



## REAL ESTATE CONSULTING AGREEMENT

This Real Estate Consulting Agreement (the "Agreement") is made as of this 24<sup>th</sup> day of September, 2018 by and between **Inland Real Estate Partners LLC**, DBA Colliers International Wisconsin ("Colliers"), having its principal place of business at 833 East Michigan Street, Suite 500, Milwaukee, WI 53202 and The City of Waukesha, WI having its business headquarters at 201 Delafield Street, Waukesha, WI 53188 ("Client") and having a business mailing address at this same location. Colliers and Client are sometimes referred to individually as "Party" and collectively as "Parties."

**WHEREAS**, Colliers is in the business of providing commercial real estate services;

**WHEREAS**, Colliers is part of a network of real estate brokers and alliance partners engaged in the location, acquisition, leasing, management and disposition of land, commercial, industrial and investment property ("Colliers Members");

**WHEREAS**, Client, from time to time, has commercial real estate acquisition, leasing, management, disposition requirements or other requirements and is willing to engage Colliers and Colliers Members as its exclusive agent to facilitate meeting its commercial real estate acquisition, leasing, management, disposition or other requirements.

**NOW, THEREFORE**, in consideration of the premises hereof and the mutual agreements and covenants herein, Colliers and Client agree as follows:

### **I. TERM AND PURPOSE**

- 1.1 This Agreement shall be effective as of the date first above written and shall extend for an initial term of one (1) year, unless earlier terminated by sixty (60) days written notice of either Party.
- 1.2 This Agreement shall automatically be extended for successive terms of one (1) year upon the expiration of the initial term or any subsequent extended term unless either Party shall have given thirty (30) days notice of non-renewal to the other Party.
- 1.3 The purpose of this Agreement is to establish that the Client shall not engage the services of any entity other than Colliers for the provision of the services contemplated in this Agreement, and that Colliers shall be the exclusive provider of such services to the Client during the term of this Agreement, when requested by the Client. Client is not bound to engage Colliers for every transaction of the types contemplated in this Agreement, and may conduct real estate transactions without the involvement of, or any obligation to, Colliers, in the City's sole discretion.

### **II. SERVICES TO BE RENDERED**

- 2.1 Colliers shall, upon the request of Client, in conjunction with such Colliers Members as Colliers may determine, act as Client's exclusive representative for any of the following services or other related services:
  - a. The sale, lease or sublease of real property owned, leased or otherwise controlled by Client;
  - b. The negotiation of lease or sublease buyouts or modifications to leases under which Client is lessee;
  - c. The identification and qualification of leasehold or purchase properties for Client's acquisition as tenant/buyer representative;
  - d. The provision of or obtaining consulting or other real estate-related services as requested by Client and agreed by Colliers; and
  - e. Such other services as the Parties may agree on.



- 2.2 Client may, from time to time, request Colliers to represent it in connection with the commercial real estate services identified above by submitting a signed Project Scope ("Project Scope"), attached hereto as Exhibit B, identifying the property in question, work to be performed and/or any other requirements ("Project"). Colliers shall complete and return each Project Scope it accepts, upon which Colliers and such Colliers Members as Colliers may designate shall become Client's exclusive representatives in connection with the Project. In the instance of a property disposition (either sale or lease) Colliers will include with the Project Scope a State of Wisconsin Listing Contract which shall be executed by the parties for each property that is to be sold or leased. If Colliers declines to accept a Project, neither Colliers nor Client shall be obligated to the other in any way with respect to the declined Project.
- 2.3 Client may orally request Colliers to represent it in connection with the commercial real estate services identified above. In case of such an oral request, if Colliers agrees to provide the requested service, Colliers will confirm the request in writing by providing Client a Project Scope, specifying the details of the Project. Client shall complete and return the Project Scope to Colliers within seven (7) days of receipt or shall notify Colliers in writing within seven (7) days of any discrepancy between the requirements described in the written Project Scope and the intended Project. Absent timely written notice to Colliers of such a discrepancy, the content of the Project Scope shall conclusively establish the agreement of the Parties as to the terms of the Project; and Client hereby waives and shall be estopped to assert any claim that a Project is incorrectly described or does not represent the agreement of Parties with respect to the Project. The terms of the Project shall be as identified on the Project Scope regardless of whether Client returns the Project Scope to Colliers.
- 2.4 Upon accepting a Project, Colliers shall, in conjunction with such Colliers Members or others as Colliers may designate, take all such actions as it deems necessary and appropriate to successfully complete the Project, including, without limitation:
- a. Entering upon any property of Client during normal business hours or after business hours upon notice to Client as may be reasonably required to complete the Project;
  - b. Erecting such signs and engaging in such advertising of properties available for sale, lease or sublease, subject to any applicable laws or ordinances and to reasonable restrictions of Client as identified in the Project;
  - c. Contacting prospects directly and indirectly concerning the subject matter of the Project;
  - d. Contacting lessors or tenants concerning the subject matter of the Project; and/or
  - e. Publishing information and documents electronically on such internet sites as Colliers may determine are reasonably calculated to assist in completing the Project.

