

STATE OF TEXAS
COUNTY OF BRAZORIA

CONTRACT FOR THE
COLLECTION OF
MOWING ASSESSMENTS

This contract is entered into between the City of Angleton (hereinafter “City”), a political subdivision of the State of Texas, acting by and through its governing body, and the firm of Perdue, Brandon, Fielder, Collins and Mott, L.L.P., (hereinafter “Firm” or “The Firm”), acting by their duly authorized representative. The City desires to have its delinquent mowing assessments collected by a private law firm, and the Firm desires to collect such mowing assessments on behalf of City. Accordingly, the parties entered into the following contract and are subject to the following conditions.

1. SERVICE PROVIDED BY FIRM:

Firm agrees to provide the following services to City:

- a. To use such reasonable and necessary legal steps to effect collections of mowing assessments due to City.
- b. To conduct such necessary address and title research to locate the proper owners and verify ownership of properties subject to mowing assessments, and to report any newly discovered information to City.
- c. To handle all necessary litigation, whether at the trial level or the appellate level.
- d. To take any and all such appropriate actions to protect mowing assessment claims due City in the United States Bankruptcy Courts; to pursue collections of such claims in the bankruptcy court; and to review bankruptcy court records to determine the effect of bankruptcy proceedings on the viability of any City mowing assessment against persons whose estates have been in bankruptcy.
- e. To initiate sheriff’s sale or writs of execution, when approved by City, through the sheriff and the county where the property subject to execution is physically located.
- f. To provide legal opinions to City concerning uncollectible accounts, and to provide sufficient documentation to City’s Finance Department and/or independent auditors in order to support deletion of appropriate accounts.
- g. To provide City with such collection and litigation reports as may be desired by City. The Firm also agrees to provide City with copy of litigation and pleadings filed to the extent desired by City. Except as provided herein and the section under remuneration, Firm agrees to provide all such services to City at no charge (recognizing that the costs of collection are to be paid by the property owner/obligor, and that City agrees to pay court costs). Parties agree that the following regular reports will be made:

- (1) A quarterly report shall be submitted to the Director of Finance and the City Attorney containing the following information:
 - (a) The names of all accounts referred for collection during the quarter;
 - (b) The amount of money collected during the quarter listed by account and in total;
 - (c) The number of letters mailed;
 - (d) The number of suits filed;
 - (e) The number of court proceedings involved in the collection effort during the quarter and
 - (f) An estimate of court costs which will be needed during the next quarter.

- (2) Every six (6) months the Firm shall present a report to the City Council containing the following information:
 - (a) The number of accounts worked during the last six (6) months;
 - (b) The amount of money received;
 - (c) A listing of all accounts deemed to be uncollectible, the reason the Firm believes the account to be uncollectible, and a recommendation of whether the account should be written off or held open;
 - (d) The report shall contain any recommendations submitted by the Firm for settlement of any account in an amount less than payment in full;
 - (e) The report shall list any accounts in which a recommendation is made to delay collection efforts indefinitely or for more than six (6) months; and
 - (f) The report should list any properties on which the Firm believes execution of judgment should be requested in order to collect the assessment.
 - (g) To recover court costs and any other fees prepaid by City in suits previously filed by City.
 - (h) To provide to City any such other and further services that might be required to carry out the terms and conditions of this contract, and generally perform the legal services related to collection of delinquent mowing assessments due City of Angleton.

- (i) Whenever the Firm enters into an agreement with a debtor for installment payments, the City shall collect all installments. The City shall account to the Firm each month for money received under installment agreements and shall pay the Firm the Firm's share.
- (j) The Firm agrees to follow the City's instruction with regard to installment payment plans in hardship cases and homestead cases. No settlement agreement of any claim, suit, or proceeding shall be entered into without the approval of the Director of Finance. The City authorizes and directs the Firm to take all actions the Firm deems advisable to perform the services required under this Contract. This includes all necessary court appearances, research, investigation, correspondence, preparation and drafting of pleadings and other legal documents, trial preparation and related work necessary to properly represent the City's interest in these matters.
- (k) The Firm agrees to obtain permission from the City Council or its designated official before executing any judgment through foreclosure and the sale of any property.
- (l) The Firm shall perform its services under this contract as an independent contractor and maintain a file for each referred claim which shall be available to the City at all times for inspection. Such file shall contain all data pertinent to the claim to support its disposition. All documents, papers, or records pertaining to a file shall be retained after conclusion of all legal proceeding for disposition as determined by the Director of Finance.

