

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT for professional services is made by and among the City of Madison, Alabama, a municipal corporation, located at 100 Hughes Road, Madison, Alabama 35758, hereinafter referred to as "City;" Core Distinction Group located at 4098 State Road 21, Oshkosh, WI 54904 hereinafter referred to as "Consultant;" and Stewart Properties, Ltd., located at 549 Mill Road, Madison, Alabama 35758; hereinafter referred to as "Property Owner."

WITNESS TO:

WHEREAS, the City of Madison has sought professional services for a hotel market feasibility study for a downtown property; and

WHEREAS, said professional services will provide a public benefit to the City, and the best interests of the City and its residents will be served by retaining an experienced provider of such services; and

WHEREAS, Consultant is an experienced provider of the services required and is capable of providing the same in a professional, timely manner; and

WHEREAS, the City desires to avail itself of Consultant's unique abilities and services and Consultant desires to provide same to City; and

WHEREAS, Property Owner owns a future potential hotel site and desires to participate in the study by funding a portion of the work;

NOW, THEREFORE, in consideration of mutual covenants and agreements herein set forth, the parties, intending to be legally bound, hereby agree as follows:

SECTION 1: SCOPE OF WORK

- A. Pursuant to the provisions of this Agreement, Consultant will provide the following services to City and Property Owner: Conduct a hotel market feasibility study for the downtown property, said services to be administered according to Consultant's proposal dated July 22, 2025 ("Attachment A"), which is attached hereto and wholly incorporated herein by this reference.
- B. Consultant shall thoroughly and proficiently perform all services using reasonable diligence and exercising the judgment, care, and skill ordinarily used by similar persons providing the same or similar services under the same or similar circumstances.
- C. Consultant shall furnish all supplies, materials, machinery, equipment, and

means, except as otherwise expressly specified herein, necessary or proper to carry out the services required by this Agreement.

- D. Consultant shall perform all services in accordance with the provisions of this Agreement and shall be solely responsible for the legality, safety, efficiency, and adequacy of the services performed hereunder.
- E. Throughout the term of this Agreement, Consultant shall provide City reasonable and meaningful access via telephone and e-mail to Consultant's principals for the purpose of fulfilling the contracted-for deliverables.
- F. Any and all information provided to Consultant by City, of the type normally available for the proposed services, which has been prepared by or for others (including, but not limited to, the City, the State of Alabama, and various federal agencies) will be considered "best available information" and thus appropriate and sufficient for the services proposed herein. Consultant will not develop such original information unless specifically included in the attachments incorporated in Section 1.A.
- G. If at any point during Consultant's research, should the market lack initial support for hotel development, Consultant will cease further research of this market. At this time Consultant would send a termination letter to the City and Property Owner highlighting the reasons for the lack of support for a hotel development in this market with a potential date for follow up in the future. If this rare situation takes place, City and Property Owner will not be responsible for the Final Payment.
- H. If the market lacks the initial support for a hotel development, the Retainer payment will stay in place for up to 2 (two) years from the date of the determination of support. At any point during the 2 (two) years, if the market gains enough demand to support a new hotel development, Consultant will complete the Comprehensive Hotel Market Feasibility Study.
- I. The Comprehensive Hotel Market Feasibility Study prepared by Consultant in the performance of its obligations under this Agreement shall be remitted to the City within seven (7) business days after Final Payment described in this Contract. Consultant shall not use, willingly allow, or cause to have such materials prepared exclusively for the City used for any purpose other than performance of Consultant's obligations under this contract without the prior written consent of the City. Prior to the Final Payment of this Agreement, all work and documents remain the property of the Consultant.

SECTION 2: EXPENSE STRUCTURE

- A. The total compensation for services rendered by Consultant pursuant to Section 1.A. shall be an amount not to exceed seventeen thousand five hundred dollars (\$17,500) to be made payable to the Consultant subject to the terms set forth and upon approval by the City.
- B. Property Owner shall make a 50% retainer payment upon execution of this agreement.
- C. If, upon completion of Phase 1, it is determined that Phase 2 of the Scope of Work will not proceed, then City shall reimburse Property Owner for 50% of the retainer payment made in Section 2.B, terms net thirty (30) days.
- D. If it is determined that Phase 2 of the Scope of Work will proceed immediately upon completion of Phase 1, City shall pay the remaining 50% payment to Consultant upon completion and proper invoicing of the Phase 2 Scope of Work, terms net thirty (30) days.
- E. If it is determined that Phase 2 of the Scope of Work will proceed, subject to City and Property Owner authorization, within two years of completion of Phase 1, and subsequent to City's payment to Property Owner in Section 2.C., City and Property Owner shall each pay half of the remaining 50% payment to Consultant upon completion and proper invoicing of the Phase 2 Scope of Work, terms net thirty (30) days.
- F. All fees and expenses related to Consultant's performance are included in the total compensation set forth in Section 2.A., and Consultant shall not be compensated for any other expenses unless the parties enter into a written amendment to this Agreement for additional services.
- G. All taxes applicable to the payments made to Consultant hereunder shall be the sole responsibility, obligation, and liability of Consultant.
- H. Payment of compensation as set forth in Section 2.A. vests complete and irrevocable ownership in the City and Property Owner of all paid-for deliverables created by Consultant, and City and Property Owner shall be perpetually vested with full usage rights of the same.

SECTION 3: INDEMNIFICATION & INSURANCE

A. Indemnification: Consultant agrees to hold harmless and indemnify City and Property Owner from and against all injuries, deaths, claims, suits, damages, losses, liabilities, judgments, costs, and expenses to the extent caused by negligent performance of professional services on the

part of Consultant or its individual employees, officials, agents and representatives in the course of Consultant providing services pursuant to the instant Agreement.

To the extent allowed by law, City agrees to hold harmless and indemnify Consultant from and against all injuries, deaths, claims, suits, damages, losses, liabilities, judgments, costs, and expenses resulting from willful malfeasance, bad faith or gross negligence on the part of City or its individual employees, officials, agents and representatives in the course of receiving services from Consultant pursuant to the instant Agreement.

B. Insurance: Consultant further agrees to maintain and keep in full force and effect at all times during the term of this Agreement and any extensions thereof the following insurance policies for the duration of this agreement: Commercial General Liability Insurance, including officers, subcontractors and employees with per-project (general aggregate) policy limits of two million dollars (\$2,000,000.00) for each occurrence and in the general aggregate for bodily injury and property damage; automobile liability covering owned and rented vehicles operated by Consultant with policy limits of one million dollars (\$1,000,000.00) each accident combined single limit for bodily injury and property damage; two million dollars (\$2,000,000.00) Products/Completed Operations Aggregate; one million dollars (\$1,000,000.00) Personal and Advertising Injury limits combined single limit or equivalent; one million dollars (\$1,000,000.00) workers' compensation; and one million dollars (\$1,000,000.00) Umbrella/Excess Liability Insurance. The Contractor shall include the City and its employees, subcontractors and servants as additional insureds in said policies except Workers Compensation and shall provide endorsements evidencing such coverage upon City's request. In addition, Consultant shall carry professional liability insurance covering Consultants negligent acts, errors, or omissions in its performance of professional services with policy limits of one million dollars (\$1,000,000.00) per claim and two million dollars (\$2,000,000.00) in the annual aggregate.

All insurance policies as required of the Consultant in this Agreement shall be written by a company or companies authorized to do business in the State of Alabama. Contractor shall promptly file the certificates of all coverage required hereunder with City within ten (10) days of the effective date of this Agreement. Each insurance policy and certificate shall provide, in effect, that the policy may not be cancelled for reasons other than the non-payment of premium by the insurer until thirty (30) days after the insurer shall have notified the City of such action in writing by sending the same to the point of contact identified in Section 10. Consultant's insurance affording additional insured coverage as required herein shall provide primary coverage as relates to other insurance carried by the City.

SECTION 4: COMMENCEMENT; TERM

This Agreement shall come into effect when the authorized representatives of each party finally execute and affix their respective signatures hereto in their duly authorized capacities. In the event the signatures are affixed on different dates, the date of the latter signature shall be the date the Agreement comes into effect. This Agreement shall expire upon the City's

acknowledgement of Consultant's fulfillment of the terms of the Scope of Work contained herein.

SECTION 5: TERMINATION

This Agreement may be terminated by any party, with or without cause, upon the provision of thirty (30) days' notice to the other party. In the event of termination, Consultant shall be entitled to payment only for services rendered as of the date of termination, and City and Property Owner shall be entitled to receive only that work product created by Consultant as of the date of termination.

