



Date of Agreement: Wednesday, August 12, 2020

Main Street Bank  
Benjamin Matthews  
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+1 (888) 555-7452

John Smith, MAI  
Chief Executive Officer  
Appraisal Company  
+1 (866) 888-5882

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## PROFESSIONAL SERVICE AGREEMENT (“Agreement”)

This Professional Services Agreement (this “Agreement”) is made and entered into on August 12, 2020 (the “Effective Date”), by and between Appraisal Company and Main Street Bank (herein referred to as “Client”).

**Project Name** Taco Bell  
**Property Identification** 50060 Harrison Street, Coachella, California 92236  
**Property Type** Retail  
**Interest Valued** Market Value - Leased Fee  
**Intended User(s)** The appraisal will be prepared for the above-mentioned client. Intended users include the client.

*Note: No other users are intended by Appraiser. Appraiser shall consider the intended users when determining the level of detail to be provided in the Appraisal Report.*

*The client is also hereby informed that if this engagement is directly with the owner of the Property, the Appraisal may not be accepted by many federally insured lenders due to FIRREA Compliance and would likely not be accepted for future financing of said property.*

**Intended Use** The report to be performed under this Agreement (“Appraisal”) is intended for Financing.  
*Note: No other use is intended by Appraiser. The intended use as stated shall be used by Appraiser in determining the appropriate Scope of Work for the assignment.*

**Type of Value** As-Is

**Date of Value** Date of inspection

**Report Type** Appraisal Report

**Level of Analysis** Detailed

**Professional Fee** **\$5,000**

**Retainer** \$2,500 - Retainer payment is required to begin the work. Please include a check with the original executed Professional Service Agreement.

**Expenses** Fees include all associated expenses.

**Payment Terms** Appraiser shall invoice Client for services rendered pursuant to this Agreement based upon the fees specified in this Agreement. Appraiser’s invoices are considered due upon receipt by Client and shall be deemed delinquent if not paid within five (5) days of the date of Appraiser’s invoice.

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## SCOPE OF WORK

<b>Site Inspection</b>	Interior and exterior observation, on-site
<b>Valuation Approaches</b>	<p>Appraiser will provide the Appraisal in accordance with Uniform Standards of Professional Appraisal (USPAP), The Code of Professional Ethics of the Appraisal Institute, Standards of Professional Appraisal Practice of the Appraisal Institute, and State Licensing Laws.</p> <p>Appraiser will research relevant market data, and perform analysis to the extent necessary to produce credible appraisal results. Appraiser anticipates developing the following valuation approaches:</p> <ul style="list-style-type: none"><li>▶ Cost Approach</li><li>▶ Sales Comparison Approach</li><li>▶ Income Approach</li></ul> <p>The scope of work will be included in the Appraisal. A copy of the Assumptions and Limiting Conditions, which appear in the Appraisal, is available upon request.</p> <p><i>Note: Appraiser shall use all approaches necessary to develop a credible opinion of value.</i></p>
<b>Delivery</b>	<b>3 weeks (effective from date of 50% retainer or signed/returned engagement contract, whichever is later)</b>
<b>Number of Reports</b>	One (1) Electronic Final Appraisal and Two (2) hard copies (at the request of Client)
<b>Acceptance Date</b>	These specifications are subject to modification if this Agreement is not accepted within 5 business days from the date of this letter.

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## PROPERTY DATA REQUEST

Please forward any additional materials you would consider relevant in the analysis of the subject property. Such items may include, as applicable, an accurate property description, site survey, current rent roll, copies of leases, at least three years of historical operating statements, purchase and sale agreement, title report, any environmental reports or other third party reports, or any other sources of information known to exist that may impact the valuation of the property.

Our ability to honor the terms of this Agreement will require Client's response within five (5) business days. If you have questions regarding the enclosed, please feel free to contact me. Synergy Appraisal Group appreciates this opportunity to be of service to you on this assignment and looks forward to serving you. If you have additional questions, please contact us.

I, Jimmy Fallon, agree to the above stated terms and authorize Synergy Appraisal Group to prepare the above referenced appraisal.

