CITY OF HUNTSVILLE, TEXAS

Russell Humphrey, Mayor

Vicki McKenzie, Mayor Pro Tem
Position 3 At-Large
Bert Lyle, Position 1 At-Large
Karen Denman, Position 2 At-Large
Pat Graham, Position 4 At-Large

Tore Fossum, Ward 1
Casey Cox, Ward 2
Anissa Antwine, Ward 3
Jon Strong, Ward 4

# HUNTSVILLE CITY COUNCIL AGENDA
## TUESDAY, JUNE 18, 2024

**WORKSHOP 5:00 P.M.**
**REGULAR SESSION 6:00 P.M.**

**City of Huntsville Service Center, 448 Highway 75, Huntsville, Texas, 77340**

**Persons with disabilities who plan to attend this meeting and may need auxiliary aids or services are requested to contact the City Secretary's office (936.291.5413) two working days prior to the meeting for appropriate arrangements.**

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**WORKSHOP (5:00 p.m.)**

**DISCUSSION**

**a.** Presentation on future street improvement projects and potential funding sources.
Aron Kulhavy, City Manager

**MAIN SESSION (6:00 p.m.)**

**CALL TO ORDER**

**INVOCATION AND PLEDGES** - ***U.S. Flag and Texas Flag:*** *Honor the Texas Flag. I pledge allegiance to thee, Texas, one state, under God, one, and indivisible.*

**PROCLAMATION**

**PRESENTATIONS**

**a.** Presentation to the City of Huntsville Employees who were recipients of the "Best of Readers Choice Award".
Russell Humphrey, Mayor

**PUBLIC HEARING**

**1. CONSENT AGENDA**

The presiding officer will call for public comments before action is taken on these items. *(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)*

**a.** Consider approving the Minutes from the June 4, 2024, Regular City Council Meeting.
Kristy Doll, City Secretary

**b.** Consider adoption of Ordinance 2024-13 to amend the budget for FY 23-24 and/or CIP Project Budgets.

Lance Hall, Assistant Finance Director

**c.** Consider approval of an amendment to the City of Huntsville Public Improvement District (PID) policy.
Kevin Byal, Director of Development Services

**d.** Consider approving Resolution 2024-14 to adopt the 15% Collection Penalty to defray the cost of collection of delinquent taxes, penalties and interest due and unpaid as of July 1, 2024, and each year thereafter pursuant to Tax Code Sections 33.07 and 33.08.
Sam Masiel, Assistant City Manager

**e.** Consider approving 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 the City of Huntsville and notice of said contract is posted with the agenda in accordance with Section 2254 of the Government Code.
Sam Masiel, Assistant City Manager

**2. STATUTORY AGENDA**

**3. CITY COUNCIL/MAYOR/CITY MANAGER**

**4. MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA**

**5. ITEMS OF COMMUNITY INTEREST**

**6. EXECUTIVE SESSION**

**a.** City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.087 for deliberation regarding economic development negotiations - Project Goose
Tammy Gann, Director of Economic Development

**b.** City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.087 for deliberation regarding economic development negotiations - Project Blondie
Tammy Gann, Director of Economic Development

**7. RECONVENE**

Take action on item discussed in executive session, if needed.

**ADJOURNMENT**

*If during the course of the meeting and discussion of any items covered by this notice, City Council determines that a Closed or Executive session of the Council is required, then such closed meeting will be held as authorized by Texas Government Code, Chapter 551, Section 551.071 – consultation with counsel on legal matters; 551.072 – deliberation regarding purchase, exchange, lease or value of real property; 551.073 – deliberation regarding a prospective gift; 551.074 – personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; 551.076 – implementation of security personnel or devices; 551.087 – deliberation regarding economic development negotiation; Sec. 551.089 - deliberation regarding security devices or security audits; and/or other matters as authorized under the Texas Government Code. If a Closed or Executive session is held in accordance with the Texas Government Code as set out above, the City Council will reconvene in Open Session to take action, if necessary, on the items addressed during Executive Session.

## CERTIFICATE

I, Kristy Doll, City Secretary, do hereby certify that the above notice was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, www.HuntsvilleTX.gov, in compliance with Chapter 551, Texas Government Code.

DATE OF POSTING: June 14, 2024

TIME OF POSTING: 9:00 a.m.
TAKEN DOWN:

Kristy Doll

Kristy Doll, City Secretary

**CITY COUNCIL AGENDA**
6/18/2024

**Agenda Item Number:** a.

**Agenda Item:** Presentation on future street improvement projects and potential funding sources.

**Initiating Department/Presenter:** City Manager

**Presenter:**
Aron Kulhavy, City Manager

**Recommended Motion:** Not applicable

**Strategic Initiative:** Strategic Priority #4, Infrastructure - Develop and maintain a comprehensive and well-planned infrastructure network that prepares for the challenges of the future and provides quality, modern and efficient, water, wastewater, drainage and transportation services.

**Discussion:**

**Previous Council Action:**

**Financial Implications:**

**Approvals:**
Aron Kulhavy

**Associated Information:**

**CITY COUNCIL AGENDA**
6/18/2024

**Agenda Item Number:** a.

**Agenda Item:** Presentation to the City of Huntsville Employees who were recipients of the "Best of Readers Choice Award".

**Initiating Department/Presenter:** City Council

**Presenter:**
Russell Humphrey, Mayor

**Recommended Motion:** Not Applicable

**Strategic Initiative:** Strategic Priority #5, Engagement - Build strong relationships within our organization and community with a focus on our culture of core values as expressed in Service, Trust, Accountability and Respect. Provide a welcoming and collaborative environment that fosters mutual partnership between city government, community organizations and our residents.