SECTION 6: INDEPENDENT CONTRACTOR RELATIONSHIP

It is mutually understood and agreed, and it is the intent of the parties, that an independent contractor relationship be and is hereby established under the terms and conditions of this Agreement. It is further mutually understood and agreed that employees of Consultant are not nor shall be deemed to be employees of City and that employees of City are not nor shall they be deemed to be employees of Consultant.

SECTION 7: EXCUSED PERFORMANCE

In case performance of any terms or provisions hereof shall be delayed or prevented because of compliance with any law, decree or order of any governmental agency or authority, whether the same shall be of Local, State or Federal origin, or because of riots, war, public disturbances, strikes, lockouts, differences with workmen, fires, floods, acts of God or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, said party is unable to prevent, the party so suffering may, at its option, suspend, without liability, the performance of its obligations hereunder during the period of such suspension of performance of duties hereunder.

SECTION 8: ASSIGNMENT

Neither Consultant nor City may assign or transfer this Agreement or any part thereof without the express, written consent of the other party.

SECTION 9: ENTIRE AGREEMENT: WAIVER

This Agreement constitutes the entire Agreement between the parties with respect to the provision of the services outlined herein and there are no other or further written or oral understandings or agreements with respect thereto. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by duly authorized representatives of Consultant and City. This Agreement supersedes all other agreements between the parties.

SECTION 10: NOTICES

All notices to City shall be addressed to:

*Director
City of Madison Planning Department
100 Hughes Road
Madison, Alabama 35758*

*With a copy to:
City Attorney
City of Madison Legal Department
100 Hughes Road
Madison, AL 35758*

All notices to Property Owner shall be addressed to:

*Stewart Properties, Ltd.
549 Mill Road
Madison, Alabama 35758*

All notices to Consultant shall be addressed to:

*Jessica Junker
Core Distinction Group
Managing Partner
4098 State Road 21_
Oshkosh, WI 54904*

SECTION 11: GOVERNING LAW

This Agreement shall be governed by the laws of the State of Alabama without regard to any conflicts of laws provisions thereof.

SECTION 12: MISCELLANEOUS PROVISIONS

- A. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

- B. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
- C. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.
- D. In the event the terms set forth in the body of this Agreement conflict with the terms set forth in any attachment hereto, the terms set forth in the body of this Agreement shall prevail.
- E. The headings of each section are inserted for reference purposes only. Any conflict between a descriptive heading and the content of the section shall be resolved in favor of the language contained in the section.
- E. Consultant agrees to comply with all applicable Federal, State, and Local laws and regulations, including, but not limited to, those pertaining to wages and hours of employment. By signing this Agreement, the parties affirm, for the duration hereof, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.
- F. To the extent allowed by law, City and Property Owner shall not disclose any confidential information of Consultant without Consultant's prior written consent, which shall not be unreasonably withheld. In the event that City and Property Owner are required by law or court order to disclose any Consultant information or confidential information gathered pursuant to this Agreement, City or Property Owner shall provide prior written notice and a copy of the information to be disclosed to Consultant, cooperate with Consultant to limit disclosures or obtain protective orders, and cooperate with Consultant to limit disclosures to the extent legally necessary to be disclosed.

IN WITNESS WHEREOF, the parties hereto affirm that they have the authority to execute this Agreement on behalf of their respective entities for the entire term and have hereunto set their hands and seals on the day and year respectively noted.

**City of Madison, Alabama,
a municipal corporation**

Attest:

By: _____
Paul Finley, Mayor Lisa D. Thomas, City Clerk-Treasurer

Date: _____

STATE OF ALABAMA §
COUNTY OF MADISON §

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Paul Finley and Lisa D. Thomas, whose names as Mayor and the City Clerk-Treasurer, respectively, of the City of Madison, Alabama, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of the City of Madison, Alabama, a municipal corporation.

Given under my hand and official seal this _____ day of _____, 2025.

Notary Public

**Core Distinction Group
Consultant**

By: _____

Printed: _____

Its: _____

Date: _____

STATE OF ALABAMA §
COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ for Core Distinction Group, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, s/he, as such officer

and with full authority, executed the same voluntarily for and as the act of said entity.

