



TO: The Honorable Mayor and the City Council

FROM: Ty Livingston, Director of Planning & Community Development

DATE: February 9, 2021

SUBJECT: New agreement with Prochamps for a 3-year term for the City's Vacant and Foreclosed Property Registration Program

BACKGROUND:

A few years ago, the City signed an agreement with Prochamps for a vacant & foreclosed property program. As of the end of last calendar year, 296 properties have been registered on the program along with \$42,609.30 has been remitted to City from the \$250 fee. It has been a good means of creating awareness among property owners that the City is focusing some attention on these properties along with obtaining better contact information along generating some non-tax revenue. In many cases, it provides contact information for out-of-state banks and other lenders that we used to have difficulty making contact with. Our inspections team tells me that most banks are familiar with such programs in other communities so there's not been a tremendous amount of push-back.

At present, we're unaware of other companies that provide this same service in a manner where the City has no upfront, out-of-pocket expense and requires very little of the limited staff resources of the City. This makes Prochamps unique in their offering.

Staff supports keeping the program in its current form. The proposed agreement will run for a 3-year term but allow either party to terminate it upon a 30-day notice. Our current agreement with Prochamps is set to expire on April 12th.

RECOMMENDATION: Approval, as presented.

RESOLUTION NO. 2021-103

East Peoria, Illinois

_____ , 2021

RESOLUTION BY COMMISSIONER _____

**RESOLUTION TO APPROVE RENEWAL AGREEMENT FOR
MANAGEMENT SERVICES WITH PROCHAMPS FOR THE CITY'S
VACANT AND FORECLOSED PROPERTY REGISTRATION PROGRAM**

WHEREAS, in 2019, the City adopted Chapter 10 of Title 9 of the City Code that implemented a new registration program for properties in the City of East Peoria with vacant and unoccupied structures and properties in the City of East Peoria upon which foreclosure proceedings have been initiated in court (the "Registration Program"); and

WHEREAS, under the Registration Program, the City has now registered a large number of commercial and residential properties within the City that are vacant or foreclosed, which has allowed the City's Buildings and Inspections Department to address complaints and reports regarding these types of properties that can often become nuisance properties; and

WHEREAS, in April 2019, after issuing a Request For Proposals ("RFP"), the City entered into a two-year contract with Property Registration Champions LLC (ProChamps) for assisting the City with management and administrative services for implementing and running the online Registration Program; and

WHEREAS, under the current contract with ProChamps, ProChamps is paid for their services from a portion of the \$250 registration fee collected from the property owners when registering under the City's Registration Program; and

WHEREAS, City Officials now seek to continue this arrangement with ProChamps and have negotiated a new three-year arrangement with ProChamps for the management and administrative services for maintaining and running the Registration Program pursuant to the terms and conditions set forth in the contract attached hereto as "Exhibit A" (the "Contract"); and

WHEREAS, the City hereby finds that this Contract with ProChamps for the management and administrative services for maintaining and running the Registration Program is in the best interests of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. The above recitations are found to be true and correct.

Section 2. The Contract with ProChamps (Exhibit A) for management and administrative services for maintaining and running the City's Registration Program is hereby approved.

Section 3. The Mayor and City Clerk are hereby authorized and directed to execute this Contract with ProChamps (Exhibit A) on behalf of the City for providing management and administrative services for the City's Vacant and Foreclosed Property Registration Program, together with such changes therein as the Mayor in his discretion may authorize with payment made to ProChamps as part of the registration fee splitting arrangement under the terms of the Contract; provided, however, that the City shall have no obligation under the Contract with ProChamps until such time as an executed original of the Contract has been delivered to ProChamps.

APPROVED:

Mayor

ATTEST:

City Clerk

EXHIBIT A

[3-year Services Agreement with Property Registration Champions LLC]

This Agreement is made as of this ___ day of _____, 2021 (“Effective Date”) by and between Property Registration Champions, LLC, DBA PROCHAMPS, a Florida Limited Liability Company, with offices at 2725 Center Place, Melbourne, FL 32940 (“PRC”), and the City of East Peoria, an Illinois municipal corporation, with an address at 401 West Washington Street, East Peoria, IL 61611 (“COMMUNITY”).

WITNESSETH:

WHEREAS, the care of neglected lawns and exterior maintenance of properties is becoming a health and welfare issue in the COMMUNITY; and

WHEREAS, in order to promptly and efficiently address the issues related to the maintenance of vacant and foreclosed properties, the COMMUNITY adopted an ordinance implementing a registry program for vacant and foreclosed properties as Chapter 10 of Title 9 of the City Code (the “Ordinances”); and

WHEREAS, pursuant to the Ordinances, the COMMUNITY desires to enter into this Agreement with PRC in order to provide services authorized pursuant to the Ordinances for registering vacant and foreclosed properties (the “Properties”), so that the COMMUNITY can properly address violations of the COMMUNITY’s property maintenance codes; and

WHEREAS, PRC will also provide an electronic registration process that is cost-free and revenue neutral for the COMMUNITY;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration received, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows.

