

**AN ORDINANCE AUTHORIZING THE CITY OF SELMA TO ENTER INTO A COLLECTIONS CONTRACT FOR FINES, FEES, RESTITUTION, OTHER DEBTS, AND COSTS PROVIDING SPLIT FEES ON PARTIAL COLLECTIONS; AMENDING CHAPTER 30 ARTICLE III OF THE CODE OF ORDINANCES OF THE CITY OF SELMA, TEXAS, BY ADDING DIVISION 4, SECTION 30-140 THROUGH SECTION 30-142, AUTHORIZING A COLLECTIONS FEE IN THE AMOUNT OF THIRTY PERCENT (30%) TO DEFRAY COSTS OF COLLECTING DELINQUENT FINES, FEES, COURT COSTS, AND OTHER DEBTS OVER 60 DAYS PAST DUE PURSUANT TO ARTICLE 103.0031 OF THE TEXAS CODE OF CRIMINAL PROCEDURE; AMENDING APPENDIX 'A' FEE SCHEDULE, CHAPTER 30, OF THE SELMA CODE OF ORDINANCES, TO REFLECT THE FEE TO BE ASSESSED HEREUNDER; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The Code of Ordinances of the City of Selma, Texas, Chapter 30, authorizes miscellaneous fees related to the Selma Municipal Court as allowed by state law; and

**WHEREAS**, in the 2001 Session the Texas Legislature adopted S.B. 1778 that amends the Texas Code of Criminal Procedure relating to municipal court collection fees; and

**WHEREAS**, Article 103.0031 of the Texas Code of Criminal Procedure authorizes the City of Selma, Texas to contract with a private attorney for the collection of delinquent fines, fees, court costs and other debts pursuant to Article 103.0031 and to impose an additional fee in the amount of thirty percent (30%) on each debt or account receivable that is more than sixty (60) days past due and which has been referred to an attorney for collection; and

**WHEREAS**, the governing body of a municipality may authorize the addition of a collection fee in the amount of 30 percent on each item pursuant to Texas Code of Criminal Procedure Article 103.0031; and

**WHEREAS**, the City Council of the City of Selma finds that:

1. There is a substantial need for the legal services to be provided to City for Fines and Fees Collection Services;
2. These legal services cannot be adequately performed by the attorneys and supporting personnel of the City at a reasonable cost;
3. These 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 nature of the collection fee authorized by Tx Code of Criminal Procedure Art. 103.0031;

4. Linebarger Goggan Blair & Sampson, LLP, is well qualified and competent to perform the legal services required to comply with the terms of a Contract for Fines and Fees Collection Services;

5. While Linebarger Goggan Blair & Sampson, LLP has not had any prior relationship with the City of Selma, Linebarger Goggan Blair & Sampson, LLP has represented numerous governmental entities over the past 40 years, including several in close proximity to Selma, and they have demonstrated years of competent representation with professionalism in the collection of unpaid fines, fees and court costs in the representation of those entities;

6. The contract with Linebarger Goggan Blair & Sampson, LLP is the result of an arm's length transaction between the City and Linebarger Goggan Blair & Sampson, LLP and is fair and reasonable; and

**WHEREAS**, the City of Selma has determined that it is in the public interest to pass this ordinance authorizing an additional collection fee for the collection of delinquent court-imposed fines, fees, court costs, and other debts as provided by said statute; and

**WHEREAS**, amending Chapter 30 allows for sound governance and fiscal management to serve the public purpose.

**NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Selma, Texas that:**

**Section 1:** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City of Selma and made a part of this Ordinance for all purposes and findings of fact.

**Section 2:** That Chapter 30, (COURT), Article III (FEES AND FUNDS) of the Code of Ordinances of the City of Selma, Texas, is hereby amended by adding DIVISION 4 Section 30-140 and 30-142 to read as follows:

#### **DIVISION 4. COLLECTION SERVICES FEE**

##### **Sec. 30-140. Collections fee authorized**

The Selma Municipal Court is authorized to assess a collections fee on delinquent court-imposed fines, fees, court costs, and other debts as provided by said statute.

