

CONTRACT FOR THE COLLECTION OF DELINQUENT TAXES

TYLER COUNTY

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NOTE:

These paragraphs, sections and pages should not be disarranged. It is essential for the progress of this work and for the keeping of a proper record thereof to adhere as closely as possible to the provisions of our standard form contract. However, if conditions are such as to warrant a change, a new Section setting forth its provisions should be added to and inserted in the contract preceding the last page prepared for the signatures of the contracting parties, and in case of conflict, reference to the new Section can be inserted in other Sections where conflict occurs, if deemed necessary.

CONTRACT FOR THE COLLECTION OF DELINQUENT
TAXES

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THE STATE OF TEXAS |

COUNTY OF TYLER |

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the Commissioners Court, after having given to the County Attorney of Tyler County thirty days written notice to file delinquent tax suits, and

having received from him a written statement declining the request of this Court to file delinquent tax suits, for reasons therein stated, and waiving his right to the 30-day period and consenting to the Court's entering into a contract with others for the collection of delinquent taxes, without awaiting the 30-day period,

and a record thereof having been made in the Minutes of said Court;

and

WHEREAS, the Commissioners Court of Tyler County, Texas, joined by the Comptroller of Public Accounts of the State of Texas, deem it necessary and expedient to contract with some competent attorney to enforce the collection of all delinquent State and County taxes for a percent of said taxes, penalties and interest actually collected and paid to the Collector of Taxes, as provided in Chapter 21, Acts of the Third Called Session of the 38th Fourth Called Session of the 41st Legislature, Article 7335a, Vernon's Annotated Civil Statutes, and Chapter 229, Acts of the 42nd Legislature, Article 7264a, Vernon's Annotated Civil Statutes; and

WHEREAS, after making an investigation into the competency, experience and ability of the firm of Wheat, Wheat & Stafford, a law firm composed of Josiah Wheat and Harry W. Stafford, licensed attorneys under the laws of this State, whose post office address is P. O. Box 156, Woodville, Texas, 75979, as to their fitness for said work, and after considering the same, are of the opinion that they are the proper party to take such steps as may be necessary to enforce or assist in the enforcement of the collection of such delinquent taxes by the preparation, filing and pushing to a speedy

conclusion all suits for the collection thereof; and that they have no official connection with any county office within said County; and that they are not related within the second degree of affinity or within the third degree of consanguinity to any member of the Commissioners Court, the Tax Collector, or County or District Attorney now holding office in said County.

NOW, THEREFORE, THIS CONTRACT, made and entered into by and between the County of Tyler, Texas, a body politic and corporate, acting herein, and by and through the Commissioners Court, joined by the Comptroller of Public Accounts of the State of Texas, hereinafter styled First Party and Wheat, Wheat & Stafford of the County of Tyler, State of Texas, hereinafter styled Second Party:

W I T N E S S E T H :

I.

First Party agrees to employ and does hereby employ Second Party to enforce by suit or otherwise, and to aid and assist the local officers in the enforcement of the collection of all delinquent State and County ad valorem taxes, penalty and interest, and all delinquent taxes, penalty and interest (except taxes of independent school districts and incorporated cities and towns) due any and all political subdivisions or defined districts of said County and State which the County Tax Collector receives and receipts for, under the provisions of Article 7254, Revised Statutes, 1925, and shown to be delinquent upon the delinquent tax records of said County from 1939 to the date of the termination of this contract as fixed in Section IX hereof (including such personal property or insolvent taxes as the Commissioners Court and Second Party mutually deem collectible).

II.

Taxes which are not now delinquent, but which hereafter during the term of this contract are allowed to fall delinquent, shall become subject to the terms of this contract on September 1st of the year in which the same shall become delinquent. And further, with reference to taxes not now delinquent, but which become delinquent

during the term hereof, or taxes which may have fallen delinquent on February 1st or subsequent thereto next preceding the date of this contract, it is agreed that where suit is or has been brought on any property for prior years delinquent taxes, Second Party shall include in its action all taxes on the property involved, delinquent before trial, whether before or after September 1st of such year; and where the State and County or impleaded or intervene in a suit brought by another taxing unit, it shall be Second Party's duty to include in its answer or intervention all taxes delinquent before trial on the property involved, whether such taxes shall fall delinquent before or after September 1st of such year; and in all such cases Second Party shall be entitled to the commission herein provided for collecting delinquent taxes.

III.

Second Party is to call to the attention of the County Tax Collector or other officials any errors, double assessments, or other discrepancies coming under his observation during the progress of the work, and all charges on the tax rolls that show from 1939 to the date of the termination of this contract to be delinquent, which are caused through error, conflicts, double renditions, illegal assessments, etcetera. A cancellation certificate shall be prepared on forms furnished by the State Comptroller of Public Accounts, Austin, Texas, showing how such errors came about, and which shall be sufficiently full and complete as to justify the Commissioners Court in ordering a cancellation certificate issued, and that will meet with the approval of the Comptroller of Public Accounts, Austin, Texas.

IV.