\_\_\_\_\_ Date: \_\_\_\_\_

Benjamin Matthews

Respectfully,

**APPRAISAL COMPANY**

**John Smith, MAI**

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# TERMS AND CONDITIONS

## CONFIDENTIALITY

Appraiser shall not provide a copy of the written Appraisal Report to, or disclose the results of the appraisal prepared in accordance with this Agreement to, any party other than Client, unless Client authorizes, except as stipulated in the Confidentiality Section of the Ethics Rule of the Uniform Standards of Professional Appraisal Practice (USPAP).

## USE OF EMPLOYEES OR INDEPENDENT CONTRACTORS

Appraiser may use employees or independent contractors at Appraiser's discretion to complete the assignment, unless otherwise agreed by the parties. Notwithstanding, Appraiser shall sign the written Appraisal Report and take full responsibility for the services provided as a result of this Agreement.

## SERVICES NOT PROVIDED

The fees set forth in this Agreement apply to the appraisal services rendered by Appraiser as set forth in this Agreement. Unless otherwise specified herein, Appraiser's services for which the fees in this Agreement apply shall not include meetings with persons other than Client or Client's agents or professional advisors; Appraiser's deposition(s) or testimony before judicial, arbitration or administrative tribunals; or any preparation associated with such depositions or testimony. Any additional services performed by Appraiser not set forth in this Agreement will be performed on terms and conditions set forth in an amendment to this Agreement, or in a separate agreement.

## TESTIMONY AT COURT OR OTHER PROCEEDINGS

Unless otherwise stated in this Agreement, Client agrees that Appraiser's assignment pursuant to this Agreement shall not include Appraiser's participation in or preparation for, whether voluntarily or pursuant to subpoena, any oral or written discovery; sworn testimony in a judicial, arbitration or administrative proceeding; or attendance at any judicial, arbitration or administrative proceeding relating to this assignment.

## CHANGES TO AGREEMENT

Any changes to the assignment as outlined in this Agreement shall necessitate a new Agreement. The identity of the Client, intended users, or intended use; the date of value; type of value; or property appraised cannot be changed without a new Agreement.

## CANCELLATION

Client may cancel this Agreement at any time prior to Appraiser's delivery of the Appraisal Report upon written notification to Appraiser. Client shall pay Appraiser for work completed on assignment prior to Appraiser's receipt of written cancellation notice, unless otherwise agreed upon by Appraiser and Client in writing.

## GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by the law of the state in which Appraiser's office as specified in this Agreement is located, exclusive of that state's choice of law rules. The parties agree that any legal proceeding brought by either party to interpret or enforce this Agreement, or to enforce an arbitration award entered pursuant to this Agreement, shall be brought in a state or federal court having jurisdiction over the location of Appraiser's office as specified in this Agreement, and the parties hereby waive any objections to the personal jurisdiction of said court.

## APPRAISER INDEPENDENCE

Appraiser cannot agree to provide a value opinion that is contingent on a predetermined amount. Appraiser cannot guarantee the outcome of the assignment in advance. Appraiser cannot ensure that the opinion of value developed as a result of this Assignment will serve to facilitate any specific objective of Client or others or advance any particular cause. Appraiser's opinion of value will be developed competently and with independence, impartiality and objectivity.

## NOTICES

Any notice or request required or permitted to be given to any party shall be given in writing and shall be delivered to the receiving party by: a) registered or certified mail, postage prepaid; (b) overnight courier, such as Federal Express, United Parcel Service or equivalent; or (c) hand delivery. The address for delivery of any notice shall be the address for the party as specified in this Agreement, or at such other address as party may designate by written notice to the other party in conformance with this paragraph. Unless otherwise specified herein, notice shall be effective the date it is postmarked or given to a third party for delivery to the receiving party, whether or not the receiving party signs for or accepts delivery of such notice.

## NO THIRD-PARTY BENEFICIARIES

Nothing in this Agreement shall create a contractual relationship between Appraiser or Client and any third party, or any cause of action in favor of any third party. This Agreement shall not be construed to render any person or entity a third party beneficiary of this Agreement, including, but not limited to, any third parties identified herein.

