



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

Consent
June 16, 2009

Honorable Mayor and
Members of the City Council

Title: Non-Professional Services Agreement: Collection Services on Delinquent City Accounts

Location/Council District: Citywide

Recommendation: Adopt a **Resolution** 1) suspending competitive bidding in the best interest of the City and authorizing the City Manager or his designee to execute a one-year, Non-Professional Services Agreement with Financial Credit Network (FCN), Inc., for continued collection services on delinquent City accounts; and 2) ratifying past expenditures of \$272,224, which are the total commissions indirectly paid to FCN for City accounts receivable it collected between December 1, 2003 to the present, following the expiration of City Agreements No. 95-228 and 95-228-1.

Contact: Brad Wasson

Presenters: N/A

Department: Finance

Division: Revenue

Organization No: 06001211

Description/Analysis

Issue: In February 2008, the City Council amended City Code section 1.28.040 to provide that costs incurred for collection of unpaid accounts owed to the City will be borne by the debtor, regardless of whether the City pursues such collections through litigation or by any other means, and whether those costs are generated by City staff or third parties. In accordance with this policy, the debtor will be required to bear the collection charges under existing third-party collection contracts only if the contracts are amended to authorize this.

The City now desires to prepare and issue a new RFP for collection services on delinquent City accounts, incorporating the provisions of City Code section 1.28.040 to pass the collection costs to the debtor. However, staff needs adequate time to prepare this RFP without disrupting ongoing collection of the City's delinquent

accounts receivable. Therefore, staff is recommending that the City Council suspend competitive bidding and authorize a new, one-year Non-Professional Services Agreement with the current service provider, Financial Credit Network, Inc., (to continue ongoing collections and include the City's new policy of passing on the cost of collections to the debtor) while the City conducts the RFP process. The proposed Agreement is included as Exhibit A to the Resolution.

Policy Considerations: Over the last year, the City has placed additional emphasis on the collection of delinquent debts citywide, and third-party collection on delinquent accounts receivable are a significant part of this effort.

In February 2008, the City Council amended City Code section 1.28.040 to provide that costs incurred for collection of unpaid accounts owed to the City will be borne by the debtor. In accordance with this policy, the debtor will be required to bear the collection charges under existing third-party collection contracts only if the contracts/agreements are amended to authorize this.

Because FCN has continued to provide uninterrupted collection services to the City following the expiration of City Agreements 95-228 and 95-228-1, a 2/3 vote of the City Council is required to ratify past expenditures (in this case, commissions indirectly paid to FCN) incurred after these agreements expired.

Environmental Considerations: Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review.

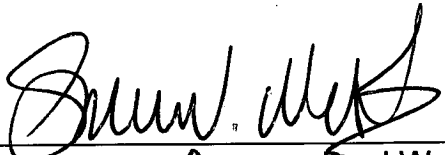
Sustainability Considerations: None.

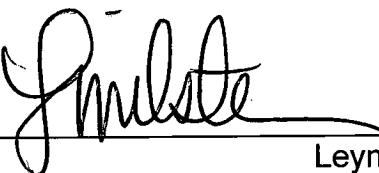
Rationale for Recommendation: The City has been pleased with FCN's performance under City Agreements 95-228, 95-228-1, and to the present date following their expiration in 2003. The fact that the City's agreement with FCN expired in 2003 and was not renewed went unnoticed until there was a need to update the agreement to allow for collection costs to be charged to the debtor pursuant to amended City Code section 1.28.040. The proposed one-year agreement with FCN will allow the City to implement that policy immediately. It will also allow the City to continue its ongoing collection efforts without disruption, pending the results of a new RFP for a new collection services agreement to be issued next year.

Financial Considerations: There is no cost to the City for executing a one-year, Non-Professional Services Agreement with FCN for continued collection services on delinquent City accounts. Under the prior collection agreement, FCN's commissions (approximately 30%) were deducted from the amounts collected, which was an actual cost to the City. However, under the new agreement, FCN's commission will be paid by the debtor, and so there is no actual cost to the City under the contract. FCN has agreed to charge the debtors the same commission rates under the proposed one-year agreement renewal as it has charged the City since 1995. FCN will remit 100% of the delinquent account collections to the City and will retain the collection fees it collects

from the debtors. Because these collection fees are paid by the debtors, they are not a "cost" to the City, but they do constitute legal consideration received by FCN under the contract for services rendered (i.e., the benefit it receives under the contract). From December 2003 to present, FCN's commissions total \$272,224. Revenue generated for the City from the collection of the underlying delinquent accounts receivable over the same time period totals approximately \$774,222.

Emerging Small Business Development (ESBD): FCN is not a certified emerging small business.

