

RESOLUTION NO. 2022-04-___ (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTINGENT FEE AGREEMENT FOR THE COLLECTION OF DELINQUENT AD VALOREM TAXES OWING TO THE CITY OF MCKINNEY WITH ABERNATHY, ROEDER, BOYD & HULLETT, PC PURSUANT TO THE TEXAS TAX CODE SECTION 6.30 AND THE TEXAS GOVERNMENT CODE SECTION 2254.1036, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of McKinney, Texas, desires to enter into a contingent fee agreement for the collection of delinquent ad valorem taxes with Abernathy, Roeder, Boyd & Hullett, PC (the "Contract"); and

WHEREAS, Subchapter C of Chapter 2254 of the Texas Government Code ("Chapter 2254") requires that a political subdivision of the State of Texas, including the City, may enter into a contingent fee contract for legal services only after: (i) the governing body of the political subdivision has provided written notice to the public stating certain provisions enumerated within Chapter 2254; (ii) the governing body of the political subdivision approved such contract in an open meeting called, in part or in whole, for the purposes of considering such contract; and (iii) the governing body of the political subdivision stated in writing certain findings made by the governing body upon the approval of such contract; and

WHEREAS, before the contingent fee contract for legal services is effective and enforceable, the City must receive approval of the Contract by the Office of the Attorney General of Texas or the Contract is otherwise allowed under Chapter 2254, as amended; and

WHEREAS, the City has caused notice of this resolution, this meeting, and certain provisions enumerated within Chapter 2254 to be provided to the public in accordance with the Texas Open Meetings Act and Chapter 2254; and

WHEREAS, the meeting at which the resolution is being considered is an open meeting called, in part or in whole, for the purpose of considering: (i) the City's need for legal counsel to represent it in the collection of delinquent ad valorem taxes owed to the City; (ii) terms of the Contract; (iii) the competence, qualifications, and experience of Abernathy, Roeder, Boyd & Hullett, PC; and (iv) the reasons that the Contract is in the best interest of the City and complies with Chapter 2254; and

WHEREAS, the City Council hereby finds and determines that the adoption of this resolution is in the best interests of the residents of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 2. The City Council hereby finds that: (i) there is a substantial need for the legal services to be provided in the collection of delinquent ad valorem taxes owed to the City; (ii) said legal services to be provided cannot adequately be performed by the attorneys and supporting personnel currently employed by the City; (iii) said legal services to be provided 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 said legal services and without imposing an unnecessary cost and burden on the City's finances; and (iv)

the relationship between the City or the City Council and Abernathy, Roeder, Boyd & Hullett, PC is not improper and would not appear improper to a reasonable person.

- Section 3. Based on the findings by the City Council described above, the City Council hereby authorizes the City Manager to execute a Contract for the Collection of Delinquent Taxes between Abernathy, Roeder, Boyd & Hullett, PC and the City of McKinney, Texas, approved as to form by the City Attorney, effective only upon approval by the Office of the Attorney General of Texas or as otherwise allowed under Chapter 2254, as amended.
- Section 4. It is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this resolution, was given, all as required by Chapter 551 as amended, Texas Government Code.
- Section 5. Abernathy, Roeder, Boyd & Hullett, PC will be paid the amount of the percentage-based collection fee upon the recovery, if any, of delinquent ad valorem taxes owed to the City.
- Section 6. This Resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of McKinney, and it is accordingly so resolved.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 19TH DAY OF APRIL, 2022.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

ATTEST:

EMPRESS DRANE
City Secretary
JOSHUA STEVENSON
Deputy City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney