



Finance Committee Meeting

AGENDA

October 7, 2008

I. CALL TO ORDER

II. MATTERS BEFORE COMMITTEE

1. [Approval - Collection Agency Contract](#)

III. ADJOURN



Finance Committee Meeting

AGENDA

October 7, 2008

Item:

Approval - Collection Agency Contract

Department:

Additional Information:

Financial Impact:

Budgeted Item:

Recommendation / Request:

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

[GMA Memo](#)

[Collection Agency Contract](#)

Georgia Municipal Association Revenue Recovery Through Debt Collection



GMA Debt Collection Contract

We are pleased to announce that the agreement between GMA participants and [Penn Credit Corporation](#) has been finalized. Upon approval of the document, please forward a copy of the agreement to Penn Credit by email or by regular mail.

We appreciate the patience you have shown during our RFP process and we look forward to helping your government collect its past due accounts once again.

Lou Comer, Director, Local Government Services

Georgia Municipal Association

lcomer@gmanet.com

678-686-6260 direct line

678-686-6360 direct fax

Pam Helton, Local Government Marketing Manager

Georgia Municipal Association

phelton@gmanet.com

678-686-6275 direct line

678-686-6375 direct fax

COLLECTION AGENCY CONTRACT

This Collection Agency Contract (this Agreement) is made and entered into this _____ day of _____, 2008, between Penn Credit Corporation, a Pennsylvania corporation (PCC) and City of Monroe, a Georgia corporation (CLIENT) as part of the debt collection service made available through the Georgia Municipal Association.

WITNESSETH:

WHEREAS, CLIENT provides municipal services to individuals, corporations, partnerships, and other entities (Consumers), within Georgia; and

WHEREAS, from time to time, Consumers do not pay CLIENT amounts due to CLIENT for services rendered (Delinquent Accounts); and

WHEREAS, CLIENT desires for PCC to utilize its efforts to collect past due amounts from certain Consumers and PCC desires to provide such services, all in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth below and other good and valuable consideration, the receipt, and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. SCOPE OF SERVICES

CLIENT retains PCC to collect delinquent accounts, which the CLIENT in its sole discretion may assign to PCC for collection. Nothing contained in this Agreement shall be construed as requiring CLIENT to use PCC exclusively or to place any set number or type of accounts with PCC. PCC agrees to use its best efforts and work diligently to collect all money due to CLIENT and to forward such money to CLIENT, all in accordance with the terms and conditions of this Agreement.

2. ASSIGNMENT OF DELINQUENT ACCOUNTS

- A. CLIENT shall notify PCC of Delinquent Accounts it wishes to assign to PCC. PCC will acknowledge receipt of such Delinquent Accounts within five (5) days of receipt from CLIENT (the "Acknowledgment Date").
- B. CLIENT is entitled to withdraw any Delinquent Account, which it may have placed in error with PCC. Otherwise, Delinquent Accounts referred to PCC shall remain with PCC for collection until PCC in consultation with CLIENT determines the account to be uncollectible.

3. PERFORMANCE STANDARDS

- A. PCC shall commence collection efforts upon receipt of any Delinquent Accounts and shall continue such efforts for the entire period such Delinquent Accounts are held by PCC.
- B. PCC shall supervise and direct all collection work, devoting enough attention and applying the necessary skill and expertise to perform the work competently and efficiently. PCC shall be solely responsible for the means, methods, techniques, sequences, and procedures of the collection.
- C. PCC shall perform its collection efforts in accordance with all federal, state, and local laws and regulations including but not limited to the Fair Credit Reporting Act, Georgia Security and Immigration Compliance Act, and the Georgia Open Records Act. PCC warrants that it has policies in place to comply with the "Red Flag Rules" pursuant to the Fair and Accurate Credit Transactions Act (FACTA) of 2003.
- D. PCC shall provide CLIENT with status reports on all Delinquent Accounts within 72 hours of written or verbal request for such reports.

4. OBLIGATIONS OF CLIENT

- A. At the time CLIENT assigns Delinquent Accounts to PCC, CLIENT shall provide PCC with the following information with respect to each Delinquent Account (the "Account Information") provided CLIENT has knowledge of this Account Information:
 - i. Payments received by CLIENT on the Accounts;
 - ii. Notices of any proceedings under the bankruptcy or insolvency laws of the United States of America or any state relating to the Accounts;
 - iii. Notices of any actions or proceedings commenced by any Delinquent Account Consumer against the CLIENT relating to the Delinquent Accounts;
 - iv. Any communications received by CLIENT from the Delinquent Account Consumer, or the legal representative of any Delinquent Account Consumer, relating to the Delinquent Account or the collection of the Delinquent Account; and
 - v. Any credits or other forgiveness granted by CLIENT with respect to any Delinquent Account.CLIENT agrees that all such information shall be true and accurate to the best of its knowledge.
- B. CLIENT shall have a continuing obligation to provide PCC any new or additional Account Information with respect to the Delinquent Accounts as soon as such information becomes known to CLIENT.

