

# Mayor and Council Communication

**DATE:** 06/16/20

**M&C FILE NUMBER:** M&C 20-0397

**LOG NAME:** 13DELINQUENTTAX

## **SUBJECT**

Authorize Two Professional Services Agreements with Linebarger Goggan Blair & Sampson, LLP for Collection of Delinquent Taxes and Collection of Delinquent Court Fines, and Adopt Resolution Authorizing Employment of Firm to Serve as the City's Outside Counsel for Tax Collections (ALL COUNCIL DISTRICTS)

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## **RECOMMENDATION:**

It is recommended that the City Council:

1. Authorize the City Manager to execute a Professional Services Agreement with the law firm of Linebarger Goggan Blair & Sampson, LLP for the collection of certain delinquent taxes and miscellaneous revenues;
  2. Authorize the City Manager to execute a separate Professional Services Agreement with Linebarger Goggan Blair & Sampson, LLP for the collection of delinquent court fines; and
  3. Adopt the attached resolution authorizing employment of Linebarger Goggan Blair & Sampson, LLP to serve as the City's outside counsel for tax collections.
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## **DISCUSSION:**

The purpose of this Mayor and Council Communication (M&C) is to take actions associated with engaging the law firm of Linebarger Goggan Blair & Sampson, LLP (Linebarger) to continue serving as the City's authorized representative and collection agent for certain delinquent taxes, delinquent court fines, and other miscellaneous revenue.

The City currently has contracts with Linebarger - one for the collection of delinquent property taxes and other miscellaneous delinquent revenues and another for delinquent court fines and related amounts. The final renewal under each of these contracts will expire on June 30, 2020.

### **Tax Contract**

Under both the current and proposed contracts, Linebarger collects delinquent property taxes, Public Improvement District (PID) assessments, and hotel occupancy taxes for the City of Fort Worth, filing suit and conducting foreclosures as necessary and pursuing recoveries in bankruptcy when the debtor has filed. The firm also assists, as requested, in the collection of other miscellaneous delinquent accounts.

In accordance with state law and the adopted ad valorem tax ordinances, a collections surcharge of fifteen percent (15%) is applied to delinquent property tax for the 2002 and prior year property taxes, and a collections surcharge of twenty percent (20%) applies to delinquent property taxes for the 2003 tax year and all subsequent tax years. The state law governing PID assessments provides that they are to be collected in the same manner as property tax, meaning these same surcharges would apply for delinquent PID assessments.

The proceeds from the collection of these surcharges are owed and payable to the outside firm providing the collection services as provided under applicable law. All delinquent property tax payments, including interest, penalties, and the associated collection surcharge are collected by the Tarrant County Tax Assessor-Collector. The County remits the collection surcharge revenues directly to the collection firm and sends all other property tax related funds to the City. The firm has agreed to continue to assist the City with the collection of a relatively low volume of other delinquent accounts at no additional cost to the City. As staff continues to enhance revenue collection efforts and increases the volume of the other delinquent accounts to be collected by the firm, a future contract amendment with a separate fee structure will likely be required.

Under the terms of the attached resolution, the firm will be designated as the City's outside counsel for tax collection matters under the proposed contract. Approval of this M&C also serves as authorization for the firm to file tax collection lawsuits on the City's behalf as needed.

Linebarger has served in this role for a number of years, and staff is very satisfied with the firm's performance. After weighing the vendor's performance and considering other alternatives, staff is recommending executing a new contract.

Among the criteria staff relied on in making its recommendation are the following:

1. Linebarger has extensive qualifications and experience collecting for the City of Fort Worth and for clients similar to the City and currently collects for the largest taxing entities in Texas;
2. Linebarger has a Fort Worth Office of experienced professionals with impressive credentials and has a dedicated Fort Worth Collections Team;
3. Linebarger's Fort Worth office has strong technology resources and is online with the County Tax Office, County District Clerk and various bankruptcy courts throughout the nation; and

4. Linebarger's Fort Worth office collects for 45 taxing jurisdictions in Tarrant County, and staff believes that having the City's collections with the same firm as other local taxing jurisdictions has simplified matters for taxpayers and enhanced collection efforts overall.

Under the terms of the proposed new agreement, Linebarger will provide enhanced reporting that will help the City and firm to monitor performance, better identify trends, and make adjustments as needed.

#### *Required Statutory Findings*

Because of changes made by the 86th Legislature (2019), the City Council is required to make certain written findings in connection with approving this type of contract. In approving this M&C and the tax collection contract, the City Council finds that:

- (1) there is a substantial need for the tax collection legal services;
- (2) the legal services cannot be adequately performed by the City's attorneys and supporting personnel; and
- (3) the tax collection 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 specialized nature of tax collection services, for which state allows imposition of a contingency, percentage-based collection fee that may only be imposed if the services are performed by an external, third-party vendor..

#### **Courts Contract**

In an effort to improve collection of delinquent civil parking and criminal citations, the Municipal Court Services Department is requesting to secure external collections services with Linebarger.

Article 103.0031 of the Code of Criminal Procedure allows the City Council to enter into a collections contract with a third party and to authorize the addition of a 30 percent collection fee on certain types of court-related debts referred for collection. On June 25, 2002, the Fort Worth City Council adopted Ordinance No. 15144, which authorized imposition of the collection fee on court-ordered debts.

Under the proposed contract, delinquent amounts with an offense date on or after June 18, 2003 that are subject to the 30 percent fee would be referred to the collection agency. Defendants would receive collection notices indicating amounts due (including the collections fee) and would make payments directly to the Municipal Court. If less than full payment is received, amounts due to the collection agency would be reduced proportionately. The Municipal Court will be responsible for tracking and monitoring activity, reconciling the collection fee due to Linebarger, and remitting payment for the collection fee due to Linebarger.

Linebarger has served as the City's vendor for these collection services for a number of years. Staff has been satisfied with the firm's performance and is recommending they be re-engaged under a new contract. Staff has worked with Linebarger to improve reporting and performance metrics in connection with the new agreement.

#### *Required Statutory Findings*

Because of changes made by the 86th Legislature (2019), the City Council is required to make certain written findings in connection with approving this type of contract. In approving this M&C and the court collection contract, the City Council finds that:

- (1) there is a substantial need for the court collection legal services;
- (2) the legal services cannot be adequately performed by the City's attorneys and supporting personnel; and
- (3) the court collection 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 specialized nature of court collection services, for which state allows imposition of a contingency, percentage-based collection fee that may only be imposed if the services are performed by an external, third-party vendor.

#### **General Terms**

M/WBE - Linebarger Goggan Blair & Sampson, LLP, is in compliance with the City's M/WBE Ordinance by committing to five percent (5 percent) M/WBE participation. on each of these contracts, which corresponds to the goal approved by the Business Equity Division of the Department of Diversity and Inclusion.

TERM - Following Council approval, each contract will be for an initial term of five years.

RENEWAL OPTIONS - Each contract includes two renewal options of two years each. Exercising the option under either contract does not require specific City Council approval.

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#### **FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that upon approval of the above recommendations and execution of the agreements, funds will be deposited into the appropriate City Fund, as required, based on the revenue type. The Municipal Court and Financial Management Services Departments are responsible for the collection and deposit of funds due to the City.

**Submitted for City Manager's Office by:** Jay Chapa      5804

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