1. PRC RESPONSIBILITIES.

- a. PRC will cite the COMMUNITY’s Ordinances to mortgagees, owners, and landlords and proactively contact those who file a public notice of default, lis pendens, or any foreclosure action, or take title to real property via foreclosure or any other legal means. PRC will also cite the COMMUNITY’s Ordinances to owners whose property is determined to be vacant pursuant to the Ordinances. In the event the COMMUNITY and PRC disagree as to whether a property is vacant, the COMMUNITY, in its sole discretion, shall make the final determination. PRC will electronically provide for registration of Properties in violation of the Ordinances.
- b. PRC will pay for all expenses, administrative costs, and fees related to registration of Properties, except as provided in Section 1(c). PRC will monitor publicly recorded foreclosure filings for properties located within the jurisdictional area of the COMMUNITY. PRC will review and confirm the obligation to register properties pursuant to the Ordinances. PRC will monitor any changes to the obligation to register.

- c. PRC will charge a fee ("Fee") as directed by the COMMUNITY to each registering party ("Registrant") to register all mortgagees, owners, and landlords who comply with the Ordinances. PRC shall retain one hundred dollars (\$100.00) of each collected foreclosed property and vacant property registration Fee, and remit the balance of one hundred fifty dollars (\$150.00) to the COMMUNITY. PRC shall forward payment of the COMMUNITY's portion of the Fee to the COMMUNITY's finance department no later than the fifteenth (15th) day of the following month. Should there be any fee or charge required for public/official record data or information integral to the performance of the scope of work required under the terms and provisions of this Agreement, those charges shall be deducted from the registration Fee.
- d. In the event the COMMUNITY's Ordinances require payment of late fees as part of the registration requirements, PRC shall collect all applicable late fees, retaining twenty percent (20%) of the fee, and remitting the balance to the COMMUNITY pursuant to the monthly remittance schedule as provided in Section 1(c).
- e. PRC agrees to provide a website for the registration of the Properties in order to enable compliance with the COMMUNITY's Ordinances. The website will direct Registrants to a hyperlink, www.proCHAMPS.com. The website found at www.PROCHAMPS.com will automatically allow lenders and responsible parties to comply with the COMMUNITY's Ordinances.
- f. PRC responsibilities will commence on the Effective Date of this Agreement.

2. INDEMNIFICATION.

- a. **INDEMNIFICATION BY PRC.** PRC shall defend, indemnify, and hold harmless the COMMUNITY and its officers, employees, and agents, from and against all losses, expenses (including attorneys' fees), damages, and liabilities of any kind resulting from or arising out of a breach of this Agreement by PRC or PRC's performance hereunder.
- b. **INDEMNIFICATION BY COMMUNITY.** COMMUNITY shall defend, indemnify, and hold harmless PRC and its officers, employees, and agents, from and against all losses, expenses (including attorneys' fees), damages, and liabilities of any kind resulting from or arising out of a breach of this Agreement by the COMMUNITY or the COMMUNITY's performance hereunder.

3. TERM and TERMINATION.

- a. **AGREEMENT TERM.** The term of this Agreement shall be for three (3) years commencing on the Effective Date and thereby terminating three (3) years from the Effective Date unless otherwise terminated as provided herein. This Agreement shall not automatically renew thereafter.

- b. **TERMINATION FOR DEFAULT.** In the event that either party (the “Defaulting Party”) shall breach or fail to comply with any provision of this Agreement and such breach or failure shall continue for a period of thirty (30) days after the giving of written notice to the Defaulting Party of the breach, the other party may terminate this Agreement immediately upon providing written notice of such termination to the Defaulting Party.
 - c. **TERMINATION FOR INSOLVENCY.** This Agreement may be terminated by the COMMUNITY in the event of the insolvency of PRC or the commencement by or against the PRC of any case or proceeding under any bankruptcy, reorganization, insolvency or moratorium law or any other law or laws for the relief of debtors or the appointment of any receiver, trustee or assignee to take possession of the properties of the PRC, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within thirty (30) days from the date of said commencement or appointment or the liquidation or dissolution of the PRC.
 - d. **TERMINATION FOR CHANGE IN CONTROL.** COMMUNITY may immediately terminate this Agreement if there is a change in control of PRC, and the new controlling entity breaches or fails to comply with any provision of this Agreement and such breach or failure shall continue for a period of thirty (30) days after the giving of written notice of the breach or failure to comply to the new controlling entity.
4. **CONTRACT DOCUMENTS.** The following list of documents which are attached hereto as exhibits to this Agreement shall be incorporated into this Agreement, as if fully set forth herein by reference:
- a. Key Policy Requirements (on file)
 - b. Title 9, Chapter 10 of the City Code (Code of Ordinances) for the City of East Peoria, entitled “Vacant and Property Registration”, effective February 19, 2019, and as amended from time to time thereafter.
5. **INSURANCE.** PRC shall maintain Errors and Omissions Insurance limits of liability provided by such policy shall be no less than one million dollars (\$1,000,000.00) to ensure COMMUNITY the indemnification specified herein.
6. **OWNERSHIP AND USE OF DOCUMENTS.** All information collected by PRC from registering parties in connection with the registration of a property pursuant to this Agreement shall be the property of the COMMUNITY, and shall be provided to COMMUNITY as soon as practicable upon request. In the event the COMMUNITY receives a Freedom of Information Act (“FOIA”) request, the COMMUNITY shall immediately forward a copy of the FOIA to PRC and PRC shall provide the requested information to the COMMUNITY as soon as possible, but under no circumstances later than the statutory timeline to respond to the FOIA request. PRC shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference and use in connection with PRC’s obligations under this Agreement.

