

EL 018759  
\$350,000

## CONTRACT FOR DEBT COLLECTION

This Contract for legal services to the City of Columbus relating to the collection of public monies due the City, is entered into by and between **Capital Recovery Systems, Inc.**, (herein referred to as "Contractor"), and the City of Columbus, acting by and through Richard C. Pfeiffer, Jr., Columbus City Attorney (herein referred to as "City").

### WITNESSETH

WHEREAS, the City has a need for professional service for the collection of public monies due the City; and

WHEREAS, the Contractor has the necessary experience and expertise to provide said service; and

WHEREAS, this Contract is authorized by Ordinance No 0642-0212; and

NOW, THEREFORE, in consideration of the mutual promises as hereinafter set forth, the parties agree as follows:

### ENTIRE AGREEMENT

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof. Understandings, agreements, representations, or warranties not contained in this Contract, or as written amendment hereto, shall not be binding on either party. Except as provided herein, no alteration of any terms, conditions, delivery, price, quality, or specifications of this Contract shall be binding on either party without the written consent of both parties.

1. **Contract Term**

The term of this Contract shall be from **April 1, 2012 to March 31, 2013**. This Contract shall not automatically renew.

2. **Maximum Obligation**

The maximum amount to be paid under any purchase order associated with this Contract shall not exceed **Three Hundred Fifty-five Thousand Dollars (\$355,000.00)** unless additional funds are appropriated and authorized.

3. **Pricing and Scope of Services**

The Contractor agrees to perform and invoice the Scope of Services as set forth ON THE ATTACHED EXHIBIT A and EXHIBIT B\*, which are expressly incorporated herein.

\*Contract is NOT valid if the Scope of Services is NOT attached. No other costs, rates, or fees shall be payable to the Contractor for services performed hereunder. The terms and conditions specified in this Contract constitute the entire contract governing the purchase of services by the City from the Contractor, and shall supersede any terms and conditions that may accompany Contractor's invoice/bid/estimate. Any and all verbal representations are superseded by this Contract. The terms of this Contract shall prevail.

over any conflicting or deficient terms or conditions listed in any attachments from Contractor.

4. **Equal Opportunity Clause**

Contractor agrees to abide by all of the terms, conditions and requirements set forth in Columbus City Code Section 3909.01, Equal Opportunity Clause. Failure or refusal of a Contractor or Subcontractor to comply with the provisions of Article I, Title 39, may result in cancellation of this Contract.

5. **Taxes**

Federal or State taxes are not to be included on invoices for the described services. Contractor will be provided an exemption certificate, if needed.

6. **City's Contract Administrator/Contract Administration**

Nancy Weidman will manage the Contract on behalf of the City and will be the principal point of contact for the City concerning the Contractor's performance under this Contract.

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law shall only be effective if it is in writing, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Services as first-class certified mail, postage prepaid and return receipt requested, to the parties at the following addresses:

To the City: Nancy Weidman, Chief  
Claims Section  
Columbus City Attorney's Office  
90 W. Broad St., Suite 101  
Columbus, OH 43215

To Contractor: Craig Klein, President  
Capital Recovery Systems, Inc.  
750 Cross Pointe Road, Suite S  
Columbus, OH 43230

7. **Contractor as an Independent Contractor**

The Contractor shall be and shall remain an Independent Contractor with respect to all services performed hereunder and he/she/it agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for Social Security, unemployment insurance or old age retirement benefits, pensions or annuities now or hereafter imposed under any state or federal law which are measured by the wages, salaries or other remunerations paid to the Contractor or persons employed by the Contractor for work performed under the terms of this Agreement and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now, or hereafter may be, issued or promulgated under said respective laws.

8. **Applicable Law, Remedies**

This Agreement shall be governed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Contractor arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within the County of Franklin, State of Ohio.

9. **Payment/Invoice Submittal**

Fees shall be paid for services rendered following: (1) the City's receipt of a correct invoice, which designates the specific applicable charges, and (2) issuance of a certified purchase order. The City will not be subject to any late payment charges. Rates shall be firm during the term of this Contract. The City will process correctly documented invoices for payment and Contractor should receive payment for such invoice within thirty (30) days from receipt and approval by the City.

