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**FINANCE & RECORDS****MEMO**

To: Gregg Mandsager, City Administrator

From: Nancy A. Lueck, Finance Director

Date: April 12, 2011

Re: Collection Service Agreement for Automated Traffic Enforcement system

**Introduction:**

The City has an agreement with GATSO, USA for operation of the Automated Traffic Enforcement system in the City. This system is now operational at four intersections, with one more intersection yet to be added. As part of GATSO's services, after review of potential traffic violations and confirmation of the violations by the Police department, GATSO will send the initial notice of violation to the registered owners of vehicles violating traffic laws at the intersections with the traffic cameras. This notice states that the vehicle owners have 30 days from the date of the notice to pay or appeal the violations. Vehicle owners with violations that are not paid or appealed within 30 days will receive a second notice from GATSO. The second notice will include a \$35 late fee as provided for in the City's ordinance for the Automated Traffic Enforcement system. This second notice allows for 30 additional days to pay the violation before it is forwarded to a collection agency.

**Background:**

Staff of both the Police and Finance department met with representatives of Municipal Collections of America, Inc. (MCA), a collection agency used by other cities that have the GATSO traffic enforcement system. It is proposed that automated traffic enforcement fines that are not paid to GATSO within the initial 30 day notice period and the subsequent 30 days after the second notice be forwarded to MCA for collections. The attached agreement with MCA was reviewed by the City Attorney's office and incorporates several of their recommended changes. This agreement provides that MCA will receive 25% of the amount of the underlying debt collected. For the red light violation and the minimum speed on green violation of \$75, the amounts turned over to MCA will be \$110 (\$75 plus the \$35 late fee assessed after 30 days). MCA's fee would be 25% of that amount or \$27.50 for each of the violations paid in full that are collected by MCA. For speed limit violations that have higher fine rates, the 25% collection fee would increase based on the higher underlying fine rate. This collection fee is considered a cost of collection and it is permissible and recommended that this cost be passed on to the violator.

MCA's processes for collections are described in the attached Collections Process Map and include (1) skip-tracing each account forwarded to them for any changes of addresses or telephone numbers and forwarding an initial letter notifying these individuals of their debt, (2) initial automated phone calls, (3) a series of live calls to the violators, (4) forwarding these debts to be placed on individuals' credit bureau

files. In addition, MCA will work with City staff to forward unpaid violations of Iowa residents to the State under the Income Offset Program. This program allows funds due to these individuals for State income tax refunds or other purposes to be forwarded to governmental entities that are owed money by these individuals. The Income Offset Program is currently used by the City for unpaid ambulance bills.

**Recommendation:**

Please include the attached Collection Services Agreement with Municipal Collections of America, Inc. on the agenda for the April 21, 2011 meeting. If there are any questions, please contact me.

**Backup Information:**

1. Collection Services Agreement
2. Collections Process Map

# ***COLLECTION SERVICES AGREEMENT***

## ***Municipal Collections of America, Inc***

AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2011 by and between Municipal Collections of America, Inc, (MCA) an Illinois Corporation, and the City of Muscatine, Iowa (hereinafter referred to as THE MUNICIPALITY)

WHEREAS, THE MUNICIPALITY has unpaid delinquent debts or fines and desires to contract with a professional municipal collection agency to collect said debts or fines, and;

WHEREAS, MCA is a duly licensed collection agency in the State of Illinois duly certified to do business in Iowa and willing to accept such claims for collections, and;

WHEREAS, MCA possesses the personnel, experience, expertise, and equipment to effectively aid THE MUNICIPALITY in collecting the said debt or fines through an effective collection process and;

MCA and THE MUNICIPALITY do hereby agree as follows:

### ***ARTICLE I***

THE MUNICIPALITY agrees that any and all debts or fines listed for collection with MCA will be collected and administered pursuant to all the terms and conditions in this Agreement.

All municipal debts and fines listed for collection will be forwarded to MCA, using the forms and procedures designated by MCA.

Upon request of MCA, THE MUNICIPALITY will provide certified copies of any documentation deemed necessary for use by MCA in its collection efforts in a timely manner.

MCA will acknowledge receipt of any violations listed for collection within five days thereof.

### ***ARTICLE II***

MCA agrees to use its best efforts and any lawful means which MCA, in its judgment and discretion believes will result in the collection of the debts or fines which are listed for collections.

### ***ARTICLE III***

No fees will be payable to MCA unless money is collected, at which time MCA will be paid as follows:

Twenty-five percent (25%) of the balance of underlying debt for each file unless 100% of such debt is not recovered at which point MCA will be entitled to twenty-five percent (25%) of the balance of the amount collected on each file—this amount shall be known as the “Cost of Collection”. Should the MUNICIPALITY choose to include the Cost of Collection in the total of the debt to be collected from the debtor, MCA shall not be entitled to a percentage of such Cost of Collection and shall only be entitled to twenty-five percent (25%) of the underlying debt (or amount of debt collected) minus the Cost of Collection. It is the intent of the MUNICIPALITY that for the Automated Traffic Enforcement program that the Cost of Collection be included in the total of the debt to be collected from the debtor.

## ***ARTICLE IV***

Upon THE MUNICIPALITY's listing of the violation for collection, MCA shall have the exclusive right to collect the amounts owed thereunder until such time as it determines the debt is uncollectable or THE MUNICIPALITY requests return of the violation to THE MUNICIPALITY. Any inquiries concerning any debt or fine listed for collections; including attempts to make payment thereon, shall be referred at the earliest possible time to MCA.

MCA will deposit any money collected in THE MUNICIPALITY's separate bank trust account established for that purpose.

MCA shall provide THE MUNICIPALITY with a debt collection Activity Report evidencing the name of the debtor, the original amount of the debt, the amount collected, and a statement as to whether the amount is paid in full or a partial payment at the time of remittance of any money owed under the Agreement.

After deduction of the fees allowable by this Agreement, MCA will forward to THE MUNICIPALITY, its share of any amounts collected. Remittance to the MUNICIPALITY will be made by the 15<sup>th</sup> of the month for any amounts collected by the last day of the preceding month.

In the event that any funds are paid directly to THE MUNICIPALITY for violations which have been listed for collection, THE MUNICIPALITY will report such collections to MCA daily for accounting.

## ***ARTICLE V***

THE MUNICIPALITY hereby requires that MCA receives prior settlement approval from THE MUNICIPALITY to negotiate settlements of less than 100% of the amount submitted for collection on any violations listed for collection by THE MUNICIPALITY. This approval can be written, transmitted by electronic mail, or verbal communication.

Should THE MUNICIPALITY take any action in derogation of MCA's exclusive right to collect on any violation after it has been listed for collection other than instances identified in Article VII, then MCA shall be entitled to 25% of the value of the payment-in-full commission, as delineated in Article III and IV hereof, based on the full amount of the violation, as listed. Any such payments which may become due may be deducted from the MUNICIPALITY's next monthly payment from MCA.

## ***ARTICLE VI***

MCA agrees to indemnify and hold THE MUNICIPALITY harmless against any and all liability, costs and expenses including attorney fees, occasioned by claims or suits for loss or damages arising out of the acts of the agents, servants or employees of MCA arising from this Agreement. Conversely, THE MUNICIPALITY agrees to indemnify and hold MCA harmless against any and all liability, costs and expenses including attorney fees, occasioned by the claims or suits for loss or damages arising out of the acts of THE MUNICIPALITY, its servants or employees arising from this agreement.

MCA warrants and represents to the MUNICIPALITY that all collections, collections attempts/efforts, and actions undertaken by MCA shall be in conformance with the Federal "Fair Debt Collection Practices Act," the Iowa "Fair Collection Practices Act," the Illinois "Collection Agency Act," and/or any collections practices and collections agency laws, rules, and regulations of any and all states in which MCA seeks to collect a debt or fine for the MUNICIPALITY. In addition to the indemnities listed above, MCA agrees to indemnify and hold the MUNICIPALITY harmless against any and all liability, costs, and expenses including attorneys' fees occasioned by claims or suits arising as a result of MCA's breach of such warranties and representations except to the extent

they arise as a result of the illegality or invalidity of a debt listed for collections by THE MUNICIPALITY as set forth in the next paragraph.

The MUNICIPALITY warrants and represents to MCA that any debt listed for collection will be a legal and valid debt owed to the MUNICIPALITY; and in addition to the indemnities listed above, the MUNICIPALITY agrees to indemnify and hold MCA harmless against any and all liability, costs, and expenses including attorneys' fees occasioned by claims or suits under the Federal "Fair Debt Collection Practices Act", the Illinois "Collection Agency Act", the Iowa "Fair Collection Practices Act," and/or any collections practices and collection agency laws, rules, and regulations of any and all states in which MCA seeks to collect a debt or fine for the MUNICIPALITY due to the breach of the warranty or representation as to the legality and validity of a debt listed for collection. Provided, however, nothing in this paragraph shall relieve MCA from knowing or investigating whether the debt owed is a legal and valid debt under the law. In the event MCA knows or should have known that a particular debt was illegal or invalid, MCA shall provide notice to MUNICIPALITY and stop collection activities immediately. Any collection taken in derogation of such actual or constructive knowledge of an illegal or invalid debt shall relieve MUNICIPALITY of its duty to indemnify and hold harmless under this paragraph.

## ***ARTICLE VII***

The term of this Agreement is for a period of 36 months from the written date above, however, it shall automatically renew under the same terms and conditions for an additional one year period unless terminated by either party, by notice given in writing to the other party, at least sixty (60) days prior to termination. The MUNICIPALITY shall have the right to terminate this Agreement if the MUNICIPALITY is required to cease utilizing the Automatic Traffic Enforcement program or if the Ordinance for the Automatic Traffic Enforcement is found to be invalid, void, or illegal.

However, in the event of termination of the Agreement by either party, MCA shall retain its exclusive right to collect any debts listed for collection prior to the end of the final year period until such times as it elects to return any such violations to THE MUNICIPALITY as provided under the terms of this Agreement.

## ***ARTICLE VIII***

At least once per year, MCA will return to THE MUNICIPALITY such violations, which it determines, in its sole judgment and discretion, to be uncollectible.

## ***ARTICLE IX***

Any notices to be given pursuant to this Agreement shall be deemed as served when placed in the United States Mail, with postage prepaid, sent by certified mail, return receipt requested; to the address designated, in writing, by either party. Until such time as a different address is designated notices shall be sent as follows:

If to MCA,

Jeff Wood, President  
Municipal Collections of America, Inc.  
3348 Ridge Road  
Lansing, Illinois 60438

If to THE MUNICIPALITY,

Attn: Finance Director  
City of Muscatine  
215 Sycamore St.  
Muscatine, IA 52761

## ***ARTICLE X***

In the event of a dispute that cannot reach a resolution acceptable to both parties, MCA and THE MUNICIPALITY agree to first secure an unbiased mediator in an effort resolve the dispute. The decision of the mediator shall be non-binding.

## ***ARTICLE XI***

This Agreement contains the entire agreement between the parties hereto and supersedes any prior agreements or understandings between the parties. This agreement may only be altered or modified by written instrument signed by both parties.

IN WITNESS WHEREOF, the parties have signed and sealed this Agreement of the date first above written.

### **Municipal Collections of America, Inc.**

BY: \_\_\_\_\_  
(Print) President

\_\_\_\_\_  
(Signature) President

Date \_\_\_\_\_

### **City of Muscatine, Iowa**

BY: \_\_\_\_\_  
(Print) Mayor

\_\_\_\_\_  
(Signature) Mayor

Date \_\_\_\_\_

ATTEST: \_\_\_\_\_  
(Print) City Clerk

\_\_\_\_\_  
(Signature) City Clerk

Date \_\_\_\_\_



# Collections Process Map – Muscatine, Iowa

## 2011

Municipal Collections of America will receive the unpaid violations directly from Gatso USA on or after sixty days after the violator is sent their first letter from Gatso. This process map will cover the steps that will be taken by MCA upon receipt of the unpaid citation.

**Receipt of Data** – On or after 60 days after sending the first notice to the violator, Gatso USA forwards the \$110 violation (or amount based on the speed violation) to MCA. This will occur on a monthly basis. Upon receipt at MCA, we will add the 25% collection cost of \$27.50 (or the amount based on a larger initial speed violation); bringing the total debt to \$137.50 (or the amount based on the speed violation). Upon receipt, MCA will immediately skip-trace the accounts. This means we will seek out any updated addresses and phone numbers for the violators, as the most common reason people do not pay a photo-enforcement citation is they failed to update their contact information with the state and the citation went to an old address. During this process, we will identify active bankruptcy filings and the deceased, as we do not want to be pursuing either of these groups. Deceased violators will be returned to the City on our Cancel Report. It takes about an hour to skip-trace 10,000 records. The Initial Collection Letter is sent to the violator notifying them of the debt and their need to contact MCA.

**Receipt +2 days** – MCA's calling efforts begin for those accounts with an active phone number. The first three calls are from an automated dialer that leaves a 20-second message requesting the person to contact us regarding a business matter with the City of Muscatine. This dialer allows for a high-volume calling effort that confirms the validity of the phone number. Typically, most people who have received the call in error will contact us to clarify they are not the violator. If we are notified that we have called the wrong number, we immediately run that account through a skip-trace process again in search of a new number.

**Receipt + 7 days** – Our calls are moved to a second automated dialer that connects live collectors to each answered line. This two-way conversation is recorded for quality purposes and MCA management spends two hours of each day reviewing samples from the prior days calling effort. It is important that we know exactly what our people are saying on behalf of your City and Police Department. If a collector does not work to the standards we require, they will face disciplinary action up to and including termination.

**Receipt + 45 days** - If satisfactory payment has not been made, MCA will place the debt on the individuals credit bureau file. This is an effective tool as it crosses jurisdictions to provide motivation to those who do not reside in Iowa and are not eligible for the State Income Tax Offset program. The credit report will remain intact for up to 7 years. Essentially, if the violator applies for a loan, they may be blocked from approval until they take care of the money owed to Muscatine. Phone calls will continue to be made to the violator every 2-5 days throughout the entire collection process. In a recent internal study, we determined that among all violators who made payments in a sample month, it took 74 phone calls to reach the first payment.

**Iowa's State Income Tax Offset Program-** At a frequency to be determined, MCA and the City will work together to submit eligible unpaid debts to the State's Income Tax Offset Program. In the skip-trace process, MCA will acquire/confirm social security numbers of the violators which will be used with the offset program. MCA will identify all citations issued to State residents and submit the necessary data to the City for processing. During this time, our collections efforts will continue. Once the City has received the funds from the State, they will notify MCA and we will close out the debt and update the violator's credit report accordingly.