

RESOLUTION NO: 2015-01-15C

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH PERDUE AND BRANDON LAW FIRM (ATTACHMENT A) TO PROVIDE COLLECTION SERVICES FOR DELINQUENT MUNICIPAL COURT ACCOUNTS.

WHEREAS, Ordinance NO. 2014-01-15B authorizes a collection for delinquent payment of fines and further authorizes a City to contract with a law firm to make such collections; and

WHEREAS, it is in the interest of the City of Overton to use the legal tools available to maximize collection of delinquent fines.


WHEREAS, an evaluation has been made of firms that provide such services and the law firm of Perdue and Brandon was deemed the best qualified firm to fill this role for the City of Overton; and

WHEREAS, the terms and conditions of such an Agreement have been negotiated and reduced to writing as shown in Attachment A of this Resolution, which becomes a part of this Resolution for all purposes;

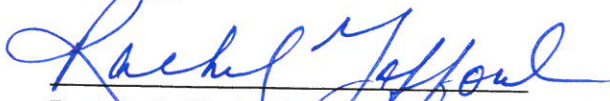
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS THAT:

That the Mayor is authorized on behalf of the City to execute the attached Contract for Criminal Court Collection Services with the Law firm of Perdue, Brandon, Fielder, Collins and Mott, L.L.P.

APPROVED AND RESOLVED BY THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS ON THIS 15TH DAY OF JANUARY, 2015.


C.R. Evans Jr., Mayor

ATTEST:


Rachel Gafford, City Secretary



ATTACHMENT A

CONTRACT FOR CRIMINAL COURT COLLECTION SERVICES

CONTRACT FOR CRIMINAL COURT COLLECTION SERVICES

STATE OF TEXAS §

COUNTY OF RUSK §

SECTION I. PARTIES TO THE CONTRACT

THIS CONTRACT, hereinafter called "Contract", is made and entered into by and between the **City of Overton, Texas**, acting herein by and through its governing body, hereinafter called "the City" and **Perdue, Brandon, Fielder, Collins & Mott, L.L.P.**, hereinafter called "Perdue".

Contract supersedes all prior oral and written agreements between the parties, and can only be amended if done so in writing and signed by all parties. Furthermore, this Contract cannot be transferred or assigned by either party without the written consent of all parties.

The City agrees to employ and does hereby employ Perdue to enforce the collection of delinquent criminal court fines, fees, and court costs pursuant to the terms and conditions described in this Contract.

NOW, THEREFORE, in consideration of the covenants, conditions and agreements hereinafter set forth, the adequacy of which is hereby acknowledged, the City and Perdue agree as follows:

SECTION II. CITY'S COLLECTION OBLIGATIONS

A. The City agrees to refer all delinquent accounts, as defined below, to Perdue for collection on or about the first (1st) or the fifteenth (15th) of each month. The City shall refer all delinquent accounts by electronic or magnetic medium, if available, or in any other way that is most favorable to the City. All delinquent accounts should be in a specified format that will allow Perdue to process the account data.

B. An account is considered delinquent when not paid within sixty (60) days of the scheduled appearance date (if the defendant failed to appear), or from any granted extension, or from the date of conviction or judgment, or other court specified due date.

C. The City will provide Perdue with copies of, or access to, the information and documentation necessary to collect the fines, fees, and court costs that are subject to this Contract.

SECTION III. PERDUE'S COLLECTION OBLIGATIONS

A. Perdue agrees to refer all payments and correspondence directly to the court that has assessed or levied the fines, fees, and court costs being collected pursuant to this Contract. Perdue reserves the right to return any accounts not collected within one (1) year of referral by the City. Neither party will have any obligation to the other with regard to returned accounts.

B. Perdue agrees to use its best efforts to collect the delinquent accounts received from the City and to comply with all provisions of state and federal law and regulations promulgated pursuant thereto in the rendition of collection services contemplated by this Contract.

