



## PROFESSIONAL SERVICES AGREEMENT TO PROVIDE CONSULTING SERVICES

This Professional Services Agreement to Provide Consulting Services (this "Agreement") sets forth the mutual understanding of The City of West Monroe, LA (the "Client") and Retail Strategies, LLC, an Alabama limited liability company (the "Consultant") on this the \_\_\_\_ day of April, 2022 (the "Execution Date"), for the provision of professional consulting services as more fully set forth below.

### R E C I T A L S:

The Consultant possesses a high degree of professional skill and experience and is a unique provider of professional consulting services in retail recruitment.

The Client desires to hire the Consultant to provide professional consulting services because of its professional skill and experience.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants and agreements set forth in this Agreement, the Client and the Consultant, intending to be legally bound, do hereby agree as follows:

1. **CONSULTING SERVICES.** The Consultant agrees to provide the following professional consulting services to the Client (the "Services"):
  - A. **Retail Recruitment.** The Consultant will proactively recruit retailers/restaurants to open new businesses within the Client's municipal area. The Consultant has already begun work on recruiting retailers/restaurants for the Client and a list of these active retailers is attached as "Exhibit B" (each, individually, a "Designated Account", and collectively, the "Designated Accounts"). The Consultant will update the Client Representative as necessary on retail recruitment efforts, in general, and specifically for the Designated Accounts, via email or telephone communication. The Consultant reserves the right to add additional Designated Accounts to the recruitment scope pending signed approval from the client.
  - B. **Updates.** The Consultant will provide the Client Representative (designated below) with updates within three business days of their knowledge of any new development (i.e. execution of a letter of intent for a retail lease or negotiation of a retail lease by a Designated Account) with respect to any Designated Account. The Client Representative will provide Consultant any updates as to progress of Designated Account opening in the Client's Municipal Area.
  - C. **Designated Account.** The Consultant will provide in writing to Client Representative any positive retail/restaurant leads interested in locating in the Client's Municipal Area, which will then be considered a Designated Account(s).
- A. **Additional Services.** The Consultant will additionally provide those professional consulting services listed on the attached "Exhibit A".

2. **TERM.** The Consultant's engagement and provision of Services will commence upon the Execution Date as set forth above. The Consultant's engagement and this Agreement will terminate automatically twelve (12) months following the Execution Date (the "Term") unless earlier terminated as provided in Section 4 below. At the end of the Term, the Client, acting by and through its Mayor, may extend the Term at its option for successive twelve-month periods on such terms and conditions as the Mayor, acting for and on behalf of the Client, and the Consultant may agree upon in writing.

3. **CONSULTING FEE.**

- A. **Consulting Fee.** In consideration for providing the Services, the Client agrees to pay the Consultant a consulting fee (the "Consulting Fee") in an amount equal to \$5,000 within fifteen (15) days of the Execution Date. In addition, the Client agrees to pay the Consultant a success fee (the "Success Fee") in an amount equal to \$22,500 per any retail opening from the Designated Account listed on **EXHIBIT B** (a copy of which is attached hereto and incorporate herein by reference), as may be updated, revised, or amended from time to time, that occupies premises and opens for business during the Term, or within twenty-four (24) months following the end of the Term of this Agreement. All Designated Accounts and/or Designated Account additions must be acknowledged and approved by Client via email or Basecamp. The success fee will be invoiced fourteen (14) days after Retailer/Restaurant/Business ("Designated Account") opens for business. Payments of the success fee will be capped at \$45,000 per twelve month period, but excess fees over this \$45,000 cap will roll over and be payable by Client at such time as the additional payment(s) do not exceed the annual cap.
- B. **Payment Default.** If the Client fails to pay any portion of the Consulting Fee or a Success Fee on the requisite payment date, the Consultant will immediately cease all Services, including but not limited to all recruiting and marketing efforts. If the Client fails to pay any portion of the Consulting Fee or a Success Fee on the requisite payment date, then Consultant shall make formal demand for payment in writing to Client by certified or registered mail; and if the fees remain unpaid 30 days thereafter, and Consultant shall engage an attorney to collect any unpaid amount due hereunder, the Client shall pay to Consultant, in addition to such unpaid amount, plus interest to accrue on the unpaid amount at the rate of 1.5% per month, a reasonable attorney fee and all expenses incurred by such attorney in connection with collection of such amount so due.

