

AGREEMENT FOR MUNICIPAL PLANNING SERVICES

THIS AGREEMENT made and entered into on this 24th day of April, 2024 by and between the **TOWNSHIP OF WEST ORANGE**, a municipal corporation of the State of New Jersey, located at Town Hall, 66 Main Street, West Orange, County of Essex and State of New Jersey, hereinafter called the “TOWNSHIP,” party of the first part, and **NISHUANE GROUP, LLC**, located at 105 Grove Street, Suite 3, Montclair, County of Essex and State of New Jersey, hereinafter referred to as “CONSULTANT,” party of the second part.

WITNESSETH THAT:

WHEREAS, the Governing Body of the TOWNSHIP has determined that it is in the best interests of the TOWNSHIP to retain the services of CONSULTANT to provide municipal planning services;

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. CONSULTANT will review applications made to West Orange’s Planning Board and Zoning Board of Adjustment for site plan, subdivision and/or variance approval. The scope of work for each of these development reviews will include the following:

- Review of filed application materials to determine whether the application can be deemed complete for hearing by the Planning Board, Zoning Board of Adjustment and/or Site Plan Review Advisory Board, and if any submission waivers are warranted;
- Preparation of a completeness review memorandum;
- Attendance at Site Plan Review Advisory Board meetings;
- Review of filed application materials to determine compliance with all applicable Zoning Ordinance requirements and other development regulations;

- Analysis of all requested variances and/or exceptions from site plan or subdivision regulations;
- Review of site plan, architectural plans and/or subdivision plat to identify any zoning or planning issues;
- A site visit to the subject property and surrounding area;
- Discussion with Township of West Orange staff and other consultants, if necessary;
- Preparation of an application review letter, if necessary;
- Attendance at evening meetings of the Planning Board and Zoning Board of Adjustment when an application for which a review letter was prepared is on the board's agenda.

The above work other than site visits and meetings will be conducted in CONSULTANT's office. It is assumed that application materials will be mailed to CONSULTANT by Township staff, although CONSULTANT will be able to pick up materials in West Orange if a quick turnaround of a review letter is necessary. A representative of CONSULTANT will also attend meetings in West Orange to meet with Township staff, other consultants and/or development applicants, as needed. The review of development applications can be paid for through escrows provided by development applicants, consistent with state law and Section 25-55 of the West Orange Zoning Ordinance. CONSULTANT will submit invoices to the Township for each development application in order to manage the appropriate funding source for our service. It is anticipated there will be a limited amount of billing for general planning services not related to a specific application, which would be billed directly to the Township and would not be payable through applicant escrows. If additional work, over and above that specified in the Scope of Services, or that agreed to under this Agreement, is requested by the Client, a third-party escrow has been established and such work shall be performed by CONSULTANT at the hourly billing rates specified in paragraph 2 of this Agreement or any increases to the hourly billing rates as set

forth in paragraph 2. Such additional services shall only be performed following approval from the Township Council. CONSULTANT shall make himself available as needed on a flat fee basis as set forth herein.

2. The TOWNSHIP hereby retains the services of CONSULTANT for the period May 1, 2024 through December 31, 2024. All non-escrow reimbursable fees for services rendered shall be at a flat fee rate, at \$12,500 per month.

3. For any work done for a specific development project where a third-party escrow has been established the rate :

- a. Principal and Managing Partner- \$200/hr;
- b. Senior Associate Planner - \$175/hr;
- c. Senior Construction Manager/Project Manager - \$175/hr;
- d. Associate Planner - \$150/hr;
- e. Design Associate- \$150/hr;
- f. Sustainability Manager - \$150/hr;
- g. Administrator - \$40/hr;
- h. Intern - \$35/hr.

4. CONSULTANT may not bill for the following ordinary administration and overhead: clerical and bookkeeping time related to the project, all telephone and facsimile costs, costs of reproduction of up to twenty (20) copies of no more than one (1) draft and one (1) final copy of project memorandums or reports, and travel expenses involving travel to places less than fifty (50) miles from CONSULTANT's office in Montclair, New Jersey.

5. CONSULTANT is hereby placed on notice that no Department Head, individual member of the Governing Body, or any agent, servant or employee of the TOWNSHIP possesses

any lawful authority to: (a) engage the rendition of services or the performance of work; (b) authorize the continuation of services or work beyond the amount specifically approved in the Resolution and Certificate of Funds; or to (c) represent that future funds will be available as compensation for current services. Any such acts shall be deemed ultra vires and beyond the scope of any authority that individual may possess. No bills, statement or vouchers for any amount exceeding that originally approved will be honored or paid by the TOWNSHIP, irrespective of whether such services were actually performed.

6. CONSULTANT recognizes that all services rendered are subject to the approval of the Chief Financial Officer, and that payment for such services is conditioned upon the issuance of a Purchase Order by the Township encompassing the services for which compensation is sought.

7. CONSULTANT shall submit detailed invoices to the TOWNSHIP for services rendered each month no later than fifteen (15) days subsequent to the close of the month. All invoices submitted by CONSULTANT shall set forth a list of the personnel who furnished services, their billing rates (as specified in paragraph 1) and the number of hours they worked on the assignment. In the event additional payment is sought by CONSULTANT for work performed beyond the scope of services, such work shall only be performed and payment shall only be rendered upon approval by the Township Council.

8. During the term of this agreement, CONSULTANT shall maintain professional liability malpractice insurance coverage with an insurance company licensed and authorized to do business in the State of New Jersey with coverage not less than \$1,000,000. CONSULTANT shall provide the Township Attorney and Municipal Clerk with proof of a valid certificate of insurance listing the TOWNSHIP as a certificate holder. To the extent that this insurance

coverage is scheduled to lapse at any time before the end of the contract, CONSULTANT shall provide proof of renewal or new insurance coverage no later than thirty (30) days before the termination of the current coverage.

9. CONSULTANT agrees, subject to the provisions herein, to indemnify and hold the Client harmless from any damage, liability or cost to the extent caused solely by CONSULTANT's negligent acts, errors or omissions in the performance of professional services under this Agreement. CONSULTANT is not obligated to indemnify the Client for the Client's own negligence or intentional acts

10. The provisions of this agreement are subject to the limitations of provisions of the New Jersey Tort Claim Act, N.J.S.A. 59:2-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

11. This agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflict of laws. All contract claims under this agreement shall be subject to and governed by the provisions of the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.

12. CONFLICT OF INTEREST—CONSULTANT agrees that it will not work for any third-party developer in the TOWNSHIP. If a client of CONSULTANT proposes a project in the TOWNSHIP, CONSULTANT shall immediately notify the TOWNSHIP and the TOWNSHIP shall arrange for a substitute planner to oversee the project.

13. This Agreement is terminable on thirty (30) days written notice.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

ATTEST:

TOWNSHIP OF WEST ORANGE

KAREN J. CARNEVALE, R.M.C

By:_____
SUSAN McCARTNEY, MAYOR

WITNESS:

NISHUANE GROUP

By:_____