**Discussion:** City Employees recognized in the annual "Best of" reader's choice awards are as follows:

Public Employee Stacy Lawler

Law Enforcement Broderick Davis

Fire Fighter Ethan Hardy

**Previous Council Action:** N/A

**Financial Implications:** N/A

**Approvals:**
Aron Kulhavy

**Associated Information:**

**CITY COUNCIL AGENDA**
6/18/2024

**Agenda Item Number:** 1.a.

**Agenda Item:** Consider approving the Minutes from the June 4, 2024, Regular City Council Meeting.

**Initiating Department/Presenter:** City Secretary

**Presenter:**
Kristy Doll, City Secretary

**Recommended Motion:** Motion to approve the Minutes from the June 4, 2024, Regular City Council Meeting.

**Strategic Initiative:**

**Discussion:**

**Previous Council Action:**

**Financial Implications:**

**Approvals:**
Kristy Doll

**Associated Information:**
1. June 4, 2024 City Council Meeting Minutes

**MINUTES FROM THE HUNTSVILLE CITY COUNCIL REGULAR MEETING HELD ON THE 4th DAY OF JUNE 2024, AT THE CITY OF HUNTSVILLE SERVICE CENTER COMPLEX, LOCATED AT 448 HIGHWAY 75, IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS, AT 6:00 P.M.**

**The Council met in a workshop and regular session with the following:**
**COUNCILMEMBERS PRESENT:** Mayor Humphrey, Mayor Pro Tem McKenzie, Councilmember At-Large Position 1 Lyle, Councilmember Ward 1 Fossum, Councilmember At-Large Position 2 Denman, Councilmember Ward 2 Cox, Councilmember At-Large Position 4 Graham, Councilmember Ward 4 Strong

**COUNCILMEMBERS ABSENT:** Councilmember Ward 3 Antwine

**OFFICERS PRESENT:** Aron Kulhavy, City Manager; Kristy Doll, City Secretary; Leonard Schneider, City Attorney

**WORKSHOP**
Mayor Humphrey called the workshop to order at 5:03 p.m.

**DISCUSSION**

**a.** The City of Huntsville Employee Scholarship Committee hosted a Reception for the Class of 2024 Scholarship Recipients.
Sandra Cuevas, Human Resources Manager

**MAIN SESSION CALL TO ORDER**
Mayor Humphrey called the meeting to order at 6:00 p.m.

**INVOCATION AND PLEDGES** - ***U.S. Flag and Texas Flag:*** *Honor the Texas Flag. I pledge allegiance to thee, Texas, one state, under God, one, and indivisible.*

Brian Beasley, Human Resources Director, gave the invocation, and the pledges were led by Mayor Humphrey.

**PRESENTATIONS**

**a. Presentation to the Class of 2024 City of Huntsville Scholarship Recipients.**
**Sandra Cuevas, Human Resources Manager and Scholarship Committee**

**b. Presentation to the City of Huntsville Employees who were recipients of the "Best of Readers Choice Award".**
**Russell Humphrey, Mayor**

Mayor Humphrey pulled Item b. from the agenda to be rescheduled at another time due to scheduling conflicts.

**c. Recognize Olivia J. Discon's appointment by Governor Greg Abbott as student regent for the Texas State University System for the 2024-2025 term.**
**Russell Humphrey, Mayor**

Councilmember Anissa Antwine entered the Council Chamber and took her seat at the dais at 6:07 p.m.

**1. CONSENT AGENDA**
**The presiding officer will call for public comments before action is taken on these items.** ***(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda***

*for full discussion by request of a member of Council.)*

a. **Consider approving the Minutes from the May 21, 2024, Regular City Council Meeting.**
   **Kristy Doll, City Secretary**

b. **Consider authorizing the City Manager to approve an annual purchase order for used tire disposal services.**
   **Brent Sherrod, Public Works Director**

c. **Consider ratifying the award of an emergency contract for the emergency repair of the storm-damaged concrete and clay sewer lines (in two separate sections) between Elkins Lake and Lake Azalea, Town Creek Sewer Repair, and Elkins Spillway Sewer Repair.**
   **Brent Sherrod, Public Works Director**

d. **Consider authorizing the City Manager to enter into a Professional Services Agreement (PSA) between the City of Huntsville and Waterstone Development Group, LLC on behalf of Waterstone Opportunity Fund, LLC, for the purpose of initiating the creation of a Public Improvement District related to the proposed residential subdivisions, the Villages of Magnolia Farms and Westin Meadows.**
   **Kevin Byal, Director of Development Services**

e. **Consider Ordinance No. 2024-12 extending the Disaster Declaration issued by Mayoral Proclamation on May 2, 2024, and extended by Ordinances 2024-08 on May 9, 2024, and Ordinance 2024-11 on May 21, 2024.**
   **Aron Kulhavy, City Manager**

Councilmember Vicki McKenzie made a motion to approve the Consent Agenda, Items a through e. The motion was seconded by Councilmember Jon Strong. The motion passed 9-0. Yes: Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Pat Graham, Bert Lyle, Anissa Antwine, Tore Fossum, Casey Cox; No: None

**2. STATUTORY AGENDA**

**3. CITY COUNCIL/MAYOR/CITY MANAGER**

**4. MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA**
None

**5. ITEMS OF COMMUNITY INTEREST**
Mayor and Council announced Items of Community Interest.

**6. EXECUTIVE SESSION**

a. **City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.074 - Personnel Matters: regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Secretary Kristy Doll.**
   **Kristy Doll, City Secretary**

b. **City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.087 for deliberation regarding economic development negotiations - Project Goose. Tammy Gann, Director of Economic Development**

City Council convened into Executive Session at 6:17 p.m.

7. **RECONVENE**
City Council reconvened from Executive Session at 7:59 p.m.

Councilmember Karen Denman made a motion to renew the City Secretary's contract with a 7.5 percent merit increase to align with other peer cities. The motion was seconded by Councilmember Anissa Antwine. The motion passed 9-0. Yes: Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Pat Graham, Bert Lyle, Anissa Antwine, Tore Fossum, Casey Cox; No: None

**ADJOURNMENT**
Mayor Humphrey adjourned the meeting without objection at 8:00 p.m.

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| **ATTEST:** | **CITY OF HUNTSVILLE** |
| ______________________________ | ______________________________ |
| **Kristy Doll, City Secretary** | **Russell Humphrey, Mayor** |

**CITY COUNCIL AGENDA**
6/18/2024

**Agenda Item Number:** 1.b.

**Agenda Item:** Consider adoption of Ordinance 2024-13 to amend the budget for FY 23-24 and/or CIP Project Budgets.

**Initiating Department/Presenter:** Finance

**Presenter:**
Lance Hall, Assistant Finance Director

**Recommended Motion:** Move to adopt Ordinance 2024-13 to amend the budget for FY 23-24 and/or CIP Project Budgets.

**Strategic Initiative:** Strategic Priority #3 - Quality of Life: Establish an environment where citizens can thrive and enjoy the City in which they live. Provide services that enhance the quality of life for all, with a focus on the full life cycle (children, students, families, and retirees) by creating amenities that support physical, mental and social well-being. Support access to quality health services, education, housing, transportation, recreation and natural environment.
Strategic Priority #4 - Infrastructure: Develop and maintain a comprehensive and well planned infrastructure network that prepares for the challenges of the future and provides quality, modern and efficient, water, wastewater, drainage, and transportation services.