### III. CONDITIONS OF TASKS

Unless otherwise agreed in writing by the Parties for a particular Project with respect to each Project, Client agrees as follows:

- 3.1 With respect to any Project concerning disposition of a property owned or controlled by Client:
- a. Client agrees to the entry by Colliers or designated Colliers Member, their agents or assigns and prospects or consultants on the premises in question at any time during normal business hours or other reasonable times and for any reasonable duration in connection with fulfilling the Project;
  - b. Client agrees to the placement of such signs on the premises as Colliers or Colliers Member may deem reasonably necessary in connection with the Project;
  - c. Client agrees to the publication of advertisements or other documents describing the location and condition of the property and to publication of photographs, maps, plots, drawings or other documents which may depict and/or identify the property, including, but not limited to, publication of information, photographs, maps and identifying material on the internet, on the Colliers Direct internet site and/or such other internet sites as Colliers may deem appropriate; and
  - d. Client agrees to refer to Colliers any inquiries from brokers or others as they relate to the Project.



- 3.2 With respect to each Project involving the acquisition or potential acquisition of real estate for which Client has requested Colliers services:
- a. Client agrees to submit any offer to purchase, lease or otherwise acquire any interest in property identified to Client by Colliers or a Colliers Member in response to a Project through Colliers or a Colliers Member;
  - b. At the request of Colliers, Client will confirm in writing to any seller, lessor, co-broker or other person that Colliers and/or Colliers Member represents Client in connection with the Project;
  - c. Client will use its best efforts to include in any new leases entered into pursuant to a Project a provision authorizing Client to compensate Colliers and/or Colliers Member for any unpaid Project Fee (defined below) should the lessor be delinquent for more than sixty (60) days in paying the agreed Project Fee, provided that any such payment by Client to Colliers or Colliers Member shall be a setoff to rent payments otherwise due and payable by Client to the lessor under the lease; and
  - d. Client agrees to refer to Colliers any inquiries from brokers or others as they relate to the Project.
- 3.3 With respect to Projects that directly include neither the acquisition nor disposition of real property, the nature and scope of the Project shall be as described in the Project Scope.
- 3.4 Client shall indemnify and hold Colliers harmless from any claim, loss, or damage, including attorneys' fees, incurred by Colliers in connection with the Project caused by any act, omission, statement or failure to disclose information by Client in connection with the Project or due to any environmental or other site condition not disclosed by Client to Colliers in the Project Scope. Colliers shall indemnify and hold Client harmless from any and all liability, loss, cost or damage the other may suffer as a result of any claim demand, cost or judgment against it arising from the fault, failure or negligence of Colliers or a Colliers Member, including, but not limited to, any misrepresentation of Colliers or Colliers Member's authority in the performance of a Project.
- 3.5 Client grants Colliers and their assigns the right to utilize Client's name, trade name and identifying trademarks in connection with performing any agreed Project hereunder, in connection with announcing or publicizing the successful completion of any Project hereunder and in connection with identifying clients and matters of Colliers and Colliers Members.

#### **IV. PROJECT FEES**

- 4.1 Colliers shall receive compensation (the "Project Fee") as specified and agreed to - in writing - within each individual Project Scope or Listing Contract when relevant. Colliers shall be entitled to the Project Fee for any Project accomplished during the term hereof for which Client has specifically engaged Colliers by the execution of a Project Scope Form in the form of the attached Exhibit B. See Exhibit A for the specific real estate transaction fee schedule for building sales and leasing. All other fees will be addressed and authorized on a project specific basis as part of the Project Scope form. Colliers shall not be compensated for any Projects or other transactions for which Client has not specifically engaged Colliers by the execution of a Project Scope Form in the form of the attached Exhibit B.

#### **V. NOTICES**

- 5.1 Any notices required or permitted to be sent hereunder may be sent by mail, facsimile or email, each of which shall be effective and constitute a writing for the purposes hereof. Either Party may change its address, facsimile number or email address by written notice to the other. Notices shall be addressed as follows:



5.1.1 If to Client:

City of Waukesha  
Department of Community Development  
Attn: Jennifer Andrews  
Director of Community Development  
201 Delafield Street  
Waukesha, WI 53188  
Phone: Tel 262-524-3753  
Email: [JAndrews@waukesha-wi.gov](mailto:JAndrews@waukesha-wi.gov)

5.1.2 If to Colliers:

Inland Real Estate Partners LLC  
DBA Colliers International Wisconsin  
833 East Michigan Street, Suite 500  
Milwaukee, WI 53202  
Attn: Dan Wroblewski  
Office: 414.276.9500  
Direct: 414.278.6813  
Fax: 414.276.9501  
Email: [dan.wroblewski@colliers.com](mailto:dan.wroblewski@colliers.com)

**IN WITNESS WHEREOF**, Colliers and Client have caused this Agreement to be duly executed as of the day and year first above written.

**COLLIERS:**  
**INLAND REAL ESTATE PARTNERS LLC**  
**DBA COLLIERS INTERNATIONAL WISCONSIN**

**CLIENT:**  
**CITY OF WAUKESHA**

By: Dan Wroblewski  
Partner

By: \_\_\_\_\_

9/24/2018  
Date

\_\_\_\_\_  
Date



**EXHIBIT A –**  
**COMMISSION SCHEDULES**

**For Sale Listing Transactions**

**Industrial Listings**

Broker's commission shall fall within the range of Four Percent (4%) to Six Percent (6%) of the final gross sale price depending on property type, condition, value and cobroke. Broker shall be responsible for paying the co-broker. All commissions shall be due and paid at closing.

**Office Listings**

Broker's commission shall fall within the range of Four Percent (4%) to Six Percent (6%) of the final gross sale price depending on property type, condition, value and cobroke. Broker shall be responsible for paying the co-broker. All commissions shall be due and paid at closing.

**Retail Listings**

Broker's commission shall fall within the range of Four Percent (4%) to Six Percent (6%) of the final gross sale price depending on property type, condition, value and cobroke. Broker shall be responsible for paying the co-broker. All commissions shall be due and paid at closing.

**Residential Listings (Single and Multi-Tenant)**

Broker's commission shall fall within the range of Six Percent (6%) to Eight Percent (8%) of the final gross sale price depending on property type, condition, value and cobroke. Broker shall be responsible for paying the co-broker. All commissions shall be due and paid at closing.

**Land Listings**

Broker's commission shall fall within the range of Six Percent (6%) to Eight Percent (8%) of the final gross sale price depending on property type, condition, value and cobroke. Broker shall be responsible for paying the co-broker. All commissions shall be due and paid at closing.

**For Leasing Transactions – New Transactions**

**Industrial Listings**

Broker's commission shall be equal to Five Percent (5%) of the total Net lease value on a Direct Transaction (no co-broker). In the event of a Co-Broker Transaction (a transaction in which the Tenant is represented by an Agent other than the Listing Agent(s)), Broker's commission shall be Seven and one-half Percent (7.50%) of the total Net Lease value). A Co-Broker not on the listing team shall be considered a Co-broker. All commissions shall be payable 50% upon Lease Execution and 50% upon Lease Commencement.

**Office Listings**

Broker's commission shall be Four Percent (4%) of the Total Gross Rent value of the lease. In the event of a Co-Broker Transaction (a transaction in which the Tenant is represented by and Agent other than the Listing Agent(s)), Broker's commission shall be Six Percent (6%) of the Total Gross Rent value of the lease. A Co- Broker not on the listing team shall be considered a Co-broker. All commissions shall be payable 50% upon Lease Execution and 50% upon Lease Commencement.

For all commission calculations under this listing contract the Total Gross Rent shall be defined as the total base rent plus the operating expenses (which shall include CAM, real estate taxes, insurance, utilities and janitorial and other such costs) payable by Tenant over the entire term of the Lease.



