

**CITY OF KERRVILLE, TEXAS**  
**RESOLUTION NO. 09-2023**

**A RESOLUTION AUTHORIZING THE APPROVAL OF A CONTRACT FOR COLLECTION SERVICES FOR DEBTS AND ACCOUNTS RECEIVABLE WITH LINEBARGER GOGGAN BLAIR & SAMPSON, LLP; SUCH SERVICES TO INCLUDE COLLECTIONS OF UNPAID FINES, FEES, AND COURT COSTS PERTAINING TO THE CITY'S MUNICIPAL COURT; MAKING CERTAIN FINDINGS REQUIRED BY SECTION 2254.1036 OF THE TEXAS GOVERNMENT CODE; AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, pursuant to Article 103.0031, Texas Code of Criminal Procedure, City Council is authorized to enter into a contract with a private attorney for the provision of legal services to collect debts and accounts receivable such as unpaid fines, fees, and court costs, as ordered paid by the judge of the City's Municipal Court; and

**WHEREAS**, the City desires to approve a contract for collection services of unpaid fines, fees, and court costs with Linebarger Goggan Blair & Sampson, LLP; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** Pursuant to Section 2254.1036, Texas Government Code, City Council has provided notice to the public, and hereby affirms such notice and/or makes the following findings with respect to the *Contract for Fine and Fees Collection Services* (the "Contract") with Linebarger Goggan Blair & Sampson, LLP:

- A.** there is a substantial need for the legal services to be provided pursuant to the Contract;
- B.** the legal services to be provided pursuant to the Contract cannot be adequately performed by the attorneys and supporting personnel of the City at a reasonable cost; and
- C.** the 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 these receivables as provided by Texas Code of Criminal Procedure Article 103.0031 and because the City does not have the funds to pay the estimated amounts required under a contract only for the payment of hourly fees.

**SECTION TWO.** After having provided legal notice, as required by Section 2254.1036 of the Texas Government Code, the Mayor is authorized to approve the Contract for Fine and Fees Collection Services with Linebarger Goggan Blair & Sampson, LLP. The Contract is attached as **Exhibit A**.

**SECTION THREE.** This Resolution shall become effective immediately upon its passage.

PASSED AND APPROVED ON this the 28 day of FEBRUARY A.D., 2023.

Judy Eychner  
Judy Eychner, Mayor

APPROVED AS TO FORM:

William L. Tatsch  
William L. Tatsch, Assistant City Attorney

ATTEST:

Shelley McElhannon  
Shelley McElhannon, City Secretary

# Contract for Fines and Fees Collection Services

STATE OF TEXAS

CITY OF KERRVILLE

THIS CONTRACT (hereinafter "AGREEMENT") is made and entered into by and between the City of Kerrville, acting herein by and through its governing body, hereinafter styled "CLIENT", and Linebarger Goggan Blair & Sampson, LLP, hereinafter styled "FIRM".

## Article I

### *Nature of Relationship and Authority for Contract*

1.01 The parties hereto acknowledge that this AGREEMENT creates an attorney-client relationship between CLIENT and FIRM.

1.02 The CLIENT hereby employs the FIRM to provide the services hereinafter described for compensation hereinafter provided.

1.03 This AGREEMENT, as applicable, is entered into pursuant to and as authorized by Subsection (a) of ART. 103.0031, Texas Code of Criminal Procedure.

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## Article 2

### *Scope of Services*

2.01 CLIENT agrees to employ and does hereby employ FIRM to provide specific legal services provided herein and to:

Enforce the collection of delinquent court fees and fines that are subject to this AGREEMENT, pursuant to the terms and conditions described herein; and,

Such legal services shall include but not be limited to recommendations and legal advice to CLIENT to take legal enforcement action; representing CLIENT in any dispute or legal challenge over authority to collect such accounts; defending CLIENT in litigation or challenges of its collection authority; and representing CLIENT in collection interests in bankruptcy matters as determined by FIRM and CLIENT. This AGREEMENT supersedes all prior oral and written agreements between the parties regarding court fees and fines 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.

2.02 The CLIENT may from time-to-time specify in writing additional actions that should be taken by the FIRM in connection with the collection of accounts identified in 2.01 above and that are subject to this AGREEMENT. CLIENT further constitutes and appoints the FIRM as CLIENT's attorneys to sign all legal instruments, pleadings, drafts, authorizations and papers as shall be reasonably necessary to pursue collection of the CLIENT's claims.

2.03 Fines and fees that are subject to this AGREEMENT are those that are more than sixty (60) days past due as of the effective date hereof and those that become more than sixty (60) days past due during the term hereof. As used in this section, "more than 60 days past due" has that meaning assigned by Subsection (f) of Art. 103.0031, Texas Code of Criminal Procedure [as amended by Senate Bill 782, 78th Legislature (2003), effective June 18, 2003]. The meaning assigned to the phrase "more than 60 days past due" shall, for the term and purposes of this AGREEMENT, survive any future amendments to, or repeal of, Article 103.0031, Texas Code of Criminal Procedure, or any parts thereof.

2.04 The CLIENT agrees to provide to the FIRM data regarding any fines and fees that are subject to this AGREEMENT. The data shall be provided by electronic medium in a file format specified by the FIRM. The CLIENT and the FIRM may from time-to-time agree in writing to modify this format. The CLIENT shall provide the data to the FIRM not less frequently than weekly or as otherwise mutually agreed.

2.05 The FIRM, in all communications seeking the collection of fines and fees, shall direct all payments directly to the CLIENT at an address designated by the CLIENT. If any fines and fees are paid to the FIRM, said payments shall be expeditiously turned over to the CLIENT.

### **Article 3** *Compensation*

3.01 The CLIENT agrees to pay the FIRM as compensation for the services required hereunder:

(a) Thirty percent (30%) percent, pursuant to Article 103.0031(b), Texas Code of Criminal Procedure, of all the fines and fees subject to the terms of this AGREEMENT that are collected by the CLIENT during the term of this AGREEMENT and that were incurred under Art. 103.0031(a)(2), Texas Code of Criminal Procedure, as a result of the commission of a criminal or civil offense committed after June 18, 2003.

(b) All compensation shall become the property of the FIRM at the time payment of the fines and fees is made to the CLIENT.

All compensation shall become the property of the FIRM at the time payment of the fines and fees is made to the CLIENT.

3.02 The CLIENT shall pay the FIRM by the twentieth day of each month all compensation earned by the FIRM for the previous month as provided in this Article 3. The CLIENT shall provide an accounting showing all collections for the previous month with the remittance.

## **Article 4**

### *Intellectual Property Rights*

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

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

## **Article 5**

### *Costs*

5.01 The FIRM and CLIENT recognize that certain costs may be incurred in the process of providing any additional services contemplated in Section 2.02 above or in providing any special litigation services. The CLIENT agrees that all such costs shall be billed to the CLIENT, but that the FIRM will either (i) advance such costs on behalf of the CLIENT or, (ii) when possible, arrange with the vendor or agency providing the service that the costs of services will not be paid unless and until such costs are recovered by the CLIENT from the debtor.

5.02 The CLIENT acknowledges that the FIRM may provide such services with its own employees or with other entities or individuals who may be affiliated with the FIRM, but the FIRM agrees that any charges for such services will be reasonable and consistent with what the same services would cost if obtained from a third party.

5.03 The CLIENT agrees that upon the recovery of such costs, the CLIENT will (i) pay the FIRM for any such costs that have been advanced by the FIRM or performed by the FIRM and (ii) pay any third-party agency or vendor owed for performing such services.

## **Article 6**

### *Term and Termination*

6.01 This AGREEMENT shall be effective January 10, 2023 (the "Effective Date") and shall expire on January 9, 2025 (the "Expiration Date") unless extended as hereinafter provided.

6.02 Unless prior to sixty (60) days before the Expiration Date, the CLIENT or the FIRM notifies the other in writing that it does not wish to continue this AGREEMENT beyond its initial term, this AGREEMENT shall be automatically extended for an additional one-year period without the necessity of any further action by either party. In the absence of any such sixty (60) day notice by either the CLIENT or the FIRM, the AGREEMENT shall continue to automatically renew for additional and successive one-year terms in the same manner at the end of each renewal period.

6.03 If, at any time during the initial term of this AGREEMENT or any extension hereof, the CLIENT determines that the FIRM's performance under this AGREEMENT is unsatisfactory, the CLIENT shall notify the FIRM in writing of the CLIENT's determination. The notice from the CLIENT shall specify the particular deficiencies that the CLIENT has observed in the FIRM's performance. The FIRM shall have sixty (60) days from the date of the notice to cure any such deficiencies. If, at the conclusion of that sixty (60) day remedial period, the CLIENT remains unsatisfied with the FIRM's performance, the CLIENT may terminate this AGREEMENT effective upon the expiration of thirty (30) days following the date of written notice to the FIRM of such termination ("Termination Date").

6.04 Whether this AGREEMENT expires or is terminated, the FIRM shall be entitled to continue to collect any items and to pursue collection of any claims that were referred to and placed with the FIRM by the CLIENT prior to the Termination Date or Expiration Date for an additional sixty (60) days following termination or expiration. The CLIENT agrees that the FIRM shall be compensated as provided by Article 3 for any such item or pending matters during the sixty (60) day period.

6.05 The CLIENT agrees that the FIRM shall be reimbursed for any costs advanced and shall be paid for any services performed pursuant to Article 5 when such costs are recovered by or on behalf of the CLIENT, regardless of the date recovered. It is expressly agreed that neither the expiration nor the termination of this AGREEMENT constitutes a waiver by the FIRM of its entitlement to be reimbursed for such costs and to be paid for such services. It is further expressly agreed that the expiration of any sixty (60) day period under Section 6.04 does not constitute any such waiver by the FIRM.

## **Article 7**

### *Miscellaneous*

7.01 Subcontracting. The FIRM may from time-to-time obtain co-counsel or subcontract some of the services provided for herein to other law firms or entities. In such cases, the FIRM will retain supervisory control and responsibility for any services provided by such

co-counsel or subcontractors and shall be responsible to pay any compensation due to any such co-counsel or subcontractor.

7.02 Arbitration. Any controversy between the parties to this AGREEMENT involving the construction or application of any of the terms, covenants, or conditions of this AGREEMENT shall, on the written request of one party served on the other, be submitted to arbitration, and such arbitration shall comply with and be governed by the provisions of the Texas General Arbitration Act.

7.03 Integration. This AGREEMENT contains the entire AGREEMENT between the parties hereto and may only be modified in a written amendment, executed by both parties.

7.04 Representation of Other Governmental Entities. The CLIENT acknowledges and consents to the representation by the FIRM of other governmental entities that may be seeking the payment of fines and fees, utilities or other claims from the same person(s) as the CLIENT.

7.05 Notices. For purposes of sending any notice under the terms of this contract, all notices from CLIENT shall be sent to FIRM by certified United States mail, or delivered by hand or by courier, and addressed as follows:

Linebarger Goggan Blair & Sampson, LLP  
Attention: Director of CMS  
P.O. Box 17428  
Austin, Texas 78760-7428

All notices from the FIRM to the CLIENT shall be sent to CLIENT by certified United States mail, or delivered by hand or by courier, and addressed as follows:

City of Kerrville  
Attention: City Administration  
701 Main St  
Kerrville, TX 78028

7.06. Compliance with Tx. Govt. Code §2271.002. In order to comply with Tx. Govt. Code §2271.002, the Firm verifies that it does not boycott Israel and will not boycott Israel during the term of the contract.

7.07 Compliance with Tx. Govt. Code §2252.151- .154. In order to comply with Tx. Govt. Code §2252.152, the Firm verifies that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State under federal law.

7.08 Compliance with Tx. Govt. Code §2274.001 - .002. In order to comply with Tx. Govt. Code §2274.002, the Firm verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

7.09 Compliance with Tx. Govt. Code §2274.001 - .002. In order to comply with Tx. Govt. Code §2274.002, the Firm verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and, will not discriminate during the term of the contract against a firearm entity or firearm trade association.

EXECUTED ON the 10th day of January, 2023.

City of Kerrville

By: Judy Eychner  
Judy Eychner, Mayor

Linebarger Goggan Blair & Sampson, LLP

By: \_\_\_\_\_  
Douglas Steven Bird, Capital Partner  
For the FIRM