Second Party hereby agrees and obligates itself to communicate with each and every person, firm, corporation or association owing any of such taxes, with a view of collecting same; and First Party shall, before suits are filed for the recovery of delinquent taxes for any year or years cause to be prepared, and furnished to Second Party in triplicate, delinquent tax notices, and Second Party shall

mail one of such notices to the owner or owners of said property at their last known address, covering all delinquent taxes shown to be due on the tax rolls of said County, as provided for in Article 7324, Revised Civil Statutes, 1925, as amended by Chapter 117, page 196, Acts of the 42nd Legislature, Regular Session, and file one copy of such notice with the Tax Assessor-Collector. In the event that the taxes, together with penalty and interest, are not paid within thirty (30) days from the date such statements and notices are mailed, then Second Party shall prepare, file and institute, as soon as practical thereafter, a suit for the collection of said taxes, penalty and interest, which suit shall include all past due taxes for all previous years on such tract or tracts; and where there are several lots in the same addition or subdivision delinquent, belonging to the same owner or owners, all said delinquent lots shall be made the subject of a single suit, and which suit shall be prosecuted with dispatch to final judgment and sale unless said taxes are sooner collected.

V.

First Party, where it is necessary to prepare and file suit for the enforced collection of delinquent taxes on real property shall cause to be made and furnish to Second Party a correct description of every tract, lot or parcel of land, which shall show the amount of delinquent taxes due against each tract and shall show the number of acres so delinquent, the year delinquent, how it was charged upon the tax rolls, the correct name of owner or owners of the property at the time it became delinquent, the person from whom and the date that he or they derived title to said property, the volume and page of public records that his or their deed or other title evidence is of record, and the date that each subsequent change of ownership occurred down to the present ownership. It shall further show the name of any and all outstanding lien holders and lease-hold interest of record, and all other information necessary for the proper preparation and filing of suit or suits for the collection of delinquent

taxes. First Party shall furnish Second Party with the above information at its own cost and expense.

VI.

Second Party shall prepare, or aid and assist the County or District Attorney in preparing, all petitions, citations, notices by publication, personal service citations, notices by posting, judgments, notices of sale, orders of sale and any and all other things necessary or required to be done for the collection of all delinquent taxes, and shall render all necessary and proper assistance to each of the other officers to the end that all taxes assessed or unknown and unrendered now delinquent, or that may become delinquent during the life of this contract and be so reported on Comptroller's forms provided therefor, may be collected; and when collections are not made, to assist in reducing same to final judgment and sale.

VII.

It is further agreed and understood that Second Party shall furnish at their own expense, all stationery, legal blanks or forms, stamps, envelopes and printing, together with all labor necessary to complete said contract including labor and expense incurred in procuring data and information as to the name, identity and location of necessary parties, and in procuring necessary legal descriptions of the property as provided in Paragraph V, and the expenses incurred in citing the defendants by publication in all cases where such expenses are not collected as costs against the defendant or defendants in the tax suit, but in no event shall such costs be paid to Second Party; and Second Party shall pay off and discharge any and all bills for any other expenses incurred in the prosecution of said work, and it is hereby understood and agreed that said First Party shall not be responsible for the payment of such expense or any part thereof.

VIII.

First Party agrees to pay to Second Party as compensation for the services hereunder required fifteen (15%) percent (not to exceed 15%) of the amount collected of all delinquent taxes, penalty and

interest of the years covered hereby, actually collected and paid to the collector of taxes during the term of this contract, which Second Party is instrumental in collecting as evidenced by copies of communication, tax notices or abstracts filed with the Tax Collector prior to the payment of such tax, including collection of taxes on property not appearing on the assessment rolls nor shown delinquent, but which would have been so shown had it been properly assessed, discovered by said Second Party, as and when collected, following the end of each month within the period of this contract, accordingly as the Collector makes up his monthly reports. The percent of compensation here referred to shall be contingent upon the collection of such taxes as by Act of the Legislature are required to be collected. Should any remission of penalty and interest on taxes appearing on the delinquent records be made by legislative enactment effective during the period of this contract, the same shall not be collected nor commission allowed thereon. Also, ad valorem taxes, delinquent, levied against State-owned property for county and district purposes, the payment of which is to be taken care of by legislative appropriation provided for by Statute, are excluded from the provisions of this contract. Second Party shall not receive or collect any taxes, penalty or interest under this contract, but the same shall be paid to the Tax Assessor-Collector as other delinquent taxes.

IX.

This contract shall be in force from _____, 19____, to _____, 19____, both dates inclusive, (not to extend beyond December 31, 19____, the end of the present administration of the Commissioners Court), and at the expiration of said period this contract shall terminate, except the contractor shall be allowed six (6) months in which to prosecute to trial court judgment suits filed prior to December 31, 19____, terminating date of this contract provided, and 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. The Commissioners

Court and the State Comptroller shall have the right to sooner terminate this contract for cause, giving thirty (30) days written notice of such intention, with a statement of the cause or reasons for such termination, after giving Second Party a reasonable opportunity of explaining or rectifying the same. In case of such termination, Second Party shall be entitled to receive and retain all compensation due up to the date of said termination.

X.

