

**SILICON VALLEY
ANIMAL CONTROL AUTHORITY**

AGENDA ITEM

Credit Consulting Services, Inc.

RECOMMENDED MOTION

That the service contract with Credit Consulting Services, Inc. to provide collection services for Fiscal Year 2018-19 be received and filed.

DISCUSSION

Staff requires a company to provide collection services for insufficient funds received from the public.

DOCUMENTS ATTACHED

Copy of Consultant Agreement
Copy of Collection Agreement with Credit Consulting Services "Attachment A"

**CONSULTANT AGREEMENT
CREDIT CONSULTING SERVICES, INC.**

This agreement is made this 9th day of April 2018, by SILICON VALLEY ANIMAL CONTROL AUTHORITY, a California Joint Powers Authority ("AUTHORITY") and CREDIT CONSULTING SERVICES, INC., a California corporation ("CONSULTANT").

RECITALS

WHEREAS, the Silicon Valley Animal Control Authority desires to retain a consultant to provide collection services; and

WHEREAS, Credit Consulting Services has submitted a satisfactory proposal to provide such services, which is attached and incorporated herein as Attachment A and entitled, "Credit Consulting Services, Inc. Collections Agreement."

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement.** This Agreement shall cover services rendered from July 1, 2018 to June 30, 2019.
2. **Services to be Provided.** The services to be performed by CONSULTANT shall consist of services described in Attachment A. CONSULTANT will be responsible for any record keeping and will provide documentation of services upon request from AUTHORITY.
3. **Compensation.** CONSULTANT payment referenced in Attachment A, Section 10 "Fees and Interests in Monies Collected."
4. **Termination.** AUTHORITY and CONSULTANT shall have the right to terminate this Agreement, without cause, by giving fifteen (15) days' written notice.
5. **Insurance Requirements.**
 - A. **Workers' Compensation.** If CONSULTANT employs any employees, CONSULTANT shall maintain during the term of this Agreement Workers' Compensation Insurance in conformance with the laws of the State of California. Such coverage such include a waiver of subrogation in favor of the AUTHORITY.
 - B. **General Liability Insurance.** CONSULTANT shall also procure and maintain at all times during the performance of this Agreement (1) General Commercial Liability Insurance covering CONSULTANT and AUTHORITY for liability arising out of the operations of CONSULTANT and any subcontractors; and (2) Automobile Liability Insurance including coverage for all owned and non-owned

vehicles, licensed or unlicensed, used by or on behalf of CONSULTANT in the performance of work under this Agreement. The policies shall be subject to a limit for each occurrence of One Million Dollars (\$1,000,000) with an annual aggregate of One Million Dollars (\$1,000,000) naming as an additional insured, in connection with CONSULTANT's activities, the AUTHORITY, and its directors, officers, employees and agents. The insurers shall agree that their policies are Primary Insurance and that they shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance covering AUTHORITY.

C. Evidence of Insurance. CONSULTANT shall furnish to AUTHORITY Certificates of Insurance indicating compliance with the requirements of this section. The Certificates shall stipulate that thirty (30) days advance written notice of cancellation, non-renewal or reduction in limits of the required policy shall be given to AUTHORITY.

6. Non-Liability of Officials and Employees of AUTHORITY. No official or employee of AUTHORITY shall be personally liable for any default or liability under this Agreement.
7. Compliance with Law. CONSULTANT shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
8. Ownership of Work Project. All documents or other information developed or received by CONSULTANT shall be the property of AUTHORITY. CONSULTANT shall provide AUTHORITY with copies of these items upon demand or upon termination of the Agreement.
9. Notices. All notices shall be personally delivered or mailed, via first class mail, to the below listed addresses. These addresses shall be used for delivery of service of process:
10. Familiarity with Work. By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed, (2) it has investigated the site of the work and is aware of all conditions there, and (3) it understands the difficulties, and restrictions of the work under this Agreement. Should CONSULTANT discover any conditions materially differing from those inherent in the work or as represented by AUTHORITY, it shall immediately inform AUTHORITY and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from AUTHORITY.
11. Limitations upon Subcontracting and Assignment. Neither this Agreement or any portion shall be assigned by CONSULTANT nor shall CONSULTANT subcontract any services hereunder without prior written consent of AUTHORITY.