Invoices: All invoices shall be submitted to:

Nancy Weidman, Chief  
Claims Section  
Columbus City Attorney's Office  
90 W. Broad St., Suite 101  
Columbus, OH 43215

10. **Modifications**

No modification, amendment, alteration, addition or waiver of any section or condition of this Contract shall be effective or binding unless it is in writing and signed by an authorized representative of the City and the Contractor and approved by the appropriate City authorities

11. **Contract Termination**

If either the City or the Contractor violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then the aggrieved party shall give the other party (the "responsible party") written notice of such failure or violation. The responsible party will correct the violation or failure within thirty (30) calendar days or as otherwise mutually agreed. If the failure or violation is not corrected, this Contract may be terminated immediately by written notice from the aggrieved party. The option to terminate shall be at the sole discretion of the aggrieved party.

When it is in the best interest of the City, the City may terminate this Contract, in whole or in part by providing seven (7) calendar days written notice to the Contractor prior to the effective date of termination. If this Contract is so terminated, Capital Recovery Systems, Inc. shall be paid the agreed fee for all debts due the City of Columbus lawfully collected by Capital Recovery Systems, Inc. prior to termination.

12. **Nonexclusive Remedies**

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under the law.

13. **Survivorship**

All services executed pursuant to the authority of this Contract shall be bound by all of the terms, conditions, prices discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Contract, or any extension thereof. Further, the terms, conditions, and warranties contained in this Contract that by their sense in context are intended to survive this completion of the performance, cancellation or termination of this Contract, shall so survive.

14. **Save Harmless**

Contractor shall protect, indemnify and save the City harmless from and against any damage, cost, or liability, including reasonable attorneys' fees, resulting from claims for any or all injuries to persons or damage to property arising from intentional, willful or negligent acts or omissions of Contractor, its officers, employees, agents, or Subcontractors.

15. **Severability**

If any term or condition of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications that can be given effect without the invalid term, condition, or application; to this end, the terms and conditions for the Contract are declared severable.

16. **Assignment**

This Contract may not be assigned or otherwise transferred to others by the Contractor without the prior written consent of the City. Capital Recovery Systems may not delegate work to another collection agency or firm with which Capital Recovery Systems, Inc. is affiliated. No such attempted delegation of duties by Capital Recovery Systems, Inc. will relieve Capital Recovery Systems, Inc. of any responsibility under this agreement.

17. **Authority to Bind**

The signatories to this Contract represent that they have the authority to bind themselves and their respective organizations to this Contract.

18. **Campaign Contributions**

Contractor hereby certifies the following: that it is familiar with Ohio Revised Code ("O.R.C.") Section 3517.13; that it is in full compliance with Divisions (I) and (J) of that Section; that it is eligible for this contract under the law and will remain in compliance with O.R.C. Section 3517.13 for the duration of this contract and for one year thereafter.

19. **Audits and Inspections**

At any time during normal business hours and as often as City may deem necessary, there shall be made available to City and/or their representatives for examination all of the

records of the Contractor with respect to all matters covered by this agreement. This will require Contractor to provide an actual business/home address

**21. City Income Taxes**

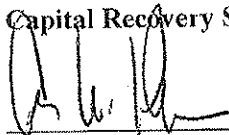
Contractor hereby further agrees to withhold and pay all city income taxes due or payable under the provisions of Chapter 361, Columbus City Codes, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold and pay any such city income taxes due under said chapter for services performed under this Contract. If it has been determined by the Columbus Income Tax Division that Contractor, or any of its subcontractors, owes city income taxes, the Contractor agrees that the City may withhold the amount due to the City from any amount due to the Contractor for services performed under this Contract notwithstanding paragraph 9 hereinabove.

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year written below.

***EXHIBIT A – Scope of Services and EXHIBIT B – Calculating Fees, MUST BE ATTACHED HERETO.***

**AGREED:**

Capital Recovery Systems, Inc.