**Discussion:** Detailed explanation for the Budget Amendments is provided in the attachment, Exhibit A, to the Ordinance. The Budget Amendments were discussed with the Finance Committee at their June 4, 2024 meeting (for Exhibit A )

**Previous Council Action:**

**Financial Implications:** See detailed explanation in Exhibit A.

**Approvals:**
Steve Ritter
Sam Masiel
Aron Kulhavy
Kristy Doll

**Associated Information:**
1. ORD. 2024-13 - BAs FY 23-24 06.18.24 council meeting
2. Exhibit A - BAs 6.18.24 CC Meeting

## ORDINANCE NO. 2024-13

**AN ORDINANCE OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING THE 2023-2024 ANNUAL BUDGET AND CAPITAL IMPROVEMENTS PROJECTS (CIP) BUDGETS, ORDINANCE NO. 2023-20 TO AMEND ADOPTED EXPENDITURES OF THE BUDGET; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the 2023-2024 Annual Budget and CIP Budgets were adopted by Ordinance 2023-20 on September 19, 2023;

**WHEREAS**, various unforeseen circumstances affecting the City have presented themselves during the course of the fiscal year;

**WHEREAS**, the City Council considered the circumstances independently, deliberating appropriately on the associated revenues and expenditures and the overall impact on the general financial status of the City;

**WHEREAS**, pursuant to the laws of the State of Texas and the City Charter of the City of Huntsville, Texas, the City Council has determined that it will be beneficial and advantageous to the citizens of the City of Huntsville to amend the annual budget for fiscal year 2023 – 2024 and the Capital Improvements Projects (CIP) budget as set forth herein; and

**WHEREAS**, this ordinance combines the independent Council actions into one budget amendment document;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, that:**

**Section 1.** The findings set forth above are incorporated into the body of this ordinance.

**Section 2.** The annual budget for fiscal year 2023 – 2024 is hereby amended to include the expenditures and revenues in Exhibit "A" and the Capital Improvements Projects budget is hereby amended to include the expenditures described in Exhibit "A" attached hereto and made a part of this ordinance as if set out verbatim herein.

**Section 3.** All ordinances of the City in conflict with the provisions of this ordinance are hereby repealed, and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**Section 4.** Should any section, portion, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the force or effect of any other section or portion of this ordinance.

**Section 5.** The necessity for amending the budget for the fiscal year 2023 – 2024 and Capital Improvements Projects, as required by the laws of the State of Texas, requires that this ordinance shall take effect immediately from and after its passage, as the law in such cases provides.

**Section 6.** This ordinance shall take effect immediately after its passage.

PASSED AND APPROVED on this the 18th day of June 2024.

**THE CITY OF HUNTSVILLE, TEXAS**

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Russell Humphrey, Mayor

**ATTEST:**

______________________________

Kristy Doll, City Secretary

**APPROVED AS TO FORM:**

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Leonard Schneider, City Attorney

# Budget Amendments FY 23-24
# City Council - June 18, 2024

**Exhibit A**

| | | | |
|---|---|---|---|
| Increase: | Water Production - Maintenance Wells/Tanks/Boosters | $ | 124,237 |
| Decrease: | Utility Fund - Water Ops. Non-Departmental - Future Appropriations | $ | 28,500 |
| Decrease: | Utility Fund - WW Ops. Non-Departmental - Future Appropriations | $ | 28,500 |
| Decrease: | Utiltity Fund - Unallocated Reserves | $ | 67,237 |

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| Explanation: | Unforeseen costs have hit water production this year. The unforseen costs include Emergency Filter Repairs at Spring Lake - $21,600, Emerency Repairs to Well # 20 - $167,000 and Emerency Repairs to Water Well # 19 - $90,000. Staff already found $35,763 of budget in other Water operations budgets to cover some of the $160,000 total increase needed in the "Water Production - Maintenance Wells/Tanks/Boosters" expenditure account. This budget amendment will provide for the additional $124,237 needed. The combined $57,000 from Future Appropriations requires Council approval in that it exceeds the $50,000 authorization amount for the City Manager in the Fiscal Policies, Section VI, C., 1.<br>Staff is requesting $67,237 of Utility Fund's Unallocated Reserves be used to fund the cost. After use of this $67,237 the Utility Fund's balance of Unallocated Reserves will be approximately $283,000 above the Utiliy Fund's $7,300,000 required 25% reserve amount. |

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|---|---|---|---|
| Increase: | Disaster-Materials/Supplies -Water | $ | 100,000 |
| Increase: | Disaster-Materials/Supplies -Wastewater | $ | 300,000 |
| Increase: | FEMA Reimbursement Funds | $ | 300,000 |
| Decrease: | Utility Fund -Unallocated Reserves | $ | 100,000 |

| | |
|---|---|
| Explanation: | The City has experienced damage to our infrastructure due to the recent storm events. A Declaration of Disaster was signed on April 29th by the Mayor of Huntsville. The Federal Emergency Management Agency (FEMA) signed a major Disaster Declaration for the State of Texas dated May 17, 2024, and an amendment was issued on May 23, 2024, to include Public Assistance to Walker County for all categories of Public Assistance. That said, FEMA will reimburse the City for 75% of the damages directly related to storm damage; $300,000 total with $225,000 for the wastewater expenses and $75,000 for the water expenses. The damage to date for the CIty are approx. $300,000 in wastewater and $100,000 in water.<br>Staff is requesting $100,000 of the of Utility Fund's Unallocated Reserves be used to fund the costs unreimbursable by FEMAs. After use of this $100,000 the Utility Fund's balance of Unallocated Reserves will be approximately $183,000 above the Utiliy Fund's $7,300,000 required 25% reserve amount. |

**CITY COUNCIL AGENDA**
6/18/2024

**Agenda Item Number:** 1.c.

**Agenda Item:** Consider approval of an amendment to the City of Huntsville Public Improvement District (PID) policy.

**Initiating Department/Presenter:** Development Services

**Presenter:**
Kevin Byal, Director of Development Services

**Recommended Motion:** Move to approve an amendment to the Public Improvement District (PID) policy clarifying PID bond issuance timing.

**Strategic Initiative:** Strategic Priority #2, Economic Development - Creat an economic climate for the City of Huntsville that drives development of diverse industries and sectors, providing sustainable economic growth and improved living standards.