Respectfully Submitted by: 
for Brad Wasson
Revenue Manager

Approved by: 
Leyne Milstein
Director of Finance

Recommendation Approved:

for 
Ray Kerridge
City Manager

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Attachment 1**Background Information**

In February 2008, the City Council amended City Code section 1.28.040 to provide that costs incurred for collection of unpaid accounts owed to the City will be borne by the debtor, regardless of whether the City pursues such collections through litigation or by any other means, and whether those costs are generated by City staff or third parties. In accordance with this policy, the debtor will be required to bear the collection charges under existing third-party collection contracts only if the contracts are amended to authorize this.

Since 1995, the City of Sacramento has contracted with FCN for third-party collections services on delinquent City accounts receivable. The City's initial agreement (Agreement No. 95-228) with FCN expired in 1998, at which time the City executed a second agreement (Agreement No. 95-228-1) with FCN, extending its contract for an additional five years. These agreements expired December 1, 2003, but FCN continued to provide uninterrupted collection services to the City since then. The fact that the agreements expired and were not renewed went unnoticed because neither the agreements nor the continued collection services provided by FCN have required the City to pay any compensation to FCN directly. Rather, FCN simply remitted their collections to the City net of their collection commission.

The City now desires to prepare and issue a new RFP for collection services on delinquent City accounts to incorporate the provisions of City Code section 1.28.040 to allow the cost of collections to be borne by the debtor, without disrupting ongoing collections.

Attachment 2

RESOLUTION NO.

Adopted by the Sacramento City Council

**AUTHORIZING A NON-PROFESSIONAL SERVICES AGREEMENT WITH
FINANCIAL CREDIT NETWORK (FCN), INC., FOR CONTINUED COLLECTION
SERVICES ON DELINQUENT CITY ACCOUNTS**

BACKGROUND

- A. In February 2008, the City Council amended City Code section 1.28.040 to provide that costs incurred for collection of unpaid accounts owed to the City will be borne by the debtor, regardless of whether the City pursues such collections through litigation or by any other means, and whether those costs are generated by City staff or third parties. In accordance with this policy, the debtor will be required to bear the collection charges under existing third-party collection contracts only if the contracts are amended to authorize this.
- B. In 1995, City Agreement No. 95-228 was executed with Financial Credit Network (FCN), Inc. for collection services on delinquent City accounts receivable. On December 1, 1998, City Agreement No. 95-228-1 was executed to extend the term of that agreement for five years.
- C. These agreements expired December 1, 2003, but FCN has continued to provide uninterrupted collection services to the City since then because neither the agreements nor the continued collection services provided by FCN have required the City to pay any compensation to FCN directly. Rather, FCN simply remitted their collections to the City net of their collection commission. The fact of the expired agreement went unnoticed until there was a need to update the agreement with FCN to allow for collection costs to be charged to the debtor pursuant to amended City Code section 1.28.040.
- D. The City now desires to prepare and issue a new RFP for collection services on delinquent City accounts. However, staff needs adequate time to prepare this RFP without disrupting ongoing collection of the City's delinquent accounts receivable.
- E. Therefore, it is in the best interest of the City to suspend competitive bidding and authorize a new, one-year Non-Professional Services Agreement with FCN while the City conducts the RFP process. This proposed agreement will allow the City to continue its ongoing collection efforts without disruption, pending the results of a new RFP for a new collection services agreement to be issued next year. In addition, the proposed agreement allows the City to immediately implement its

recently updated policy under City Code 1.28.040 that allows the cost of collections to be borne by the debtor.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Council hereby suspends competitive bidding in the best interest of the City and authorizes the City Manager or his designee to execute a one-year, Non-Professional Services Agreement with Financial Credit Network, Inc., attached hereto as Exhibit A, to continue collection services on delinquent City accounts.
- Section 2. The City Council hereby ratifies past expenditures of \$272,224, which are the total commissions indirectly paid to FCN for City accounts receivable it collected from December 1, 2003 to the present, following the expiration of City Agreements No. 95-228 and 95-228-1.
- Section 3. Exhibit A is part of this Resolution.

Table of Contents:

- Exhibit A Non-Professional Services Agreement

Full Agreement to follow...
We have sent it to FCN for signature
& will have it back before 6/16/09
Council Meeting.
- Revenue Div.