Craig Klein, President

4-3-2012

Date

CITY OF COLUMBUS, OH



RICHARD C. PFEIFFER, JR.  
Columbus City Attorney

04/05/12

Date

## EXHIBIT A - SCOPE OF SERVICES

The Contractor shall do, perform, and carry out in a manner satisfactory to the City the following:

- Capital Recovery Systems, Inc. shall conduct any and all collection work, including any legal action necessary, assigned by the City Attorney. Both parties recognize that the appointment of Capital Recovery Systems, Inc. is personal in nature and does not extend to any law firm that Capital Recovery Systems, Inc. is associated with, is a partner of, or for which Capital Recovery Systems, Inc. serves as "of counsel".
- Capital Recovery Systems, Inc. shall be compensated only in accordance with the express written provisions of this agreement. Capital Recovery Systems, Inc. shall not be compensated by any other party, nor shall Capital Recovery Systems, Inc. be compensated in excess of the amount expressed within this agreement.
- Any material commissioned or gathered by Capital Recovery Systems, Inc. or in Capital Recovery Systems, Inc.'s possession that fulfills an obligation of the agreement, including names and addresses of potential witnesses, shall be considered the property of the City of Columbus. Capital Recovery Systems, Inc. agrees to adhere to Ohio Revised Code § 149.43 and Columbus City Codes Chapter 151 and maintain all public records accordingly. All responses to public records requests require the prior approval of the City Attorney.
- If Capital Recovery Systems, Inc. is removed from any case or matter, then Capital Recovery Systems, Inc. agrees to effectuate a speedy and efficient transfer of the work and to cooperate with the City Attorney. Capital Recovery Systems, Inc. agrees to protect the client's interests in any transfer of work. The City of Columbus may withhold final payment to Capital Recovery Systems, Inc. if Capital Recovery Systems, Inc. fails to transfer all files, documents, and materials when so requested by the City Attorney.
- Capital Recovery Systems, Inc. agrees to abide by all policies and procedures promulgated by the City Attorney relating to collection of claims.
- For the purposes of this agreement, a claim is a debt due the City for a sum certain and due for a specified period of time. Each claim assignment to Capital Recovery Systems, Inc. is for a one (1) year period. In the event that the City of Columbus is contacted for the purpose of making arrangements to pay or otherwise settle a claim which has been assigned to Capital Recovery Systems, Inc. for collection, upon written notice from the City Attorney, said claim shall be returned to the City Attorney by Capital Recovery Systems, Inc., along with any and all materials relating to such claim, and all rights to said claim shall be relinquished.
- Capital Recovery Systems, Inc. agrees not to forgive, reduce, waive, or otherwise compromise any portion of the principal, penalty, late charges or interest due on any City income tax or other claim assigned for collection without express written authorization.

pursuant to Columbus City Code § 361.30 on tax claims, and, from the City Attorney on all other types of claims.

Capital Recovery Systems, Inc. will be compensated for services through payment of a fee in an amount approved by the City Attorney or his designee. The standard fee shall be thirty percent (30%) of the first thirty-thousand dollars (\$30,000.00) collected and ten percent (10%) of any additional amounts collected on specific claim. The City Attorney maintains the authority to modify the standard fee paid. The total amount paid to Capital Recovery Systems, Inc. shall not exceed thirty percent (30%) of the funds collected on a specific claim. Legislation 0130-2009 provided that from April 1, 2009 forward, the fee for collection services would be collected from the debtor for any new cases assigned to Capital Recovery Systems, Inc. An example of how that fee will be calculated is attached hereto as Exhibit B, and incorporated herein by reference.

- All monies collected by Capital Recovery Systems, Inc. on claims assigned by the City Attorney shall be by check made payable to the City Treasurer and deposited with the City Treasurer on a weekly basis or by electronic transfer as agreed by the parties. Capital Recovery Systems, Inc. shall prepare a report detailing the amounts collected on each claim, the remaining outstanding balance, the dates of the collections, the amount of fees due Capital Recovery Systems, Inc. on the collections, the division or entity of City government on whose behalf the monies were collected, and any other additional information which the City Attorney and/or City Auditor may require. Capital Recovery Systems, Inc. shall submit said report to the City Attorney on a weekly basis. Capital Recovery Systems, Inc. shall submit an invoice for fees due from collections to the City Attorney each month. The City Attorney shall review said invoice, then prepare and submit a voucher to the City Auditor requesting payment of fees be made to Capital Recovery Systems, Inc. for the month in question.
- Capital Recovery Systems, Inc. agrees to provide access to all financial records and documents related to the collection of claims assigned by the City Attorney within one week of receiving written notice by the City Attorney or City Auditor requesting to review and/or audit said financial records and documents.
- At the request of the City Attorney and/or City Auditor, Capital Recovery Systems, Inc. shall submit status reports on each claim. The status report shall describe the current status of each claim, the events that have transpired since the prior status report and a projection of events for the next sixty (60) days or the remainder of the assignment, whichever occurs first.
- Capital Recovery Systems, Inc. agrees to install and maintain a terminal within the claims section of the office of the City Attorney. The terminal will provide access to up-to-date collection activity, account status, and payment information on each and every claim assigned by the City Attorney.

