

TOWN OF PALMER LAKE, COLORADO

RESOLUTION NO. 17-2022

A RESOLUTION TO AUTHORIZE AN AGREEMENT WITH COAST PROFESSIONAL, INC., FOR DEBT COLLECTION OF ACCOUNTS FOR THE TOWN OF PALMER LAKE, COLORADO

WHEREAS, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Town of Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Palmer Lake, Colorado; and

WHEREAS, the Town desires to partner with a collection agency for delinquent accounts or monies past due to the Town beyond sixty (60) days; and


WHEREAS, the collection agency shall receive a commission of eighteen percent (18%) on all amounts collected.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO AS FOLLOWS:

1. The Town Board of Trustees hereby authorizes signature to the enclosed Agreement with Coastal Professional Inc., acting agency for debt collection for the Town of Palmer Lake.
2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Resolution. The Board of Trustees hereby declares that it would have passed this resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
3. Repeal. Existing resolutions or parts of resolutions covering the same matters embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.

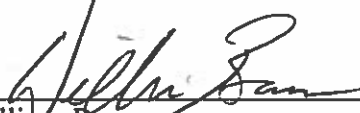
INTRODUCED, RESOLVED, AND PASSED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 24th DAY OF FEBRUARY 2022.

ATTEST:



Dawn A. Collins
Town Administrator/Clerk

TOWN OF PALMER LAKE, COLORADO

BY: 

William Bass
Mayor



AGREEMENT

This Agreement is made this ___ day of _____, 2022, by and between Coast Professional, Inc., (hereinafter referred to as "Agency"), with its principal place of business located at 4273 Volunteer Road, Geneseo, NY 14454 and the Town of Palmer Lake, 42 Valley Crescent, Palmer Lake, CO 80133 (hereafter referred to as "Client"), hereinafter collectively or individually referred to as "Parties" or "Party".

It is mutually agreed, understood, and promised as follows:

SERVICES TO BE PERFORMED

1. Agency will use its commercially reasonable best efforts to effect collections of accounts assigned to it by Client. Agency shall not under any circumstances use any collection practices that would constitute a violation of applicable law, including prohibited threats, intimidation, or harassment of a borrower in the collection of accounts, shall comply in all material respects with all applicable provisions of the Fair Debt Collection Practices Act (FDCPA) or the Colorado Fair Debt Collection Practices Act (CFDCPA) and shall not violate in any material respect any Federal Trade Commission or other applicable state and federal statutes, laws, rules, ordinances, regulations and guidelines. Agency has not, does not and will not represent, warrant, or guarantee the collections or timing of any collections of any accounts assigned to it under this Agreement. The services shall be performed on a best-efforts basis.
2. Upon the effective date of any amendment to any of the applicable consumer financial laws and regulations, this Agreement shall automatically amend so that the obligations imposed on the parties hereto remain in compliance with such laws and regulations.

AGENCY RIGHTS AND RESPONSIBILITIES

3. Agency, for the purpose of recovering Client's accounts, will comply at all times with all applicable "Red Flag" regulations and requirements. This includes information that may be shared and required to perform credit bureau checks, address searches and proper billing and collection of payments. A copy of Agency "Red Flag" policies shall be provided to Client upon request.
4. All funds collected by Agency on behalf of Client in payment of assigned accounts shall be deposited into Agency's trust account. Client authorizes Agency to endorse negotiable instruments made payable to Client for purposes of depositing funds in said account. Any interest earned on such funds shall be retained by Agency.
5. Agency will remit to Client an amount equal to (i) the gross amount received by Agency during such period with respect to all accounts less (ii) fees and expenses due to Agency pursuant to this Agreement by the tenth (10th) day following the end of the period in which such amounts were received, unless special circumstances require a more immediate remittance of amounts collected during the preceding month. Under no circumstances shall the fees and expenses exceed eighteen percent (18%) of the amount(s) collected. Simultaneously with each remittance, Agency will submit to Client a summary detailing the calculation of such remitted amount for the statement period. Client will examine each such summary and must raise any objections to Agency's accounting and remittance within thirty (30) days after the receipt of such summary by delivering to Agency by email to cs@coastprofessional.com a written detailed explanation, and related support, of such objection. Client's failure to deliver to Agency any such objection and detailed explanation within the thirty (30) day period will be deemed a full and final acceptance by Client of Agency's summary and remittance for that month. Agency will make any adjustments it