C. If requested by the City, Perdue agrees to provide legal advice to the City on its delinquent accounts.

SECTION IV. COLLECTION FEE

The City agrees to pay Perdue as follows:

(1) Zero percent (0%) of the collected fines, fees, and court costs referred to Perdue by the City imposed on all unadjudicated offenses committed on or before June 18, 2003.

(2) Thirty percent (30%) of the collected fines, fees, and court costs referred to Perdue imposed on all adjudicated offenses committed on or before June 18, 2003;

(3) Thirty percent (30%) of the collected fines, fees, and court costs referred to Perdue imposed on all offenses occurring after June 18, 2003.

(4) The imposition of the thirty percent (30%) collection fee above is in accordance with Article 103.0031 of the Texas Code of Criminal Procedure.

SECTION V. EXCEPTIONS TO THE COLLECTION FEE

Pursuant to Article 103.0031(b), Texas Code of Criminal Procedure, Perdue cannot collect from a defendant the percentages referred to in Section IV. COLLECTION FEE if the defendant has been determined by the court of original jurisdiction to be indigent, or has insufficient resources or income, or is otherwise unable to pay all or part of the underlying fine or costs. The collection fee does not apply to a case that has been dismissed by a court of competent jurisdiction or to any amount that has been satisfied through time-served credit or community service.

The collection fee shall, however, 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.

SECTION VI. METHOD OF PAYMENT

Absent an agreement otherwise, the City shall calculate and receive the amount of any collection fee due to Perdue. Said fee shall be paid to Perdue by check on a monthly basis. All compensation shall become the property of Perdue at the time of payment.

SECTION VII. COMMENCEMENT AND TERMINATION OF CONTRACT

This Contract shall commence on the _____ day of _____, 2014, and end when both parties mutually agree; provided, however, that either party to this agreement shall have the right to terminate this agreement by giving the other party thirty (30) days written notice of their desire and intention to terminate this Contract. Upon termination Perdue shall have an additional six (6) months to complete work on all delinquent accounts referred from the City prior to the notice of termination and will be entitled to compensation on such accounts if collected.

SECTION VIII. NOTICES

For purposes of sending notice under the terms of this Contract, all notices from the City shall be sent to Perdue by certified United States mail, or delivered by hand or courier, and addressed as follows:

Perdue, Brandon, Fielder, Collins & Mott L.L.P.

Attn: Tab Beall

BY US MAIL:

P.O. Box 2007

Tyler, Texas 75710-2007

BY COURIER DELIVERY:

305 S. Broadway, Suite 200

Tyler, Texas 75702

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SECTION VII. COMMENCEMENT AND TERMINATION OF CONTRACT

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P.O. Box 2007

Tyler, Texas 75710-2007

BY COURIER DELIVERY:

305 S. Broadway, Suite 200

Tyler, Texas 75702

SECTION IX. VENUE AND CONTROLLING LAW

This Contract is made and is to be interpreted under the laws of the State of Texas. Venue for any disputes involving this Contract shall be in the appropriate courts in Smith County, Texas.

SECTION X. ACCEPTANCE OF EMPLOYMENT

In consideration of the terms and compensation herein stated, Perdue hereby accepts said employment and undertakes performance of said Contract as set forth above.

SECTION XI. SEVERABILITY

Every provision of this Contract is intended to be severable. If any term or provision hereof is hereafter deemed by a court of competent jurisdiction 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 Contract, 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 is executed on behalf of the City by the presiding officer of its governing body who is authorized to execute this instrument by Resolution heretofore passed and recorded in its minutes. This Contract may be executed in any number of counterparts, and each counterpart shall be deemed an original for all purposes. Signed facsimiles or electronically signed Contracts executed on behalf of the City by the presiding officer of its governing body authorized to execute this instrument shall be binding and enforceable.

WITNESS the signature of all parties hereto this 15 day of January, 2014.

CITY OF OVERTON

By: *C.R. Evans, Jr.*
Name

Mayor
Title

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

By: *Aletha L. Williams*
For the Firm