##### **Sec.30-141. Collection services fee**

(a) An additional collection fee of thirty percent (30%) on each of the following items is authorized if the item is more than 60 days past due and has been referred to the attorney or vendor for collection:

- (1) Debts and accounts receivable such as unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid by the Selma Municipal Court.



- (2) Amounts in cases in which the accused has failed to appear:
  - (A) As promised under Transportation Code Ch. 543, subchapter A;
  - (B) In compliance with a lawful written notice to appear issued under Code of Criminal Procedure Article 14.06(b);
  - (C) In compliance with a lawful summons issued under article 15.03(b) or other law;
  - (D) In compliance with a lawful order of the Selma Municipal Court; or
  - (E) As specified in a citation, summons, or other notice authorized by the Transportation Code, that charges the accused with parking or stopping offense.
- (3) false alarm penalties or fees imposed by the City of Selma under the Code of Ordinances.
- (b) With respect to cases described by subsection (2) and (3) above, the amount to which the 30 percent collection fee applies is:
  - (1) The amount to be paid that is communicated to the accused as acceptable to the court under its standard policy for resolution of the case; or
  - (2) The amount ordered paid by the court after plea or trial.
- (c) An item subject to collection services and the collection fee under this section is considered more than 60 days past due under subsection (a) if it remains unpaid on the 61st day after the following appropriate date:
  - (1) With respect to an item described by subsection (a)(1), the date on which the debt, fine, fee, forfeited bond, or court cost must be paid in full as determined by the court; or
  - (2) With respect to an item described by subsection (a)(2), the date by which the accused promised to appear or was notified, summoned, or ordered to appear.
- (d) A defendant is not liable for the collection fees authorized under this section if the Selma Municipal Court has determined the defendant is indigent, or has insufficient resources or income, or is otherwise unable to pay all or part of the underlying fine or costs.
- (e) If the City of Selma has entered into a contract for collection services and a person pays an amount that is less than the aggregate total to be collected under the contract and including the collection fee, then the allocation to the comptroller, the City, and the private attorney or vendor shall be reduced proportionately.
- (f) Time served and community service. The collection fee may be applied to any balance remaining after a partial credit for time served or community service if the balance is more than 60 days past due.
- (g) Calculation of collection fee. Unless the contract with the collecting entity provides otherwise, the Selma Municipal Court shall calculate the amount of any collection fee due to the City of Selma or to the private attorney or public or private vendor performing the collection services and shall receive all fees, including the collection fee.

(h) The City of Selma may not use the additional 30 percent collection fee authorized by Sec. 30-140 for any purpose other than compensating the private attorney or private vendor who earns the fee.

**Sec. 30-142. Enumerated.**

The Selma Municipal Court will collect a fee as listed in Appendix A for the collection of delinquent court-imposed fines, fees, court costs, and other debts as provided by statute.

**Section 3:** Amendment to Appendix A, Fee Schedule

[New] Sec. 30.141 Collection Services Fee

- (a) Fine and fees as established by the Selma Municipal Court;
- (b) Plus 30% additional add-on penalty/fee for any municipal court fee, fine or cost that is collection by the City's contractual collection entity.

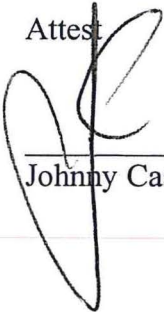
**Section 4:** Authorization. The City of Selma is hereby authorized to enter into a contract with a private law firm to provide services for the collection of fines, fees, court costs, and other debts substantially in the form of the attached contract which is made a part of this ordinance for all purposes. The Mayor and City Administrator for the City of Selma are authorized to individually execute, on behalf of the City of Selma, an Agreement with a private law firm in the form of the contract attached as Exhibit "A" to this ordinance.

**Section 5.** Severability. If any provision of this ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, that holding shall not invalidate or impair the validity, force or effect of any other section or part of a section of this Ordinance.

**Section 6.** Effective date. This ordinance shall be effective upon passage and adoption.

**ADOPTED AND APPROVED** this 12<sup>th</sup> day of September 2019.

Attest



Johnny Casias, City Secretary



Tom Daly, Mayor

