

## **Clerk's Contract and Agreement Cover Page**

<b>Year:</b>	2011	<b>Legistar File ID#:</b>	2011-0352
<b>Multi Year:</b>	<input checked="" type="checkbox"/>	<b>Amount</b>	\$0.00
<hr/>			
<b>Contract Type:</b>	Professional Services		
<b>Contractor's Name:</b>	Municipal Collections of America, Inc		
<b>Contractor's AKA:</b>	RMI		
<b>Execution Date:</b>	7/5/2011		
<b>Termination Date:</b>	6/30/2016		
<b>Renewal Date:</b>	6/30/2012		
<b>Department:</b>	Finance		
<b>Originating Person:</b>	Annmarie Mampe		
<b>Contract Description:</b>	Collections - Parking & Municipal Violation Tickets		

# COLLECTION SERVICES AGREEMENT

## Municipal Collections of America, Inc.

This Collection Services Agreement ("*Agreement*"), made this 5<sup>th</sup> day of July, 2011 by and between Municipal Collections of America, Incorporated, an Illinois corporation ("*MCA*"), and the Village of Orland Park, an Illinois Municipal Corporation ("*Village*").

### **WITNESSETH**

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

**WHEREAS**, the Village, pursuant to the terms and provisions of the Illinois Compiled Statutes, has adopted certain ordinances and regulations to establish a system of local administrative adjudication of municipal code violations, and;

**WHEREAS**, the statutes, ordinances, and regulations, as aforesaid, allow for the imposition of fines/ sanctions for parking and equipment and municipal code violations and for the rendering of civil judgments in favor of the Village against parking and equipment and municipal code violators who do not pay the fines/sanctions imposed, and;

**WHEREAS**, MCA possesses the personnel, experience, expertise, and equipment to effectively aid the Village in collecting said fines through an effective collection process and court actions, if necessary, and;

**WHEREAS**, the Village may wish to list certain other claims with MCA for collection from time to time and MCA may wish to accept such claims for collection.

**NOW, THEREFORE**, in consideration of the mutual and several promises and covenants herein contained, the parties do hereby agree as follows:

### **ARTICLE I**

The Village 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 with MCA will be forwarded to MCA, using the forms and procedures designated by MCA.

Upon request of MCA, the Village 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.

MCA will maintain records as they pertain to the Village and will allow the Village access to such MCA records to review during normal business hours at the Village's request. The Village reserves the right to inspect and investigate thoroughly the establishment, facilities, equipment, business reputation and other qualifications of MCA and any of its subcontractors through the life of this Agreement.

The Illinois Freedom of Information Act (FOIA) has been amended and effective January 1, 2010, adds a new provision to Section 7 of the Act which applies to public records in the possession of a party with whom the Village has contracted. The Village will have only a very short period of time from receipt of a FOIA request to comply with the request, and there is a significant amount of work required to process a request including collating and reviewing the information.

MCA acknowledges the requirements of FOIA and agrees to comply with all requests made by The Village for public records (as that term is defined by Section 2(c) of FOIA) in MCA's or its subcontractor's possession and to provide the requested public records to the Village within two (2) business days of the request being made by the Village. MCA agrees to indemnify and hold harmless the Village from all claims, costs, penalty, losses and injuries (including but not limited to, attorney's fees, other professional fees, court costs and/or arbitration or other dispute resolution costs) arising out of or relating to its failure to provide the public records to the Village under this Agreement.

## **ARTICLE II**

MCA agrees to use its best efforts and any lawful means which in its judgment and discretion it believes will result in collection of the fines which are listed for collection. MCA shall provide competent, suitably qualified personnel to perform the work as required by this Agreement. Services shall be rendered to meet the highest professional standards set by others providing the same or similar services in the Chicagoland area.

MCA will pursue court action to obtain/perfect civil judgments against those parking and equipment and municipal code violators who do not pay their fines when in its judgment and discretion it believes such action is necessary and will aid in its collection efforts.

In compliance with Illinois law, no violation will be referred to an attorney without five days prior written notice to the Village of MCA's intention to do so. MCA shall provide prior written notice to the Village and the Village's corporation counsel of the name of the attorney selected by MCA and his or her business address and business telephone number at least 14 days prior to actually retaining the attorney to represent the Village in any collection matter covered by this Agreement. The Village shall have the right to reject at any time and for any reason any attorney selected by MCA under this Agreement, including but not limited to reasons of conflict of interest or prior dealings with such attorney. In any event, such attorney, if hired, shall be MCA's attorney. MCA shall make all decisions regarding litigation, garnishment, or other legal process, including but not limited to any issues pertaining to the statute of limitations. The Village shall not be responsible or liable in any respect for the performance of such attorney.

MCA agrees to comply with all state and federal laws and regulations related to its collection activities associated with this Agreement. The laws of the State of Illinois shall govern this Agreement and the venue for legal disputes will be Cook County, Illinois.