12. Indemnification. CONSULTANT agrees to protect, hold harmless and defend AUTHORITY and its board, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of or in any way connected with performance of the Agreement by CONSULTANT, its agents, officers, employees, subcontractors, or independent contractors hired by CONSULTANT, excepting only those claims, liabilities, expenses, and damages that arise from AUTHORITY's sole negligence. This indemnification shall apply to all liability regardless of whether any insurance policies are applicable and shall not be limited by any insurance policy limits.
13. Modification. This Agreement constitutes the entire agreement between the parties, unless there is a subsequent mutual written agreement executed by AUTHORITY and CONSULTANT.
14. California Law. This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Santa Clara County Superior Court.
15. Interpretation. This Agreement shall be interpreted as though prepared by both parties.
16. Preservation of Agreement. Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.


IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

SILICON VALLEY ANIMAL CONTROL AUTHORITY

By  _____
Dan Soszynski, Executive Director

Date 3/27/18

CREDIT CONSULTING SERVICES, INC.

By  _____
~~Rodney Meeks, V.P. Business Development~~
PRESIDENT/CEO

Date 3/27/18

Collection Service Agreement

This agreement made by and between Silicon Valley Animal Control, hereinafter referred to as "Client," and Credit Consulting Services, Inc. a collection agency and California Corporation governed by state and federal collection laws, including the Federal Fair Debt Collection Practices Act, hereinafter referred to as "Company":

WHEREAS, Client desires Company to undertake the collection of the Client's accounts and other evidences of indebtedness ("accounts"), in the manner and under the terms and conditions hereinafter set forth;

WHEREAS, Client intends to assign accounts for collection to Company pursuant to this Agreement; and,

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

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

1. Client warrants that each account assigned for collection is a valid and existing account against the debtor and each account complies with all state and federal laws. Client further warrants and represents that it is fully authorized and empowered to assign to Company all accounts, and all rights relating thereto, which are sent to the Company pursuant to this Agreement. Client also agrees to cease all collection efforts with its customer once the account is assigned to Company. **Initial**

2. Client acknowledges that Company has the authority for all assigned accounts to receive payment in cash, check or money order. Client also acknowledges that Company has the authority to endorse checks, drafts, money orders and other negotiable instruments, which may be received in payment relating to any assigned account.

CONDUCT OF COMPANY

3. *Collection Efforts.* Company will use collection efforts that are reasonable, and consistent with all applicable laws, and the general reputation of the Client and Company. As reasonably requested by Company, including for the purposes of verification of an assigned debt as required by law, to respond to inquiries from a debtor on an assigned debt, evaluation of collection options, and prosecution of any litigation or other proceeding for the enforcement of an assigned debt, Client shall provide such information, data, and documents as reasonably necessary to Company. If Client fails to provide such information within a reasonable time frame, Company may elect to deem the assigned account uncollectable. **Initial**

4. *Litigations and Enforcement.* Client recognizes that on occasion Company may need to commence litigation in order to enforce a debt on Clients behalf. Company, as the assignee, shall make the decision whether litigation or other enforcement proceedings should be commenced or continued for any account assigned under this agreement. Company, as the assignee, shall notify Client (method of notification: Verbal Written) of such decision, and at which time Client can request the account not proceed with litigation and retained by Company as a non-litigation

Collection Service Agreement

debt. Company may advance all necessary legal cost. When Company collects an account, in whole or in part, Company may first deduct any and all legal cost advanced before disbursing any amounts to Client or Company. **Initial**

5. *Forwarding Assigned Accounts.* Client recognizes debtor may reside in a state with restrictive laws and regulations. Company may forward any of Client's claims to another collection agency in order to comply with such laws and regulations or to improve the chance of recovery. Such other collection agency shall have the authority to exercise all ordinary and reasonable collection efforts as permitted by law.

6. *Credit Reporting.* Client agrees each account assigned to Company may be placed with a credit reporting agency by Company for inclusion in the individual credit file and reported as a derogatory item for the times and in the manner allowed under the Federal and applicable State Fair Credit Reporting Acts. Client reserves the right to have Company direct that an item be deleted from a credit file due to the Client's error. Company may, as it determines appropriate in its sole discretion, issue any such corrections or deletions of information reported to credit reporting agencies.

7. *Settlement of Assigned Accounts.* Except as provided in this Paragraph, Company shall not accept as settlement in full, on any account assigned, any amount less than the full amount as originally assigned by Client without the expressed consent of Client. Company may settle or compromise accounts, with all reductions to be made from monies due Company, without Client consent so long as client receives the amounts due under this Agreement as if the account was paid in full.