5. COLLECTIONS; PAYMENTS

- A. CLIENT agrees to pay PCC, as its sole compensation, a contingency fee equal to the following:

16.5% for Accounts Aged **less than two years from the last date of service** and **19.0%** for Accounts Aged **greater than two years from the last date of service** on all collections made without the need for litigation.

In addition, PCC agrees that it shall not be entitled to commission on Delinquent Accounts, which have been withdrawn from PCC pursuant to Section 2B of this Agreement; except to the extent that the payment directly resulted from the collection efforts of PCC. Otherwise, PCC shall be entitled to payment of any contingency fees resulting from payments CLIENT receives.

If the debtor returns to the CLIENT for the purpose of reestablishing utility service after PCC's collection efforts have been dormant for ninety (90) days, PCC will not be entitled to its collection fee on those accounts.

- B. Collections made by PCC on Delinquent Accounts will be deposited immediately into a trust account maintained in a reputable bank. Such collections held in trust by PCC, shall be the property of CLIENT and not available for any other use by PCC.
- C. All collections made by PCC on CLIENT's accounts will be remitted in full, (Gross Remit), by the fifteenth of each calendar month, accompanied by a remittance advice. The remittance advice shall contain a list of the Consumer's name, account number, amount collected, and whether the payment was made directly to PCC or CLIENT, and fee due PCC. CLIENT agrees to remit monies due PCC within thirty (30) days of receipt of invoice.
- D. Collections made by PCC and remitted to CLIENT by PCC in which a check is returned unpaid by the bank, shall be reported on the remittance advice as a minus payment and minus collection fee.

CLIENT will notify PCC when a check is returned by the bank unpaid on a payment made directly to CLIENT on which CLIENT has paid PCC the collection fee due. PCC will list such returned check on the next statement as a minus payment and minus collection fee.

6. INSURANCE REQUIREMENTS

PCC agrees to maintain the following insurance coverage:

- A. Personal Injury Liability Insurance, including errors and omissions in the amount of five million per claim & aggregate per year;
- B. Comprehensive General Liability Insurance, including contractual liability in the amount of one million per occurrence, two million aggregate;
- C. Worker's Compensation and Occupational Disease Insurance, including Employer's Liability Insurance in the amount of one million each accident/one million E.L. disease, each employee;
- D. Automobile Liability Insurance (owned or non-owned) in the amount of one million Bodily Injury (Each person), one million property damage;
- F. E. Twenty-five thousand Surety Bond as required by statute; Commercial Crime in the amount of two million limit, two million 3rd party; and
- G. Ten million excess/umbrella liability;

7. TERM

- A. This Agreement shall be effective as of the date shown and continue in effect until either party gives notice of termination. Either party may terminate this agreement upon giving thirty (30) days prior written notice thereof to the other party setting forth the effective date of such termination. Agency will return all referred accounts within 120 days after termination of the contract upon written request by CLIENT, with the exception of accounts currently paying or scheduled to pay within a reasonable time. Agency will receive its fee on any payments it receives for CLIENT on retained accounts after termination of this Agreement.
- B. The Agreement shall terminate absolutely and without further obligation on the part of the CLIENT at the close of the calendar year in which it is executed and at the close of each succeeding calendar year for which it may be renewed. The total obligation of the CLIENT for the calendar year of execution and in each calendar year renewal term, if renewed, shall be determined by the services utilized by CLIENT as the purchaser of such services pursuant to Section 1 and 5. The Agreement shall obligate the CLIENT only for those sums payable during the calendar year of execution or for those sums payable in the individual calendar year renewal term. Title to any supplies, materials, equipment or other personal property of PCC or its subcontractors shall remain in PCC or its subcontractors.

8. CREDIT BUREAU REPORTING

- A. PCC will report Delinquent Accounts with an initial placement balance greater than \$50 to the Credit Bureaus (collectively, "Credit Bureau") thirty (30) days after the Acknowledgment Date.
- B. Based on Account Information PCC receives from CLIENT and information PCC has in its possession, PCC shall keep Credit Bureau informed of changes in the status of Delinquent Accounts.

- C. Disputed accounts will be reported as disputed in accordance with the Fair Credit Reporting Act (623(a)(3): Duty to provide notice: If the completeness or accuracy of any information furnished by any person to any consumer reporting agency is disputed as to such person by a consumer, the person may not furnish the information to any consumer reporting agency without notice that such information is disputed by the customer).

