

No. \_\_\_\_\_



## UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

**TOPIC:** Award of New Three (3) Year Delinquent Tax Contract to the law firm of Ornelas, Castillo  
and Ornelas

**SUBMITTED BY:** John Bruce & Juan Roberto Ramirez **OF:** Board of Trustees

**APPROVED FOR TRANSMITTAL TO SCHOOL BOARD:** February 20, 2008

### RECOMMENDATION:

It is recommended that the Board of Trustees approve the Award of New Three (3) Year Delinquent Tax Contract to the law firm or Ornelas, Castillo and Ornelas.

### RATIONALE:

### BUDGETARY INFORMATION

### BOARD POLICY REFERENCE AND COMPLIANCE:

# United Independent School District

## CONTRACT FOR THE COLLECTION OF DELINQUENT TAXES

**THIS CONTRACT** is made and entered into by and between the **UNITED INDEPENDENT SCHOOL DISTRICT BOARD OF TRUSTEES**, on behalf of the **UNITED INDEPENDENT SCHOOL DISTRICT**, hereinafter called the District, and **ORNELAS, CASTILLO & ORNELAS, L.L.P.**, a law firm, hereinafter called the Firm.

### I.

The District agrees to employ and does hereby employ the Firm to enforce by suit or otherwise the collection of all delinquent taxes, penalty and interest, on behalf of and owing to the **UNITED INDEPENDENT SCHOOL DISTRICT** provided current year taxes falling delinquent within the period of this contract shall become subject to its terms on the first day of July of the year in which the same shall become delinquent.

### II.

The Firm is to call to the attention of the collector or other officials any errors, double assessments, or other discrepancies coming under its observation during the progress of the work, and is to intervene on behalf of the District in all suits for taxes hereafter filed by any taxing unit on property located within the District's geographical limits.

### III.

The District agrees to furnish delinquent tax statements to the Firm on all property within the taxing jurisdiction. The Firm will furnish forms for said statements on request and will assume responsibility for having penalty and interest computed on statements before such statements are mailed to property owners. In case of a discrepancy in the computation of penalty and interest or other associated figures, the District's computations shall be used.

### IV.

The Firm agrees to file suit on and reduce to judgment and sale any property located within the **UNITED INDEPENDENT SCHOOL DISTRICT** against which a tax lien would prevail provided the District furnishes, to the extent such information is readily available to the District, the necessary data and information as to the name, identity, and location of the necessary parties, and legal description of the property to be sold. To the extent such information is not readily available to the District, the Firm shall obtain such information at no expense to the District. The Firm agrees to sue for recovery of all court costs as provided by Texas Property Tax Code §33.48.

### V.

The Firm agrees to file suit on all delinquent accounts which owe \$500 or more or which become more than three (3) years delinquent as of July 1<sup>st</sup> of every tax year, provided that homestead accounts will be sued when they become three years delinquent, regardless of amounts owed. In determining whether to file suit, the term "taxpayer" shall include the

aggregate of each taxpayer's account, so that a taxpayer who has multiple accounts will be treated as one taxpayer, with the multiple accounts added together to include one amount due.

#### VI.

The Firm agrees to prepare a report by April 1 of each year showing the status of each delinquent account owing more than \$500, or involving three years or more of delinquent property taxes. This report shall include for each lawsuit the cause number of the lawsuit and date it was filed. It shall also provide an explanation for each account that is not under lawsuit. The status report shall be submitted to the District and to the District's auditors for review and analysis in conjunction with the District's annual audit. **The Firm agrees to provide a procedures manual to the District's internal audit department and shall be subject to audits by the District's internal or external auditors.**

#### VII.

The Firm agrees to publish, on or about October 1 of each year as specified by the District, a list of all taxpayers who owe the District over \$1,000 in property taxes, after removing the names of taxpayers involved in bankruptcy, or taxpayers who are over 65 years old and only owe taxes on their homestead.

#### VIII.

The Firm agrees to provide a report to the tax collector on any District money held by them in escrow for more than thirty (30) days.

