

**AN ORDINANCE PROVIDING FOR A FEE TO DEFRAY COSTS OF COLLECTING
DELINQUENT UTILITY ACCOUNTS RECEIVABLE**

Ordinance No. 2022-21

STATE OF TEXAS §

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COUNTY OF BRAZORIA §

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WHEREAS, the City of Clute, pursuant to Subchapter A of Chapter 51, Texas Local Government Code, may adopt an ordinance that is for the good government, peace, or order of the municipality and is necessary or proper for carrying out a power granted by law to the municipality; and

WHEREAS, the governing body of a municipality, pursuant to Subchapter A of Chapter 54, Texas Local Government Code, may enforce each rule or ordinance of the municipality; and

WHEREAS, the City of Clute, pursuant to Texas Local Government Code Section 552.001(b), may purchase, construct, or operate a utility system and may regulate the system in a manner that protects the interests of the municipality; and

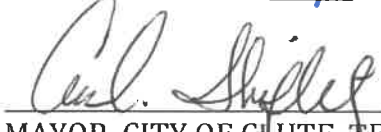
WHEREAS, the City Council has determined that it is in the public interest to ensure the prompt payment of delinquent utility accounts; and

WHEREAS, the City of Clute has entered into a contract with a private firm to provide services for the collection of debts and accounts receivable related to delinquent utility accounts;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLUTE THAT:


There shall be imposed an additional fee of twenty percent (20%) on all debts and accounts receivable, i.e.: fines, fees, restitution, other debts, and costs, that are more than sixty (60) days past due and have been referred to a private firm for collection, and that relate to delinquent utility accounts owed to the City.

SIGNED on this the 27 day of October, 2022.



MAYOR, CITY OF CLUTE, TEXAS

ATTEST:



CITY CLERK

FIRST AMENDED CONTRACT FOR THE COLLECTION OF DELINQUENT UTILITY ACCOUNTS

THE STATE OF TEXAS

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COUNTY OF BRAZORIA

THIS CONTRACT is made and entered into by and between the **CITY OF CLUTE, TEXAS, acting by and through its governing body, (hereinafter the "Client"), and PERDUE BRANDON FIELDER COLLINS & MOTT, L.L.P., (hereinafter the "Law Firm")**. The terms and conditions of the contract are as follows:

1. **Nature of Services.** Client agrees to employ the Law Firm to collect utility accounts that are at least 60 days past due, as determined by Client, including, but not limited to, amounts due for utilities provided, services rendered, late fees, disconnect and reconnect fees, and all applicable statutory interest, attorney fees and court costs for the utility accounts that Client turns over to the Law Firm ("Delinquent Utility Accounts").

2. **Compensation.** As compensation for services required hereunder, Law Firm shall receive a twenty percent (20%) collection fee of the total amount on the Delinquent Utility Accounts turned over to the Law Firm. It is expressly understood that the Law Firm is not entitled to receive payment on any delinquent utility account subsequently paid but that was not turned over to the Law Firm.

The twenty percent (20%) collection fee shall be added to the total amount owed on a Delinquent Utility Account turned over to the Law Firm, pursuant to Section 552.001(b) of the Texas Local Government Code.

3. **Term of Contract.** The initial term of this contract shall commence on November 1st, 2022, and end on December 31, 2025, except that either party to this agreement may terminate this agreement by giving the other party thirty (30) days written notice of their desire and intention to terminate the agreement.

This contract will automatically be renewed on its identical terms for four (4) one-year terms commencing on the anniversary date of this contract unless written notice of intent not to automatically renew is delivered by the Client to the Law Firm not less than sixty (60) days prior to the expiration date of the initial term or any renewal term.

At the conclusion of the initial term and all renewals, this contract shall continue on a month-to-month basis until terminated.

If the contract is terminated, the Law Firm is entitled to continue its collection activities, and receive compensation in accordance with paragraph 2, on accounts referred by Client prior to termination for a period of three (3) months.

4. **Credit Reporting.** Client understands and agrees that the Law Firm will not report information on Client's Delinquent Utility Accounts to credit reporting agencies. If it is desired, the Client shall, in its sole discretion, report Delinquent Utility Accounts information to any such agency.

5. **Interest Accrual.** Absent an express agreement to the contrary, the Law Firm will not accrue interest on Client's Delinquent Utility Accounts.

6. **Litigation.** The Law Firm will not file suit, accept any compromise settlement, or incur any litigation expenses chargeable to Client without Client's approval. By agreeing to the filing of a lawsuit, Client understands that it must reimburse Law Firm for all costs and fees chargeable as court costs (e.g., filing fees, citation issuance, process service fees, etc.).