- Capital Recovery Systems, Inc. agrees to maintain the confidentiality of, and not otherwise disclose any tax information provided by the City Attorney in connection with the collection of outstanding income tax, except as authorized in Columbus City Codes Section 361.29.
- The parties agree that neither Capital Recovery Systems, Inc., nor any partner, associate, employee or any other person assisting with the legal work contemplated by this agreement shall speak to any representative of a television station, radio station, newspaper, magazine, or any other media outlet concerning the work outlined or contemplated by the agreement without first obtaining approval of the City Attorney or his designee. This agreement specifically excludes any right or ability on the part of Capital Recovery Systems, Inc. to speak on behalf of the City Attorney to any member of the news media.
- Capital Recovery Systems, Inc. will additionally provide collection services under this contract for the City of Columbus' Department of Public Utilities (Division of Power and Water), Department of Safety (Divisions of Licensing and Fire), and any other Department or Division thereof, who may contact them hereafter to establish a collection account. Each additional Department or Division will be treated as a separate account under this Agreement. Capital Recovery Systems, Inc. will communicate directly with the Department or Division on issues regarding their accounts receivable, send payments collected directly to the Department, and directly invoice the Department for fees associated with the collection of that Department's debt ,



### EXHIBIT B - Calculating Fees

In determining the fee for each installment collected from the debtor and remitted to the City, the Contractor will multiply the installment by the percentage of the fee relative to the total amount owed (including fee) so as not to exceed a maximum 30%. Please see sample below:

Principal Owed	\$100.00
Interest Owed	10.00
Fee	<u>33.00</u>
Total Amount Owed	\$143.00
Percentage of Fee to Total (used to calc fee on installment payments)	23.08% (\$33.00/\$143.00)

<u>Payments Received</u>	<u>Amount to Apply to Debt</u>	<u>Amount to Apply to Fee</u>	<u>Fee Calculation</u>
\$55.00	\$42.31	\$ 12.69	(\$55.00*23.08%)
40.00	30.77	9.23	(\$40.00*23.08%)
<u>48.00</u>	<u>36.92</u>	<u>11.08</u>	(\$48.00*23.08%)
\$143.00	\$110.00	\$33.00	

The Contractor will remit all payments to the City in the gross amount received from the debtor (debt plus collection fee). The Contractor will provide statements with each remittance itemizing the dollar amount owed to the City and the amount to which the Contractor is entitled. The City will then pay the fee to the Contractor upon receipt of a valid invoice

\*\*\*\*\* FOR INSTRUCTIONAL USE ONLY \*\*\*\*\*

## READ BEFORE COMPLETING YOUR DMA FORM

Forms not conforming to the specifications listed below or not submitted to the appropriate agency or office will not be processed.

- To complete this form, you will need a copy of the Terrorist Exclusion List for reference. The Terrorist Exclusion List can be found on the Ohio Homeland Security Web site at the following address:

<http://www.homelandsecurity.ohio.gov/dma.asp>

- Be sure you have the correct DMA form. If you are applying for a state issued license, permit, certification or registration, the "State Issued License" DMA form must be completed (HLS 0036). If you are applying for employment with a government entity, the "Public Employment" DMA form must be completed (HLS 0037). If you are obtaining a contract to conduct business with or receive funding from a government entity, the "Government Business and Funding Contracts" DMA form must be completed (HLS 0038). The Pre-certification form (HLS 0035) should only be completed if you are specifically instructed to do so by the agency or office requesting the form.

