

**TOWN OF PALMER LAKE
EL PASO COUNTY
STATE OF COLORADO**

RESOLUTION NO. 14 - 2023

**A RESOLUTION TO AUTHORIZE DRIVEWAY AGREEMENT FOR TOWN RIGHT OF WAY, AKA
COMMERCIAL LANE, PALMER LAKE, COLORADO**

WHEREAS, Palmer Lake is a statutory Town organized under Part 3 of Article 4 of Title 31 of the Colorado Revised Statutes; and

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;

WHEREAS, a property owner of commercial land requests use of a town right of way, Commercial Lane, to be used as a private driveway; and

WHEREAS, the private use of a town right of way requires a driveway agreement, as drafted herein.

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


Section 1. The authorization of a driveway agreement with Berkenkotter Holdings LLC for the private use of town right of way, Commercial Lane, as expressed in the enclosed agreement.

Section 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.

Section 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 Existing resolutions or parts of resolutions covering the same matters embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.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 26TH DAY OF JANUARY 2023.

TOWN OF PALMER LAKE, COLORADO



Grant Havenar, Mayor

ATTEST:

By: 

Dawn A. Collins, Town Administrator/Clerk

PRIVATE RIGHT OF WAY AGREEMENT

The Town of Palmer Lake, Colorado, P.O. Box 208, Palmer Lake, Colorado 80133, hereinafter referred to as "the Town" and Berkenkotter Holdings LLC of Palmer Lake, Colorado hereinafter referred as "Property" enter into the following agreement this ___ day of _____, 2023.

1. Berkenkotter Holdings LLC is the owner of the commercial property more fully described as Lots 1, 2 and 3, Palmer Lake Technological Center Subdivision, Town of Palmer Lake, El Paso County, Colorado.
2. The Town is the owner of an undeveloped right of way for the extension of Commercial Lane within the Town of Palmer Lake, which undeveloped road right of way abuts the property by Lot 3 and Tract A and extends between Circle Road and Meadow Lane in within the Town of Palmer Lake.
3. The Town at this time has no plans for development of that portion of Commercial Lane.
4. "Property" wish to avoid the full cost of developing Commercial Lane to current city specifications, however wish to develop a private driveway and utilize their above described property.
5. "Property" agrees to pay the Town rental of \$1.00 per year for the right to place a private driveway over and along the right of way of Commercial Lane described above.
6. "Property" agrees to pay all costs associated with such private driveway. "Property" also agrees to post the driveway as a private road.
7. In the event any other property owner whose property abuts the currently undeveloped portion of Commercial Lane wishes to develop their property and to utilize Commercial Lane for access to their property, then the town will require parties to share in the costs of the Commercial Lane development and extension with the other property owners reimbursing their proportionate share of the cost of improvement in the development of Commercial Lane.
8. If Commercial Lane is developed to Town specifications, the Town agrees to enter into a reimbursement agreement with the Property Owner(s) to provide for third party or parties reimbursement of the proportionate share of the costs of developing Commercial Lane for a period of fifteen (15) years as provided by Ordinance.
9. "Property" agrees that they will be solely responsible for all liability in connection with the private roadway, Commercial Lane, and agree to indemnify and hold harmless the Town. "Property" agrees to indemnify and hold harmless the Town from any and all claims which may arise from their use or third party's use of the private road. "Property" agrees to provide proof of insurance to the town annually showing the town

as a named insured as a condition for the continuation of this agreement.

10. This Agreement may be terminated upon sixty (60) days written notice by either party. Upon termination "Property" may be required to restore the property to its pre-private road condition at the option of the Town.

11. The Town agrees to give "Property" at least sixty (60) days advance notice of their intent to require the construction of the extension of Commercial Lane.

12. All parties agree and acknowledge the Town shall not maintain the private road and that the maintenance shall be the sole and separate responsibility of the "Property." Private road shall be kept free of debris and storage items.

This Agreement entered in the Town of Palmer Lake this ____ day of _____, 2023.

Attest:

Town of Palmer Lake

[Handwritten signature]

Town Clerk

By

[Handwritten signature]

Mayor

Principal, Berkenkotter Holdings LLC

"Requesting Party"

STATE OF COLORADO)
) ss
COUNTY OF EL PASO)

Acknowledged before me this ____ day of _____, 2023 by _____ and _____.

Witness my hand and official seal.

My Commission Expires:

Notary Public