

Disclosure Requirements - Section 2254, Government Code

Section 2254 of the Government Code requires a contingent fee contract to be considered and approved at an open meeting by your local governing body. To comply with this, the following three items are required.

1. Public Notice – The Public Notice provided herein must be posted before or at the time the county gives written notice of their open meeting under Section 551.041.
2. Agenda Item – The Agenda Item provided herein must be place in the agenda for the open meeting. Please see the proposed language below.
3. Written Findings- At the open meeting, your local governing body must approve the Agenda Item for the contingent fee contract, and it must approve and sign the Written Findings provided herein.

Public Notice:

NOTICE PURSUANT TO GOVERNMENT CODE SEC. 2254.1036

WHEREAS, Waller County, Texas (“County”), will consider entering into a contingent fee contract with the law firm of Perdue, Brandon, Fielder, Collins & Mott, L.L.P. (“Firm”) and hereby posts this notice pursuant to Sec. 2254.106 of the Government Code.

WHEREAS, this notice shall be posted before or at the time of giving the written notice required by Government Code Sec. 551.041 for a meeting described by Sec. 2254.1036(2) of the Government Code and shall announce the following:

A. The County is pursuing a contract with the Firm for the collection of delinquent ad valorem taxes owed to the County and through this contract the County seeks to increase recovery of its delinquent debts in as expeditious a manner as possible. GOVT. CODE § 2254.1036(1)(A).

B. The County believes the Firm has the competency, qualifications, and experience necessary to fulfill this contract. GOVT. CODE § 2254.1036(1)(B). The Firm has collected delinquent government receivables for over 50 years, including the collection of delinquent ad valorem taxes. The Firm currently has 14 primary offices and multiple satellite offices throughout Texas, Oklahoma, and Florida. It employs more than 400 individuals, including 60 attorneys. It uses a multi-office, fully integrated team approach allowing the County access to all its offices and resources. Its collection team consists of long-term Firm employees, including attorneys, call center associates, paralegals, law clerks, legal secretaries, collection support personnel and information technology experts. The Firm utilizes proprietary collection software that can be tailored to meet any special need the County may have. This proprietary software also automates many aspects of the collection process, such as: account/debtor research, mailings and phone calls, return mail and address updates, payment notification and processing and workflow.

C. The nature of any relationship between the County and the Firm is as follows. GOVT. CODE § 2254.1036(1)(C). The Firm has previously represented the County in the collection of delinquent ad valorem taxes.

D. The County is unable to perform collect its delinquent ad valorem taxes. GOVT. CODE § 2254.1036(1)(D). The County currently does not have adequate support staff, computer software/programming, or experience to internally conduct these collection services and acquiring these will result in substantial expense to the County.

E. These collection services cannot be provided for an hourly fee. GOVT. CODE § 2254.1036(1)(E). The Tax Code allows the assessment of a percentage-based fee to recover the costs of collecting delinquent ad valorem taxes. This percentage-based fee is assessed only against the debtor and not the County or taxpayers of the County. The collection of delinquent ad valorem taxes is a high-volume practice, requiring a significant amount of research, mailing, and handling of outbound/inbound calls. An hourly fee for such work will likely exceed amount of delinquent ad valorem taxes due. Moreover, the County will bear the cost of these hourly fees and not the

debtor, because the Tax Code does not expressly authorize the County to pay for collection services based on an hourly fee.

F. The County believes this contingent fee contract is in its best interest. GOVT. CODE § 2254.1036(1)(F). Under the contingent fee contract, the Firm will be paid the amount of the percentage-based collection fee, regardless of the number of hours the Firm spends researching, contacting and mailing to collect the delinquent debt. Additionally, the percentage-based collection penalty is a pass-through expense to the debtor and not an expense to the County or taxpayers in the County.

Agenda Item:

Take action to approve a contingent fee contract with Perdue Brandon Fielder Collins and Mott, LLP pursuant to Section 6.30 of the Tax Code, said contract being for the collection of delinquent government receivables owed to Waller County, Texas and notice of said contract is posted with the agenda in accordance with Section 2254 of the Government Code.

Written Findings:

Written Findings as to the Collections Contract with Perdue, Brandon, Fielder, Collins & Mott, LLP

In an open meeting, the Commissioner's Court of Waller County, Texas considered all matters listed Section 2254.1036(a)(1) of the Government Code, as they relate to a contingent fee contract with Perdue Brandon Fielder Collins and Mott, LLP.

The Commissioner's Court, pursuant to Section 2254.1036(b), of the Government Code, hereby finds the following to be true: 1) there is a substantial need for the legal services specified in said contract; 2) these legal services cannot be adequately performed by the attorneys and supporting personnel of Waller County, Texas; and 3) these legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which these services will be obtained or because Waller County, Texas does not have funds to pay the estimated amounts required under a contract providing only for the payment of hourly fees.

Therefore, this Commissioner's Court hereby approves the contract by and between Waller County and Perdue Brandon Fielder Collins & Mott, LLP, for professional legal services regarding the collection of delinquent ad valorem taxes with services to be paid in accordance with Section 6.30 of the Tax Code.

APPROVED and EXECUTED this the ____ day of _____, 2024.

On Behalf of Waller County, Texas