#### IX.

The tax assessor-collector shall be authorized to enter into installment payment contracts that are prepared by the Firm only on taxes owed on property owned by the taxpayer on his/her homestead. Such agreements shall be for no more than one year. Any installment payment contract entered into by the Firm must be approved by the District's tax assessor-collector. The Firm shall monitor that all installment payments are up to date and do not become delinquent by more than fifteen (15) calendar days. The Firm shall inform the District's tax assessor-collector of any account that becomes delinquent by more than fifteen (15) calendar days.

#### X.

The Firm agrees to make monthly progress reports to the District and to advise the District of all cases where investigation reveals taxpayers to be financially unable to pay their delinquent taxes. Such reports shall include:

- (a) total year-to-date collections;
- (b) total outstanding delinquency;
- (c) collection data on accounts in bankruptcy; and
- (d) total tax sales year-to-date; and
- (e) any other information requested by District.

## XI.

The Firm shall be responsible for performing all of the following procedural steps during the course of foreclosing a tax lien on delinquent property or entering into contract for payment of delinquent taxes pursuant to the Texas Property Tax Code.

- (a) title research;
- (b) filing suit;
- (c) issuing citations;
- (d) issuing and publishing a citation by publication;
- (e) personal inspection of the property;
- (f) investigation as to addresses of absentee owners;
- (g) trial;
- (h) judgment;
- (i) order of sale;
- (j) notice of sale;
- (k) preparation of sheriff's deed;
- (l) preparation of redemption deed;
- (m) documenting delinquent taxpayer's ability to pay;
- (n) preparing contracts and recommending same to the tax assessor-collector;
- (o) monitoring payments received under contract and taking necessary action in the event of default.

## XII.

The Firm will, prior to instituting suit, mail a notice to each taxpayer. These notices, will be accompanied by a statement that includes essential data such as property legal description, amount owed, tax year, property tax number, and name of owner.

## XIII.

No fee will be paid on Agricultural Rollback taxes collected for prior years unless said taxes are delinquent as defined by the Texas Property Tax Code.

## XIV.

All delinquent tax collection expenses will be paid or borne by the Firm, including but not limited to:

- (a) stationery;
- (b) legal blanks or forms;
- (c) related computer services;
- (d) postage and envelopes;
- (e) clerical labor;
- (f) office rent, utilities, furniture, etc.;
- (g) tax notices and reminders;
- (h) abstractor's fees;
- (i) title search;

- (j) publication costs, relating to lawsuit citations.

If abstractor or title search fees, service of process, guardian ad litem fees or other expenses are recovered from the delinquent taxpayers, the Firm shall be entitled to recoup its reasonable costs or fees for those items directly from the taxpayers as provided by law.

**XV.**

All payments by taxpayers whether before, during or after litigation, and whether including attorney's fees and other costs of court shall be paid to the District and shall be revenue of the District, except for abstractor or title research fees and service of process fees, attorney ad litem fees, and publications fees obtained after litigation has been instituted.

**XVI.**

The District agrees to pay to the Firm as compensation for the services and obligations to be provided as specified herein, fifteen percent (15%) of the amount collected of all delinquent taxes, penalties and interest of the years covered by this contract, actually collected and paid to the collector of taxes during the term of this contract, as and when collected and actually received by the District, provided that the amount of attorney's fees payable to the Firm under this contract shall not exceed the amount actually received by the District as collection costs from delinquent taxpayers pursuant to §33.07 of the Texas Property Tax Code or received by law pursuant to the institution of legal action for the collection of delinquent taxes under §33.48 of the Texas Property Tax Code.

Pursuant to §33.07 of the Texas Property Tax Code, or otherwise, it is the intent of the parties that fees will not be due for payments for taxes becoming delinquent on February 1, of any given year during the term of this contract, and received by the District up to and including June 30, of the same year, unless the Firm obtains its attorney's fees through the institution of legal action pursuant to §33.48 of the Texas Property Tax Code, or other action such as the issuance of tax warrants in personal property suits, and that in no event shall the Firm receive as compensation any amount for attorney's fees not paid by the taxpayer.

**XVII.**

The Firm agrees, upon request by the District, and at the Firm's expense, to provide employees of the District's Tax Office with one seminar per year conducted by a person certified by the State Board of Tax Professional Examiners designed to assist the employees of the tax office in obtaining their board certificates.