2. CITY AGREES TO PERFORM THE FOLLOWING AS A PARTY TO THIS CONTRACT:

- a. To make all accounts that the Finance Director designates as ready for collection available to Firm in order to carry out the terms of the conditions of this contract. This includes the initial referral of accounts, and any subsequent referral of accounts.
- b. To provide a history of payments (whether ongoing through partial payment plans, or lump sum to City) in order to allow Firm to update balances owing to City.
- c. To designate a party to sign appropriate affidavits or claims in order to support claims filed in Court. The Director of Finance is designated as the person authorized to sign all mowing certificates, releases or affidavits concerning any matter affecting the mowing assessments within his knowledge.
- d. To advise Firm of any prepaid court costs and/or expenses so that Firm may seek recovery of said prepayments.
- e. To advance necessary court cost, filing fees, and any publication fees (for notices of sale, etc.) relating to litigation.

3. REMUNERATION

- a. Existing Judgments. The collection of accounts where a judgment has already been entered would be compensated to the Firm at the rate of fifteen percent (15%) of any moneys received. Provided that the City would be reimbursed for any prepaid litigation expenses (court costs, publication expenses, etc.). The Firm recognizes that the City Attorney may have been awarded attorney fees as a part of the judgments obtained and the Firm is willing to accept an assignment of these attorney fees rather than receive a commission of collections. The Firm further agrees to treat such attorney fees awarded through the judgment as full satisfaction of any amounts owing and no additional fee income would be due once the Court ordered attorney fees has been paid.
- b. Pre-Judgment Accounts. For collection of accounts where a judgment has not been entered, the fee is a fifteen percent (15%) commission of any balance owing.

4. TERM OF CONTRACT

This contract shall be effective beginning the 23rd day of January, 2009, and shall continue for a two (2) year term ending on the 23rd day of January, 2011 and continue on a month to month basis thereafter until terminated. Either party may terminate this contract upon sixty (60) days written notice to the other party or at the address provided below.

City and Firm acknowledge and agree that Firm shall have six (6) months to receive compensation on collections resulting from litigation or bankruptcy proceedings initiated prior to written notice of intent to terminate this contract; such six (6) month extension begins at the effective date of the termination of the contract.

5. RECITALS

This contract is performable in Brazoria County, State of Texas, and in signing this contract, each of the signatories listed below warrant that they are authorized to sign this contract on behalf of the respected party to said contract.

VIII.

Every provision of this Agreement is intended to be severable. If any term or provision hereof is hereafter deemed by a Court to be illegal, invalid, void or unenforceable, for any reason or to any extent whatsoever, such illegality, invalidity, or unenforceability shall not affect the

validity of the remainder of this Agreement, it being intended that such remaining provisions shall be construed in a manner most closely approximating the intention of the Parties with respect to the illegal, invalid, void or unenforceable provision or part thereof.

This contract may be executed in duplicate originals, each of which shall be deemed valid.

SIGNED the _____ day of _____, 2009, pursuant to City

Council approval on _____, 2009.

ATTEST

CITY OF ANGLETON
121 South Velasco
Angleton, Texas 77515

CITY CLERK

City Manager

APPROVED:

CITY ATTORNEY

PERDUE, BRANDON, FIELDER,
COLLINS & MOTT, L.L.P.

Michael J. Darlow
SBN: 05387300
1235 North Loop West, Suit 600
Houston, Texas 77008
(713) 862-1860
(713) 862-1429 Fax