7. **AUDIT, INSPECTION RIGHTS, AND RETENTION OF RECORDS.** PRC shall maintain records pertaining to this Agreement for a period of seven years (7) from termination. Such records shall be subject to audit by the COMMUNITY on reasonable advanced, written notice, or in the case of a FOIA request on notice in any manner. The audit shall be conducted at the premises of the COMMUNITY on business days only and during normal working hours. PRC shall comply with the COMMUNITY'S records retention policies, and all Illinois Local Records Act (50 ILCS 205/1, *et seq.*) and FOIA (5 ILCS 140/1, *et seq.*) requirements.
8. **INDEPENDENT CONTRACTOR.** This Agreement creates no relationship of joint venture, partnership, limited partnership, agency, or employer-employee between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or create any obligation or responsibility on behalf of the other party except as provided by written instrument signed by both parties.
9. **NOTICES.** Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, hand delivery, or facsimile transmission with receipt of delivery, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this Section. Notice shall be deemed to have been given upon receipt. For the present, PRC and the COMMUNITY designate the following as the respective places for giving of notice:

COMMUNITY: City of East Peoria
401 W. Washington St.
East Peoria, IL 61611
Attention: City Clerk
Telephone No. (309) 698-4715

with copy to: Miller, Hall & Triggs, LLC
416 Main Street, Suite 1125
Peoria, IL 61602

PRC: David Mulberry, President/CEO
2725 Center Place
Melbourne, FL 32940
Telephone No. (321) 421-6639
Facsimile No. (321) 396-7776

10. AMENDMENTS.

- a. **AMENDMENTS TO AGREEMENT.** It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective

unless contained in a written document executed with the same formality and of equal dignity herewith.

- b. **AMENDMENT OF FEES.** In the event there are amendments to the Fees, PRC will apply the fee that was in place for the registration period in question.

11. **ORDINANCE VIOLATION DATA.** COMMUNITY shall provide PRC with applicable ordinance violation data.
12. **PUBLICITY.** PRC may include COMMUNITY's name and general case study information within PRC's marketing materials and website.
13. **COMMUNITY LOGO.** COMMUNITY shall provide the COMMUNITY's logo to PRC for the purposes as set forth in 1(a).
14. **FORCE MAJEURE.** Neither party to this Agreement shall be responsible for any delays or failure to perform any provision of this Agreement (other than payment obligations) due to acts of God, strikes or other disturbances, war, insurrection, embargoes, governmental restrictions, acts of governments or governmental authorities, or other causes beyond the control of such party.
15. **LIMITATION OF LIABILITY.** NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE.
16. **BINDING AUTHORITY.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
17. **LAWS AND ORDINANCES.** PRC shall observe all laws and ordinances of the COMMUNITY, county, state, federal, or other public agencies directly relating to the operations being conducted pursuant to this Agreement.
18. **EQUAL EMPLOYMENT OPPORTUNITY.** In the performance of this Agreement, PRC shall not discriminate against any firm, employee or applicant for employment or any other firm or individual in providing services because of sex, age, race, color, religion, ancestry, or national origin.
19. **WAIVER.** Any failure by COMMUNITY to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and COMMUNITY may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.
20. **SEVERABILITY.** If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as

to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

21. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Illinois with venue lying in Tazewell County, Illinois.
22. **ATTORNEY'S FEES AND COSTS.** In the event of a dispute arising out of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, paralegal expenses, and costs, including fees and costs incurred at all pretrial, trial and appellate levels.
23. **CONTINGENCY.** This Agreement is contingent upon the Ordinances remaining in place during the term of this Agreement.
24. **ENTIRE AGREEMENT.** This Agreement represents the entire and integrated agreement between the COMMUNITY and the PRC and supersedes all prior negotiations, representations or agreements, either written or oral.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals the day and year first above written.

CITY OF EAST PEORIA

John P. Kahl, Mayor

Date:_____

ATTEST:

Morgan R. Cadwalader, City Clerk

PROPERTY REGISTRATION CHAMPIONS, LLC

David Mulberry, President/CEO

Date:_____

Property Registration Champions, LLC
2725 Center Place
Melbourne, FL 32940