MCA will independently perform all services specified in this Agreement, except as provided herein. MCA shall have sole control over the manner and means of providing the work and services performed under this Agreement, including the selection and use of any subcontractors used in the performance of the required services. MCA's relationship with the Village under this Agreement shall be that of Independent Contractor. MCA will not be considered an agent or employee of the Village for any

purpose. MCA will not hire the Village's employees to perform any portion of the work or services provided for herein, including clerical, secretarial and similar incidental services, except with the prior written approval of the Village. The Village shall have no responsibility to any subcontractor employed by MCA for performance of work, and all subcontractors shall look exclusively to MCA for any payments due. The Village will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. MCA shall be fully responsible to the Village for the acts and omissions of its subcontractors, and shall ensure that any subcontractors perform in accordance with the requirements of this Agreement. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the Village.

MCA shall not assign the duties and obligations involved in the performance of the work which is the subject matter of this Agreement without the written consent of the Village, except that MCA may assign work to any pre-approved subcontractor.

If any subcontractor is to be used in the performance of the services required under this Agreement, MCA will provide the name(s), address(es) and amount(s) expected to be paid to subcontractor(s) and a description of which portion(s) of the work will be subcontracted out. The Village shall have the right to approve of all subcontractors.

MCA may not use the services of other entities without prior written permission of the Village. If at any time during the term of this Agreement MCA adds or changes any subcontractor, MCA shall promptly notify, in writing, the Village of the names and addresses and the expected payment each new or replaced subcontractor will receive under this Agreement.

### **ARTICLE III**

No fees will be payable to MCA until such time as any money is collected on a violation listed for collection, at which time MCA will be paid as follows:

- A. MCA will be entitled to any costs awarded by the Court in the collection of the fine. If no additional expense amount is awarded for costs, this section (A) will not apply.
- B. Thirty-five percent (35%) of the balance of the amount collected on each file.

### **ARTICLE IV**

Upon the Village's listing of the violation for collection, MCA shall have the exclusive right to collect the amounts owed there under until such time as it chooses, in its sole direction, to return the violation to the Village. Any inquiries concerning any violations listed for collection, including attempts to make payment thereon, shall be referred at the earliest possible time to MCA.

MCA will deposit any money collected on the Village's violations in a separate bank trust account established for that purpose as required by Illinois law.

After deduction of its fees and costs allowable by this Agreement, MCA will forward to the Village, its share of any amounts collected. Remittance to the Village 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 Village for violations which have been listed for collection, the Village will report such collections to MCA upon receipt to ensure accurate accounting and credit reporting.

**ARTICLE V**

The Village hereby authorizes MCA to compromise or reach negotiated settlements on any violations listed for collection. However, no settlement may be negotiated or compromised for less than 50% of the amount due without prior approval of the Village.

Should the Village make any settlement or otherwise take any action in derogation of MCA's exclusive right to collect on any violation listed for collection, then MCA shall be entitled to payment in full, as delineated in Article IV hereof, based on the full amount of the violation, as listed. Any such payments which may become due may be deducted from the Village's next monthly payment from MCA.

**ARTICLE VI**

MCA agrees to indemnify and hold the Village 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 and/or omissions of the agents, servants, employees or subcontractors of MCA during the performance of its collection activities related to this Agreement. Conversely, the Village 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 gross negligence and/or willful acts of the Village, its servants or employees relative to the accounts provided to MCA for collection.

**ARTICLE VII**

The term of this Agreement is for a period of twelve (12) months from the date of signing of this agreement. This Agreement is renewable under the same terms and conditions for four (4) additional twelve (12) month terms at the option of the Village. The Village or MCA may terminate this Agreement for any reason by giving written notice to terminate sixty (60) days prior to termination date.

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

**ARTICLE VIII**

At least once per year, MCA will return to the Village 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,

**MUNICIPAL COLLECTIONS of AMERICA, INC.**  
**3348 Ridge Road**  
**Lansing, Illinois 60438**

If to the Village,

Police Chief  
**VILLAGE OF ORLAND PARK POLICE DEPARTMENT**  
15100 S. Ravinia Avenue  
Orland Park, Illinois 60462

With a copy to

Annmarie Mampe  
Finance Director  
Village of Orland Park  
14700 S. Ravinia Ave  
Orland Park, Illinois 60462

**ARTICLE X**

MCA shall defend and indemnify the Village from any claim or action arising out of MCA'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 Federal and State laws arising out of the acts or omissions of MCA or its agents or employees.

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 a written instrument signed by both parties.

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

**Municipal Collections of America, Inc.**

BY: Jolene Wood  
(Print) President

Jolene Wood  
(Signature) President

Date 7-5-2011

**Village of Orland Park, Illinois**  
**Paul G. Grimes**  
**Village Manager**

BY: \_\_\_\_\_  
(Print) Village Manager

[Signature]  
(Signature) Village Manager

Date 7/5/11