

4821 Burnet Road, Suite 110, Austin, TX 78756

Retail — Strip Mall — 2,400 square feet

Blue Sky Coffee Co., LLC | Westfield Commercial Properties LLC

D**TENANT-FRIENDLINESS SCORE****28 / 100**

Score of 28/100 driven primarily by three high-severity risk flags (-36 total), uncapped CAM (-12), and full-term personal guarantee with no burn-off (-12), partially offset by one renewal option (+5) and subletting permitted with reasonable consent standard (+5).

LEASE TYPE

This is a Triple Net (NNN) lease — meaning you pay base rent plus your share of property taxes, building insurance, and all common area maintenance costs (CAM) separately. Your total monthly cost is base rent (\$3,200) plus estimated CAM (\$800) = approximately \$4,000/month to start. Unlike a gross lease where the landlord covers operating expenses, every increase in taxes, insurance, or maintenance passes through directly to you with no annual cap under this lease.

TOTAL OCCUPANCY COST PROJECTION**\$264,000 over 5 years (base rent only — add \$48,000+ estimated CAM)**

\$52,800/year base rent + ~\$9,600/year CAM = ~\$62,400/year total

Base rent: \$3,200/month Year 1 escalating 3% annually (\$204,000 total base rent) + CAM est. \$800/month (\$9,600/year × 5 = \$48,000 minimum, likely higher) + security deposit \$9,600 (refundable). Total estimated occupancy cost: ~\$252,000–\$264,000 over 5 years.

EXECUTIVE SUMMARY

This is a 5-year retail lease for approximately 2,400 square feet in a strip mall in Austin, Texas. The lease is structured as a Triple Net (NNN) lease with uncapped CAM charges and a full-term personal guarantee — both significant risk factors for the tenant. Base rent is \$3,200/month escalating 3% annually.

This is a landlord-favorable lease with three significant risk factors: uncapped CAM, a full-term personal guarantee with no burn-off, and no early termination right. The NNN structure with uncapped CAM is the most financially dangerous clause — CAM charges are estimated at \$800/month but could increase substantially without any limit. The personal guarantee exposes James Mitchell to potentially \$200,000+ in personal liability if the business fails. The co-tenancy clause (15% rent reduction if Whole Foods vacates) is a positive term but does not mitigate the primary risks. Before signing, the CAM cap, personal guarantee burn-off, and early termination right should be the top three negotiation priorities.

RISK FLAGS

HIGH — Uncapped CAM Charges

CAM charges are completely uncapped with no annual limit on increases. Property taxes, insurance, and management fees can rise without limit. On a NNN lease this creates significant open-ended financial exposure that is impossible to budget accurately. Market standard is a 3-5% annual cap on controllable expenses.

FROM THE LEASE

"Tenant shall pay its pro rata share of all Operating Expenses for the Property, including but not limited to real property taxes, insurance premiums, and common area maintenance costs, without limitation or cap on annual increases."

HIGH — Full-Term Personal Guarantee, No Burn-Off

The personal guarantee covers the full 5-year term with no burn-off provision. If the business fails at any point, James Mitchell is personally liable for all remaining rent and CAM through 2029. On a \$4,000+/month obligation, this could reach \$200,000+ in personal liability. Market standard is a 12-24 month burn-off for established tenants.

FROM THE LEASE

"Guarantor unconditionally guarantees the full and prompt performance of all obligations of Tenant under this Lease throughout the full term hereof, without limitation, reduction, or release upon partial performance."

HIGH — No Early Termination Right

Tenant has absolutely no right to exit the lease early under any circumstances. Business failure, loss of anchor tenant, or any other event does not allow exit. The co-tenancy clause provides a 15% rent reduction if the anchor vacates but does not permit termination. A 5-year commitment with no exit is substantial risk for a new café concept.

MEDIUM — No Exclusivity Protection

Landlord expressly reserves the right to lease to competing coffee or café concepts within the same shopping center. A competing tenant in the same center could significantly impact revenue. Request exclusivity within at least 500 feet or within the shopping center.

MEDIUM — Assignment at Landlord's Sole Discretion

While subletting requires consent "not unreasonably withheld," assignment can be refused in the landlord's sole discretion. This significantly limits exit options in a business sale scenario. Negotiate to have assignment also governed by a "not unreasonably withheld" standard.

LOW — Renewal Rent at Fair Market Value — Landlord Determined

Renewal rent is set by the landlord's determination of fair market value. While tenant can dispute within 30 days, the burden is on the tenant to challenge. Negotiate for a defined formula (CPI + 2% cap) or mutual appraisal process.