PROJECT #:
PROJECT NAME:
DEPARTMENT: Finance
DIVISION: Revenue

CITY OF SACRAMENTO

NONPROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made at Sacramento, California, as of _____, by and between the **CITY OF SACRAMENTO**, a municipal corporation ("CITY"), and

Financial Credit Network, Inc.
P.O. Box 3084, Visalia, CA 93278
Ph: 800-540-9011/Fax: 888-326-4329

("CONTRACTOR"), who agree as follows:

1. **Contract.** The Contract shall consist of this Agreement and each of the following documents (if applicable), which are incorporated herein by reference:

| | |
|--|-----------------------------------|
| Invitation to Bid | Workers' Compensation Certificate |
| Instructions to Bidders | Contractor's Bid Proposal Form |
| Certificate(s) of Insurance | ESBD Program Statement |
| Drug-Free Workplace Policy and Affidavit | Technical Specifications |
| Declaration of Compliance (Equal Benefits Ordinance) | |
| Declaration of Compliance (Living Wage Ordinance) | |

2. **Services.** Subject to the terms and conditions set forth in this Agreement, CONTRACTOR shall provide to CITY the services described in Exhibit A. CONTRACTOR shall provide said services at the time, place, and in the manner specified in Exhibit A. CONTRACTOR shall not be compensated for services outside the scope of Exhibit A unless prior to the commencement of such services: (a) CONTRACTOR notifies CITY and CITY agrees that such services are outside the scope of Exhibit A; (b) CONTRACTOR estimates the additional compensation required for these additional services; and (c) CITY, after notice, approves in writing a Supplemental Agreement specifying the additional services and amount of compensation therefor. CITY shall have no obligations whatsoever under this Agreement and/or any Supplemental Agreement, unless and until this Agreement or any Supplemental Agreement is approved by the Sacramento City Manager or the City Manager's authorized designee, or by the Sacramento City Council, as required by the Sacramento City Code.
3. **Payment.** CITY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B. The payments specified in Exhibit B shall be the only payments to be made to CONTRACTOR for the services rendered pursuant to this Agreement unless pursuant to Section 2, above, CITY approves additional compensation for additional services. CONTRACTOR shall submit all billings for said services to CITY in the manner specified in Exhibit B, or, if not specified in Exhibit B, according to the usual and customary procedures and practices that CONTRACTOR uses for billing clients similar to CITY.
4. **Facilities and Equipment.** Except as set forth in Exhibit C, CONTRACTOR shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing

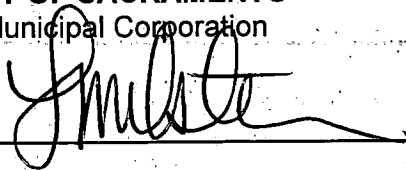
services pursuant to this Agreement. CITY shall furnish to CONTRACTOR only the facilities and equipment listed in Exhibit C according to any terms and conditions set forth in Exhibit C.

5. **General Provisions.** The General Provisions set forth in Exhibit D, which include indemnity and insurance requirements, are part of this Agreement. In the event of any conflict between the General Provisions and any terms or conditions of any document prepared or provided by CONTRACTOR and made a part of this Agreement, including without limitation any document relating to the scope of services or payment therefor, the General Provisions shall control over said terms or conditions.
6. **Living Wage Requirements.** This Agreement is subject to the provisions of Sacramento City Code Chapter 3.58, Living Wage. The requirements of Sacramento City Code Chapter 3.58 are summarized in Exhibit E. The CONTRACTOR is required to sign the attached Declaration of Compliance (Living Wage Ordinance) to assure compliance with these requirements.
7. **Non-Discrimination in Employee Benefits.** This Agreement is subject to the provisions of Sacramento City Code Chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors. The requirements of Sacramento City Code Chapter 3.54 are summarized in Exhibit F. CONTRACTOR is required to sign the attached Declaration of Compliance (Equal Benefits Ordinance), to assure compliance with these requirements.
8. **Authority.** The person signing this Agreement for CONTRACTOR hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of CONTRACTOR and to bind CONTRACTOR to the performance of its obligations hereunder.
9. **Exhibits.** All exhibits referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.

Executed as of the day and year first above stated.

CITY OF SACRAMENTO
A Municipal Corporation

By: _____



Print Name: Leyne Milstein
Title: Director of Finance

For: Ray Kerridge, City Manager

APPROVED AS TO FORM:

Lawrence J. Duran
City Attorney

ATTEST:

City Clerk

Attachments

- Exhibit A - Scope of Service
- Exhibit B - Fee Schedule/Manner of Payment
- Exhibit C - Facilities/Equipment Provided
- Exhibit D - General Provisions
- Exhibit E - Living Wage Requirements
- Exhibit F - Non-Discrimination in Employee Benefits

CONTRACTOR:

Financial Credit Network, Inc.
NAME OF FIRM

48-1292262
Federal I.D. No.

483-4869
State I.D. No.

 N/A
City of Sacramento Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

- Individual/Sole Proprietor
- Partnership
- Corporation (*may require 2 signatures*)
- Limited Liability Company
- Other (*please specify: _____*)

Signature of Authorized Person

 Alicia Sundstrom, President
Print Name and Title

Additional Signature (*if required*)

Print Name and Title