

# A | R | B | H

ABERNATHY ROEDER  
BOYD HULLETT

EST. 1876

David McCall  
[dmmcall@abernathy-law.com](mailto:dmmcall@abernathy-law.com)

1700 Redbud Boulevard, Suite 300 | McKinney, Texas 75070-1210  
Main: 214.544.4000 | Fax: 214.544.4044

November 8, 2019

*VIA E-MAIL*

Mr. Steven J. Bassett  
Collin College Finance  
sbassett@collin.edu

Re: Contract for the Collection of Delinquent Taxes

Dear Mr. Bassett:

Attached is the proposed contract for the collection of delinquent taxes as we had discussed. Included are the revisions you had requested.

After looking over the proposed contract, please contact me if you have any questions or concerns and I will either come to your office or talk by phone.

I look forward to meeting you in the very near future.

Sincerely,



David McCall

DBM/jcw

**CONTRACT FOR THE COLLECTION OF  
DELINQUENT TAXES**

THE STATE OF TEXAS                   §  
  §  
COUNTY OF COLLIN                   §

THIS CONTRACT is made and entered into by and between the **COLLIN COUNTY COMMUNITY COLLEGE DISTRICT**, a political subdivision of the State of Texas, acting by and through its governing body, (hereinafter called "College"), and **ABERNATHY, ROEDER, BOYD & HULLETT, P.C. (CONTACT: DAVID MCCALL)**, McKinney, Texas, (hereinafter called the "FIRM").

**I.**

COLLEGE agrees to employ and does hereby employ FIRM to enforce by suit or otherwise, the collection of all delinquent ad valorem taxes, penalty and interest, owing to the COLLEGE, which the COLLEGE refers to the FIRM, provided the current year's taxes have become delinquent within the period of this Contract, and therefore shall become subject to its terms upon the following conditions:

- A. Taxes that become delinquent during the term of this Contract on property that is not delinquent for any prior year become subject to the terms of this Contract on the 1st day of July of the year in which they become delinquent; and
- B. Taxes that become delinquent during the term of this Contract on property that is delinquent for prior tax years and upon which the FIRM initiates or has initiated legal activity shall become subject to its terms on the first day of delinquency.
- C. All delinquent personal property taxes shall become subject to this Contract and shall be turned over to the FIRM for collection 60 days after the delinquency date for said taxes that become delinquent on or after February 1, 2019.
- D. Other taxes, including current taxes, which are turned over to the FIRM by the COLLEGE's tax collector because of the necessity of filing claims in Bankruptcy, with other Federal authorities, or for other reasons, shall become subject to the terms of this Contract at the time they are turned over to the FIRM, and the FIRM shall be entitled to attorney's fees as set forth herein, when such attorney's fees are actually recovered from the taxpayer.

- E. COLLEGE reserves the right to make the final decision as to whether or not to enforce by suit any delinquent tax account turned over to the FIRM for collection.

## II.

The FIRM's relationship with COLLEGE shall at all times be that of an independent contractor. The method and manner in which the FIRM's services hereunder shall be performed shall be determined by the FIRM in its sole discretion, and COLLEGE will not exercise control over the FIRM or its employees. The employees, methods, equipment and facilities used by the FIRM shall at all times be under its exclusive direction and control. Nothing in this Agreement shall be construed to designate the FIRM, or any of its employees, as employees of COLLEGE.

## III.

All services provided by FIRM hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of the profession in the State of Texas applicable to such services of the type of collection services contemplated by this Agreement, and FIRM shall be responsible for all services provided hereunder. FIRM shall perform all duties and services and make all decisions called for hereunder promptly and without unreasonable delay and will give these services such priority in its office as is necessary to cause FIRM's services hereunder to be timely and properly performed.