**Discussion:** Texas law provides a number of ways to finance needed public improvements, including the use of special assessments. One such law is the Public Improvement District (PID) Assessment Act which allows cities to levy and collect special assessments on property that is within the boundaries of the PID. The statute authorizing the creation of PIDs is found in Chapter 372 of the Local Government Code. In addition to construction of water, wastewater, storm drainage improvements and roads, a public improvement district may be formed to accomplish many other improvements that benefit the property owners within the PID boundaries.

In early 2022, developers began to approach the City of Huntsville with requests to create PID’s as a means to fund and offset infrastructure costs associated with the construction of new subdivisions.

Responding to these requests, we determined that a policy was necessary to provide guidance to both the City as well as developers. Overall, the PID policy provides guidance on a structured mechanism for funding and implementing public improvements that benefit the community and stimulate economic growth.

In December 2022, the City Council adopted our first Public Improvement District (PID) policy. As much as this policy has been beneficial, the timing of PID bond issuance needs clarification on the timing of such issuance. This amendment provides clarity on this subject.

**Previous Council Action:** On December 20, 2022, City Council adopted a PID policy.

**Financial Implications:** None

**Approvals:**

Kevin Byal
Leonard Schneider
Sam Masiel
Aron Kulhavy
Kristy Doll

**Associated Information:**

1. Huntsville PID Policy_Proposed_Amnedment_06.04.2024

# Public Improvement District Policy

A Public Improvement District ("PID") in accordance with Texas Local Government Code Chapter 372 ("Act"), provides the City of Huntsville ("City") an economic development and community enhancement tool that finances the costs of qualified public improvements that confer a special benefit for a definable part of the City and/or its extraterritorial jurisdiction. Proceeds from assessments and/or PID bonds can be used to finance capital costs of public improvements or enhancements of public improvements which would not otherwise be constructed or provided. PIDs allow the costs of public improvements to be borne by those who receive special benefits from the improvements or services. Proceeds of PID bonds may only be used to pay for public improvements that will ultimately be owned and controlled by the City. Proceeds from assessments may also be used for special supplemental services for improvement and promotion of the PID, including maintenance of PID projects.

A PID is comprised of a defined area of properties whose owners have petitioned the City to form a PID. The City Council creates a PID by adoption of a resolution after a public hearing. Notice of the public hearing must be published and mailed to all property owners in the proposed PID, as required by the Act. In the petition, the property owners request the City to levy assessments on property within the PID in order to fund enhanced services and/or improvements within the PID. The PID must demonstrate that it confers a special benefit to the property within the PID and promotes the interests of the City.

The purpose of this policy is to outline the policies and procedures the City will use to consider whether creation of a PID, the levy of PID assessments, issuance of PID bonds, information disclosure to property owners, and determination of annual plans, budgets, and assessments are in the best interests of the City. This policy outlines the items needed to be addressed by the property owners seeking the creation of a PID ("Petitioner") before the City Council can support the authorization of the PID. Any requests for adjustments, exceptions, or waivers to this policy must be reviewed and approved by the City Council of the City of Huntsville.

**General**

1. A PID may be created and utilized to construct qualified public improvements and/or reimburse a developer's actual and documented costs of standard infrastructure with a strong preference for promoting enhanced infrastructure and improvements to serve the development.
2. Proceeds of PID bonds cannot be used to reimburse costs incurred prior to the twentieth (20th) day after such resolution is adopted.
3. PIDs must be self-sufficient and fund any costs incurred by the City associated with the formation of the PID, bond issuance costs, PID administration, the construction of PID improvements and other PID related costs.
4. Priority will be given to PID developments which:
    a. Generate economic and superior development benefits to the City beyond what normal development would generate.
    b. PIDs created with the support of 100% of the landowners within a PID.
    c. Provide for improvements in the public right of way (e.g., entryways. landscaping, fountains, specialty lighting, art, decorative and landscaped streets and sidewalks, bike lanes, multi-use trails, signage).

d. Meet community needs (e.g., enhanced drainage improvements, parks and off- street public parking facilities, pedestrian connectivity, wastewater and/or water on or off-site improvements) including without limitation development's pro-rata share of the of regional public facilities and services
e. Increase or enhance City's multimodal transportation and roadway plans
f. Exceed development requirements of the City; in particular, enhanced architectural standards, enhanced landscaping, enhanced amenities, and provide for superior design of lots or buildings
g. Protect and preserve natural amenities and environmental assets such as lakes, trees, creeks, ponds, floodplains, slopes, hills, and wildlife habitats
h. Protect and preserve existing historical buildings, features or places and preserve the community amenities or features that would otherwise be a special benefit to the community
i. Does not overlap the boundaries of another PID
j. Aligns with the City's growth and development goals

5. A PID's budget shall include sufficient funds to pay for all costs including but not limited to all administrative and/or operational costs associated with the administration, management, audit, disclosure and reporting of the PID.
6. Any requested adjustments and or deviations from the terms and conditions of the City's PID Policy shall be clearly requested and explained in, or submitted prior to or with, the PID petition for that PID. Any adjustments or deviations to be granted shall be at the sole discretion of the City Council.
7. The developer shall be responsible to prepay all assessments on property owned by the City of Huntsville, Huntsville ISD, and/or Walker County that are located in the boundaries of the PID
8. Developers may be required to pay the assessments for land located in a PID owned by a religious institution.
9. The City reserves the right and shall select and retain the services, at it's sole discretion, of any professionals and/or consultants in association with the creation and administering of the PID including but not limited to financial advisor, bond counsel, underwriter, trustee, PID administrator, and appraiser.
10. The City Council will not take any action to commence the creation of a PID or other related development district prior to the approval of a final development agreement governing the development in question.

**Petition Requirements**
Petitions requesting creation of a PID must satisfy all statutory requirements under Chapter 372 of the Texas Local Government Code.

The City may require:
1. Evidence that signatures of property owners were gathered not more than six months preceding the submittal of the petition
2. Evidence that the petitioner's signatures meet the state law requirements, or the petition will be accompanied by a reasonable fee to cover the City's costs of signature verification

In addition, the City may require that the petition set forth the following:

1. The maximum term of a PID assessment
2. Minimum appraised value to lien ratio
3. Maximum maturity of PID bonds
4. Maximum equivalent tax rate

**Development Agreement**

The City Council will not take any action to commence the creation of a PID or other related development district prior to the approval of a final development agreement governing the development in question.