determines appropriate in the next scheduled summary and remittance. Any undisputed amount payable under this Agreement and not paid within thirty days (30) days will be delinquent and will bear interest at the lesser of one and one-half percent (1.50%) per month or the maximum monthly rate allowed by applicable law.

6. Agency shall return to Client, without charge, any account assigned in error and may return to Client, without charge, any account which does not comply with the terms of this Agreement.

CLIENT RIGHTS AND RESPONSIBILITIES

7. Client may, at its sole discretion, periodically assign accounts to Agency for collection. Client represents and warrants to the best of its knowledge (i) that the account balances will reflect true and just indebtedness, (ii) that Client obeyed all laws and regulations relating to or affecting the accounts assigned, (iii) that the account balances are not barred by any statute of limitations, (iv) that the persons obligated on the assigned accounts are not represented by an attorney or protected by any bankruptcy proceeding unless clearly noted otherwise at time of assignment, (v) that the accounts or related rights to collect are not at the time of assignment assigned to another collection agency, attorney or other person, (vi) that no account is the subject of existing or threatened litigation, a regulatory complaint, or is otherwise disputed, and (vii) that Client is fully authorized and has obtained all necessary approvals for the assignment of the account(s) and interest(s) therein to Agency.
8. The assignment of an account pursuant to this Agreement shall be an assignment of all rights and interests of the Client relating to that account, including all contractual and statutory rights. For all accounts assigned, Client agrees and acknowledges that Agency may enforce all legal rights of Client for the assigned account, including recovery of all principal, interest, fees, penalties, and other amounts for damages owed or to be owed by the person(s) for any assigned account, subject to Agency's duties and obligations to Client pursuant to this Agreement.
9. Client may at its sole discretion, cancel and recall accounts by providing written notice to Agency. Upon cancelling or recalling an account, Client will remit to Agency all commissions and fees due for payments that resulted directly as a result of Agency's effort pursuant to this Agreement. Agency will provide an accounting pursuant to Section 5, above.
10. Client acknowledges that in connection with the collection of delinquent consumer debts, the FDCPA requires that Agency provide the consumer with verification of the underlying obligation if that request is made to Agency, in writing, by the consumer within thirty (30) days of Agency's initial communication with the consumer if Agency is to continue with collection efforts. The law prohibits Agency from collecting on any obligation once a timely verification request is made to Agency from the consumer, until such time as said verification has been mailed by Agency to the consumer. Client agrees to promptly provide such verification to Agency upon request. Client acknowledges that in any situation in which it does not promptly provide Agency with the requested verification, Agency can no longer legally attempt to collect the account. In such case, Client acknowledges that the Agency will return the account to Client.

FEES FOR SERVICES

11. Agency shall be entitled to, and Client shall pay to Agency, a commission of 18% (eighteen percent) on all amounts collected on accounts that have been placed with agency. This amount will cover any and all fees and expenses incurred by Agency in collection of the account(s).

The amounts provided for in this Section 11 shall be the sole consideration paid to Agency for the collection of accounts. Collections made by Agency and remitted to Client by Agency on which a check is returned by the bank unpaid shall be reported on a subsequent remittance advice as



minus payment and collection fee. Agency will, at the request of Client, hold funds paid by check for 14 days to ensure sufficient funds before remitting to Client.

These fees will remain in force during the term of this Agreement unless a change in legislation, Client's business, postage rates or other market conditions occur which Agency, in its sole discretion, determines warrants a fee change.

