

**CONTRACT FOR COLLECTION SERVICES FOR  
OVERDUE MUNICIPAL COURT JUDGMENTS  
OF THE CITY OF MILWAUKEE  
2007**

**AGREEMENT**

Agreement by and between the City of Milwaukee, a municipal corporation organized and existing under the laws of the State of Wisconsin, and Harris & Harris, 600 West Jackson Boulevard, Suite 400, Chicago, IL 60661, (Contractor).

**I.**

**DEFINITIONS**

- A. "Account" means a defendant who has one or more past due judgments assigned to the Contractor for collection services.
- B. "Alternative Sentence" means a penalty imposed by the Court for failure to pay a fine, such as suspension of driving privileges or incarceration.
- C. "Case" means a record created by the Court for a municipal ordinance violation.
- D. "City" means City of Milwaukee, acting through the City Attorney's Office and Municipal Court.
- E. "Contractor" means Harris & Harris.
- F. "Court" means the Municipal Court of the City of Milwaukee.
- G. "Court Costs" means statutory filing fees, service fees and commissioner fees.
- H. "Defendant" means an individual charged with a municipal ordinance violation in Municipal Court. In this document, the term also applies to individuals found guilty and against whom a judgment has been rendered.

I. “Docketed Judgment” means a judgment that has been docketed with the Circuit Court for civil proceedings.

J. “Judgment” means a formal decision given by the Court, as a consequence of a finding of guilt or innocence. It is normally made in the form of a monetary forfeiture (fine) on a guilty finding.

K. “Open Judgment” means any unpaid fines owed to the Court where the alternative sentence has not been satisfied.

L. “Overdue Judgments” means any fine that is not paid on the date that the judge gave the defendant as the due date. The due date is normally 60 days after the date the judgment was rendered. Any unpaid judgment is considered overdue the day after the due date.

M. “Prejudgment Collection” includes, but is not limited to telephone contacts, collection letters, summons and complaints, trials, depositions, interrogatories, entry of judgment and prejudgment payment arrangements and bankruptcy filings.

N. “Post-Judgment Collection” includes, but is not limited to garnishment, execution, body attachments, supplementary orders, contempt, proceedings and post-judgment payment arrangements and bankruptcy filings.

## **II.**

### **RECITALS**

A. The Municipal Court has exclusive jurisdiction over offenses against City ordinances. After the assessment of fines and forfeitures by the court, the cases will be referred to the Contractor.

B. Contractor specializes in commercial collections. Skip tracing is a standard operating procedure of the Contractor. Contractor has direct access to Trans Union. Contractor

maintains large client and debtor data bases which permit cross-referencing accounts within Contractor's computer system.

C. Both parties understand and acknowledge that it is the intent of this Contract to actively and diligently pursue collection of debts owed to the City. The City may periodically review the performance of the Contractor in accordance with performance benchmarks developed with the input of the contractor. As a result of such reviews, the City may utilize its rights under the termination provision, or seek renegotiation of this Contract to utilize other collection methods, including multiple contractors.

### **III.**

#### **SCOPE OF SERVICE**

A. Contractor agrees to accept on a referral basis cases from the Municipal Court, City of Milwaukee, for collection, pursuant to the Standard Operating Procedures.

B. Contractor shall not compromise the cases.

C. The performance of this Contract or any part thereof shall not be assigned by the Contractor without approval of the Common Council of the City. The parties acknowledge that Credit Management Control (Gary Anzalone, Chairman and CEO) shall be providing a portion of the collection services under this Contract. Discontinuance of Credit Management Control as a service provider must be approved by the City.

D. The standard operating procedures as annexed hereto are incorporated and made a part of this contract.

#### IV.

#### **RECORD KEEPING**

A. The Contractor shall at all times during the term hereof, maintain complete and accurate books and records of its operations in a form consistent with generally accepted accounting principles and practices. Such books and records shall be available for inspection by the City or its authorized agent at any time during reasonable business hours and shall be available for inspection for a period of no less than seven years from the end of the Contract year, or portion thereof in the event of termination.

B. All collection records made during the performance of the Contract shall be the exclusive property of the City and the City shall have the right to use the same for any purpose without permission of the Contractor or compensation to the Contractor. All collection records are strictly confidential and Contractor agrees that Contractor will not make them available to any other person without prior written approval from the City.

C. All records shall be maintained by the Contractor pursuant to the Standard Operating Procedures, and may be subject to the Wisconsin Public Records Law. Both parties understand that the City is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. § 19.21, *et seq.* Contractor acknowledges that it is obligated to assist the City in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Agreement, and that the Contractor must defend and hold the City harmless from liability under that law. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of final payment under this Agreement.

V.

**REPORTING**

A. At the City's request, Contractor shall generate a listing of all active accounts with current balances due and payments to date. In any event, Contractor shall generate such reports for the City at the close of each calendar month.

B. At the request of the City, Contractor shall generate a report documenting collection activity with respect to any particular claim for collection.

C. The Contractor shall generate monthly reports of all collection claims which Contractor has designated as uncollectible. Such reports shall indicate for each claim so designated collection activity to date together with an explanation of why a claim is considered uncollectible.

D. The Contractor shall in all respects generate reports required pursuant to the Standard Operating Procedures.

E. The Contractor shall provide monthly, a report to the City Attorney including gross collections, net collections, costs, disbursements, and fees expended.

F. The Contractor shall provide yearly a report to the City Attorney including gross collections, net collections, costs, disbursements, and fees expended indicating totals for the calendar year.

VI.

**COLLECTIONS**

Contractor shall post City collections daily. Such collections shall be deposited in a trust account for remittance to the City daily and electronically pursuant to the Standard Operating Procedures and in any event when the balance held on behalf of the City exceeds \$100,000.

Contractor shall provide billing and remittance statements of accounts monthly pursuant to the Standard Operating Procedures.

## **VII.**

### **FEES**

1. In consideration of its services under this Contract, Contractor shall be paid fees at the rate of 16.5% of the amount it collects for claims referred to it under this Contract, with the exception of amounts it collects through the State of Wisconsin Tax Refund Intercept Program (TRIP), for which the Contractor shall be paid 6% of the amounts collected.
2. The Contractor shall pay any TRIP fee imposed on the Court by the State of Wisconsin.
3. The Contractor shall pay all attorney fees incurred as a result of its referral of judgments for legal action pursuant to the Standard Operating Procedures. The Contractor shall be paid 24% of the amount collected as a result of non-litigation legal services, and 27% of the amount collected as a result of litigation.

## **VIII.**

### **PERFORMANCE**

A. The services to be performed by the Contractor under the terms of this Contract shall commence upon written notice from the City to proceed.

B. Contractor agrees that performance of the Contractor's work, services and results therefrom pursuant to the terms and conditions and agreements of this Contract shall conform to the requirements of law and the professional standards as are prevalent in this field of endeavor.

C. Contractor shall provide a location in downtown Milwaukee where in-person payments can be made and collected.

D. This Contract shall extend for a period of five years from May 1, 2007 to April 30, 2012.

E. The City may terminate this Contract at any time by giving at least 60 days notice in writing from the City to the Contractor.

**IX.**

**INDEMNIFICATION**

A. In case any action in court or proceeding before an administrative agency is brought against the City or any of its officers, agents or employees arising out of the activities of the Contractor under this Contract in whole or in part, the Contractor shall indemnify and save harmless the City and its officers, agents and employees from any losses, damages, costs, expenses, judgments or decrees arising out of such action. The City shall tender the defense of any claim or action at law or in equity to the Contractor or Contractor's insurer and upon such tender, it shall be the duty of the Contractor and Contractor's insurer to defend such claim or action without costs or expenses to the City or its officers, agents or employees. The Contractor shall be solely responsible for the conduct and performance of the services required under the terms and conditions of this Contract and for the results therefrom and agrees to indemnify the City irrespective of any applicable insurance.

B. Contractor agrees to indemnify and save harmless the City for any loss or damage the City sustains by reason of an unauthorized execution of a transaction by the Contractor on any of the City's computer systems.

**X.**

**INSURANCE**

A. The Contractor is to confirm that it has the types and amounts of insurance protection as required by the contract.

1. Crime
 

Employee dishonesty per occurrence	Limit equal to the maximum amount of City funds the Contractor accumulates in its office or in an account in a depository
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To include:  
Expanded definition of property to include City/Municipal Court owned property

2. General Liability
 

Bodily Injury/Property Damage	per occurrence	\$1,000,000
	general aggregate	\$1,000,000
	products/completed operations aggregate	\$1,000,000
Personal Injury	aggregate	\$1,000,000

To include:

**Commercial General Liability**

Insurance Agreement  
 Independent Contractors protection  
 Personal Injury definition to address:  
 Libel  
 Slander  
 Harassment  
 Emotional distress  
 Mental anguish  
 False arrest, detention or imprisonment  
 Malicious prosecution  
 Wrongful entry, eviction or invasion of right of privacy  
 Discrimination  
 Contractual liability for risk assumed in this agreement

3. Automobile
 

Bodily Injury/Property Damage	each accident	\$1,000,000
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To include:

**Liability for any owned, nonowned and hired vehicle**

4.	Umbrella		
	Bodily Injury/Property		
	Damage/Personal Injury	each occurrence	\$5,000,000
		aggregate	\$5,000,000
5.	Workers' Compensation and Employers Liability		
	Workers' Compensation		Statutory
	Employers' Liability		
	Bodily Injury by Accident	each accident	\$100,000
	Bodily Injury by Disease	each employee	\$100,000
		policy limit	\$500,000
6.	Professional Liability		
	Wrongful Act	each claim	\$5,000,000
		aggregate	\$5,000,000

B. The Contractor shall furnish the City with current Certificates of Insurance setting forth the insurance policies in force along with coverage limits required for each coverage item listed above. The Certificates of Insurance shall also state any deductibles or self-insured retentions that apply on the policy.

C. The Contractor shall place insurance with insurers with a financial size no less than Class XIII. In the event of cancellation or non-renewal by the professional liability insurer, the Contractor shall either ensure that continuity of coverage will be maintained by preserving the retroactive date at the Contractor's expense or shall notify the City and at the option of the City exercise at the Contractor's expense the extended reporting provision of the professional liability policy in order to ensure extension of coverage for one year beyond expiration of the policy for claims which occur between the date of execution of this Agreement and the date of the expiration of the policy which are made during the extended reporting term.

D. The City of Milwaukee is to be an additional insured on the policies referenced in Sections A.1, A.2, A.3, A.4, A.5, A.6 above.

E. If any portion of the Contract requires the use of subcontractors, the Contractor must ensure that the subcontractor certifies to the identical insurance coverage types and amounts.

F. Certificates of insurance must be provided to the City Attorney prior to the effective date of the Contract.

G. All certificates of insurance are to stipulate that 60 days written notice of non-renewal/termination will be provided to the City.

H. Automobile coverage verification is required only if vehicles will be used by the Contractor in providing the required service to the City.

I. In the event of a change of professional liability carriers during the term of Contract, coverage is to be provided retroactive to the date of the Contract.

J. Professional Liability coverage is to be continued for 3 years after the expiration date of the contract.

K. At the expiration or termination of the Contract, the City is to be provided with options at its expense to purchase an extended discovery period of up to 24 months.

## **XI.**

### **INDEPENDENT CONTRACTOR**

The Contractor is an independent contractor. All collection activities on behalf of the City shall be conducted under the exclusive supervision and control of the Contractor. Contractor represents that Contractor will secure at Contractor's own expense all personnel required in performing the services under this Contract. Contractor and all subcontractors, if any, shall

provide to the City an affidavit or other satisfactory proof which the City may require evidencing the Contractor and all subcontractors that may be utilized under this Contract have obtained worker's compensation insurance for all persons performing work or service under the Contract or subcontract as is required by the Worker's Compensation Act of the State of Wisconsin.

## **XII.**

### **DISCRIMINATION PROHIBITED**

A. In all hiring or employment made possible by or resulting from this Contract there will not be any discrimination against any employee or applicant for employment because of race, color, sex orientation, religion, sex or national origin, or ancestry, age, disability, lawful source of income, marital status, or familial status, and (2) affirmative action will be taken to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex orientation, sex, national origin, or ancestry, age, disability, lawful source of income, marital status, or familial status.

This requirement shall apply to but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices required or to be provided by federal or state agencies involved setting forth the provisions of the clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex orientation, sex, national origin or ancestry, age, disability, lawful source of income, marital status, or familial status.

B. No person in the United States shall, on the ground of race, color, sex orientation, religion, sex, national origin or ancestry, age, disability, lawful source of income, marital status, or familial status be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Contract. The City and each employer will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964.

C. The Contractor will cause the foregoing provisions to be inserted in all subcontracts, if any, for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

D. Contractor agrees that it will comply with all applicable requirements of the Americans With Disability Act of 1990, 42 U.S.C. § 12101, *et seq.*

### **XIII.**

#### **CONFLICTS OF INTEREST**

A. Interest in Contract. No officer, employe or agent of the City who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Contract pertains shall have any personal interest, direct or indirect, in this Contract.

B. Interest of Other Local Public Officials. No member of the governing body of a locality and no other public official of such locality who exercises any functions or responsibilities in the review or approval of the carrying out of this Contract shall have any personal interest, direct or indirect, in this Contract.

C. Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services under this Contract. Any conflict of interest on the part of the Contractor shall be disclosed to the City. In the event the Contractor has a conflict of interest which does not permit Contractor to represent the City in connection with any claim for collection, Contractor shall notify the City and shall provide the City with all records and reports relating to same.

D. Contractor shall, in the event of a conflict of interest, subcontract the City's claim and the Contractor and the subcontractor shall be responsible under the same terms and conditions of this Contract and the Standard Operating Procedures.

E. Contractor covenants that Contractor shall not undertake representation of any person in connection with any claim, proceeding, lawsuit or other matter against the City during the term of this Agreement.

#### **XIV.**

#### **AUDITS AND INSPECTIONS**

A. At any time during normal business hours and as often as the City may deem necessary, there shall be made to the City for examination all of Contractor's records with respect to all matters covered by this Contract. Contractor will permit representatives of the City's Comptroller to audit, examine and make excerpts or transcripts from such records and to make audits of all data relating to matters covered by this Contract.

B. The Contractor shall commission an annual independent audit in accordance with the requirements established by the City Comptroller. The City shall share on an equal basis annual audit costs in excess of \$25,000.00 to a maximum of \$12,500.00. If the Contractor

subcontracts, the audit shall include the subcontractor. Copies of all audits shall be provided by the Contractor to City Comptroller and the City Attorney.

**XV.**

**EMERGING BUSINESS ENTERPRISE REQUIREMENT**

1. The Contractor agrees to assign 25% of the claims referred by the City to the Contractor to an emerging business enterprise, either through subcontracts or by utilizing collection personnel supplied by an EBE agency, in satisfaction of the emerging business enterprise participation goals described in sec. 360-06, Milwaukee Code of Ordinances.

2. During the course of this contract, upon request of the City, the Contractor will contact City-certified emerging business enterprises that provide legal and/or paralegal services, in order to assist the Contractor to increase its emerging business enterprise participation. The Contractor is aware that the goal of this contract is 18% emerging business enterprise participation and will use its best efforts to obtain the target participation goal.

**XVI.**

**NOTICES, APPROVALS AND REFERENCES**

A. Any and all notices shall be in writing and deemed served upon depositing the same with the United States Postal Services as “Certified Mail, Return Receipt Requested,” addressed to the Contractor at:

Harris & Harris  
600 West Jackson Boulevard  
Chicago, IL 60661

Attn: Arnold S. Harris

and to the City at:

City of Milwaukee  
Office of the City Attorney  
800 City Hall  
200 East Wells Street  
Milwaukee, WI 53202

Attn: Genevieve O’Sullivan-Crowley

All other correspondence shall be addressed as above, but may be sent “Regular Mail” and deemed delivered upon receipt by the addressee.

B. Except as otherwise specifically stated herein, all notices, approvals and references on behalf of the City shall be given by the Office of the City Attorney.

**XVII.**

**PROMPT PAYMENT**

The City strives to make timely payment on all invoices. Payment to the Contractor will be deemed timely if the payment is mailed, delivered, or transferred within 60 calendar days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later. If the City does not make payment by the 60<sup>th</sup> calendar day, the City shall pay simple interest beginning with the 31<sup>st</sup> calendar day at the rate of one percent (1%) per month (unless the City disputes the amount of the invoice).

Dated at Milwaukee, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

IN THE PRESENCE OF:

CITY OF MILWAUKEE

\_\_\_\_\_

\_\_\_\_\_

Mayor

\_\_\_\_\_

\_\_\_\_\_

City Clerk

COUNTERSIGNED:

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IN THE PRESENCE OF:

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Comptroller

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Contractor

LUB:bl

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