7. **Account Information.** Client agrees to submit for collection only Delinquent Utility Accounts that are validly due and owing by the utility customer or guarantor. Client will provide Law Firm with all information and documentation necessary for the collection of all submitted Delinquent Utility Accounts. Client will provide accurate information on each Delinquent Utility Account and will promptly report any payments it receives or adjustments it makes on Delinquent Utility Accounts turned over to the Law Firm. Client and Law Firm shall work together to expeditiously respond to any debtor correspondence regarding a disputed debt and requests for verification of debt received by Law Firm. Client agrees to provide Law Firm with all copies of records necessary to verify a debt within 10 days of Law Firm's request.

The Client shall refer all Delinquent Utility Accounts by electronic medium, or in any other way that is most favorable to the Client.

8. **Return of Accounts.** Client and Law Firm agree that Law Firm has no obligation to perform collection services for Delinquent Utility Accounts that are determined by Law Firm to be time-barred from collections by an applicable statute of limitation or other similar limitation. Following the return of such accounts from Law Firm to Client, Law Firm shall have no further obligations on these accounts.

9. **Receipt of Payments.** Client gives the Law Firm exclusive authority to collect amounts due on Delinquent Utility Accounts turned over to the Law Firm. It is understood and agreed that the Law Firm will instruct debtors to make all payments payable to Client, and the Law Firm will forward the payment to Client. In the event the Law Firm is identified as the payee, the Law Firm will endorse the payment over to Client.

10. **Billing.** The Law Firm will submit billing invoices to the Client monthly and Client agrees to remit payment to Law firm within thirty (30) days of receipt of said invoice.

11. **Reporting.** Upon request, Law Firm will provide reports to the Client setting forth the status of Delinquent Utility Accounts turned over to Law Firm by Client.

12. **Notices.** All notices permitted or required under this contract shall be in writing and sent by certified United States mail or delivered by hand or courier to the appropriate party at the address specified below. Notice shall be deemed received five (5) business days after mailing if sent by certified United States mail or upon receipt if delivered by hand or courier.

Law Firm:

Perdue, Brandon, Fielder, Collins & Mott, LLP

Attn: Michael Darlow

BY U.S. MAIL OR BY COURIER DELIVERY:

1235 North Loop West, Suite 600

Houston, TX 77008

Telephone Number: 713-862-1860

Client:
City Clute
Attn: C.J. Snipes, City Manager
108 E Main St
Clute, TX 77531
Telephone Number: 979-265-2541

13. **Compliance Verification.** Pursuant to Chapter 2271 of the Texas Government Code, Law Firm verifies that it does not and will not for the term of this contract boycott Israel. Law Firm will comply with all applicable Texas, Federal, and other laws in the performance of this contract.

14. **Entire Agreement.** This contract constitutes the entire agreement and understanding between Law Firm and Client with respect to the subject matter of this contract and supersedes all previous written or oral representations, agreements, and understandings. All modifications to this contract must be made in writing and signed by both parties. Furthermore, this Contract cannot be transferred or assigned by either party without the consent of both parties.

15. **Severability.** If any portion of this contract is found to be illegal, invalid, or otherwise incapable of being enforced, such portion shall be excluded to the minimum extent necessary to remedy such illegality, invalidity, or unenforceability. The remainder of the contract shall remain in full force and effect.

16. **Choice of Law.** This contract, and all claims or causes of action arising out of or related to this contract, shall be interpreted under and governed by the internal laws of the State of Texas. Client and Law Firm agree that exclusive venue lies with the courts located in Brazoria County, Texas.

This contract supersedes and amends the contract originally entered into on December 14, 2017.

WITNESS the signatures of all parties hereto this the 27 day of October, 2022.

CITY OF CLUTE

PERDUE BRANDON FIELDER COLLINS &
MOTT, LLP

BY: 
Calvin Shiflet, Mayor

BY: 
Michael J. Darlow, Partner

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
 CERTIFICATION OF FILING**

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Perdue Brandon Fielder Collins & Mott, LLP
 Houston, TX United States

Certificate Number:
 2022-950173

Date Filed:
 10/31/2022

Date Acknowledged:
 11-1-2022

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Clute

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

Contract ID n/a
 provide collection services for delinquent utility accounts

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is Michael J. Darlan, and my date of birth is 10/15/2022.

My address is 1235 N. Loop West #600, Houston, Tx, 77008, USA
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of Texas, on the 31st day of Oct., 2022.
(month) (year)

Michael J. Darlan
 Signature of authorized agent of contracting business entity (Declarant)