

### CONTRACT FOR PLANNING SERVICES

This Agreement, made this 1 day of July, 2020 by and between the Township of Teaneck (hereinafter referred to as "Township"), having its offices at 818 Teaneck Road, Teaneck, New Jersey 07666, and the Nishuane Group LLC, , having their offices at 105 Grove Street, Suite 1, Montclair, N.J. 07042 (hereinafter referred to as "Professional Consultant")

#### WITNESSETH:

WHEREAS, the Township Council of the Township is in need of the services of a professional planning consultant to perform various professional planning services as an alternate planner with respect to projects which the Council deems appropriate or whenever the Township's Planner has a conflict; and

WHEREAS, such services constitute professional services as that term is defined in N.J.S.A. 40A:11-2; and

WHEREAS, the Township of Teaneck has received a proposal therefor from the Nishuane Group LLC, (hereinafter the "Professional Consultant"), with offices located at 105 Grove Street, Suite 1, Montclair, N.J. 07042, to perform such professional planning services; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) authorizes the execution of professional services contracts

without competitive bidding; and

WHEREAS, the Township Council finds and concludes that it would be in the best interests of the Township of Teaneck to enter into a professional services agreement with the Consultant based upon the Consultant's expertise in planning matters, extensive planning experience, and the Consultant's cost proposal; and

WHEREAS, the Municipal Manager has determined and certified in writing that the anticipated payments under said contract may exceed \$17,500; and

WHEREAS, the Consultant has completed and submitted a Business Entity Disclosure Certification which certifies that the Consultant has not made any reportable contributions to a political or candidate committee pursuant to N.J.S.A. 19:44A-1 et seq. that, pursuant to P.L. 2004, c.19, as amended by P.L. 2005, c.51, or pursuant to Ordinance 19-2017 of the Township of Teaneck would bar the award of this contract in the previous one year period preceding the award of this contract, and that the contract will prohibit the Consultant from making any reportable contributions during the term of the contract; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available;

WHEREAS, the parties wish to mutually set forth the compensation and terms and conditions regarding these additional services;

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, it is agreed as follows:

1. **PROFESSIONAL SERVICES.** The Professional Consultant agrees to provide Teaneck with various professional planning services as directed by the Township, as an alternate planner with respect to projects which the Council deems appropriate or whenever the Township's Planner has a conflict.

2. **Term:** The term of this Agreement shall commence July 1, 2020 and continue until June 30, 2021, unless sooner terminated by the Township of Teaneck. The Township of Teaneck may terminate this Agreement at any time during the term hereof by giving Consultant written notice thereof. At such time the Township will be billed for all work performed by Consultant up to the time such notification is received at the office of Consultant. If the Township fails to make payments when due or otherwise is in breach of this Agreement, Consultant may suspend performance five (5) days from the date of providing notice to the Township. Consultant shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension. Following suspension of services for failure to make payment, work on the project shall only be resumed

when all invoices have been brought fully to date, including all charges for late payment (including interest), has been replaced.

**3. Compensation.**

(a) The Township agrees to pay the Professional Consultant a sum not to exceed the sum of \$20,000.00 for the services set forth in Paragraph 1 hereof, at the hourly billing rates set forth below:

**AS OF JANUARY 1, 2020**

| <u>Staff person</u>      | <u>position</u>                | <u>hourly rate</u> |
|--------------------------|--------------------------------|--------------------|
| George Wheatle Williams, | Founding Principal             | \$225              |
| Michele S. Delisfort,    | Principal and Managing Partner | \$200              |
| Gerard M. Haizel,        | Senior Associate               | \$175              |
| Mrunmayee S. Atre,       | Associate                      | \$150              |
| Steven M. Martini,       | Associate                      | \$150              |
| Simran S. Riar,          | Junior Associate               | \$100              |
| Support                  |                                | \$75               |

(b) **Reimbursable Expenses.** The Client shall pay Professional Consultant for reimbursable expenses, including printing and reproduction (except as noted in paragraph 3), courier and express delivery services, bulk/special mailings, and travel expenses, including and meals, for work involving travel to places more than one hundred (100) miles from Professional Consultant's office in Montclair, New Jersey.

