

BILL NO. 1994

SPECIAL ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF CUBA, MISSOURI, ON BEHALF OF SAID CITY, TO ENTER INTO AN AGREEMENT WITH A&E FUTURES, L.L.C (d\ba REGIONAL CREDIT SERVICES), A MISSOURI LIMITED LIABILITY COMPANY FOR THE COLLECTION OF DEBT ON BEHALF OF THE CITY OF CUBA MISSOURI'S MUNICIPAL COURT

WHEREAS, the Board of Aldermen of the City of Cuba, Missouri (City), has determined that it is in the best interests of the City to enter into an agreement with A&E Futures, L.L.C (d\ba Regional Credit Services for the collection of debt on behalf of the City of Cuba, Missouri's Municipal Court.

BE IT ORDAINED, by the Board of Aldermen of the City of Cuba, Missouri, as follows:

Section 1: The City of Cuba, Missouri, shall enter into an agreement with A&E Futures, L.L.C (d\ba Regional Credit Services for the collection of debt on behalf of the City of Cuba, Missouri's Municipal Court. A copy of said Agreement is attached hereto as Exhibit "A".

Section 2: The Mayor of the City of Cuba, Missouri, is authorized to execute the Agreement on behalf of the City.

Section 3: This ordinance shall be in full force and effect from and after its passage and approval.

READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF CUBA, MISSOURI, THIS ____ DAY OF _____, 2021.

CODY LEATHERS, MAYOR

Attest:

CHRISTINE NASH, CITY CLERK

(City Seal)

Approved this _____ day of _____, 2021.

CODY LEATHERS, MAYOR

Attest:

CHRISTINE NASH, CITY CLERK

(City Seal)

Approved as to the form.
WILLIAMS, ROBINSON, RIGLER & BUSCHJOST, P.C.

By: _____
Lance B. Thurman, #51214
901 North Pine Street, Fourth Floor
Post Office Box 47
Rolla, Missouri 65402
(573) 341-2266

ATTORNEYS FOR THE CITY OF CUBA, MISSOURI

Alderman	Vote on First Reading On _____, 2021	Vote on Second Reading On _____, 2021
Kevin Copling		
Sam Black		
Debbie Martin		
Warren Graddy		
Curtis Holt		
Jeff Bouse		

SERVICE AGREEMENT

THIS SERVICE AGREEMENT made and entered into this ____ day of _____, 20____ (the "Effective Date"), by and between A&E Futures, L.L.C (d/b/a Regional Credit Services), a Missouri Limited Liability Company ("RCS") and the undersigned ("CLIENT").

WHEREAS, CLIENT provides products or services to consumers; and

WHEREAS, CLIENT desires assistance in collecting the unpaid balance of its accounts; and

WHEREAS, RCS is qualified to provide assistance to collect unpaid account balances; and

WHEREAS, both parties agree that it is mutually beneficial for RCS to provide assistance to CLIENT to collect unpaid account balances; and

WHEREAS, CLIENT and RCS desire to provide a complete statement of their respective rights, obligations and duties.

NOW, THEREFORE, in consideration of the foregoing covenants, promises and agreements, the adequacy and sufficiency of which is hereby acknowledged, the parties mutually agree to the following terms and conditions:

I. RCS Obligations

A. RCS shall perform third party collection services within the limits of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., and other applicable state, federal and local laws, on referred accounts receivable, upon the terms, conditions, and provisions set forth in this Agreement, such unpaid account balances as CLIENT refers to RCS for collections, or has referred to it prior to the Effective Date ("Referred Accounts").

B. Customary and standard third party collection services performed under this Agreement shall include payment activities that relate to the individual to whom products or services are provided or the responsible party on the account receivable. RCS shall perform third party collection services on Referred Accounts on behalf of CLIENT on debts that are in default. Payment activities may include:

- 1) Performance of location information services (also referred to as "Skip tracing");
- 2) Mailing of collection notices;
- 3) Telephone requests for payment;
- 4) Establishment of repayment plans;
- 5) Furnish data regarding the Referred Accounts to the three nationally recognized consumer reporting agencies in accordance with the Fair Credit Reporting Act.

RCS shall not use any unfair collection practices in the handling of Referred Accounts or violate any guidelines established by the Fair Debt Collection Practices Act, and shall comply with all applicable federal, state, and local laws and regulations with regard to its collection practices and procedures. Collection activities shall be handled in a courteous, business-like manner consistent with the image and reputation of CLIENT.

C. Except as otherwise set forth in **Section III. Compensation** of this agreement, RCS shall remit to CLIENT net collections, if any, collected by RCS on Referred Accounts on a monthly basis by the 20th day of the month following such collection by RCS.

D. RCS shall have no authority to file legal suit on any Referred Account except pursuant to an express written request from CLIENT.

E. Upon receiving written notification from CLIENT that RCS's collection efforts regarding a Referred Account should cease, RCS shall suspend future collection actions on such Referred Account, either temporarily or permanently (as directed by CLIENT). Written notification shall include, but not be limited to, electronic mail notification.

F. RCS's employees and agents shall not make "Paid In Full" settlements with any account debtor for any amount less than the total remaining unpaid balance of a Referred Account without the express written authorization from CLIENT or a blanket authorization either permanently or temporarily issued by CLIENT.

G. RCS shall provide to CLIENT monthly reports summarizing collection activities for Referred Accounts performed by RCS during the prior month. Such reports shall be in a format reasonably agreed to by the parties, and shall include current balance, payment transactions, and such other relevant information as agreed to be provided between the parties. RCS shall also provide such information to CLIENT regarding a particular Referred Account upon CLIENT's reasonable request.

II. CLIENT Rights and Obligations

A. CLIENT represents and agrees that the Referred Accounts are in default.

B. CLIENT has and shall obtain throughout the term of this Agreement, all necessary consents to permit RCS to perform services incidental to this Agreement.

C. CLIENT represents and agrees that the uses and disclosures of information under this Agreement are consistent and in accordance with CLIENT's privacy.

D. If CLIENT knows or has reason to know that the consumer for whom it has or does provide products or services to disputes the account, is represented by an attorney or has filed bankruptcy, CLIENT shall immediately notify RCS in writing of this knowledge.

E. CLIENT shall promptly advise RCS in writing of any direct payments of any Referred Accounts made directly to CLIENT (e.g., made by an account debtor, third party payor or otherwise).

F. CLIENT shall periodically, at a frequency and in a format agreed to by the parties, and at RCS's reasonable request, provide updated information on each Referred Account.

G. CLIENT has determined that the uses and disclosures of the information specified in this Agreement, whether by CLIENT, RCS or their authorized agents and subcontractors are made and authorized as part of the standard operations relating to CLIENT.

H. CLIENT shall provide RCS with such reasonable information requested by RCS regarding a Referred Account necessary for RCS to perform its obligations under this Agreement. Such information shall be in a format agreed to by the parties and shall include, at a minimum, the following:

- Consumer's name and address
- Other responsible party's name and address
- Payment history
- Driver's license information

- Consumer's date of birth
- Other responsible party's date of birth
- Consumer's Social Security number
- Other responsible party's Social Security Number
- Other responsible party's driver's license information
- Availability of verification information
- Employment information
- Any other information relative to the financial obligation of the consumer

I. CLIENT shall have the right to direct RCS to cease collection efforts on any Referred Account at any time for any reason. If the reason is for payment or expectation or anticipation of payment, RCS will be entitled to due compensation in accordance with III. Compensation of this agreement.

J. RCS shall permit, at CLIENT's reasonable request, CLIENT's review of materials used by RCS in its collection efforts for Referred Accounts, such as stationery, collection letter verbiage and appearance of statements and letters and any scripts for telephone contacts. RCS shall cooperate in implementing CLIENT's reasonably requested revisions of such information; to the extent such revisions comply with applicable law.

III. Compensation

A. Referred Accounts - General (Not Requiring Engagement of Legal Services)

In consideration for the services provided by RCS under this Agreement, CLIENT shall pay RCS the Service Fee(s) of total collections of a Referred Account not requiring the engagement of legal services collected by RCS or by CLIENT in accordance with this Agreement. as follows:

Primary Placements (accounts not previously placed with a collection agency or similar service provider) equal to Thirty percent (30%).

Secondary Placements (accounts previously placed with one collection agency or similar service provider) equal to Forty percent (40%).

Tertiary Placements (accounts previously placed with two collection agencies or similar service provider) equal to Fifty percent (50%).

RCS shall remit all net monies due to CLIENT in accordance with this agreement, and if in the occurrence that the amount due RCS is greater than the gross amount recovered during any collection period (monthly) then, CLIENT shall remit payment of the Service Fee within thirty (30) calendar days of the date of RCS's remittance statement.