## MEDIATION & ARBITRATION

In the event of a dispute concerning the subject matter of this Agreement, the parties shall in good faith attempt to resolve such dispute by negotiation between the parties' principals, or, if such negotiation is unsuccessful, by mediation conducted by a third-party mediator. If such mediation results in an impasse, the parties shall submit their dispute to binding arbitration. Such mediation or, if necessary, binding arbitration shall be conducted pursuant to

the mediation procedures or the commercial arbitration rules of the American Arbitration Association. Any arbitration shall be conducted in the city in which Appraiser's office as specified herein is located. The parties shall share equally the costs of any mediation. In the event of binding arbitration, the arbitrators shall, in addition to any relief appropriate to be awarded to the prevailing party, enter an award in favor of the prevailing party for that party's costs of the arbitration, including the party's reasonable attorneys' fees and arbitration expenses incurred in prosecuting or defending the arbitration proceeding. Subject to the right of the prevailing party to recover its share of the costs of the arbitration services pursuant to the arbitrator's award, the costs of the arbitration services shall be borne equally by the parties. If the prevailing party seeks judicial confirmation of any arbitration award entered pursuant to this Agreement, the court shall, in addition to any other appropriate relief, enter an award to the prevailing party in such confirmation proceeding for its reasonable attorneys' fees and litigation expenses incurred in confirming or successfully opposing the confirmation of such an award.

#### SPECIAL OR CONSEQUENTIAL DAMAGES

Neither party shall under any circumstances be liable to the other party for special, exemplary, punitive or consequential damages, including, without limitation, loss of profits or damages proximately caused by loss of use of any property, whether arising from either party's negligence, breach of the Agreement or otherwise, whether or not a party was advised, or knew, of the possibility of such damages, or such possibility was foreseeable by that party. In no event shall Appraiser be liable to Client for any amounts that exceed the fees and costs paid by Client to Appraiser pursuant to this Agreement.

#### ASSIGNMENT

Neither party may assign this Agreement to a third party without the express written consent of the other party, which the non-assigning party may withhold in its sole discretion. In the event this Agreement is assigned by mutual consent of the parties, it shall become binding on the assigning party's permitted assigns.

#### SEVERABILITY

In the event any provision of this Agreement shall be determined to be void or unenforceable by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement and all such other provisions shall remain in full force and effect. Template for Agreement for Professional Valuation Services

#### CLIENT'S DUTY TO INDEMNIFY APPRAISER

Client agrees to defend, indemnify and hold harmless Appraiser from any damages, losses or expenses, including attorneys' fees and litigation expenses at trial or on appeal, arising from allegations asserted against Appraiser by any third party that if proven to be true would constitute a breach by Client of any of Client's obligations, representations or warranties made in this Agreement, or any violation by Client of any federal, state or local law, ordinance or regulation, or common law (a "Claim"). In the event of a Claim, Appraiser shall promptly notify Client of such Claim, and shall cooperate with Client in the defense or settlement of any Claim. Client shall have the right to select legal counsel to defend any Claim, provided that Appraiser shall have the right to engage independent counsel at Appraiser's expense to monitor the defense or settlement of any Claim. Client shall have the right to settle any Claim, provided that Appraiser shall have the right to approve any settlement that results in any modification of Appraiser's rights under this Agreement, which approval will not be unreasonably withheld, delayed or conditioned.

#### CLIENT'S REPRESENTATIONS AND WARRANTIES

Client represents and warrants to Appraiser that (1) Client has all right, power and authority to enter into this Agreement; (2) Client's duties and obligations under this Agreement do not conflict with any other duties or obligations assumed by Client under any agreement between Client and any other party; and (3) Client has not engaged Appraiser, nor will Client use Appraiser's Appraisal Report, for any purposes that violate any federal, state or local law, regulation or ordinance or common law.

#### EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between the Client and Appraiser and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both Client and Appraiser. This Agreement includes the following Appendices, which are incorporated into, and made a part of this Agreement:

Appendix A: Extraordinary Assumptions and Hypothetical Conditions contained within the appraisal report

Appendix B: Information Request