Given under my hand this the _____ day of _____, 2025.

Notary Public

Stewart Properties, Ltd.
Property Owner

By: _____

Printed: _____

Its: _____

Date: _____

STATE OF ALABAMA §

§

COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ for Stewart Properties Ltd, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, s/he, as such officer and with full authority, executed the same voluntarily for and as the act of said entity.

Given under my hand this the _____ day of _____, 2025.

Notary Public

ATTACHMENT A

SCOPE OF WORK

A. GENERAL APPROACH

Consultant will schedule the project and conclude field work to review the market to determine the need for further research to be performed. At this time, the market research will show the following:

1. Should the market appear strong and supportive of a hotel development, Consultant will proceed with the completion of the Feasibility Study outlined below.
2. Should the market lack initial support for hotel development, Consultant would cease further research of this market. At this time, Consultant will communicate with City and send a termination letter to the City highlighting the reasons for the lack of support for a hotel development in this market with a potential date for follow up in the future.

B. GENERAL PROJECT EXPECTATIONS

The scope is to conduct a specific Comprehensive Hotel Market Feasibility Study for the possible development of a hotel for the City. Recommendations regarding the style and size of the hotel will be provided based upon demand and competitive supply factors. These factors can be weighted by certain project conditions. It is the understanding of the City and the Consultant that the following to be true:

1. The specific subject site for this hotel has not been identified at this time; more specific details about the site will be discussed upon commencement of this research.
2. The hotel product category has not yet been identified at this time.
3. The price category for this hotel has not yet been determined.
4. The size of the proposed hotel has not been identified at this time. Specific size suggestions will be made in this feasibility study report as determined by the size of the site, the demand sources, and competitive supply in the market.

C. GENERAL PROJECT RECOMMENDATIONS

It is the understanding of the City and the Consultant that the following recommendations will be included in the Comprehensive Hotel Market Feasibility Study:

1. Recommendations of the hotel product category or market segment based upon research, demand, and competitive supply factors will be provided by Consultant.

2. Recommendations of the hotel development's scale chain based upon research, demand, and competitive supply factors will be provided Consultant.
3. Recommendations of the hotel development's potential location or locations for the hotel project based upon research, demand, and competitive supply factors will be provided by Consultant.
4. Recommendations for the hotel development's amount of rooms or units based upon research, demand, and competitive supply factors will be provided by Consultant.
5. Recommendations for the amenities of the hotel development based upon research, demand, and competitive supply factors will be provided by Consultant.

D. TIMING

The Comprehensive Hotel Market Feasibility Study will be completed within 30 (thirty) days of the conclusion of Consultant's Field Work or Site Visit to the Market. Consultant will begin gathering preliminary research as soon as we receive your acceptance of this engagement letter and the retainer check; at which time, an exact start and completion date will be determined. Should there be any unforeseen delays which would change this completion date determined, Consultant will communicate with City accordingly.

E. FINAL REPORT & CHANGES

Consultant warrants that the report completed in connection with the Comprehensive Hotel Market Feasibility Study project will be prepared with the best of their knowledge of industry standards and processes for such reports. It is the understanding of City and the Consultant that at the time the report is complete, the following will commence:

1. Upon completion of the Comprehensive Hotel Market Feasibility Study project, a "draft" version of the report will be presented for City review.
2. At this time, the remaining balance due of this Agreement will be required for Consultant to release a final version of the study report, which is suitable for sharing with lenders, investors, etc.
3. If the final payment is not paid in full, the Comprehensive Hotel Market Feasibility Study report remains the property of Consultant until the final payment is made. Any use or distribution of the report is prohibited until the payment is made in full.
4. Upon review of the "pending" version of the report, Consultant will provide one complimentary revision to the report.
5. This revision is for minor changes only (i.e. spelling errors, punctuation, minor

additions, or deletions not affecting the report outcome).

6. City will receive the Final Comprehensive Hotel Market Feasibility Study within, equal to or less than the number of days taken by City to pay the Final Payment Invoice.

7. An electronic copy of the final report will be provided to you once final payment is received.

8. If Final Payment is not received by Consultant within 90 (ninety) days of City's invoice, Consultant retains the right to use the Comprehensive Hotel Market Feasibility Study retained in this Agreement at its own discretion.

9. Additional copies may be obtained at a reproduction cost.