4. **TERMINATION.**

- A. **By the Client Upon the Consultant's Default.** The Client may notify the Consultant within 90 days of the day that the Client knows or should have known that the Consultant breached this Agreement. The Consultant will have 30 days following receipt of such notice to cure any alleged breach. If the Consultant fails to cure any alleged breach within that 30-day period, then the Client may terminate this Agreement. Within 30 days of such termination of this Agreement, the Consultant will refund a pro rata portion of the installment of the Consulting Fee previously paid for the contract period during which such termination occurs based upon the number of days remaining in such contract period.
- B. **By the Consultant Upon the Client's Default.** The Consultant may notify the Client within 90 days of the day that the Consultant knows or should have known that the Client

breached this Agreement. The Client will have 30 days following receipt of such notice to cure any alleged breach. If the Client fails to cure any alleged breach within that 30-day period, then the Consultant may terminate this Agreement. Any portion of the Consulting Fee or a Success Fee paid prior to such termination of this Agreement is earned when paid and nonrefundable.

5. **NOTICES.** Any notice or communication in connection with this Agreement will be in writing and either delivered personally, sent by certified or registered mail, postage prepaid, delivered by a recognized overnight courier service, or transmitted via facsimile or other electronic transmission, addressed as follows:

Client: The City of West Monroe, LA  
2305 North 7<sup>th</sup> Street  
West Monroe, LA  
Email: [smitchell@westmonroe.com](mailto:smitchell@westmonroe.com)  
Attn: Mayor Staci Albritton Mitchell  
And with copy to:  
Email: [chornsby@westmonroe.com](mailto:chornsby@westmonroe.com)  
Attn: Courtney Hornsby  
(the “Client representative”)

Consultant: Retail Strategies, LLC  
2200 Magnolia Ave. South, Suite 100  
Birmingham, AL 35205  
Email: [sleara@retailstrategies.com](mailto:sleara@retailstrategies.com)  
Fax: (205) 313-3677  
Attention: Stephen P. Leara, Esq – EVP | General Counsel

or to such other address as may be furnished in writing by either party in the preceding manner. Notice shall be deemed to have been properly given for all purposes: (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier, (ii) if personally delivered, on the actual date of delivery, (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the third business day following the date of mailing, or (iv) if sent by facsimile or email of a PDF document (with confirmation of transmission), then on the actual date of delivery if sent prior to 5 p.m. Central Time, and on the next business day if sent after such time.

6. **INDEPENDENT CONTRACTOR.** The Consultant, in its capacity as a professional consultant to the Client, is and will be at all times an independent contractor. The Consultant does not have the express, implied or apparent authority either (A) to act as the Client’s agent or legal representative or (B) to legally bind the Client, its officers, agents or employees.

7. **STANDARD TERMS.**

A. **Affiliated Services:** The Client acknowledges that certain affiliates of the Consultant provide real estate brokerage and management services for which they are paid brokerage, development, leasing, management and similar fees. In connection with the Services and with the prior written permission of the Client, such affiliates may be engaged to provide such services in consideration for the payment of such fees.

- B. **Applicable Laws:** The Consultant will abide by all laws, rules and regulations applicable to the provision of the Services.
- C. **Third Party Beneficiaries:** This Agreement is for the sole benefit of the parties to this Agreement and their permitted successors and assigns. Nothing in this Agreement, whether express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
- D. **Publicity:** The Client agrees that the Consultant may, from time-to-time, use the Client's name, logo and other identifying information on the Consultant's website and in marketing and sales materials.
- E. **Entire Agreement:** This Agreement, together with any exhibits or amendments hereto, constitutes the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. Any prior written or oral understandings and agreements between the parties are merged into this Agreement, which alone fully and completely expresses their understanding. No representation, warranty, or covenant made by any party which is not contained in this Agreement or expressly referred to herein has been relied on by any party in entering into this Agreement.
- F. **Further Assurances:** Each party hereby agrees to perform any further acts and to execute and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.
- G. **Force Majeure:** Neither party to this Agreement will hold the other party responsible for damages or delay in performance caused by acts of God, strikes, lockouts, pandemics, or other circumstances beyond the reasonable control of the other or the other party's employees, agents or contractors.
- H. **Limitation on Liability; Sole Remedy:** Each party's liability to the other party arising out of or related to this Agreement or the Services will not exceed the amount of the Consulting Fee and the Success Fee(s). The Client's sole remedy in the event of any alleged breach of this Agreement by the Consultant will be the notice, cure and refund provisions of Section 4(A) of this Agreement.
- I. **Amendment in Writing:** This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by a duly authorized officer of the Consultant and the Client Representative, acting for and on behalf of the Client.
- J. **Binding Effect:** This Agreement will bind the parties and their respective successors and assigns. If any provision in this Agreement will be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.
- K. **Captions:** The captions of this Agreement are for convenience and reference only, are not a part of this Agreement and in no way define, describe, extend, or limit the scope or intent of this Agreement.