Before any commissions are paid out under the terms of this contract, Second Party shall furnish a good and sufficient bond, payable to the County Judge and to his successors in office, in the sum of \$5,000.00 (not to be less than \$5,000.00 accordingly as the Commissioners Court deem just and proper) to be executed by a solvent surety company; or if executed by private parties, the bond shall be signed by at least three good and sufficient sureties owning unincumbered real estate subject to execution, of value equal to the amount of bond and conditioned upon the specific performance of the terms hereof, including the making of reports, provided for in Section XI of this contract, and further conditioned that it shall forthwith pay over to the Tax-Collector, or other persons justly entitled thereto, any money or commissions paid it by mistake, through error, or otherwise. Said bond shall be approved in open Commissioners Court, signed by the County Judge, filed and recorded in the County Clerk's Office, and a certified copy of same furnished to the State Comptroller.

XI.

At the end of each month, or as soon thereafter as the Tax Assessor-Collector shall have made up his report showing collections made for such month, said Second Party shall have access to said report and shall by comparison of the same with its own files or records of service, copies of which it has filed with the Tax Assessor-Collector, make up in triplicate a report of collections out of which it is entitled to commission under the terms of this contract,

Second Party shall also have access to the Collector's receipts for such collections and shall, in its reports to be made on forms furnished by the Comptroller, show each year and the taxes collected therefor on a separate line. Also, where collections are made after suit has been filed and commission allowed at a greater or different rate under the terms of this contract Second Party, being guided by the file docket of the Clerk of the Court, shall prepare and attach to its reports to be filed with the Tax Assessor-Collector a list showing number of suit and date filed; but in no event shall Second Party receive compensation in excess of fifteen (15%) percent as herein provided. After the report has been signed and sworn to by Second Party, two copies of the same shall be delivered to the Tax Assessor-Collector, one to be attached to and sent with the Collector's monthly report to the Comptroller, the other to be filed in the Collector's office, and the third copy to be retained by Second Party.

XII.

Each month, after having received copies of the contractor's report as provided for in the preceding Section, and after having checked the list of taxes shown therein with his own report and with copies of communications filed with him, as provided for in Section XIII of this contract, and after having verified the correctness of commissions claimed, the County Tax Assessor-Collector is hereby authorized, ordered and directed to deduct the above specified percent of said taxes, penalty and interest, or such amount as can be allowed under the penalty and interest restriction, to which Second Party is entitled, and to pay the same to it unless otherwise herein directed, and to take its receipt as provided for on Form 107, Contractor's Report, which when received in the Comptroller's Office will be the Comptroller's authority to allow the said Tax Assessor-Collector credit for the amount so paid. The Tax Assessor-Collector, before complying with the provisions of this Section, shall first satisfy himself that the bond required of Second Party under the provisions of Section 10 of this contract has been approved and

of this contract by Second Party, all of which shall be performed by them in Tyler County, Texas.

XV.

It shall be the duty of the Commissioners Court and of all other officials of said County to cooperate with and render such reasonable assistance to said Second Party as the circumstances may require. Said assistance, however, is not to include the actual performance of the work herein designated to be performed by Second Party; and it being the duty of the County Attorney or of the District Attorney (where there is no County Attorney) to actively assist Second Party in the filing and pushing to a speedy conclusion all suits for the collection of delinquent taxes, it is hereby provided that where the County Attorney or District Attorney (where there is no County Attorney) shall fail or refuse to file and prosecute such suits in good faith, the Attorney prosecuting suits under this contract is here fully empowered and authorized to proceed with such suits without the joinder and assistance of said County or District Attorney. Second Party shall not become the purchaser of any property at tax sales under this contract, but may bid in the property for the State or County at such sales.

XVI.

All of the foregoing is subject to the further provision and condition that Second Party shall not be required to commence the performance of the duties and obligations herein contained and set out by Second Party to be kept and performed until such time as First Party has furnished to Second Party the delinquent tax notices covering the delinquent taxes with reference to which Second Party is to take action under the terms of this contract; it being understood however that said notices may be furnished to Second Party in lots of not less than Twenty-five (25) notices each thirty (30) days, or such lesser number as the Tax Collector and Second Party may hereafter agree upon.

IN CONSIDERATION of the terms and compensation herein stated,
the Second Party hereby accepts said employment and undertakes the
performance of said contract as above written.

WITNESS the signatures of all parties hereto in triplicate
originals, this the _____ day of _____, A. D. 19____,
Tyler County, Texas.

by:

Tom D. Mann
County Judge

Carl Shepherd
Commissioner, Precinct No. 1

H. M. Parker
Commissioner, Precinct No. 2

Leon Fowler
Commissioner, Precinct No. 3

James R. Jordan
Commissioner, Precinct No. 4

FIRST PARTY

SECOND PARTY

THE STATE OF TEXAS
DEPARTMENT OF COMPTROLLER

Examined and approved as to substance and form only, on this the _____
day of _____, A. D. 19____.

COMPTROLLER
OF PUBLIC ACCOUNTS, STATE OF TEXAS

Examined and approved as to substance and form only, on this the _____
day of _____, A. D. 19____.

ATTORNEY GENERAL