The following shall be provided to the City prior to the preparation of a development agreement:

1. The basic terms and conditions for creation of the PID, including the provision of special conferred benefit
2. Indication of the estimated costs of proposed improvements, maximum assessment, maximum bond issuance, and maximum tax equivalent rate (in dollars, $)
3. A section that clearly identifies the benefit of the PID to the affected property owners and to the City as a whole
4. The petitioner's qualifications and previous experience with real estate development, financing of the development, prior PIDs, etc.
5. A legal description of the boundaries of the proposed PID, a map of the proposed PID boundaries that is suitable for publication for the legal notices, and a "commonly known" description of the area to be included in the PID
6. Description of all City-owned land within the PID as well as its proposed share of project costs
7. A current tax roll of owners in the PID
8. Any plan for phasing of both real estate development supported by the PID and construction of public improvements in the PID including a breakdown between major improvements serving large areas of or the entire PID vs. phase-specific direct improvements
9. A sunset clause, and a pre-executed petition to dissolve the PID by the landowner in case the project has not obtained development permits within three (3) years
10. Agreement by all property owners that upon approval of a PID located in whole or in part outside the City's corporate limits, the boundaries of the PID will be immediately annexed into the City of Huntsville, or under terms of a development agreement.

**Fees and Professional Services Reimbursement Agreement**

If the City determines it is in its best interest to establish a PID, a Professional Services Agreement will be entered into with the developer. The Professional Services Agreement will require the developer to initially deposit funds in the amount of $50,000 to pay for city staff time and third-party consultants including, but not limited to, Legal and Bond Counsel, Financial Advisor, PID Consultant/Administrator, Trustee, Underwriter, Appraiser, and Market Study Analysts. An additional $25,000 deposit will be required to be deposited by the developer when the deposit balance reaches $10,000. Certain unused balances will be returned to the developer. The developer will be eligible to be reimbursed these costs through bond proceeds or PID Assessments as applicable. The amounts required to be paid in this paragraph are in addition to administrative costs associated with the PID, cost of bond issuance, and the PID fee referenced below.

In addition to the amounts set forth above, a PID fee may be required to be paid to the City at bond closing, subject to the terms of the Development Agreement.

**Development Standards**
The City will consider petitions for PID projects that support real estate developments which confer benefits to the City to a degree that is superior to benefits typically generated by projects that do not involve PID financing.

1. The project must include improvements that enhance or implement the City's Comprehensive Plan, including the City's thoroughfare plan and water and wastewater plans and advance the City's trail and park plans.
2. In addition to other public improvements, any improvements that are offsite or are part of the City's Capital Improvement Plans must obtain approval from the City Engineer prior to being included in the PID.
3. Preference will be given to high quality projects that exceed the City's subdivision requirements for overall design, building standards and amenities with enhanced landscaping and appealing architecture throughout.
4. Preference will be given to mixed use projects that include a mix of residential, retail and commercial uses.
5. Preference will be given to projects that promote affordable housing.

**City Consultants**
The City will independently select Bond Counsel, Financial Advisor, PID Administrator, Trustee, Market Study Analyst, Underwriter and Appraiser. The City's PID Administrator will draft the Service and Assessment Plan ("SAP") and prepare all annual updates.

**Collection of Assessments**
Prior to the levy of assessments, the City will enter into an agreement with Walker County Appraisal District to include the annual PID assessment payments on the Walker County Tax Bill.

**Maximum Assessment**
The annual PID installment shall not exceed an amount that increases the expected total tax equivalent rate (TRE) upon buildout that will place the development within a competitive TRE. A true-up calculation is included in the City's SAP and upon filing of a final plat will ensure that the maximum assessment per Lot Type, as defined in the SAP, is not exceeded, and which may result in a mandatory prepayment from the developer.

**PID Bond Issuance Requirements**
In addition to other conditions set forth in a development agreement, the following performance standards and limitations shall apply to PID debt issues approved by the City:

1. The maximum term of an assessment for the PID or a discrete component thereof, as defined in the SAP, is not to exceed 30 years and the assessment term must equal the applicable bond term
2. Minimum appraised value to assessment lien ratio of 3:1 for the PID or a discrete component thereof, as defined in the SAP
3. No annual assessment increases once assessments are levied. Assessments for future phases will require to be competitive as deemed by the City, to the original Phase and Lot Type(s) as defined in the SAP
4. Maximum of 2 years of capitalized interest for each bond issue

5. Initial series of PID bonds must mature or expire no later than 30 years after being issued by the City, with the subsequent series of PID Bonds, if any, having the same maturity date of the initial series of PID Bonds
6. All improvements to be funded with PID bonds must be reviewed by the City Engineer or designee, and inspected by the City Inspector, or third-party qualified designee, and built to the City's standards for public improvements prior to dedication and reimbursement
7. Developer is required to demonstrate committed capital in the form of cash deposit, proof of bank financing and/or equity capital, or letter of credit to the City with an amount confirmed by an engineer's opinion of probable cost, which represents the difference between budgeted cost to complete the public improvements assumed to be completed, including private costs to reach final lot values as established in the appraisal and the net proceeds of the PID bonds. The form of committed capital (cash deposit, letter of credit or bank/equity commitment) will be determined by the City on a case-by-case basis on advice from its Financial Advisor.
8. The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund:
   - (i) The actual costs of the qualified public improvements benefitting the PID or a discrete component thereof, as defined in the SAP,
   - (ii) required reserves and capitalized interest during the period of construction and not more than 12 months after the completion of construction and in no event for a period greater than 2 years from the date of the initial delivery of the bonds, and
   - (iii) any costs of issuance. Provided, however that to the extent the law(s) which limit the period of capitalized interest to 12 months after completion of construction change, the foregoing limitation may be adjusted to reflect the law(s) in effect at the time of future bond issuances.
9. No bond issuance may occur after the expiration of five years after a PID is created if during said five-year period no assessments have been levied for such PID or no development has occurred within the PID; provided, however, this provision shall not apply if the City Council makes written findings that the passage of time without active development should not result in reevaluation of marketability, compatibility with surrounding land uses, and/or other relevant factors.

**Finance Limitations**

1. A developer or landowner may not request the issuance of PID bonds in advance of construction of the Authorized Improvements within a development. The developer may request issuance of PID bonds once the City approves the construction of Authorized Improvements subject to compliance with these standards. All such PID bond issues will be subject to approval of the City Council.