BOOKS AND RECORDS

12. Each party shall maintain true and correct records as they pertain to said accounts which are subject to this Agreement. Client is obligated to maintain its original documents and will not forward said originals to Agency. Each party, upon request and with reasonable notice, shall have the right to audit sufficiently to verify the accounting of all funds and the accuracy and appropriateness of all charges.

NON-COMMISSIONABLE ADJUSTMENTS

13. Agency shall not be entitled to a commission for Federal or State tax offset funds, non-delinquent portions not placed with Agency, adjustments to correct amounts due, service-related cancellations, or deferments/forbearances on any accounts.

LEGAL ACTION

14. Agency shall not initiate legal action for the collection, nor accept settlement, of an account without prior written authorization of the Client. Legal action will be brought in the Client's name where applicable. Authorization by Client for legal action will be on a claim-by-claim basis. Upon prior written notice, Client must agree to advance all court costs associated with the filing of legal action on an account placed and agree it will be reimbursed for such costs if recovered from the debtor prior to the filing of legal action.

DIRECT PAYMENT NOTIFICATION

15. Client shall notify Agency of all payments made directly to Client on all assigned accounts at time of receipt of payment. Client understands and agrees that full commissions are due and payable to Agency on such direct payments once the account has been assigned to Agency unless the account has been cancelled or recalled by Client prior to receiving such direct payment, in which case the terms of Section 9 of this Agreement shall apply. Client further agrees to indemnify Agency as outlined below for all losses caused by Client not reporting any such direct payments.

INDEMNIFICATION

16. The indemnities provided for herein shall survive the termination of this Agreement.

To the maximum extent permitted by law, Client shall indemnify, hold harmless and provide a defense to Agency and all of Agency's respective parent, subsidiary and affiliated corporations and entities, past, present and future, and each of them, as well as their respective partners, directors, officers, collectors, servants, employees and attorneys, and each of them, from and against any and all claims, demands, losses, liabilities, causes of actions and damages, including reasonable attorney fees and costs, which result from, arise in connection with, or relate to (i) the breach of any representations, warranties, agreements or covenants of Client in this Agreement or (ii) the creation and ownership of the accounts, (iii) the collection efforts of Client and its agents other than the Agency, or (iv) the negligent or improper conduct or omissions of Client, its parent, subsidiaries or affiliated corporations or entities, past, present or future, or any of them, or any of their respective partners, directors, officers, collectors, servants, employees or attorneys.



Agency shall indemnify, hold harmless and provide a defense to Client and all of Client's parent, subsidiary and affiliated corporations and entities, past, present and future, and each of them, as well as their respective partners, directors, officers, collectors, servants, employees, elected officials, and attorneys, and each of them, from and against any and all claims, demands, losses, liabilities, causes of actions and damages, including reasonable attorney fees and costs, which result from, arise in connection with, or relate to (i) the breach of any representations, warranties, agreements or covenants of Agency in this Agreement or (ii) the negligent or improper conduct or omissions of Agency or any of Agency's parent, subsidiary or affiliated corporations or entities, past, present or future, or any of them, or any of their respective partners, directors, officers, collectors, servants, employees or attorneys.

TERM OF AGREEMENT

17. The initial term of this Agreement will be twelve (12) months ("Initial Term") commencing the date this Agreement is executed by Client ("the Effective Date"). This Agreement will automatically renew for additional one-year terms. After the Initial Term, this Agreement may be terminated by either party upon sixty (60) days prior written notice to the other. Either Party may terminate this Agreement immediately if the other Party breaches any term or condition of this Agreement and fails to cure such breach within ten (10) business days after receipt of written notice from the non-breaching Party. Termination notices shall be sent by certified or registered mail and shall be deemed to have been given upon delivery and addressed as set forth below:

To CLIENT:

Town of Palmer Lake
42 Valley Crescent
Palmer Lake, CO 80133
Attn: Dawn Collins, Town Administrator/Clerk
Email: dawn@palmer-lake.org

To AGENCY:

Coast Professional, Inc.
214 Expo Circle, Suite 7
West Monroe, LA 71292
Email: contracts@coastprofessional.com

18. All assignments by any of the media forms subsequent to the date of this Agreement shall be governed by this Agreement.