(c) **Non-Reimbursable Expenses.** The Client shall not be billed 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 ten (10) 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 one hundred (100) miles from Professional Consultant's office in Montclair, New Jersey.

(d) **Invoices.** The Professional Consultant will submit vouchers in the form provided for by the Township on a monthly basis. Vouchers shall include a detailed statement of services rendered, the date of such service, and the amount of time expended thereon, all charged on an hourly basis, divided by one/tenth of an hour intervals. Invoices will be submitted to the Client normally by the middle of the month following the month in which the services were rendered. Invoices will include a list of the personnel who furnished services, their billing rates (as specified in paragraph 10) and the number of hours they worked on the assignment. An invoice shall be considered PAST DUE if the invoice is not paid within sixty (60) days from the date of the invoice.

4. **Not Assignable.** The within contract shall not be assignable.

5. **Modification, Waiver and Construction.**

A. This Contract shall not be modified unless the modification is in writing and is signed by authorized representatives of both parties.

B. The failure of either party to require the performance of any term or obligation of this Contract, or the waiver of either party to any breach of this Contract, shall not prevent a subsequent enforcement of the term or obligation nor be deemed a waiver of any subsequent breach.

C. This Contract shall be construed in accordance with the laws of the State of New Jersey.

D. If a dispute arises out of or relating to this contract or the breach thereof and if said dispute cannot be settled through direct discussions between the parties, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation prior to accessing the judicial system for settlement. The parties shall each designate a proposed mediator. If the parties cannot agree upon one of the two mediators, the two mediators shall select a third mediator. The costs for any mediation will be divided equally between the parties except that the expenses of any witnesses for either side shall be paid by the party producing such witness. In the event the dispute shall not be able to be resolved through



mediation, either party may institute a suit only in the Superior Court of New Jersey with a venue of Bergen County and both parties agree to submit themselves to both personal jurisdiction and subject matter jurisdiction in said court.

6. **Availability of Funds.** The continuation of this contract beyond December 31, 2020, is subject to the annual appropriation of adequate funds therefor.

7. **Independent Professional Consultant Status.** The services to be rendered by the Professional Consultant pursuant to the terms and conditions hereof shall be rendered as an independent Professional Consultant and not as an employee of the Township.

8. **Equal Opportunity and Non-Discrimination.** The Professional Consultant shall comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27, including the requirements as set forth in Exhibit A, annexed hereto and made part hereof.

9. **Political Contribution Disclosure .** This contract has been awarded to the Professional Consultant based on the merits and abilities of the Professional Consultant to provide the goods or services as described herein. This contract was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. As such, the Professional Consultant, by signing below, attests that the Professional Consultant, it's subsidiaries, assigns or

principals controlling in excess of 10% of the Professional Consultant company has neither made a contribution, that is reportable to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the contract that would, pursuant to P.L. 2007, c. 19, as amended by P.L. 2005, c. 51, or pursuant to Ordinance 19-2017 of the Township of Teaneck which would affect its eligibility to perform this contract, nor will it make a reportable contribution during the term of this contract to any political party committee in the Township of Teaneck if a member of that political party is serving in an elective public office of the Township of Teaneck when the contract is awarded, or to any candidate committee of any person serving in an elective public office of the Township of Teaneck when the contract is awarded or to any other political party, campaign or organization referred to in Ordinance 19-2017 of the Township of Teaneck in excess of the amounts provided therein.

11. **Business Registration Requirements.** The Professional Consultant shall comply with the provisions of N.J.S.A. 52:32-44 et seq. respecting the New Jersey Business Registration requirements.

12. **Iranian Investment Activities.** The Consultant shall comply with the requirements of N.J.S.A. 40A:11-2.1 and N.J.S.A. 52:32-55 et seq. (P.L. 2012, Chap. 25) respecting the disclosure of



investment activities in Iran. Any person or entity that submits a proposal or otherwise proposes to enter into or renew a contract must complete the certification provided herewith, under penalty of perjury, that the person or entity, or one of the person's or entity's parents, subsidiaries, or affiliates, is not identified on a list created and maintained by the Department of the Treasury as a person or entity engaging in investment activities in Iran.

13. **Indemnification.** Consultant agrees, subject to the provisions herein, to indemnify and hold the Township 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. The Township agrees to indemnify and hold Consultant harmless from any damage, liability or cost (including reasonable attorney's fees and costs of defense) to the extent caused by the Township's negligent or intentional acts, errors or omissions and those of his or her employees, agents, contractors, subcontractors or subcontractors.

14. **Limitation of Liability.** Township and Consultant recognize and agree that Consultant's liability for any and all claims Or actions, regardless of how arising, shall be limited to the total sum of Consultant's fee for services rendered on this project. Township hereby releases Consultant from any liability

above such amount. Such claims and causes include, but are not limited to, negligence, professional errors or omissions, strict liability, breach of contract or breach of warranty. In no event shall Consultant be liable for any incidental, indirect or consequential damages, including commercial loss, or lost profits resulting from any service furnished under this Agreement.

15. **Ownership and Reuse of Documents.** The Township grants to Consultant a non-exclusive, non-assignable and non-transferable license to reproduce distribute and display the documents for Consultant to promote and provide information regarding its services, as it may deem appropriate. Both the Township and Consultant agree that none of the services or documents provided by Consultant are copyright by the Township, Consultant or any other party.

16. **Governing Law-Forum Selection.** The laws of the State of New Jersey, County of Bergen will govern the validity of this Agreement, its interpretation and performance.


17. **Entire Agreement-Amendments.** This Agreement comprises the final and complete Agreement between the Township and Consultant. It supersedes all prior or contemporaneous communications, representations, or agreements, whether oral or written, relating to the subject matter of this Agreement. Execution of this Agreement

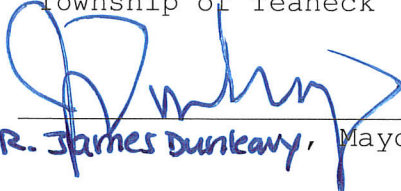
signifies that each party has read the document thoroughly, has had the opportunity to have questions explained by independent counsel, and is satisfied with the terms and conditions contained herein and has authority to enter into this Agreement. Amendments to this Agreement shall not be binding unless made in writing and signed by both the Township and Consultant.

18. **Insurance.** Consultant shall secure Worker's Compensation Insurance for the benefit of, and keep insured during the life of this agreement, such employees as are necessary to be insured in compliance with the provisions of the Worker's Compensation requirements. Consultant shall secure policies in force during the life of this agreement. Said policies of insurance shall protect against liability arising from errors and omission, general liability and automobile liability in the performance of this agreement in the sum of at least \$1,000,000 (one million dollars) each. The Township of Teaneck shall be named as additional insured on said policies. Consultant shall furnish a certified copy of said policies to the Borough at the time of execution of this agreement.

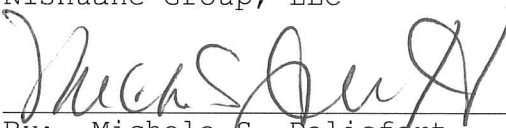
IN WITNESS WHEREOF, the parties have hereunto set their hands and seals.

ATTEST:

  
\_\_\_\_\_  
Doug Ruccione,  
Acting Township Clerk

Township of Teaneck  
By:   
\_\_\_\_\_  
DR. James Dunkley, Mayor

WITNESS:

\_\_\_\_\_  
Nishuane Group, LLC  
  
By: Michele S. Delisfort

**EXHIBIT A**

**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE**

**N.J.S.A. 10:5-31 et seq., N.J.A.C. 17:27**

GOODS. PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS

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 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 forth 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 personal 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 subcontractor shall furnish such reports or other documents to the Division of Contract Compliance & 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.