

III

Res. No. 160 - 22 - 23. By Alderpersons Mitchell and Filicky-Peneski.
May 16, 2022.

A RESOLUTION authorizing entering into an Agency Agreement with Credit Management Control, Inc. with regard to providing collection services to the City.

RESOLVED: That the Finance Director is hereby authorized to execute the Agency Agreement between Credit Management Control, Inc. and the City of Sheboygan regarding collection services, a copy of which is attached hereto and incorporated herein.

Finance and Personnel

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the _____ day of _____, 20____.

Dated _____ 20____. _____, City Clerk

Approved _____ 20____. _____, Mayor

Credit Management Control

RECOVERY SERVICES SINCE 1980

AGENCY AGREEMENT

This agreement made and entered into this 24th day of March , 2022, by and between City of Sheboygan, hereinafter referred to as "Principal", and Credit Management Control, Inc., a collection agency duly licensed under and pursuant to the laws of the State of Wisconsin, hereinafter referred to as "Agent."

WITNESSETH

WHEREAS, Principal desires Agent to undertake the collection of Principal's accounts and other evidence of indebtedness from time to time, in the manner and under the terms and conditions hereinafter set forth: and,

WHEREAS, the parties contemplate a future course of dealing as Principal and Agent, and desire to set forth and define herein the mutual rights, obligations and liabilities of the parties hereto in such course of dealing.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements of the parties hereto it is hereby agreed as follows:

1. Principal hereby appoints Agent as its agent to collect and receive all sums of money due or payable to Principal for claims which the principal lists with Agent. CMC will accept for collection all active, delinquent accounts, not accounts that are in bankruptcy, deceased or disputed. Term of this contract is 3 (three) years starting April 1, 2022, through March 31, 2025. Contract can be renewed for 1 (one) additional 3 (three) year term. A minimum of 30-day notice must be given to renew the additional term. Upon termination of contract, agent will return all accounts, except accounts where Agent is in the actual process of collecting or where legal action has been taken on behalf of Principal. Termination of this agreement by Principal shall be subject to Principal's payment of commission due.
2. This agreement shall be effective as of the above date and shall continue in effect until terminated or modified in writing by Principal and Agent.
3. Agent shall use only ordinary and reasonable collection efforts as permitted by law and shall follow the Association of Credit and Collection (ACA) Code of Ethics and Professional Responsibility.
4. Principal agrees at the time of placement to cease all invoicing, notices and collection efforts against accounts that have been placed with Agent to avoid the possibility of harassment. Principal agrees not to list the same debtor account with more than one Agent at a time. Accounts listed at Agent will remain active until reported on the Return Report or Remittance Report.
5. Principal agrees the information furnished to Agent regarding the identity of the accounts is accurate, the balance of the account is the correct amount owed and all payments and credit due Principal from the account have been properly credited to the account balance prior to listing with Agent.
6. Principal hereby authorizes Agent to pursue all responsible parties in states that have doctrine of necessities, marital property and/or paternity laws that allow collection against multiple parties.
7. Principal agrees to have received express permission from the debtor to communicate in any manner with phone numbers and emails related to the debtor's account. Principal acknowledges and transfers that permission to Agent.
8. Principal agrees to not list known bankruptcy and past statute of limitation accounts with Agent. Principal agrees to notify Agent within five (5) business days of any accounts where it receives notification of bankruptcy filing.
9. Agent operates on a contingency fee basis, unless otherwise agreed upon by both parties, and earns its contingency fee on actual monies received regardless of payer and whether that money is paid directly to Principal or paid to Agent. Agent shall have authority to receive payment by all payment instruments and shall have authority to endorse checks, drafts, money orders, and other negotiable instruments which may be received in payment.
10. Principal shall refer all debtor inquiries, requests, payment promises and settlement offers to Agent.
11. Principal agrees to allow Agent to place accounts on a debtor's credit file as allowed by law. Agent agrees to follow the Fair Credit Reporting Act and will not remove an account that was accurately placed on a debtor's credit file.
12. Principal shall report all payments received at Principal's office upon receipt, including any payments made by third parties pertaining to accounts listed for collection and will be subject to customary charges as listed in agreement. Accounts are considered "listed" upon receipt at Agent's office.

13. On a monthly basis, or as otherwise required by law, the Agent will send the Principal a check for accounts collected minus the Agency's commission.
14. The Principal reserves the right to determine whether a claim shall be placed in litigation. If the Principal elects not to designate the attorney, Agent is authorized to tender the account to any attorney selected by Agent. Agent may retain such attorney on prescribed terms with the understanding that litigation is to be in the name of the Principal. Agent shall advise Principal immediately of any such selection made by Agent. Any such attorney selected shall be considered the Principal's attorney. Principal may authorize Agent to conduct correspondence with any such attorney and to receive payments made by the debtor. However, the conduct of the attorney shall at all times be subject to the control of Principal, and the attorney may report directly to the Principal or through Agent, as s/he desires. Either Agent or the attorney may advance the necessary legal cost, but the Principal agrees to pay for any disbursements thus made if requesting the judgment be canceled or returned. In the event of a counter suit, the Principal shall be responsible for the legal cost of Principal's defense. When the attorney collects an account, in whole or in part, s/he may deduct his/her fee and remit the balance to agent who shall be authorized to deduct his agreed commission and disbursements, before remitting the balance to Principal.
15. Principal agrees to allow Agent to use Principal for references and marketing purposes.
16. To the fullest extent permitted by law, Agent shall indemnify and hold harmless the Principal and its officers, agents and employees from any and all claims, damages to person property, lawsuits or liability (including, but not limited to: reasonable fees and charges of vendors, architects, attorneys, and other professionals, and reasonable court costs) resulting from the negligent acts, errors or omissions of the Agent or any of the Agent's agents or employees in the performance of services under this contract.
17. Principal and Agent understand that if any portion of the above Agreement is found to be unlawful or invalid, the said portion will not nullify any remaining portion of this agreement.

Commission Rates:

25% **Regular:** Agent will be paid fee on payments made to Principal and/or Agent

10% **Trip:** Agent will be paid fee at the point when money collected through the Wisconsin Tax Refund Intercept Program (TRIP)

Post-judgment interest rate of 1% above prime in the state of Wisconsin will be assessed annually on the Principal of the account. This interest will be split at the legal rate.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Agreement Date first written above.

Legal Business Name: City of Sheboygan

Client Signature

CMC, Inc. Agent Signature

Printed Client name

Printed Agent name