8. *Reassignment of Accounts.* Client may require Company to return a specific account or accounts for which there have not been any monies collected within the seven calendar month period, unless there is a payment plan between the debtor and Company, litigation has commenced by Company, or the Company has obtained a judgment on the account. Client may also require Company to return specific accounts, which Client identifies within one month after assignment was assigned in error, and for which Client has not been paid since assignment. If Client is paid within sixty days of an account cancelled as being assigned due to error, Client shall immediately notify Company of the payment, and within 10 days after receiving such payment, pay Company an amount equal to its share of such monies as if the account had not been cancelled. If Client fails to pay such amount within the 10 day time period, Company may offset such amount from a disbursement to be made to Client for monies collected on other Client assigned accounts. In the event of a cancellation, Company shall issue instructions to have previously reported information deleted by the Consumer Reporting Agencies, and it shall be Client's responsibility to conduct any such further credit reporting. **Initial**

9. *Disbursement of Monies Collected.* Company will deposit all payments into a trust account. The Company's payment and Client's payment will be distributed directly from the trust account. Company shall make the payment to Client, after paying Company the reimbursable costs and expenses as provided in this Agreement, for monies collected the previous month. A report shall be given to the Client not later than the 15th of the month following the close of the previous month. All monies due the client shall be paid in full with a remittance statement of each account collected. Client recognizes Company is due a commission on any money collected **Initial** once the account is assigned for collection regardless of payment source or payment location.

Collection Service Agreement

10. *Client Direct Payments.* Client agrees to promptly report all payments, bankruptcy notices, and any and all communications from the debtor or any third party. Client also agrees to forward all payments received by Client ("Direct Payment") for any account, which has been assigned to Company, unless otherwise agreed in writing, and direct all communication from debtors to Company. Client shall notify Company the following information for each Direct Payment: A) The amount of the payment; B) The name of the debtor; and, C) The debtor's account number. **Initial**

11. *Interests Assigned.* In addition to the principal amount of the debt assigned, Client assigns all rights, whether contractual or statutory, relating to the assigned account(s), including without limitation, the right to interest, fees, costs, bad check charges, attorneys' fees, and other financial obligations to the Company. Company shall retain all interest owing after the time of assignment, and all pre-assignment interest, which was not listed in the balance due on the account by the Client at the time of assignment. **Initial**

12. *Fees and Interests in Monies Collected.* For all accounts assigned, Company is assigned the following commission rate listed in the table below of all Principal Sums ("Principal Sums" is the dollar amount of the account as assigned by the client, including the interest and other costs as then computed by the Client) collected from whatever source or any items returned as a credited item on accounts referred from this date hereon forward.

Account Status	Assigned Commission Rate
Non-litigated Accounts	30%
Litigated Accounts	50%
Forwarded Accounts	50%

Client recognizes there is value in determining whether the assigned amount is owed or previously paid prior to assignment. If it is determined the debt is not owed, Company shall be entitled to a discovery fee of fifteen percent (15%) of the original amount submitted for collection, and if not so paid, Company may deduct such amount from the monthly disbursement to Client for monies due on other assigned accounts in the next calendar month following Company reporting the determination to Client. The Company's statement to the Client shall be due in full upon receipt. Any statement balance not paid in full within (30) days of the date of such statement shall accrue interest at the compounded rate of one and one half percent (1.5%) per month. In the event the Company files any action or proceeding against the Client for the recovery of any monies due from the Client to the Company pursuant to this Agreement, Client shall pay Company all costs incurred by the Company in prosecuting such action, including, without limitation, reasonable attorneys' fees.

The Client's duties and obligations under Paragraphs 9 through and including 12, 14 and 15 of this Agreement shall continue subsequent to termination, for any reason, of this Agreement with respect to payments received upon which the Company remains entitled to receive pursuant to this Agreement.

13. *Term of Agreement.* This "Agreement" shall remain in full force and effect from July 1, 2018 to June 30, 2019. Should either party elect to terminate this agreement, all accounts that remain in collections (payment plan, litigation, and judgment) will remain under the terms of this agreement.

Collection Service Agreement

14. *Client Conduct Litigation.* If the debtor files a responsive pleading, cross complaint, counter claim or other affirmative claim for damages or other relief based on the conduct of Client, Client shall pay all of Company legal fees and cost incurred relating to the claims or rights asserted in such responsive pleading, cross compliant, counter claim or other affirmative claim for damages. Client will be notified of such affirmative claim to make appropriate arrangements before Company undertakes any defense. Client shall be responsible for entering its appearance and defending such affirmative damage claims based on the conduct of Client asserted by a debtor.

15. *Indemnification.* Client agrees to indemnify, defend, and hold harmless Company, its officers, management, members, employees, and agents from damages, claims, or liability arising out of or related to Client's conduct or any information provided to Company by Client. Client acknowledges that Company shall rely upon the information as provided by Client for accounts assigned pursuant to this Agreement in performing its collection activities, including reporting information to Consumer Reporting Agencies, commencing litigation, and enforcing a judgment and Company is not obligated to independently investigate information provided by Client. Company agrees to indemnify, defend, and hold harmless Client, its officers, management, and employees from damages, claims, liabilities arising solely out of Company's collection activities on an account assigned pursuant to this Agreement. The liability of Company to Client, if any, with respect to this Agreement shall in any event be limited to the total compensation for the services provided hereunder for the month in which Client suffered a loss or damage. Any such compensation shall not include any liability for any loss of anticipated profits or consequential or indirect damages, whether foreseeable or unforeseeable, whether or not resulting from the passive or active negligence or other acts of Company or its officers, management, members, employees or agents.

16. *Limitations.* Notwithstanding any other provisions of law, all claims, disputes, corrections or other alleged errors by Company concerning the monies disbursed to Client for amounts collected on assigned accounts must be made, and any judicial or non-judicial proceeding commenced, within four hundred and eighty-five (485) days of the disbursement having been mailed to Client. Each disbursement to Client shall be deemed a separate and independent potential claim for which the four hundred and eighty-five (485) day period shall separately apply, and such period shall not be extended by any subsequent disbursements.

17. *Choice of Law.* This Agreement shall be construed and interpreted in accordance with and governed by the laws of the State of California. The Company and the Client hereby expressly agree that any action to interpret, construe, or enforce this Agreement shall be brought in the Superior Court in and for Monterey County, in the State of California.

18. *Fees and Costs.* If either party resorts to legal action to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover the costs and expenses of the action, including without limitation, reasonable attorneys' fees.

19. *Entire Agreement.* This Agreement represents the entire agreement of the parties and supersedes all other oral or written agreements, understandings, statements, or representations between them regarding the subject matter hereof, except for previous agreed compensation on previously assigned accounts. Each of the parties hereto have relied solely on their own judgment and knowledge, and been provided the opportunity to seek the advice of their own respective legal counsel in entering into this Agreement. No modification, amendment, or

Collection Service Agreement

alteration of this Agreement shall be valid unless in writing and signed by each of the parties hereto.

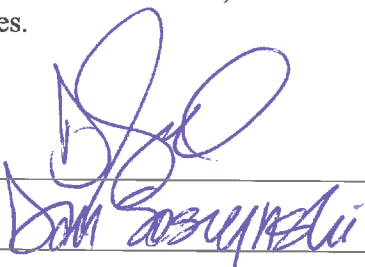
20. *Counterparts.* This Agreement may be executed by the parties hereto in duplicate counterparts, each of which shall be deemed an original, when attached together shall form one document. Signatures on this Agreement may be communicated by facsimile transmission or electronic transmission and shall be binding upon the parties transmitting the same by facsimile transmission or electronic transmission. Counterparts with original signatures shall be provided to the other party within fifteen (15) days of the applicable facsimile transmission, provided, however, that the failure to provide the original counterpart shall have no effect on the validity or the binding nature of the Agreement.

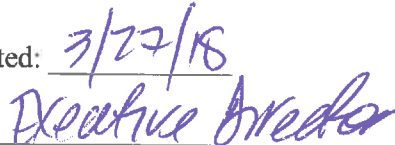
21. *Confidentiality.* The parties agree to keep all of the terms of this Agreement strictly confidential, including without limitation, the Compensation terms contained in this Agreement. The parties further agree to maintain the confidentiality of any confidential information and/or trade secrets that they may learn about each other throughout the course of this Agreement, including without limitation, the terms of any contracts that the other party may have with any third parties.

Client:

By: _____

Dated: _____



3/27/18


[Print name]

[Print title]

Silicon Valley Animal Control
3370 Thomas Rd
Santa Clara, CA 95054
Telephone: 408-764-0344, Facsimile: 408-988-5411
Email: heidi@svaca.com

Company:

CREDIT CONSULTING SERVICES, INC.
201 John Street, Suite E
Salinas, CA 93901
Telephone: 831-424-0606/800-679-6888, Facsimile 831-424-3732
www.creditconsultingservices.com