~~1. A developer or landowner may request the issuance of PID bonds in advance of construction of an individual phase of a development subject to compliance with these standards. All such PID bond issues will be subject to approval of the City Council.~~

2. No General Obligation Bonds or Certificates of Obligation bonds will be utilized by the City to directly or indirectly pay, or guarantee payment of, PID bonds.
3. If in any calendar year the City issues bonds that would constitute a bank qualified debt issuance but for the issuance of the PID bonds, then the developer shall pay to the City a fee to compensate the City for the interest savings the City would have achieved had the debt issued by the City been bank qualified provided that all other developers or owners benefitting from the City issuing debt are similarly burdened with an obligation to

compensate the City.

4. All PID bond issues, if any, will be subject to approval by the City Council.
5. If the City Council authorizes the issuance of PID bonds, the City shall issue all such PID bonds in accordance with the protocols and procedures adhered to by the City's Director of Finance for issuing long-term debt instruments including tax notes and bonds.
6. Special assessments on any given portion of the property may be adjusted in connection with subsequent bond issues as long as an agreed-upon maximum annual assessment rate is not exceeded, and the special assessments are determined in accordance with the SAP and the PID Act. Special assessments on any portion of the property will bear a direct proportionate relationship to the special benefit of the public improvements to that improvement area. In no case will the maximum assessment be increased for any parcel unless the property owner of the parcel consents to the increased assessment.
7. The City shall not be obligated to provide any funds for any improvement except from the proceeds of the PID bonds and PID assessments.
8. The City's cost of reviewing a developer payment request from PID bond proceeds, including City staff time and third-party consultant costs, shall be netted out of the amount paid to the developer.
9. Each PID bond indenture will clearly state that all debt service payments for the PID bonds shall be payable solely from and secured by the pledged assessments levied against properties within the PID or funds held under a bond indenture for such purposes, and that the City will have no obligation to make debt service payments for the PID bonds from any other sources.
10. A PID will be responsible for payment of all the City's reasonable and customary costs and expenses including the cost of any appraisal.
11. Improvements funded with PID proceeds will be exempt from any public bidding or other purchasing and procurement policies per Texas Local Government Code Section 252.022(a)(9) which states that a project is exempt from such requirements if "paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements."
12. Any new money PID bonds issued will include a Reserve Fund, funded from bond proceeds at the time bonds are issued, in an amount equal to the lesser of:
    - (i) the maximum annual debt service on the bonds,
    - (ii) 10 percent of the principal amount of the PID bonds, or
    - (iii) 125 percent of the average annual debt service.
13. Pursuant to the PID Act, the interest rate for assessments may exceed the interest rate of the bonds by no more than one half of one percent (0.50%). The City may allocate up to 0.50% of the interest rate component to fund a delinquency reserve, prepayment reserve, or for any other purpose authorized by the PID Act subject to the terms of the Development Agreement.
14. All developers and significant landowners will provide any required continuing disclosure obligations associated with the issuance of PID bonds as required under the respective bond indenture or any other regulatory agreement or regulatory agency. Failure to abide by continuing disclosure requirements may limit access to proceeds and/or future bond issues.
15. Developer is required to demonstrate committed capital (e.g., cash deposit, proof of bank financing, or letter of credit) to the City on or prior to the sale date of the PID bonds in an amount confirmed by an engineer's estimate of probable cost, which represents the difference between the budgeted cost to complete the public improvements assumed to be

complete in the appraisal and the net proceeds of the PID bonds.

16. During a material event of default by the developer under the terms of any agreement between the developer and the City relating to the PID or the property within the PID, the City shall, after providing notice and opportunity to cure, have the right to recapture reimbursements and/or terminate its obligations to the developer.
17. All construction of improvements is subject to City review and approval and if applicable, provisions shall be made for dedication to City or to another appropriate entity.
18. Improvements to be funded by the PID are limited to those defined as Authorized Improvements under Texas Local Government Code Section 372.003(b)
19. Any trails, parks, streets or other public amenities that are located within a gated community or otherwise inaccessible location to the general public may not be funded or reimbursed by the PID.
20. Parks and trails may be dedicated to the City at the City's discretion.
21. All roads must be within dedicated rights-of-ways that are conveyed to either the State, City or to the County government, as appropriate.
22. In any calendar year in which PID bonds are issued, a developer must pay the City its actual additional costs, if any, the City incurs in the issuance of its own public securities or obligations on its own taxing power of municipal revenues if the City Obligations are deemed not to qualify for the designation of qualified tax-exempt obligations as defined in section 265(b)(3) of the Internal Revenue Code as amended, as a result of the issuance of PID bonds by the City in any given year.

**Disclosure to Homeowners**

To provide disclosure to homeowners, the City will require the petitioner to comply with the following:

1. Execute a Landowner's Agreement or similar agreement to be recorded in the official public records of Walker County.
2. Signage at major entryways and exits.
3. Signage and information flyers in any sales centers within the PID that include:
    a. Frequently Asked Questions
    b. Total Assessment
    c. Average Annual Installment
    d. Equivalent Tax Rate
4. Homebuyer disclosure documents, as approved by the City, in accordance with Section 5.014 of the Texas Property Code to be signed both at contract signing and at closing with such agreements maintained on file by each homebuilder and available for inspection by the City.
5. Developer contracts with homebuilders must require the homebuilder to disclose the PID on any MLS listing.

**Project Criteria**

In agreeing to create a PID for which debt will be issued to fund the costs of constructing eligible public improvements, the City will require the following:

1. The property owner must demonstrate to the City that it has the expertise to complete the new development that the PID will support.
2. The property owner must provide the City with its sources of funding the Public Improvements not being funded by the PID.
3. The proposed development must be consistent with the entitlements on the property. All required zoning, easements for off-site infrastructure, other required land use approvals or

other required permits must be in place for the development prior to the issuance of any PID bonds.

4. The property owner must provide evidence to the City that the utility service provider has sufficient capacity to provide all necessary utility services.
5. All reasonable estimated costs must be identified before a decision is reached on a request to issue bonds for a PID. Costs to be identified include costs related to creating the PID; costs for construction and/or the acquisition of improvements, the maintenance and operation of improvements (if any) and PID administrative costs. A developer is solely responsible for cost overruns that exceed available PID bond proceeds.
6. If the City elects to hire a qualified third party PID administrator to administer the PID, the costs for such administration shall be paid for with PID funds. The PID administrator will be required to prepare the SAP, review and comment on all information provided by the developer, at the direction of the City attend any public hearing regarding the levy of assessments, as well as provide the Annual SAP update and present to Council for approval.
7. The PID Financing Agreement (or other applicable PID documentation) shall contain a section which clearly identifies the benefit of the PID to the affected property owners and to the City as a whole (i.e., public purpose) and evidence of insurance policies with coverages and amounts acceptable to the City.
8. The SAP shall describe, if applicable, all City-owned land within the PID as well as its proposed share of project costs.
9. Specified assurances that the construction of improvements in the public right-of-way will be dedicated to and maintained by the City after PID assessments have expired. For the life of the PID, public infrastructure will be maintained by the PID to the extent permitted under the Act, unless otherwise stated in the PID Financing Agreement (or other applicable PID documentation).