- Your DMA form is to be submitted to the issuing agency or entity. "Issuing agency or entity" means the government agency or office that has requested the form from you or the government agency or office to which you are applying for a license, employment or a business contract. For example, if you are seeking a business contract with the Ohio Department of Commerce's Division of Financial Institutions, then the form needs to be submitted to the Department of Commerce's Division of Financial Institutions. Do NOT send the form to the Ohio Department of Public Safety UNLESS you are seeking a license from or employment or business contract with one of its eight divisions listed below.

- Department of Public Safety Divisions:

Administration

Ohio Bureau of Motor Vehicles

Ohio Emergency Management Agency

Ohio Emergency Medical Services

Ohio Homeland Security\*

Ohio Investigative Unit

Ohio Criminal Justice Services

Ohio State Highway Patrol

- \* DO NOT SEND THE FORM TO OHIO HOMELAND SECURITY UNLESS OTHERWISE DIRECTED. FORMS SENT TO THE WRONG AGENCY OR ENTITY WILL NOT BE PROCESSED

\*\*\*\*\* FOR INSTRUCTIONAL USE ONLY \*\*\*\*\*



Ohio Department of Public Safety  
**DIVISION OF HOMELAND SECURITY**  
<http://www.homelandsecurity.ohio.gov>

**GOVERNMENT BUSINESS AND FUNDING CONTRACTS**

In accordance with section 2909.33 of the Ohio Revised Code

**DECLARATION REGARDING MATERIAL ASSISTANCE/NO ASSISTANCE TO A TERRORIST ORGANIZATION**

This form serves as a declaration of the provision of material assistance to a terrorist organization or organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List (see the Ohio Homeland Security Division Web site for reference copy of the Terrorist Exclusion List).

Any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided. Failure to disclose the provision of material assistance to such an organization or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree.

For the purposes of this declaration, "material support or resources" means currency, payment instruments, other financial securities, funds, transfer of funds, and financial services that are in excess of one hundred dollars, as well as communications, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials

**COMPLETE THIS SECTION ONLY IF YOU ARE AN INDEPENDENT CONTRACTOR**

LAST NAME		FIRST NAME		MI
HOME ADDRESS				
CITY	STATE	ZIP	COUNTY	
HOME PHONE (614) 328-2110		WORK PHONE		

**COMPLETE THIS SECTION ONLY IF YOU ARE A COMPANY, BUSINESS OR ORGANIZATION**

LAST NAME Klein		FIRST NAME Craig		MI W
BUSINESS/ORGANIZATION NAME Capital Recovery Systems, Inc.			PHONE (614) 328-2110	
BUSINESS ADDRESS 750 Cross Pointe Rd., Suite S				
CITY Columbus	STATE Ohio	ZIP 43230	COUNTY USA	

**DECLARATION**

In accordance with section 2909.32 (A)(2)(b) of the Ohio Revised Code

For each question, indicate either "yes," or "no" in the space provided Responses must be truthful to the best of your knowledge

- Are you a member of an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
- Have you used any position of prominence you have with any country to persuade others to support an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
- Have you knowingly solicited funds or other things of value for an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
- Have you solicited any individual for membership in an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
- Have you committed an act that you know, or reasonably should have known, affords "material support or resources" to an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
- Have you hired or compensated a person you knew to be a member of an organization on the U.S. Department of State Terrorist Exclusion List, or a person you knew to be engaged in planning, assisting, or carrying out an act of terrorism?  Yes  No

In the event of a denial of a government contract or government funding due to a positive indication that material assistance has been provided to a terrorist organization, or an organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List, a review of the denial may be requested. The request must be sent to the Ohio Department of Public Safety's Division of Homeland Security. The request forms and instructions for filing can be found on the Ohio Homeland Security Division Web site.

**CERTIFICATION**

I hereby certify that the answers I have made to all of the questions on this declaration are true to the best of my knowledge. I understand that if this declaration is not completed in its entirety, it will not be processed and I will be automatically disqualified. I understand that I am responsible for the correctness of this declaration. I understand that failure to disclose the provision of material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List, or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree. I understand that any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided by myself or my organization. If I am signing this on behalf of a company, business or organization, I hereby acknowledge that I have the authority to make this certification on behalf of the company, business or organization referenced on page 1 of this declaration.

X   
APPLICANT SIGNATURE

4.3.2012  
DATE