## IV.

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

## V.

COLLEGE, or its authorized tax collector, agrees to furnish a delinquent tax roll including all data the COLLEGE may have based upon Collin County tax roll information as to the name and

address of the taxpayer, the legal description of the property, and the years and amount of taxes due, to FIRM on all property within COLLEGE's jurisdiction. COLLEGE further agrees to update said information by furnishing a list of paid accounts and adjustments to the tax roll as such information is available.

## VI.

FIRM agrees to file suit on and reduce to judgment and sale or to enforce the collection otherwise of delinquent taxes on property located within the COLLEGE's taxing jurisdiction. The FIRM shall have the authority to procure on behalf of COLLEGE the necessary data and information as to the name, identity, and location of the necessary parties, and legal description of such property. FIRM agrees to sue for recovery of these costs as court costs as provided by Texas Property Tax Code Section 33.48.

## VII.

FIRM further agrees to begin work upon receipt of a delinquent tax file, to proceed diligently in all collection efforts, and to report progress to the COLLEGE on a monthly basis. FIRM shall advise the representative designated by the COLLEGE of all delinquent accounts where an investigation reveals mitigating circumstances and/or taxpayers financially unable to pay their delinquent taxes.

FIRM and COLLEGE hereby agree that certain standards for performance of this Agreement are necessary to ensure that all parties understand the intent of the other party. These standards are not designed to give rights to third parties. Instead, in order for all parties to fully perform the necessary duties under this Agreement, the Parties hereby establish standards which sets forth the goals and objectives of the COLLEGE and criteria which expresses what is required of the FIRM under this Agreement ("Performance Criteria"), as set forth in Exhibit "A" attached hereto and incorporated by reference as if written word for word herein. The Performance Criteria may be updated on an as needed basis. Failure of the FIRM to perform in accordance with the Performance Criteria, after thirty (30)

day written notice and ten (10) day opportunity to cure may result in the termination of this Agreement at the discretion of the COLLEGE.

### VIII.

COLLEGE further agrees to employ and does hereby employ FIRM on a mutually agreed upon basis, to include in any suit filed for delinquent taxes the collection of receivables, such as mowing liens, demolition liens, and other liens filed by the Collin County Community College District with the County Clerk of Collin County, Texas. COLLEGE reserves the right to make the final decision as to whether or not to enforce by suit the collection of any such receivables. FIRM agrees to include the COLLEGE's claims for amounts due pursuant to such liens in delinquent tax collections suits when applicable. Such receivables become subject to the terms of this contract at the time they are turned over to the FIRM, and the FIRM is entitled to attorney's fees of twenty percent (20%) of any amounts awarded by a court and actually received by COLLEGE; however, College shall not be liable for payment of any attorney's fees to FIRM. The FIRM agrees to seek recovery of such attorney's fees on behalf of the COLLEGE. The COLLEGE reserves the right to accept or reject any payments tendered for less than the full amount due including attorney's fees. COLLEGE agrees to pay over such compensation to FIRM monthly by check.

### IX.

COLLEGE agrees to pay to FIRM as compensation for services as follows:

1. For Tax Year 2007 and Subsequent Years: COLLEGE agrees to pay FIRM as compensation hereunder the maximum allowable to be charged as additional penalty under Texas Property Tax Code Sections 33.07 and 33.11, or as attorney's fees charged as costs in a suit to collect a delinquent tax under Texas Property Tax Code Section 33.48, whichever is applicable, only upon collection and payment to the collector of taxes after the earliest dates for attachment of said penalty and/or costs prescribed in the aforementioned statutes.

2. For Tax Year 2006 and Prior Years: COLLEGE agrees to pay FIRM as compensation hereunder fifteen percent (15 %) of the amount of all delinquent taxes, penalty and interest for each applicable year in which said amount is actually collected and paid to the collector of taxes during the term of this contract as and when collected.

All compensation provided for herein shall become the property of the FIRM at the time of payment of taxes, penalty, interest and costs to the collector of taxes, subject to the terms of this contract. The collector shall pay over said funds monthly by check.

X.