#### Retail Listings

Broker's commission shall be equal to the greater of Four Percent (4.00%) of the total Net Lease value or Four Dollars (\$4.00/SF) per square foot of the premises. In the event of a Co-Broker Transaction (a transaction in which the Tenant is represented by an Agent other than the Listing Agent(s)), Broker's commission shall be equal to the greater of Six Percent (6.00%) of the total Net Lease value or Six Dollars (\$6.00/SF) per square foot of the premises. A Co-Broker not on the listing team shall be considered a Co-Broker. In no event shall the listing broker be compensated less than that of the procuring broker. All commissions shall be payable 50% upon Lease Execution and 50% upon Lease Commencement.

#### **For Leasing Transactions – Renewals and Expansions of Existing Tenants**

##### Industrial Listings

In the event of an Expansion or Renewal of an existing tenant, Broker's commission shall be equal to Three Percent (3%) of the total Net Lease value on a Direct Transaction (no co-broker) and Six Percent (6%) of the total Net Lease value on a Co-Broker Transaction (a transaction in which the Tenant is represented by an Agent other than the Listing Agent(s)). A Co-Broker not on the listing team shall be considered a Co-broker. All commissions shall be payable 100% upon Lease Execution.

##### Office Listings

In the event of an Expansion or Renewal of an existing tenant, Broker's commission shall be equal to Two Percent (2%) of the Total Gross Rent value of the extended lease term or expanded premises (or both in the instance of an early renewal and expansion).

In the event of a Co-Broker Transaction (a transaction in which the Tenant is represented by an Agent other than the Listing Agent(s)), Broker's commission shall be Six Percent (6%) of the Total Gross Rent value of the extended lease term or expanded premises (or both in the instance of an early renewal and expansion). A Co- Broker not on the listing team shall be considered a Co-broker. All commissions shall be payable 100% upon Lease Execution.

For all commission calculations under this listing contract the Total Gross Rent shall be defined as the total base rent plus the operating expenses (which shall include CAM, real estate taxes, insurance, utilities and janitorial and other such costs) payable by Tenant over the entire term of the Lease.

#### **Consulting Services Fee**

For non-transaction related services that Colliers is engaged in through the Project Scope agreement(s) an underlying consulting fee of \$200/hour shall be charged. Each Project Scope agreement will have an estimated cost that will be agreed upon by the parties based on the expected amount of time that Colliers will spend on each non-transactional project.



**EXHIBIT B –**  
**PROJECT SCOPE FORM**

**COLLIERS REAL ESTATE CONSULTING PROJECT SCOPE:**

THIS ASSIGNMENT IS AUTHORIZED UNDER AND, UPON EXECUTION, BECOMES A PART OF THE COLLIERS REAL ESTATE CONSULTING AGREEMENT (THE "AGREEMENT") DATED \_\_\_\_\_ BY AND BETWEEN INLAND REAL ESTATE PARTNERS LLC, DBA COLLIERS INTERNATIONAL | WISCONSIN ("COLLIERS") AND THE CITY OF WAUKESHA, WI ("CLIENT").

CITY OF WAUKESHA, WI

\_\_\_\_\_ SERVICES – DESCRIPTION OF SERVICES

Key Contacts

Client Leads:

NAME  
PHONE  
EMAIL

Colliers Leads:

Dan Wroblewski  
414-278-6818  
[dan.wroblewski@colliers.com](mailto:dan.wroblewski@colliers.com)

Kristin Komassa  
414-278-6847  
[kristin.komassa@colliers.com](mailto:kristin.komassa@colliers.com)

Project Overview

Goal: Colliers shall create a customized real estate services campaign – \_\_\_\_\_ – which shall be vetted by giving formal consideration to the following factors:

a. xxxxxxxxxxxxxx

Timing: An initial commitment of \_\_\_\_\_ ( ) years from \_\_\_\_\_ to \_\_\_\_\_ (subject to termination as set forth in the Agreement).

Fee: Flat fee of \$ \_\_\_\_\_ per month during the term of the initial commitment.

Services

1. List all services discussed



IN WITNESS WHEREOF, Colliers and Client have caused this Agreement to be duly executed as of the day and year first below written.

**CLIENT:**

**CITY OF WAUKESHA, WI**

\_\_\_\_\_  
By:

\_\_\_\_\_  
Date

**COLLIERS:**

**INLAND REAL ESTATE PARTNERS, LLC.**  
**DBA COLLIERS INTERNATIONAL | WISCONSIN**

\_\_\_\_\_  
By: Dan Wroblewski  
Partner

\_\_\_\_\_  
Date