KEY DATES & DEADLINES

March 1, 2024	Lease commencement — rent begins (subject to build-out completion)
May 31, 2028	Renewal option notice deadline — must exercise 9 months before expiration or option is permanently lost
February 28, 2029	Lease expiration — holdover at 150% begins if not renewed or vacated
March 1, 2025	First annual CAM reconciliation due — actual vs. estimated charges tried up
Annual — January 15	CAM estimate statements delivered by landlord for following year

FINANCIAL TERMS

Base Rent	\$3,200/month (\$38,400/year)
Rent Schedule	Year 1: \$3,200/month (\$38,400/year) Year 2: \$3,296/month (\$39,552/year) Year 3: \$3,395/month (\$40,740/year) Year 4: \$3,497/month (\$41,964/year) Year 5: \$3,602/month (\$43,224/year)
Escalation	3% per year, automatic (fixed_percentage)
Security Deposit	\$9,600 (3 months base rent) — fully refundable if no default, returned within 30 days of lease expiration
CAM / Operating Expenses	Yes — Property taxes, building insurance, parking lot maintenance, landscaping, common area utilities, property management fee (15% of controllable expenses)
CAM Cap	Uncapped — no annual limit on CAM increases
Est. CAM Amount	\$800/month (\$9,600/year — based on landlord estimate; subject to reconciliation)

LEASE TERM

Commencement	March 1, 2024
Expiration	February 28, 2029
Duration	5 years
Notes	Commencement contingent on landlord completing tenant improvement build-out. If build-out not complete by March 1, rent abates until completion date.
Renewal Options	One (1) 5-year renewal option
Renewal Notice Deadline	9 months prior to expiration — must be received by May 31, 2028
Notice Method	Written notice by certified mail to landlord at address in lease
Renewal Rent	Fair market value as determined by landlord, with tenant right to dispute within 30 days

RIGHTS & RESTRICTIONS

Permitted Use	Coffee shop and café, including sale of coffee, tea, baked goods, light food items, and related merchandise. No other use permitted without written consent.
Exclusivity	None — landlord expressly reserves the right to lease to other coffee or café concepts within the shopping center
Subletting	Permitted with landlord consent, not to be unreasonably withheld. Tenant remains liable as original tenant.
Assignment	Permitted with landlord consent, which may be withheld in landlord's sole discretion
Signage Rights	One exterior sign per lease terms and city code. Landlord approval required. Tenant responsible for all sign costs.
Alterations	Minor alterations under \$5,000 permitted without consent. All alterations over \$5,000 require written landlord approval and licensed contractor.

TERMINATION & EXIT

Early Termination	No early termination right for tenant under any circumstances
Termination Fee	N/A — no early termination permitted
Holdover	150% of last month's base rent on a month-to-month basis. Landlord may terminate holdover tenancy with 30 days written notice.

GUARANTEE

Personal Guarantee	YES — personal guarantee required
Scope	Full term — guarantor liable for all obligations through February 28, 2029. No burn-off provision.
Details	James R. Mitchell, individually. Guarantee covers base rent, CAM, and all other lease obligations. No dollar cap.

LANDLORD RIGHTS

Relocation Clause	Landlord may relocate tenant to comparable space within shopping center with 90 days notice. Tenant relocation costs paid by landlord.
Termination Rights	Landlord may terminate upon 30-day notice if tenant is in default and fails to cure within the cure period. Also terminates upon casualty or condemnation affecting more than 25% of premises.
Other Notable Rights	Landlord has right of first offer on any sublease or assignment. Co-tenancy clause: if anchor tenant (Whole Foods) vacates for more than 6 months, tenant may reduce rent by 15% until anchor replaced.

NEGOTIATION PRIORITIES — RAISE THESE BEFORE SIGNING

These are informational talking points, not legal advice. Bring these to your attorney.

1 Negotiate CAM cap

Without a CAM cap, your operating costs have no ceiling. Property tax reassessments, insurance increases, and management fees can compound annually. On a 5-year lease, uncapped CAM is effectively an unlimited additional liability.

Consider asking: Request a 5% annual cap on all controllable CAM expenses (exclude taxes and insurance from the cap). This is market standard in most commercial leases.

2 Personal guarantee burn-off

A full-term guarantee means your personal assets are exposed for the entire 5 years regardless of business performance. If the business closes in Year 2, you owe 3 more years of rent personally.

Consider asking: Propose a burn-off: guarantee reduces to 12 months of obligations after 24 consecutive months of timely payment. Offer to increase security deposit from 3 months to 6 months in exchange.

3 Early termination right

A 5-year commitment with no exit is extremely risky for a new concept. Market conditions, health events, or business underperformance could make the space untenable but you would have no legal exit.

Consider asking: Request a one-time early termination right exercisable after Month 30, with 180 days notice and a termination fee equal to 6 months of base rent.

RECOMMENDATIONS

1. Negotiate a 5% annual cap on controllable CAM expenses immediately — this is the single highest-priority term in this lease given the uncapped exposure.

2. Push for a personal guarantee burn-off after 24 months of timely payment. Offer a larger security deposit (e.g., 6 months instead of 3) in exchange.

3. Request an early termination right with 6 months notice and a fee equal to 6 months base rent. This provides critical flexibility.

4. Insist on exclusivity language prohibiting other coffee or café tenants within the shopping center.

5. Change assignment language from "sole discretion" to "not to be unreasonably withheld" — this protects your ability to sell the business.

6. Calendar the renewal notice deadline (May 31, 2028) immediately with multiple advance reminders at 12, 9, and 6 months.

WHAT TO DO NOW

- Engage a commercial real estate attorney to negotiate the items flagged in this report before signing.
- Calendar your renewal notice deadline (May 31, 2028) with reminders at 12, 9, and 6 months.
- Bring the top negotiation priorities above to your next session with the landlord or their broker.
- Questions about this report? Email hello@leaselens.org — we respond within one business day.