RCS will add all allowable interest and allowable collection fees to the monies due from the consumer account.

B. Referred Accounts - Involving Engagement of Legal Services

In consideration for the services provided by RCS under this Agreement, CLIENT shall pay RCS the Service Fee(s) of total collections of a Referred Account requiring the engagement of legal services collected by RCS or by CLIENT in accordance with this Agreement. as follows:

Primary Placements (accounts not previously placed with a collection agency or similar service provider) equal to Fifty percent (50%).

Secondary Placements (accounts previously placed with one collection agency or similar service provider) equal to Sixty (60%).

Tertiary Placements (accounts previously placed with two collection agencies or similar service provider) equal to Seventy percent (70%).

Such Service Fee shall include, and shall not be in addition to, costs associated with the legal services obtained by RCS with regard to collecting the Referred Account including, but not limited to, attorneys' fees, filing fees and special process or sheriff's fees.

CLIENT acknowledges and agrees that RCS will advance costs associated with referring a Referred Account for legal representation to collect on a Referred Account to CLIENT. This money will be reimbursed to RCS in full prior to any Service Fee being awarded to RCS or money remitted to CLIENT.

IV. Term & Termination

A. This Agreement shall commence on the Effective Date and shall continue for one (1) year, and shall automatically renew for additional successive one (1) year terms unless a party provides the other party with at least thirty (30) calendar days prior written notice of its intent not to renew the Agreement.

B. Either party may, by written notice, terminate this Agreement in whole or in part if the other party breaches any material terms or conditions of this Agreement. CLIENT shall notify RCS of such breach and RCS shall be given fifteen (15) calendar days to correct the breach. RCS shall be deemed to have defaulted if it fails to correct the breach within such fifteen (15) day period. RCS may terminate this Agreement immediately by providing notice to CLIENT, in the event that CLIENT fails to remit Service Fee(s) in accordance with Section III more than twice within any twelve-month period.

C. Either party may terminate this Agreement, with or without cause, upon thirty (30) calendar days' written notice to the other party.

D. Termination of this Agreement for any reason shall not relieve either party from its obligation to perform up to the effective date of such termination or to perform such obligations as may be their terms survive termination. Upon termination of this Agreement, CLIENT's obligation to pay the Service Fee(s) under Section III shall cease; however, RCS shall be entitled to any Service Fee(s) due for periods or partial periods that accrued prior to the effective date of termination. RCS shall be entitled to any Service Fee(s) on post-dated payments and payment arrangements or payment plans in place on CLIENT accounts as of the date of termination even if the dates of the scheduled payments extend beyond the termination of the Agreement. CLIENT remains obligated to pay RCS for the reasonable value of all services rendered from the effective date of this Agreement to the date of termination to the extent RCS's services have contributed to the result obtained.

E. Upon termination, RCS shall return to CLIENT all Referred Accounts that remain uncollected and supporting documentation with regard to such Referred Accounts.

V. Indemnification

A. RCS shall indemnify, protect, defend and hold harmless CLIENT and CLIENT'S directors, officers and employees from any and all claims, cause or causes of action, liabilities, suits, or other responsibilities (including reasonable attorneys' fees) arising from (1) any breach by RCS of any provision hereof, or the inaccuracy of any warranty or representation made by RCS herein or (2) any

act or omission to act by RCS directly or indirectly related to its performance of this Agreement constituting gross negligence or willful misconduct.

B. CLIENT shall indemnify, protect, defend and hold harmless RCS and RCS's affiliated entities, and their respective directors, officers and employees from any and all claims, cause or causes of action, liabilities, suits, or other responsibilities (including reasonable attorneys' fees) arising from (1) any breach by CLIENT of any provision hereof, or the inaccuracy of any warranty or representation made by CLIENT herein or (2) any act or omission to act by CLIENT directly or indirectly related to its performance of this Agreement constituting gross negligence or willful misconduct.

VI. Insurance

RCS shall keep in effect for term of this Agreement, general commercial liability insurance in amounts as are customary in the industry.

VII. Assignment

Neither party may assign this Agreement nor did its obligations hereunder, without the written consent of the other party; provide however, that RCS may assign this Agreement, or delegate any of its obligations hereunder, to any affiliate or wholly owned subsidiary of RCS without consent. Such consent shall not be unreasonably withheld.