The PID may not finance improvements or services within a gated community or that are not accessible to the general public.

**PID Administration**
The City may contract with a qualified third-party company to manage and administer the PID, subject to appropriate oversight by City staff and in compliance with the Act, as amended.

**Developer Reimbursement**
The developer will submit expenses for reimbursements, subject to the SAP and the approved Disbursement Certification Form attached to the Construction Funding Agreement or other Financing or Reimbursement Agreement and submit to the City or PID Administrator as directed.

**Miscellaneous**

1. This PID policy does not bind the City Council to approve, authorize or create a PID or take any related action. PID creation, PID bond issuance and all related matters are legislative acts solely with the discretion of the City Council.
2. Any requests for adjustments, exceptions, or waivers to this policy must be reviewed and approved by the City of Huntsville.
3. No public official or employee shall be personally responsible for any liability arising under

or growing out of any approved PID. Any obligation or liability of the developer whatsoever that may arise at any time under the approved PID or any obligation or liability which may be incurred by the developer pursuant to any other instrument, transaction or undertaking as a result of the PID shall be satisfied out of the assets of the developer only and the City shall have no liability.

**CITY COUNCIL AGENDA**
6/18/2024

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**Agenda Item Number:** 1.d.

**Agenda Item:** Consider approving Resolution 2024-14 to adopt the 15% Collection Penalty to defray the cost of collection of delinquent taxes, penalties and interest due and unpaid as of July 1, 2024, and each year thereafter pursuant to Tax Code Sections 33.07 and 33.08.

**Initiating Department/Presenter:** City Manager

**Presenter:**
Sam Masiel, Assistant City Manager

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**Recommended Motion:** Move to approve Resolution 2024-14 to adopt the 15% Collection Penalty to defray the cost of collection of delinquent taxes, penalties and interest due and unpaid as of July 1, 2024, and each year thereafter pursuant to Tax Code Sections 33.07 and 33.08.

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**Strategic Initiative:** Strategic Priority #3, Quality of Life – Establish an environment where citizens can thrive and enjoy the city in which they live. Provide services that enhance the quality of life for all, with focus on the full life cycle (children, students, families, and retirees) - by creating amenities that support physical, mental and social well-being. Support access to quality health services, education, housing, transportation, recreation and the natural environment.

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**Discussion:** Perdue, Brandon, Fielder, Collins & Mott, L.L.P. handles the collection of delinquent property taxes on behalf of the Walker County Appraisal District (WCAD). They specialize in assisting local government entities in Texas with the enforcement and collection of property tax obligations. Their services include:

1. **Delinquent Tax Collection**: Implementing strategies to recover unpaid property taxes, including legal action when necessary.

2. **Taxpayer Assistance**: Providing support and resources to taxpayers to help them understand and meet their tax obligations, including setting up payment plans when appropriate.

3. **Legal Services**: Offering comprehensive legal support to ensure compliance with Texas property tax laws and regulations.

4. **Reporting and Analytics**: Supplying detailed reports and analysis on tax collection efforts and results to keep the WCAD informed and aid in decision-making.

The adoption of the Resolution ensures that delinquent taxpayers are subject to a 15% late payment penalty, which is imposed to encourage timely payment of property taxes. This measure, combined with the firm's expertise and systematic approach, helps ensure the efficient and effective collection of delinquent property taxes, thereby supporting the financial health of the local government.

**Previous Council Action:** None

**Financial Implications:** None to the City associated with this resolution.

**Approvals:**
Steve Ritter
Leonard Schneider
Sam Masiel
Aron Kulhavy
Kristy Doll

**Associated Information:**
1. Resolution 2024-14
2. Notice

# RESOLUTION NO 2024-14

**A RESOLUTION PROVIDING FOR A PENALTY TO DEFRAY COSTS OF COLLECTING DELINQUENT PROPERTY TAXES PURSUANT TO TEXAS TAX CODE SECTIONS 33.07 and 33.08**

WHEREAS it has been and remains the longstanding policy of the City of Huntsville that the expenses of collecting delinquent taxes owed to the City should not constitute an unfair burden on the general revenue and on the taxpayers who pay on time, and should be borne instead by the delinquent properties and their owners who are responsible for causing such expenses, and

WHEREAS the Council Members of the City of Huntsville are authorized by the provisions of Sections 33.07 and 33.08 of the Texas Property Tax Code to impose an additional penalty to defray the costs of collecting delinquent taxes due to the City, and

WHEREAS the provisions of Section 6.30 of the Texas Property Tax Code have been complied with and an additional penalty of 15% of all delinquent taxes, penalties, and interest due and unpaid as of July 1, 2024, to the City of Huntsville is appropriate and needed to defray the delinquent tax collection cost.

**NOW THEREFORE BE IT RESOLVED by the Council Members of the City of Huntsville** to adopt and ratify the additional fifteen (15%) percent penalty to defray the costs of collection of delinquent taxes, as authorized by Texas Tax Code, Sections 33.07 and 33.08 and under preceding Texas law, for the 2023 tax year, and for each succeeding year thereafter.

**PASSED AND APPROVED this the _____th day of _________, 2024.**

THE CITY OF HUNTSVILLE:

______________________________
Russell Humphrey, Mayor

ATTEST:

______________________________
Kristy Doll, City Secretary

APPROVED AS TO FORM:

______________________________
Leonard Schneider, City Attorney

# PUBLIC NOTICE

NOTICE PURSUANT TO GOVERNMENT CODE SEC. 2254.1036

WHEREAS, the City of Huntsville will consider approving 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. 2254.1036 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 City of Huntsville is pursuing a contract with the Firm for the collection of delinquent ad valorem taxes owed to the City of Huntsville. Through this contract the City of Huntsville seeks to increase recovery of delinquent debts in as expeditious a manner as possible. GOVT. CODE § 2254.1036(1)(A).

