Gibson	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input checked="" type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (O=C corporation, S=S corporation, P=Partnership) ▶ _____ <small>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLO if the LLO is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</small> <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
5 Address (number, street, and apt. or suite no.) See instructions. Darcy Johnson and Day 3120 Fire Road	
6 City, state, and ZIP code Egg Harbor Township, N.J. 08234	
7 List account number(s) here (optional)	
Requester's name and address (optional)	

Part I Taxpayer Identification Number (TIN)											
Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> , later.											
Note: If the account is in more than one name, see the instructions for line 1. Also see <i>What Name and Number To Give the Requester</i> for guidelines on whose number to enter.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center; padding: 2px;">Social security number</td> </tr> <tr> <td style="width: 25%; text-align: center;">[] [] [] [] - [] [] [] [] - [] [] [] []</td> <td style="width: 75%;"></td> </tr> <tr> <td colspan="2" style="text-align: center; padding: 2px;">or</td> </tr> <tr> <td colspan="2" style="text-align: center; padding: 2px;">Employer identification number</td> </tr> <tr> <td style="width: 25%; text-align: center;">[] [] [] [] [] [] [] [] - [] [] [] [] [] [] [] []</td> <td style="width: 75%;"></td> </tr> </table>	Social security number		[] [] [] [] - [] [] [] [] - [] [] [] []		or		Employer identification number		[] [] [] [] [] [] [] [] - [] [] [] [] [] [] [] []	
Social security number											
[] [] [] [] - [] [] [] [] - [] [] [] []											
or											
Employer identification number											
[] [] [] [] [] [] [] [] - [] [] [] [] [] [] [] []											

Part II Certification	
Under penalties of perjury, I certify that:	
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3. I am a U.S. citizen or other U.S. person (defined below); and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.	
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.	

Sign Here	Signature of U.S. person ▶ L. Anthony Gibson	Date ▶ 2/20/2024
------------------	---	-------------------------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISO (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1099 (home mortgage interest), 1099-E (student loan interest), 1099-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.



STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE

Taxpayer Name: GUARANTEED SUBPOENA SERVICE, INC.
Trade Name:
Address: 2009-2013 MORRIS AVENUE
UNION, NJ 07083-6072
Certificate Number: 1085668
Effective Date: September 03, 2004
Date of Issuance: October 10, 2023

For Office Use Only:
20231010162106370

**L. Anthony Gibson, Esquire
Dispute Resolution Services
3120 Fire Road
Egg Harbor Twp., NJ 08234
Telephone: 609-641-6200**

Tax I.D. #149-30-5905

February 15, 2024

Via Email:

Paul Schafhauser
Paul.Schafhauser@gtlaw.com

Avram White, Esq
awhite@orangenj.gov

:

Re: Our File No. Med. 940

Due from Paul Schafhauser, Esq (Plaintiff) \$1500.00

Due from Avram White, Esq (Defendant) \$1500.00

PLEASE MAKE YOUR CHECK PAYABLE TO "L. ANTHONY GIBSON"