The initial term of this Contract shall be for five (5) years, from September 1, 2019, through August 31, 2024, with the option to renew for an additional five (5) year term, if mutually agreeable. However, either party to this Contract shall have the right to terminate this Contract at any time by giving the other party thirty (30) days written notice of its desire and intention to terminate this Contract; and further provided that the FIRM shall have an additional six (6) months to reduce to payment or judgment all tax litigation and bankruptcy claims filed prior to the date this Contract becomes terminated. 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. In consideration of the terms and compensation herein stated, FIRM hereby accepts said employment and undertakes the performance of this contract as above written.

In the event that the contract period provided herein shall expire without termination or renewal, this contract shall automatically be extended for successive thirty (30) day periods until such is terminated or renewed by the COLLEGE.

XI.

All disputes arising in connection with this Contract shall be resolved exclusively in Civil

District Court in Collin County, unless venue for any such dispute is required by law to be in another court. The parties hereto agree that the laws of the State of Texas shall govern and control the interpretation, performance and enforcement of this Contract.

**XII.**

Before commencing work, the FIRM shall, at its own expense, procure, pay for and maintain the following insurance written by companies approved by the state of Texas and acceptable to the Collin County Community College District. The FIRM shall furnish to the Collin County Community College District Purchasing Manager certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be addressed as follows:

Collin County Community College District  
ATTN: H. Neil Matkin – District President  
3452 Spur 399  
McKinney, Texas 75069

Professional Liability Insurance to provide coverage against any claim which the FIRM and all firms engaged or employed by the FIRM become legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of \$1,000,000 per claim, \$2,000,000 annual aggregate.

**NOTE:** If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than *thirty-six (36) months* following completion of the contract and acceptance by the Collin County Community College District.



A. With reference to the foregoing required insurance, the consultant shall endorse applicable insurance policies as follows:

1. All insurance policies shall be endorsed to the effect that Collin County Community College District will receive at least thirty (30) days' notice prior to cancellation, non-renewal, termination, or material change of the policies.

B. All insurance shall be purchased from an insurance company that meets a financial rating of B+ VI or better as assigned by AM. Best Company or equivalent.

### XIII.

In the event the FIRM receives any funds on behalf of the COLLEGE, the FIRM shall receive and handle all collections as constructive trustee for the use and benefit of the COLLEGE. All accounts and funds received by FIRM and documentation of any kind furnished by the COLLEGE shall at all times remain the property of the COLLEGE. In the event of termination of this Agreement for any reason or expiration thereof, such funds and documentation shall be returned within five (5) days to the COLLEGE. FIRM may not, under any circumstances, withhold such funds.

### XIV.

At any time during normal business hours and as often as the COLLEGE may deem reasonably necessary, FIRM shall make available to a representative designated in writing by the COLLEGE for examination, all of FIRM's records, whether written or electronically generated and stored, which include but are not limited to all collections, accounts, activity, disposition, etc., with respect to all matters covered by this Agreement, and will permit the COLLEGE to examine such records; however, COLLEGE shall use best efforts to protect the FIRM's attorney work product and all confidential information pursuant to the Texas Public Information Act, and in furtherance of the foregoing, College



shall only make copies, excerpts, or transcripts from such records which are or which are determined to be public information by the Texas Attorney General.

**XV.**

FIRM shall at all times observe and comply with all federal, state, and local laws, ordinances, regulations, and policies of the COLLEGE, which in any manner affect FIRM or its services.

**XVI.**

If any portion of this contract is deemed unenforceable due to operation of law or otherwise, all remaining provisions shall continue to operate in full force and the parties shall be bound thereby until the end of the contract term.

**XVII.**

FIRM agrees to give full attention to the fulfillment of this Agreement and to give such priority to this Agreement so as to timely effectuate its purpose. COLLEGE agrees to provide in timely manner information necessary to allow the FIRM to fulfill its obligations herein. This Agreement may not be assigned, in whole or in part, without the prior written consent of the COLLEGE, and no part or feature of the work will be subcontracted to anyone without the approval of the COLLEGE. FIRM further agrees that the assignment of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve FIRM from its full obligations to the COLLEGE as provided by this Agreement.

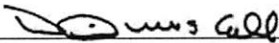
In consideration of the terms and compensation herein stated, Abernathy, Roeder, Boyd & Hullett, P.C. accepts said employment and undertakes the performance of this Contract as above written.

This Contract is executed on behalf of the COLLEGE by H. Neil Matkin, Ed.D., who is authorized to execute this instrument by Order heretofore passed this the \_\_\_\_\_ day of \_\_\_\_\_, 2019, in McKinney, Collin County, Texas.

***COLLIN COUNTY COMMUNITY COLLEGE DISTRICT***

By: \_\_\_\_\_  
H. NEIL MATKIN, ED.D. – DISTRICT PRESIDENT

***ABERNATHY, ROEDER, BOYD & HULLETT, P.C.***

By:  \_\_\_\_\_  
DAVID MCCALL  
1700 Redbud Blvd #300  
McKinney, Texas 75069

## EXHIBIT "A"

### PERFORMANCE CRITERIA

The FIRM shall at all times perform work under the Agreement to the customary standards of professionals performing the same type of services in the Dallas-Fort Worth, Texas metropolitan area. FIRM shall perform the functions of the Agreement in a timely manner considering the subject matter at issue. In addition,

A. The FIRM will be proactive and pursue delinquent properties in a timely manner on properties that are vacant, have a deceased owner, or have no improvements. If the College becomes aware of properties that have been vacated, have a deceased owner, or are without improvements, College shall notify the FIRM in writing of said properties.

B. The College may from time to time deem certain properties with delinquent taxes a priority for legal action. College shall provide FIRM with a list in writing of said properties.

C. Each party shall assign an employee to coordinate collections efforts under the Agreement, with the respective employee being the primary point of contact between FIRM and College.

D. The FIRM shall closely monitor delinquent tax rolls and not let delinquent real property accounts be removed by statute, unless otherwise directed. The College and the FIRM acknowledge that delinquent taxes on property with over-65 or other deferrals may cause the delinquent taxes to extend beyond the statute of limitations, requiring removal of such delinquent taxes from the delinquent tax roll pursuant to statute.

E. The FIRM shall obtain a judgment on all properties, unless otherwise directed by the College or prohibited by law. All unimproved or non-occupied properties shall be foreclosed on. The remainder of the properties shall be determined on a case-by-case basis. In the event the College elects to not foreclose on occupied properties, the College shall reimburse FIRM for actual out-of-pocket publication costs and title fees; however, when such judgment is satisfied, in any manner, the College shall be entitled to withhold an amount equal to such publication costs and title fees, plus interest as provided for in the judgment, from the amount the College actually collects.

F. In addition to the monthly reports provided by the tax collector, the FIRM will provide College with a twice-yearly summary of cases filed, judgments rendered, and sheriffs' sales conducted, including an analysis of the FIRM's progress in collection of the College's delinquent taxes. The FIRM shall inform College the day a tax suit has been filed on a property by email to the College's designated employee.

G. The FIRM and College shall meet and discuss occupied non-homestead properties which have been delinquent for more than two (2) years. The FIRM shall pursue collection on all such properties as directed by the College.

H. Sheriffs Sales:

1. FIRM shall diligently pursue foreclosure of properties identified to the FIRM by the College as priority accounts.

3. If the College requests, the FIRM shall ask the sheriff/constable to strike off properties to the College.
  - I. The FIRM will provide delinquent ad valorem tax related legal services to the College, including full representation in appraisal law, abatement issues, condemnation law, and other related real estate matters at no cost to the College.
  - J. The FIRM will represent the College in all bankruptcy matters in which the College is owed money; the FIRM will receive a fee only in those cases in which a fee is recovered from the debtor.
  - K. The FIRM will provide property tax audits a requested by the College at no cost to the College.