- L. **Construction:** This Agreement will be construed in its entirety according to its plain meaning and will not be construed against the party who provided or drafted it.
- M. **Prohibition on Assignment:** No party to this Agreement may assign its interests or obligations hereunder without the written consent of the other party obtained in advance of any such assignment. No such assignment will in any manner whatsoever relieve any party from its obligations and duties hereunder and such assigning party will in all respects remain liable hereunder irrespective of such assignment.
- N. **Waiver:** Non-enforcement of any provision of this Agreement by either party will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remaining terms and conditions of this Agreement.
- O. **Counterparts; Electronic Transmission:** This Agreement may be executed in counterparts, each of which will be deemed to be an original, and such counterparts will, together, constitute and be one and the same instrument. A signed copy of this Agreement delivered by telecopy, electronic transmission or other similar means will be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the Client and the Consultant have caused this Agreement to be executed in duplicate original by their duly authorized officers to be effective as of the Effective Date.

**CLIENT:**

CITY OF WEST MONROE, LA

By: \_\_\_\_\_  
Name: STACI ALBRITTON MITCHELL  
Title: MAYOR  
Date:

**CONSULTANT:**

RETAIL STRATEGIES, LLC

By: \_\_\_\_\_  
Name:  
Title:  
Date

## EXHIBIT A

### **I. CONSULTANT AGREEMENT**

*This section outlines what Retail Strategies (the “consultant”) will provide to the City of West Monroe, LA (the “client”).*

#### **A. Updated Research**

- a. Identify market retail trade area using political boundaries, drive times and radii and custom boundary geographies
- b. Perform market and retail GAP analysis for trade area (i.e. leakage and surplus)
- c. Conduct retail peer market analysis
- d. Competition analysis of identified target zones trade area(s)
- e. Tapestry lifestyles – psychographic profile of trade area / market segmentation analysis
- f. Customized retail market guide including aerial map with existing national retailer brands and traffic counts
- g. Retail competitor mapping/analysis
- h. Analysis of future retail space requirements in relation to the retail market analysis, the market’s growth potential and trends in the retail industry
- i. Continued engagement of the 30 retail prospects targeted for recruitment over one-year engagement
- j. Updates provided on retail industry trends
- k. Custom on-demand demographic research – historical, current, and projected demographics – to include market trade areas by radius/drive time, and custom trade area

#### **B. Update Boots on the Ground Analysis**

- a. Identify/Evaluate/Catalog priority commercial properties for development, re-development and higher and best use opportunities
- b. Identification of priority business categories for recruitment and/or local expansion
- c. Perform competitive analysis of existing shopping centers and retail corridors
- d. Active outreach to local brokers and landowners

#### **C. Continued Retail Recruitment**

1. Pro-active retail recruitment for targeted zones
2. Will contact a minimum of 30 retailers, restaurants, brokers and/or developers
3. Updates on new activity will be provided to Client’s designated primary point of contact (Sec. II-A) via Basecamp, telephone, or email on a monthly and/or as needed basis
4. One market visit per calendar year included in agreement, any travel outside of the agreement shall be approved and paid for by the contracting entity
5. ICSC conference representation- updates provided according to the yearly conference schedule

**EXHIBIT B**  
**DESIGNATED ACCOUNTS**

The following list of retailers shall be deemed the initial list of Designated Accounts for purposes of the determining Success Fees referenced in Section 3 (Consulting Fee) of the Agreement.

- Marshalls
- Aldi
- Whataburger
- Panera
- Salad Station
- Panda Express
- Jersey Mike's
- Great American Cookie / Marble Slab
- Jimmy Johns
- Petsense
- Buc-ee's
- Lowes
- Great Wolf Lodge

Additional retailers can be added to Exhibit B, provided the Consultant delivers a written notice (the "Additional Retailer Notice") to the Client within thirty (30) days following the original outreach to an additional retailer, which shall include (at a minimum) the following information per each Additional Retailer to be added to this Exhibit B: