RESOLUTION 2019-045

AUTHORIZING AN AGREEMENT WITH MUNICIPAL COLLECTIONS OF AMERICA FOR DEBT COLLECTION SERVICES.

WHEREAS, the City of DeKalb is a home-rule municipality with the power and authority conferred thereupon by virtue of the Illinois Constitution and Illinois Municipal Code; and,

WHEREAS, as a home rule unit of local government, the City may exercise any power and perform any function pertaining to its government except as limited by Article VII, Section 6; and,

WHEREAS, the Illinois Municipal Code, Section 65 ILCS 5/1-2-1 authorizes municipalities to impose fines and penalties, and to impose a charge for any fees or costs incurred in the collection thereof as adopted by City Code Section 1.23;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The City of DeKalb hereby approves of the Municipal Collections of America debt collection services agreement, in the form attached hereto subject to such minor amendments as shall be acceptable to the Mayor with the recommendation of the City Manager. The Mayor shall be authorized and directed to execute the Agreement and thereafter the City shall comply therewith.

SECTION 2: That the City Clerk of the City of DeKalb, Illinois be authorized and directed to attest the Mayor’s Signature and shall be effective thereupon, following execution as outlined in the preceding section.


ATTEST:

LYNN A. FAZEKAS, City Clerk

PERRY SMITH, Mayor
COLLECTION SERVICES AGREEMENT
Municipal Collections of America, Inc

This COLLECTION SERVICES AGREEMENT, made this 25th day of February 2019 by and between Municipal Collections of America, Inc, (MCOA) an Illinois corporation, and the City of DeKalb, Illinois (hereinafter referred to as THE MUNICIPALITY):

WHEREAS, MCOA is a duly licensed collection agency in the State of Illinois, and;

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

WHEREAS, THE MUNICIPALITY may wish to list certain other debts with MCOA for collection from time to time and MCOA may wish to accept such claims for collection. MCOA retains the right to reject any debt submitted for collection and will provide explanation for such action if taken.

MCOA and THE MUNICIPALITY do hereby agree as follows:

ARTICLE I

THE MUNICIPALITY agrees that any debts and/or fines listed for collection with MCOA 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 MCOA, using the forms and procedures designated by MCOA.

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

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

ARTICLE II

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

ARTICLE III

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

Upon payment, MCOA shall receive thirty-five percent (35%) of the balance paid on each debt prior to any additional amount THE MUNICIPALITY may add under 65 ILCS 5/1-2-1. In the event that THE MUNICIPALITY has added any collection fee per 65 ILCS 5/1-2-1 to the debt before listing it with MCOA, MCOA’s fee shall be calculated on the balance paid net of the collection fee. In such instances, MCOA shall collect the amount which is equal to a gross sum 35% greater than the balance sent for collections, and shall receive a fee equal to 25.93% of the gross sum received from the debtor.
Any debts that are not eligible for adding on the cost of collection under 65 ILCS 5/1-2-1 will be recovered with MCOA receiving 25% of the proceeds.

All payments collected by MCOA shall be disseminated to MCOA and THE MUNICIPALITY pro-rata according to their respective share of the overall sums being collected, as represented above.

MCOA’s performance of the Local Debt Recovery Program (IDROP) on behalf of THE MUNICIPALITY shall be performed at no additional cost beyond the standard commission detailed above.

MCOA and THE MUNICIPALITY shall collaborate with regard to the format of reports provided to MCOA and with regard to the format of reporting provided back to THE MUNICIPALITY.

ARTICLE IV

Upon THE MUNICIPALITY’S listing of the violation for collection, MCOA shall have the exclusive right to collect the amounts owed there under 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 listed for collections, including attempts to make payment, shall be referred at the earliest possible time to MCOA.

MCOA will deposit any money collected in THE MUNICIPALITY’S separate bank trust account established for that purpose.

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

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

ARTICLE V

THE MUNICIPALITY hereby authorizes MCOA to accept a negotiated settlement on any violations listed for collection. However, unless otherwise authorized by the MUNICIPALITY in writing, any such settlements shall be no less than 100% of the available balance.

Should THE MUNICIPALITY make any settlement or otherwise takes any action in derogation of MCOA’s exclusive right to collect on any violation listed for collection, then MCOA shall be entitled to payment in full, as delineated in Article III 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 MCOA.

ARTICLE VI

MCOA 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 MCOA during the term of this Agreement. MCOA shall defend and indemnify THE MUNICIPALITY from any claim or action arising out of MCOA’s performance or non-performance of its obligations under this agreement, including but not limited to any violation of the Fair Debt Collection Practice Act, any law dealing with the credit rating of any individual, and other applicable laws arising out of the acts or omissions of MCOA or its agents or employees. Conversely, THE MUNICIPALITY agrees to indemnify and hold MCOA 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.
Further, the MUNICIPALITY warrants and represents to MCOA 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 MCOA 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”, due to the breach of these warranties and representations.

ARTICLE VII

This Agreement is for a period of 24 months from the date first above written, however, it shall continue under the same terms and conditions for additional one-year periods until termination by either party. Either party may terminate during any such one-year automatic extensions by providing notice given in writing to the other party, at least sixty days in advance of the specified termination date.

However, in the event of termination of the Agreement by either party, THE MUNICIPALITY shall have the option of requesting MCOA to continue any outstanding collection efforts on debts until the debt is either paid or determined to be uncollectible under the same terms of this Agreement (in which case any sums collected shall be remitted to MCOA and THE MUNICIPALITY as set forth in Article III above). Alternatively, THE MUNICIPALITY may request that collection services terminate as of the effective date of termination, in which case MCOA shall return to THE MUNICIPALITY a complete list of all debts placed for collection and their respective status.

ARTICLE VIII

At least once per year, MCOA 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 MCOA, Municipal Collections of America, Inc.
3348 Ridge Road
Lansing, Illinois 60438

If to THE MUNICIPALITY, City of DeKalb
200 South Fourth Street
DeKalb, IL 60115

ARTICLE X

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:** [Signature]

**THE MUNICIPALITY**

**BY:** [Signature]

**DATE:** 2/27/19