**XVIII.**

The Firm agrees, upon request by the District, to appeal to the Comptroller of Public Accounts, where appropriate, state valuations of taxable property with the District.

**XIX.**

The Firm agrees to provide \$18,000 annually during the term of this contract for scholarships to District students. The Firm, in consultation with the District's Guidance and Counseling

Department, shall determine how the money will be directed and which students will receive the scholarship money.

**XX.**

Unless sooner terminated, this contract is for a term **beginning on September 1, 2008 and ending August 31, 2011**. The District shall have the right to sooner terminate this contract at any time upon written notice of such intention to the Firm. In case of such termination, the Firm shall be entitled to receive and retain all compensation due up to the date of said termination. Further, on termination of this contract, the Firm shall have an additional six months after termination to reduce to judgment all suits filed prior to the date last mentioned, and provided further that the Firm shall handle to conclusion all suits in which trial court judgments are obtained during the period of this contract and which are appealed by any party.

**XXI.**

This contract is for professional legal services of the Firm, and the Firm is engaged under the will and direction of the District's governing body. This contract cannot be assigned in any manner. The Firm shall not subcontract any segment of the work contemplated hereunder to any corporation, professional group or individual except such work as does not involve professional judgment or require legal training. It is the intent of this contract that the Firm carries out the terms of this contract with personnel in the employ of the Firm.

**XXII.**

The Firm represents to the District that it possesses the qualifications and resources to undertake the work contemplated hereunder, and agrees to maintain such qualifications and resources during the term of this contract. The Firm further represents that it shall take all necessary action, including but not limited to, divesture of interests and termination of retainments, to ensure: (1) adherence with applicable ethical and professional standards of conduct, (2) avoidance of conflicts of interest, and (3) the work contemplated hereunder is undertaken in an enforceable and appropriate manner and serves the sole interests of the District. **THE FIRM AGREES TO INDEMNIFY THE DISTRICT, WHEN AFTER REASONABLE EFFORTS TAKEN BY THE FIRM TO PROTECT THE DISTRICT, THERE IS ANY LOSS OF DISTRICT'S TAX REVENUE ATTRIBUTABLE TO OR ARISING FROM THE FIRM'S FAILURE TO COMPLY WITH THE FORGOING REPRESENTATIONS WITHIN SIXTY (60) DAYS OF A FINAL DETERMINATION OF ANY LOSS OF DISTRICT TAX REVENUE.**

**XXIII.**

A determination on the invalidity or illegality of any provision herein shall not affect the validity of the remaining provisions of this contract, and the remaining contract terms shall continue in effect as if the invalid or illegal provision were not included herein.

**XXIV.**

Any notices which are required hereunder, or which either the District or the Firm may desire to serve upon the other, shall be in writing and shall be deemed served on the date when

personally delivered or the postmarked date if deposited in the United States mail as certified mail, postage prepaid, return-receipt requested, to the person(s) and addresses below.

If to the Firm: Alfonso H. Ornelas, Jr.  
Ornelas, Castillo & Ornelas L.L.P  
401 E. Hillside  
Laredo, Texas 78041

If to the District: Roberto J. Santos  
Superintendent of Schools  
United I.S.D.  
201 Lindenwood Road  
Laredo, Texas 78041

cc: Mr. Juan J. Cruz  
Escamilla & Poneck, Inc.  
5219 McPherson, Suite 306  
Laredo, Texas 78041

cc: Ms. Norma Farabough, RTA, CSTA, CTA  
United I.S.D. Tax Assessor-Collector  
3501 E. Saunders Avenue  
Laredo, Texas 78043

**XXV.**

This contract is executed on behalf of the District by the presiding officer of its governing body who is authorized to execute this instrument, and the Firm's authorized representative.

**WITNESS** the signatures of all parties hereto in duplicate originals this, the \_\_\_\_ day of February, 2008, Webb County, Texas.

**UNITED INDEPENDENT  
SCHOOL DISTRICT**

**ORNELAS, CASTILLO & ORNELAS,  
L.L.P.**

By: \_\_\_\_\_  
President, Board of Trustees

By: \_\_\_\_\_  
Authorized Partner

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Address: 401 E. Hillside  
Laredo, Texas 78041

Attest:

\_\_\_\_\_  
Secretary, Board of Trustees