

# **Outstanding Debt Work Group October 24, 2016, Report and Recommendations**

## **Executive Summary**

The Outstanding Debt Work Group (Work Group) was established by Common Council Resolution File Number 151687, adopted March 29, 2016, to evaluate and make recommendations for improving the City's policies and practices for collecting delinquent taxes, forfeitures, judgments and fees owed the City. The Work Group included representatives from all departments involved in collecting outstanding debt owed to the City, including the City Treasurer, the Parking Fund, the Municipal Court, the Department of Neighborhood Services, the Fire Department, and the Offices of the Comptroller and the City Attorney.

The Work Group held 7 meetings from June 16 through October 18. A representative of each of the City's 3 third-party debt collection agents, Duncan Solutions, Kohn Law Firm and Harris & Harris, LTD, attended and participated in at least one Work Group meeting. The Kohn Law Firm was present at 6 of 7 meetings, Harris & Harris attended 4 meetings and presented a recommendations PowerPoint, and Duncan Solutions was present for one meeting. Brenda Wood, representing the Intergovernmental Relations Division, attended and participated in most meetings.

A representative of the Wisconsin Department of Revenue made a presentation at the second meeting regarding the debt collection services offered by the State.

In 2005, the Work Group's predecessor, the Outstanding Debt Task Force, met over several months, and made 13 recommendations. The 2016 Work Group was convened to first review the 2005 Task Force's recommendations, to study and evaluate the effectiveness of the City's debt collection practices in 2016, more than a decade later, and to make recommendations for improvements.

The members of the Task Force were:

Ald. Terry Witkowski - Chair	Ald. Khalif Rainey
Ald. Nik Kovac	Office of the City Attorney Designee
Linda Burke	Mayor's Office Designee
Jacque Carter	Municipal Court
Sheldyn Himle	Office of the City Treasurer
Jim Klajbor	Commissioner of Public Works
Ghassan Korban	Milwaukee Fire Department
Steve Riegg	Department of Administration
Sharon Robinson	Milwaukee Police Department
Shannon Seymer-Tabaska	Department of Neighborhood Services
Lynne Steffen	Office of the Comptroller
Rocky Wruck	

Work Group meetings were held during 2016 on the following dates:

June 16	July 28	September 29
June 30	September 15	October 18
July 14		

### Collection Policy Changes Implemented Immediately

During the course of the Work Group’s meetings, the following collections policy changes were agreed upon and implemented immediately:

1. Harris & Harris, LTD. agreed to set its fee of TRIP (Tax Refund Intercept Program) collections at 4.9% across-the-board. Before the Work Group started meeting, Harris & Harris’ TRIP fees had been 18% for Fire Department collections of ambulance charges, and 4.9% for Municipal Court judgement collections.
2. The Fire Department worked with the Office of the Comptroller on a procedure to accept payments on ambulance charges that had been formally written-off. Prior to the Work Group’s meetings, such payments were returned to the debtor.

### Outstanding Debt Balance

On December 31, 2015, the City’s accounts receivable (outstanding debts) balance was \$136 million. The 2015 year-end accounts receivable balances by category were as follows.

<b>Comptroller's 2015 Outstanding Receivables Report</b>			
	2013	2014	2015
Parking Citations	\$41,537,000	\$36,252,000	\$34,139,000
Municipal Court	\$41,186,000	\$41,131,000	\$40,556,000
Delinquent Taxes			
Current Year	\$30,717,000	\$29,548,000	\$26,096,000
Prior Years	\$27,489,000	\$27,156,000	\$24,588,000
Fire Ambulance Service	\$12,766,000	\$8,267,000	\$4,054,000
Miscellaneous	\$6,058,000	\$4,909,000	\$6,115,000
<b>Total</b>	<b>\$159,753,000</b>	<b>\$147,263,000</b>	<b>\$135,548,000</b>

Supplementary background information on the City’s current debt collection practices appears at the end of this report, after the Work Group’s recommendations.

## **Work Group Recommendations**

### **Wisconsin State Statutes – Intergovernmental Relations Division**

1. Continue to pursue changes, currently part of our State Legislative Package, to authorize cities to tow or boot any vehicle with 3 or more unpaid parking citations (rather than just illegally-parked vehicles).
2. The Intergovernmental Relations Division (IRD) should determine if the State will provide workplace data on debtors and other relevant data needed to facilitate debt collection. If State statute prohibits such information-sharing, IRD should pursue legislation or administrative rule changes to allow the City to obtain this data.
3. The Legislative Reference Bureau should review the Milwaukee Code and City policy on using wage attachments to collect delinquent debt, and make recommendations on how best to use this vehicle to improve City debt collections. If appropriate, IRD should pursue legislation or administrative rule changes to facilitate the use of wage attachments by the City and its authorized debt collection agents to collect debts.

### **Ordinance Changes**

4. Create an ordinance allowing the Comptroller to charge 1.5% per month interest on overdue invoices processed through the City's financial management information system.
5. Create an ordinance which sets the time limit to appeal a parking citation at 60 days after citation issuance.
6. Create an ordinance to allow immobilizing of illegally-parked vehicles (booting) as a potentially more effective method of attaining parking compliance than towing.
7. Change City code to require payment of the citation for illegal parking that led to a vehicle's impoundment (or immobilization) prior to the release of the vehicle.
8. Change City code to authorize the Commissioner of Public Works or the Commissioner's designees to reduce parking citations, tow or storage fees as part of a settlement of parking-related debt.

### **Other**

9. The City Attorney and DPW-Parking should explore the possibility of creating an ordinance to require payment of all past-due parking citations prior to release of vehicles from City tow lot.
10. The Office of Management and Budget should study and make recommendations on whether the City should centralize its debt collection.
11. The City Attorney should amend collection contracts so that the Fire Department, Municipal Court, and DPW-Parking debt collection contracts expire on the same date, December 31, 2018, in order to obtain the most

- advantageous proposals and achieve administrative efficiencies. Also amend collection contracts to permit referring certain debts to the State for collection.
12. City departments should provide collection rates and supporting data to the Comptroller by March 1<sup>st</sup> for inclusion in an appendix to the outstanding receivables annual report to provide a context to the December 31 balances summarized in the report. City departments should have staff available to answer questions on their receivable collection rates and supporting data included in the appendix at the ensuing committee hearing on the annual report.
  13. Departments that place special charges and assessments on the property tax bill should develop easy to read and understandable notices, so that the affected taxpayers understand the ramifications of failure to act.
  14. Departments that place special charges and assessments on the property tax bill should notify the affected taxpayers prior to doing so, thus giving the taxpayers the opportunity to pay the charges due prior to their being added to the tax bill. Ideally, the department would send out a separate mailing in the autumn serving as the final warning that the outstanding balances will be added to the tax bill if not paid by a certain date. If this is not practicable, the department should include a neon-colored warning notice with the original billing notification informing the constituent that failure to pay by a certain date will result in the outstanding special charge balance being added to the tax bill.
  15. The Police Department should conduct a media campaign and online publication of the top 100 most egregious offenders for outstanding debts and warrants.
  16. The Fire Department should obtain an annual review from its collection agents to ensure best practices are being followed.
  17. The City Attorney should attempt to negotiate, and bring to the Common Council for approval, an agreement with the State to collect:
    - Department Neighborhood Services cases with judgments of \$10,000 or more.
    - Traffic cases that are at least 12 months delinquent and the defendant has had no contact with the Municipal Court.
    - Past-due parking citations.(items referred to the State for collection must be accompanied by the debtor's Social Security Number, Driver's License Number or Federal Employer Identification Number)
  18. The City Attorney should investigate whether a collection fee and interest can be charged on ambulance services provided by the Fire Department.
  19. The Budget Office, DPW-Parking and the Legislative Reference Bureau should jointly research the desirability of an amnesty program for parking citations.
  20. Municipal Court should explore the possibility of implementing a "friendly debt collector" program.

21. Department of Neighborhood Services (DNS) should, upon correction of all code violations involving an active rent-withholding account, after all associated DNS charges have been paid and prior to releasing the funds to the property owner, attempt to negotiate an agreement with the tenant and the landlord allowing the balance to be forwarded to the Office of the City Treasurer to be used to pay any outstanding property tax debt.

## **Background – Current City Debt Collection Practices**

The City has separate collections contracts with the following vendors to collect unpaid City charges.

1. Kohn Law Firm, S.C. (delinquent property taxes and other charges).
2. Duncan Solutions (parking charges and citation processing services).
3. Intermedix Corporation and Harris & Harris, Ltd. (ambulance service charges).
4. Harris & Harris, Ltd. (overdue Municipal Court judgements).

### **Kohn Law Firm, S.C.**

The Kohn Law Firm is the sole, third-party collection agent for unpaid items appearing on a property owner's property tax bill. Besides personal and real estate taxes, items included on a City property tax bill may include water and sewer service fees, storm water management fees, snow & ice fees, solid waste fees, special assessments for code violations, capital improvement, police board-up, tree encroachment, tall grass abatement, bulky waste collection, snow removal, hazardous trees, solid waste & recycling bin management and apartment garbage collection.

Once an item is added to the property tax bill, the City Treasurer has no legal authority to compromise the principal amount of any unpaid item, or to waive interest and penalties for failure to pay.

Property bills not paid in full by the end of October of the year due, after a series of dunning letters from the Treasurer's Office (the last one under the signature of the City Attorney), are referred to the Kohn Law Firm for a period of 12 months. Kohn may enter into payment arrangements with the debtor, seek an *in personam* judgement against the debtor and pursue post-judgement remedies like wage garnishment or rent attachment.

As a last resort, the City Treasurer pursues an *in rem* (tax) foreclosure on tax parcels that remain delinquent after one year in collection at the Kohn Law Firm,.

A penalty of 0.5% per month, plus interest of 1% per month, is charged on any delinquent property tax balance. In the 5-year period from 2007 to 2011, the Treasurer collected on average 98.9% of the City-levy, charges added to the tax roll, including special assessments, and 88.5% of delinquencies.

In addition, the Kohn Law Firm collects certain unpaid Department of Public Works and Department of Neighborhood Services charges. DPW charges may include property damage claims, delinquent home repair loans, judgments against uninsured motorists and various judgments or claims arising from time to time. DNS charges are for razing condemned buildings.

Kohn cannot “negotiate” settlements on personal & real property charges. All other claims are negotiable; however, Kohn must get City Attorney approval for settlements less than \$5,000, and Common Council approval for settlements greater than \$5,000.

**Collection Fees:**

All collection costs are advanced by Kohn Law, and Kohn Law is paid the following percentages of amounts collected as a fee for services:

	Personal & Real Property Taxes	All Other City Receivables
Pre-Lawsuit		
<\$10,000	9.50%	14.00%
>\$10,000	6.50%	9.00%
Post-Lawsuit		
<\$10,000	17.00%	24.00%
>\$10,000	13.00%	14.00%
TRIP Collections	N/A	5.00%

## **Duncan Solutions**

**Collections:** Duncan collects all parking citations issued by the appropriate City officers. Duncan provides 3 types of parking citation collection:

1. Primary collections are made from citation issuance through 79 days. Two notices are sent during this period
2. Secondary collections are made from 80 days to 180 days or longer.
3. Tax Refund Intercept Program (TRIP) collections, if possible, begin 6 months after citation issuance.

### **Collection and Processing Fees:**

- Primary Collections: A flat processing and recordkeeping fee of \$2.12 to \$2.17 per citation. No other fees if the citation is collected within 79 days. The Parking Fund also pays these fees to Duncan Solutions for processing and recordkeeping for citations issued by the Milwaukee Police Department through the Municipal Court.
- Secondary Collections: 27% of all collections after 79 days for citations not collected through TRIP.
- TRIP Collections: 20% of all citations collected. Duncan pays all costs associated with processing TRIP collections.

## **Intermedix Corporation and Harris & Harris, Ltd. (ambulance service charges)**

**Collections:** Intermedix collects current charges for ambulance services provided by the Milwaukee Fire Department, and Harris & Harris collects delinquent charges.

Intermedix codes ambulance services per insurance reimbursement protocols, and generates the initial invoices. Additional invoices are sent if charges are unpaid after 30, 60 and 90 days. A final notice is sent warning that charges will be assigned for collection in the absence of a payment. Intermedix assigns unpaid charges to Harris & Harris for collection. The goal is for Intermedix to assign unpaid charges to Harris & Harris for collection not later than 180-220 days after initial invoice.

### **Collection Fees:**

- Intermedix is paid 13% of all collections as a fee for services.
- Harris & Harris is paid 18% of all collections, including all Tax Refund Intercept Program (TRIP) collections. Harris & Harris pays all costs associated with collections.

## **Harris & Harris, Ltd. (overdue Municipal Court judgments)**

**Collections:** Harris & Harris collects overdue Municipal Court judgments. Once a judgment is 10 days overdue and unpaid, Municipal Court sends it to Harris & Harris for collection. Harris & Harris will also certify unpaid judgments to TRIP. The Court routinely provides 60 days to pay a default judgment; and an extension of time to pay can be granted at the discretion of a Municipal Court judge.

### **Collection and Processing Fees:**

- Harris & Harris is paid 14.95% of all conventional, non-lawsuit collections as a fee for services.
- Harris & Harris is paid 4.9% of all collections through Tax Refund Intercept Program (TRIP) recoveries. All costs associated with TRIP recoveries are paid by Harris & Harris.
- In the event of a lawsuit, Harris & Harris is paid 21.95% of the amount collected if the lawsuit is not litigated, and 25% if the lawsuit is litigated. All lawsuit costs are borne by Harris & Harris.