CONFIDENTIALITY

19. Subject to the Colorado Open Records Act, the Parties agree to keep all of the terms of this Agreement strictly confidential, including without limitation, the provisions of Section 11 relating to compensation. Subject to the Colorado Open Records Act, the Parties further agree to maintain the confidentiality of any confidential information and/or trade secrets that they learn about each other throughout the course of this Agreement, including without limitation, the terms of any contracts that the other party may have with any third parties.

The Agency agrees to use information about the Person(s) owing monies on an assigned account only as necessary for the Agency to perform its duties pursuant to the terms of this Agreement. The obligations of the parties detailed in this section of this Agreement shall continue in full force and effect after termination of this Agreement for any reason.

Client acknowledges that the systems and procedures employed by Agency in providing the services are confidential and the sole property of Agency. Client agrees not to disclose to any person or entity other than Agency any information it receives concerning the systems and procedures, Agency's business practices or other secrets or confidential information of Agency. Agency agrees not to disclose to any person or entity not affiliated with Agency any information about Client or other confidential information regarding Client's accounts, except as required to provide the services under this Agreement or as otherwise legally required. Subject to the Colorado Open Records Act or as otherwise legally required, without Agency's prior written



consent, Client will not in any manner or form disclose, provide or otherwise make available to any third parties, in whole or in part, this Agreement or any term hereof. All confidential information that Agency receives from Client shall be returned to Client upon request or upon termination of this Agreement unless such return would be inconsistent with applicable law. It is understood by Agency and Client that information in an intangible or electronic format cannot be removed, erased or otherwise deleted from archival systems (also known as "computer or system back-ups") but that such information will continue to be protected under the confidentiality requirements contained herein. Notwithstanding anything to the contrary contained in this Agreement, Agency may retain an archival copy of any document for its permanent records to the extent required by applicable law or regulation.

DAMAGES

20. To the maximum extent permitted by law, in no event will either party be responsible for any incidental damages, exemplary damages of any kind, lost goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), and regardless of whether a party was advised or had reason to know of the possibility of incurring such damages in advance..

SEVERABILITY

21. In the event any provision of the contract should be held by any court to be overbroad or unenforceable, all other provisions shall remain in full force and effect as fully as if the unenforceable provision was not included herein.

GOVERNING LAW

22. This agreement shall be governed by the laws of the State of Colorado without giving effect to conflicts of law principles. The parties agree that any dispute arising out of this Agreement or any matter related hereto shall be brought exclusively in the courts of the State of Colorado, El Paso County, or in the United States District Court of Colorado, and, by execution and delivery of this Agreement, each of the parties to this Agreement accepts the jurisdiction and venue of said courts, and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement. All costs and expenses, including reasonable attorney fees, incurred by the prevailing Party in order to remedy any breach of this Agreement by the non-prevailing Party will be borne by the non-prevailing Party.

EQUAL OPPORTUNITY CLAUSE

23. **Coast Professional, Inc. is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.**



MISCELLANEOUS

- 24. Each party warrants to the other party that the person executing this contract is duly authorized to do so.
- 26. Headings are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.
- 27. This Agreement has been negotiated and prepared by the Parties and should any provision of this Agreement require judicial interpretation, the court interpreting or construing the provision shall not apply the rule of construction that a document is to be construed more strictly against one party.
- 28. Nothing herein shall be construed as a waiver by the Town of any of the immunities, privileges or defenses available to it under the Colorado Governmental Immunity Act, as may be amended from time to time, or arising under common law.

ACCEPTED AND AGREED:

Coast Professional, Inc.

Town of Palmer Lake

Authorized Signature

Jonathan Prince
Printed Name

Chief Executive Officer
Title

Date

Dawn A. Collins
Authorized Signature

Dawn A. Collins
Printed Name

Town Administrator / Clerk
Title

2/25/2022
Date

Authorized Signature

Michael Del Valle
Printed Name

Chief Compliance Officer / General Counsel
Title

Date