VIII. Availability of Records

RCS's communications with any recipient of CLIENT's service shall be limited to communications incidental to its performance of accounts receivable collection services to effectuate payment. Unless otherwise agreed by the parties in writing, RCS shall not be permitted to provide recipients of CLIENT's services with any information pertaining to services rendered on their behalf or account information. Any such requests for information shall be the sole responsibility of CLIENT.

IX. Confidentiality

A. The parties recognize and acknowledge that, by virtue of entering into this Agreement and by the services provided hereunder, the parties may have access to certain information of the other party that is confidential and constitutes valuable, special and unique property of that party. Neither party will at any time, (either during or subsequent to the term), disclose to others, use, copy or permit to be copied, without the other party's express prior written consent, except in connection with the performance of the parties' duties hereunder, any confidential or proprietary information of the other Party, including, without limitation, information, concerning the other party's business affairs, operations, patient bases, and financial data (unless such information is already legally in the public domain). Except for disclosure to their legal counsel, accountant or financial advisors, neither party shall disclose the terms of this Agreement to any person, unless disclosure thereof is required by law or otherwise authorized by this Agreement or consented to in writing by the other party.

B. RCS represents that neither RCS, nor any agents or subcontractors of RCS, will disclose any information other than as permitted or required by this Agreement or law. RCS will take reasonable precautions to prevent the use or disclosure of information other than as provided in this Agreement or required by law and will report any use or disclosure of information not allowed under this Agreement or required by law to CLIENT. RCS represents and agrees that any agents or subcontractors of RCS shall be contractually required to agree to the same restrictions and conditions pertaining to the use and disclosure of information as required by RCS pursuant to this Agreement. Nothing in this Section or this Agreement shall prohibit RCS from sending the patient or the responsible

party a copy of the bill issued by CLIENT. Furthermore, nothing in this Section or this Agreement shall prohibit RCS from using a copy of the bill issued by CLIENT as evidence in a court proceeding.

X. Notice

Any notices, requests and other communications hereunder shall be in writing and shall be deemed duly given if hand-delivered or mailed first class, postage prepaid, certified mail, return receipt requested, addressed as set forth below the signatures of the parties hereto, or to such other address as any person or entity may designate in writing, and delivered as herein provided.

XI. Relationship of the Parties

RCS is retained by CLIENT under this Agreement as an independent contractor. Nothing in this Agreement is intended, nor shall be construed to create an employer-employee relationship, a joint venture relationship, partnership or any corporate ownership between the parties hereto. Nothing in this Agreement is intended, nor shall be construed to allow CLIENT to exercise direction or control over the manner or method by which RCS performs the Services which are the subject matter of this Agreement.

XII. Attorneys' Fees

If either party commences legal action to interpret or enforce the terms of this Agreement, the prevailing party in such action shall be entitled to recover from the other party its reasonable attorneys' fees and costs.

XIII. Construction of Agreement

A. This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior agreements, letters of intent, understandings, negotiations and discussions of the parties, whether oral or written.

B. This Agreement may be signed in one or more counterparts (whether facsimile or original), each of which shall be deemed to be an original as against any party whose signature appears thereon and all of which shall constitute one and the same Agreement.

C. This Agreement may not be amended except by written agreement between the parties.

D. Any waiver of any provision of this Agreement and any consent to any departure from the terms of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.

E. This Agreement shall be deemed to have been made and accepted in Franklin County, Missouri and the laws of Missouri shall govern any interpretations or constructions of this Agreement. Venue for any action arising under this Agreement between the parties hereto shall be in St. Louis County, Missouri.

F. All provisions of this Agreement, which, by their nature, are to be performed or complied with after the termination of this Agreement, including, but not limited to, Sections IV(D) (regarding obligations upon termination), V (Indemnification), VIII (Availability of Records), IX (Confidentiality), XII (Attorneys' Fees) and this Section XIII(F) (governing survival) shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date and year first above written.

CLIENT: *City of CUBA*

RCS, a Missouri Limited Liability Corporation

By: *CODY Leathers, Mayor*

By: Angela Weiss, President

Client Notice Address:

City of Cuba
PO Box K
Cuba, MO 65453
P: 573.885.0854
F: 573.885.1449
municipalcourt@ci.cuba.mo.us

RCS Notice Address:

A&E Futures, L.L.C.
(d/b/a Regional Credit Services)
1201 Jefferson St Ste 150
Washington, MO 63090
P: 636.390.0020
F: 636.390.2870
clientservices@regionalcredit.com