

**CONTRACT FOR COLLECTION
OF
DELINQUENT MUNICIPAL COURT FINES AND FEES**

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

THIS CONTRACT is made and entered into by and between the **CITY OF MCKINNEY, TEXAS**, acting herein by and through its governing body, hereinafter styled, "**City**", and **McCREARY, VESELKA, BRAGG AND ALLEN, P.C.**, hereinafter styled "**MVBA**".

WHEREAS, CITY desires to obtain legal services from MVBA for the collection of "Fines and Fees," defined below, pursuant to Tex. Code Crim. Proc. art. 103.0031 and Code of Ordinances, City of McKinney, Texas § 66-24; and

WHEREAS, MVBA is a private law firm qualified to provide such services and is willing to undertake the performance of such services for CITY in exchange for fees hereinafter specified; NOW, THEREFORE,

THAT IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

The City agrees to retain and does hereby retain MVBA to provide specific legal services provided herein and enforce the collection of delinquent municipal court fines, fees, court costs, restitution, debts and accounts receivable and other amounts related to any cases, adjudicated or unadjudicated, arising out of the Municipal Court of the City of McKinney ("Court") in accordance with Article 103.0031, Texas Code of Criminal Procedure (hereinafter referred to in the agreement as "Fines and Fees") pursuant to specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitles "Scope of Services" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto. In addition, MVBA agrees to perform the following additional services that were identified in its interview with the City as follows:

- a. MVBA will collaborate with InCode, by Tyler Technologies, to develop a system that will allow for an automated data collection process at no cost to the City;

- b. Any variances in invoicing will be deferred to the City for final determination regarding the correct amount to be paid MVBA;
- c. MVBA will provide start-up training and data transfer to City at no cost to the City; and,
- d. MVBA will compile reports from data provide by the City and assist City with participation in “Scofflaw” and “OMNI” programs.

Legal services to be performed under this contract may include recommendations and legal advice to the City regarding legal enforcement action related to Fines and Fees; representing the City in any dispute or legal challenge to the Court’s authority to collect such Fines and Fees; defending the City in litigation or challenges of its collection authority regarding such Fines and Fees; and representing the City in collecting such Fines and Fees in bankruptcy matters as determined by MVBA or the City. The City further authorizes MVBA to execute all legal documents that are reasonably necessary to pursue collection of the City’s claims in connection with the collection of Fines and Fees that are subject to this contract. This contract supersedes all prior oral and written contracts between the parties regarding Fines and Fees, and can only be amended if done so in writing and signed by all parties. Furthermore, this contract cannot be transferred or assigned by either party without the written consent of all parties.

II.

For purposes of this contract all Fines and Fees shall be referred to MVBA when determined to be more than 60 days past due as determined by Article 103.0031, Texas Code of Criminal Procedure and Section 66-24 of the Code of Ordinances, City of McKinney, Texas (“McKinney Code”).

At least once each month on a date or dates agreed upon by the parties, the City will provide MVBA with copies of, or access to, the information and documentation necessary to collect the Fines and Fees that are subject to this contract. The City shall furnish the information to MVBA by electronic transmission or magnetic medium.

III.

MVBA shall advise all defendants to forward payments directly to the City.

MVBA shall forward to the City all cashier’s checks or money orders received by MVBA made payable to the City and any correspondence from defendants. Cashier’s checks, money orders, or any other form of payment received by MVBA which are made payable to MVBA will be deposited daily into the MVBA Trust Account. **All communications, whether oral or written, from MVBA to defendants from whom MVBA is collecting Fines and Fees shall instruct defendants to forward all monies directly to the City of McKinney Municipal Court.** In spite of instructions to the defendant to the contrary, if MVBA receives any direct payment on any case by a defendant or an agent of a defendant, MVBA will receive and record any such payment made and immediately remit same to the City.

The City reserves the right, upon written direction, to change the method of collection that all monies are paid directly to MVBA. MVBA shall remit to the City, at least once a week, all funds deposited into the MVBA Trust Account which pay the entire balance of a fines and fees account, along with an invoice detailing the docket number, name of defendant, amount paid by the defendant to MVBA or directly to the City and the MVBA fee percentage and fees earned for each case. The remittance from MVBA to the City shall include the fees earned by MVBA on the fines and fees collected.

IV.

For other additional good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, MVBA shall indemnify, hold harmless and defend the City, its officers, agents, officials, representatives and employees against any and all liability, loss, cost, damages, expenses, claim or actions, of whatever type, including, but not limited to, attorney's fees and suit costs, for trial and appeal which the City, its officers, officials, agents, officials representatives or employees or any other person(s) or business entity(s) who may hereafter sustain, incur or be required to pay, arising wholly or in part due to any act or omission of MVBA, its agent(s), vendors, subcontractor(s), representatives, servants or employees in the execution, performance or non-performance or failure to adequately perform MVBA's obligations pursuant to this contract.

V.

For the collection of Fines and Fees, the City agrees to pay to MVBA, as compensation for the legal services rendered the following fees:

1. For those Fines and Fees imposed against Unadjudicated Offenses that occurred before June 18, 2003, there is no fee due (0%) MVBA on the amount collected by the Court on those cases.
2. For those Fines and Fees imposed against Adjudicated Offenses regardless of the date of the offense, and against Unadjudicated Offenses that occurred on or after June 18, 2003, a fee of thirty percent (30%) of the amount of the Fines and Fees collected by the Court as provided by Article 103.0031 of the Texas Code of Criminal Procedure and McKinney Code § 66-24.
3. In the event any case is disposed of by acquittal or dismissal, or if the fine, costs and/or fees are discharged through performance of community service, credit for jail time served, the discretionary removal of a collection fee by the Court or pursuant to §45.0491 of the Texas Code of Criminal Procedure, no compensation shall be paid to MVBA by the City.