9. INDEMNIFICATION

- A. As allowed by Georgia law, CLIENT shall defend, hold harmless and indemnify PCC, its shareholders, officers and employees against any and all liabilities, claims, damages, costs, judgments and expenses, including attorney fees, sought or asserted against PCC, its shareholders, officers and employees of PCC arising out of the collection activities of PCC if such liabilities, claims, damages, costs, judgments or expenses are based primarily or solely, upon any of the following:
 - i. Any actions by CLIENT, its officers, employees or contractors, including any other collection agency; or
 - ii. Inaccuracy in any Account Information supplied by CLIENT to PCC, or failure by CLIENT to supply Account Information to PCC, including the failure to provide updated Account Information as it becomes available.
- B. PCC shall defend, hold harmless and indemnify CLIENT, its affiliates, shareholders, officers and employees against any and all liabilities, claims, damages, costs, judgments and expenses, including attorney fees, sought or asserted against CLIENT, its affiliates, shareholders, officers and employees of CLIENT arising out of the collection activities of PCC if such liabilities, claims, damages, costs, judgments or expenses are based or alleged to be based, in whole or in part, upon any of the following:
 - i. Any actions by PCC, its officers, employees or contractors; or
 - ii. Failure by PCC to relay Account Information supplied by CLIENT to PCC to Credit Bureau.
- C. The obligations of CLIENT and PCC under this Section 10 shall be continuing obligations of CLIENT and PCC, as the case may be, and shall specifically survive the termination of this Agreement or any other agreement between CLIENT and PCC.

10. GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT

The following employee-number category is applicable to PCC:

- 500 or more employees
- 100 or more employees
- Fewer than 100 employees

PCC agrees that, in the event PCC employs or contracts with any subcontractor(s) in connection with the covered contract, PCC will secure from the subcontractor(s) such subcontractor(s)' indication of the employee-number category applicable to the subcontractor.

PCC attests compliance with the requirements of O.C.G.A. 13-10-91 and Rule 300-10-1-.02 by the execution of the contractor affidavit attached as Appendix A as shown in Rule 300-10-1-.07, or a substantially similar contractor affidavit, which document is attached to and made a part of this contract as Exhibit A.

PCC agrees that, in the event PCC employs or contracts with any subcontractor(s) in connection with the covered contract, PCC will secure from such subcontractor(s) attestation of the subcontractor's compliance with O.C.G.A. 13-10-91 and Rule 300-10-1-.02 by the subcontractor's execution of the subcontractor affidavit shown in Rule 300-10-1-.08 or a substantially similar subcontractor affidavit, and maintain records of such attestation for inspection by the City at any time. Such subcontractor affidavit included with this Agreement as Exhibit B shall be made a part of the contractor/subcontractor agreement.

11. MISCELLANEOUS

- A. PCC shall not transfer, assign, sell, or convey any Delinquent Accounts to any other collection agency without the prior written consent of CLIENT.
- B. All notices required to be sent under the terms of this Agreement shall be sent to CLIENT addressed as listed below:

CLIENT: City of Monroe

Address: P. O. Box 1249, 215 North Broad Street

Address: Monroe, GA 30655

Attn: Renee Prather, Finance Director

and to PCC addressed:

Penn Credit Corporation
916 South 14th Street
Harrisburg, PA 17104
Attn: Richard S. Templin, President

Such designations may be changed at any time by either party giving written notice of a new name and/or address.

- C. This Agreement shall be construed under the laws of the State of Georgia.
- D. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If any such provision of this Agreement shall be determined to be invalid or unenforceable, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating or otherwise affecting the remaining provisions of this Agreement.

- E. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which counterparts of this Agreement taken together shall constitute but one and the same instrument.
- F. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.
- G. Headings used in this Agreement are for convenience only and shall not affect the construction of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed and entered into this Agreement as of the date first set forth above.

PENN CREDIT CORPORATION

By: _____

Printed Name: _____

Title: _____

Date: _____

CLIENT CITY OF MONROE

By: _____

Printed Name: Greg Thompson

Title: Mayor

Date: October 14, 2008

Approved as to form
by City Attorney

Exhibit A

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the City of _____ has registered with and is participating in a federal work authorization program [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. §13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the City of _____, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. §13-10-91 on the

Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of _____ at the time the subcontractor(s) is retained to perform such service.

EEV / Basic Pilot Program User Identification Number: _____

BY: Authorized Officer or Agent of Penn Credit Corporation: _____

Title of Authorized Officer or Agent of Contractor: _____

Printed Name of Authorized Officer or Agent: _____

Date: _____

SUBSCRIBED AND SWORN

BEFORE ME ON THIS THE

____ DAY OF _____, 200_

Notary Public: _____

Print Name: _____

SEAL

My Commission Expires: _____

Exhibit B

SUBCONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with the Georgia Municipal Association, Inc. on behalf of the City of _____ has registered with and is participating in a federal work authorization program [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. §13-10-91.

EEV / Basic Pilot Program User Identification Number

By: _____

Printed Name: _____

Company Name: _____

Title: _____

Date: _____