All compensation due to MVBA shall become the property of MVBA at the time of payment of the Fines and Fees by the defendant. The City shall pay to MVBA said compensation on a monthly basis by check.

VI.

The City recognizes and acknowledges that MVBA owns all right, title and interest in certain proprietary software that MVBA may utilize in conjunction with performing the services provided in the contract. The City agrees and hereby grants to MVBA the right to use and incorporate any information provided by the City (“case or defendant information”) to update the databases in this proprietary software, and, notwithstanding that the case or defendant information has been or shall be used to update the databases in this proprietary software, further stipulates and agrees that the City shall have no rights or ownership whatsoever in and to the software or the data contained therein, except that the City shall be entitled to obtain a copy of such data that directly relates to the City’s accounts at any time.

MVBA agrees that it will not share or disclose any specific confidential case or defendant information with any other company, individual, organization or agency, without the prior written consent of the City, except as may be required by law or where such information is otherwise publicly available. It is agreed that MVBA shall have the right to use case or defendant information for internal analysis, improving the proprietary software and database, and generating aggregate data and statistics that may inherently contain case and defendant information. These aggregate statistics are owned solely by MVBA and will generally be used internally, but may be shared with MVBA’s affiliates, partners or other third parties for purposes of improving MVBA’s software and services.

MVBA reserves the right to return to the City all accounts not collected within one (1) year of referral by the City, or identified as being in bankruptcy. Upon return of these accounts, neither party will have any obligation to the other party to this contract.

VII.

The initial term of this contract is two year, beginning on the first day of the month following execution of this contract is executed by all of the parties hereto, and shall thereafter continue with the option of extending this contract, subject to approval of funding and review of the service provided by MVBA, for up to three (3) additional terms of one (1) year each. This contract may only be extended upon mutual agreement of both MVBA and the City. The City of McKinney will not consider contract extensions which include any increase in compensation paid to MVBA as provided by Paragraph V of this contract.

Either party may, without cause, terminate this contract at the end of the initial contract term or thereafter by delivering written “Notice of Termination of Contract” to the other party of its intent to terminate this contract, at least, sixty (60) days prior to each anniversary date of this contract.

In the event that the City terminates this contract, MVBA shall be entitled to continue its collection activity on all accounts previously referred to MVBA for six (6) months from the date of receipt of the “Notice of Termination of Contract” and to payment of its fee, pursuant to Paragraph V of this contract for all amounts collected on Fines and Fees referred to MVBA. The City may, at its discretion, refer additional accounts to MVBA after notice of termination has been received by MVBA.

At the end of the six (6) month period, all accounts shall be returned to the City by MVBA.

VIII.

For purposes of sending notice under the term of this contract, all notices from the City shall be sent to MVBA by certified United States mail to the following address:

McCreary, Veselka, Bragg & Allen, P.C.
Attention: Gilbert T. Bragg
P.O. Box 1310
Round Rock, Texas 78680-1310

or delivered by hand or by courier, and addressed to: 700 Jeffrey Way, Suite 100, Round Rock, Texas 78664-2425. All notices to the City shall be sent by certified United States mail or delivered by hand or courier, to the following address:

City of McKinney, Texas
Attention: City Manager
222 N. Tennessee St.
McKinney, Texas 75069

IX.

This contract is made and is to be interpreted under the laws of the State of Texas. Exclusive venue for any action, lawsuit, claim, dispute or another legal proceeding concerning or arising out of this contract shall be in Collin County, Texas.

In the event that any provision(s) of this contract shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of that provision(s) shall not affect any other provision(s) of this contract, and it shall further be construed as if the invalid or unenforceable provision(s) had never been a part of this contract.

X.

In consideration of the terms and compensation herein stated, MVBA hereby agrees to undertake the performance of said contract as set forth above.

The City has authorized, by resolution heretofore passed and duly recorded in its minutes, the City Manager to execute this contract.

This contract may be executed in any number of counterparts, and each counterpart shall be deemed an original for all purposes. Signed facsimiles shall be binding and enforceable.

WITNESS the signatures of all parties hereto this, the ____ day of _____, A.D. 2022.

CITY OF MCKINNEY,
a Texas municipal corporation

By: _____
PAUL G. GRIMES
City Manager

Date Signed: _____

ATTEST:

EMPRESS DRANE
City Secretary
JOSHUA STEVENSON
Deputy City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

McCREARY, VESELKA, BRAGG & ALLEN,
P.C.,
a Texas Professional Corporation

By: _____
GILBERT T. BRAGG
Attorney at Law

**Written Findings as to the Collections Contract with
McCreary, Veselka, Bragg, & Allen, P.C.:**

The governing body for the City, in support of its decision to contract with McCreary, Veselka, Bragg, & Allen, P.C. pursuant to section 2254.1036, of the Government Code, hereby finds the following to be true:

- 1) There is a substantial need for the legal services specified in said contract;
- 2) These legal services cannot be adequately performed by the attorneys and supporting personnel of the City; and
- 3) These legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which these services will be obtained or because City does not have funds to pay the estimated amounts required under a contract providing only for the payment of hourly fees.

APPROVED and EXECUTED this the ____ day of _____, 2022.

Title: _____

City of McKinney

Attachment “A”

Scope of Work