B. The City of Huntsville believes the Firm has the competency, qualifications, and experience necessary to fulfill the contract. GOVT. CODE § 2254.1036(1)(B). The Firm has collected delinquent government receivables for over 50 years, including the collection of delinquent taxes. The Firm currently has 15 primary offices and multiple satellite offices throughout Texas, Oklahoma and Florida. It employs over 400 individuals, including 63 attorneys. It uses a multi-office, fully integrated team approach allowing the City of Huntsville 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 City of Huntsville 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 City of Huntsville and the Firm is as follows: GOVT. CODE § 2254.1036(1)(C). The Firm has represented the City since 2002 in the collection of delinquent ad valorem taxes.

D. The City of Huntsville is unable to collect its own delinquent tax accounts. GOVT. CODE § 2254.1036(1)(D). The City of Huntsville 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 City.

E. These collection services cannot be provided for an hourly fee. GOVT. CODE § 2254.1036(1)(E). The Texas Property Tax Code allows the assessment of a percentage-based fee to recover the costs of collecting delinquent taxes. This percentage-based fee is assessed only against the delinquent taxpayer and not the City of Huntsville or other taxpayers of the City. 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 the amount of the delinquent ad valorem taxes due. Moreover, the City of Huntsville will bear the cost of these hourly fees and not the debtor, because Texas law does not expressly authorize the City to pay for collection services based on an hourly fee.

F. The City of Huntsville 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 tax accounts. Additionally, the percentage-based collection penalty is a pass-through expense to the debtor and not an expense to the City or its taxpayers.

**CERTIFICATE**

I, Kristy Doll, City Secretary, do hereby certify that the above notice was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, www.HuntsvilleTX.gov, in compliance with Chapter 551, Texas Government Code.

DATE OF POSTING: June 12, 2024

TIME OF POSTING: 12:00 p.m.

TAKEN DOWN:

Kristy Doll

Kristy Doll, City Secretary

**Written Findings:**

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

In an open meeting, the City of Huntsville considered all matters listed in 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 City Council, 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 the City of Huntsville; 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 City of Huntsville does not have funds to pay the estimated amounts required under a contract providing only for the payment of hourly fees.

Therefore, the City of Huntsville hereby approves the formation of the contract by and between the City 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.

______________________________________

CITY OF HUNTSVILLE

**CITY COUNCIL AGENDA**
6/18/2024

**Agenda Item Number:** 1.e.

**Agenda Item:** Consider approving 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 the City of Huntsville and notice of said contract is posted with the agenda in accordance with Section 2254 of the Government Code.

**Initiating Department/Presenter:** Finance

**Presenter:**
Sam Masiel, Assistant City Manager

**Recommended Motion:** Move 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 the City of Huntsville and notice of said contract is posted with the agenda in accordance with Section 2254 of the Government Code.

**Strategic Initiative:** Strategic Priority #3, Quality of Life – Establish an environment where citizens can thrive and enjoy the city in which they live. Provide services that enhance the quality of life for all, with focus on the full life cycle (children, students, families, and retirees) - by creating amenities that support physical, mental and social well-being. Support access to quality health services, education, housing, transportation, recreation and the natural environment.

**Discussion:** Perdue, Brandon, Fielder, Collins & Mott, L.L.P. handles the collection of delinquent property taxes on behalf of the Walker County Appraisal District (WCAD) and the various taxing entities in Walker County. They specialize in assisting local government entities in Texas with the enforcement and collection of property tax obligations. The firm has represented the City since 2002 for the collection of delinquent ad valorem taxes. Their services include:

1. **Delinquent Tax Collection**: Implementing strategies to recover unpaid property taxes, including legal action when necessary.

2. **Taxpayer Assistance**: Providing support and resources to taxpayers to help them understand and meet their tax obligations, including setting up payment plans when appropriate.

3. **Legal Services**: Offering comprehensive legal support to ensure compliance with Texas property tax laws and regulations.

4. **Reporting and Analytics**: Supplying detailed reports and analysis on tax collection efforts and results to keep the WCAD informed and aid in decision-making.

Their expertise and systematic approach help ensure the efficient and effective collection of delinquent property taxes, thereby supporting the financial health of the local government. Although they chiefly work with WCAD for the collection of the delinquent property taxes, a separate contingent fee contract is needed with each of the individual entities for whom they represent.

**Previous Council Action:**

**Financial Implications:**

**Approvals:**
Steve Ritter
Leonard Schneider
Sam Masiel
Aron Kulhavy
Kristy Doll

**Associated Information:**
1. Microsoft Word - City of Huntsville Contract 2024
2. Notice

# CONTRACT FOR THE COLLECTION OF DELINQUENT TAXES

**THE STATE OF TEXAS** §
§
**COUNTY OF WALKER** §

THIS CONTRACT is made and entered into by and between **CITY OF HUNTSVILLE**, a political subdivision of the State of Texas, acting by and through its City Council, hereinafter called Taxing Authority, and **PERDUE, BRANDON, FIELDER, COLLINS & MOTT, L.L.P.,** Attorneys at Law, Houston, Texas, or their duly authorized representatives, hereinafter called the Firm in accordance with Texas Property Tax Code, Title I, Subtitle B, Chapter 6, Subchapter B, Section 6.30(c).

**I.**

Taxing Authority agrees to employ and does hereby employ the Firm to enforce by suit or otherwise, the collection of all delinquent taxes, penalty and interest, owing to the Taxing Authority which the Taxing Authority's Tax Collector refers to the Firm, provided current years taxes becoming delinquent within the period of this contract shall become subject to its terms upon the following conditions:

A. Taxes that become delinquent during the term of this contract that are not delinquent for any prior year become subject to the terms of this contract on the 1st day of the month in which penalties attach to the taxes pursuant to Section 33.07 and 33.08 of the Texas Property Tax Code; and

B. Taxes that become delinquent during the term of this contract on property that are delinquent for prior years shall become subject to its terms on the first day of delinquency when such property is under litigation or comes under litigation or is referred to the firm for collection by the Taxing Authority's Tax Collector.

C. Taxing Authority reserves the right to make the final decision as to whether or not to enforce by suit any delinquent tax account turned over to the Firm for collection.

**II.**

The Firm is to call to the attention of the collector or other officials any errors, double assessments or other discrepancies coming under their observation during the progress of the work and is to intervene on behalf of the Taxing Authority in all suits for taxes hereafter filed by any taxing unit on property located within its taxing jurisdiction.

**III.**

The Firm agrees to make progress reports to the Taxing Authority on request and to advise the Taxing Authority of all cases where investigation reveals taxpayers to be financially unable to pay their delinquent taxes.

**IV.**

All activities performed by the Firm in connection with this contract (i.e. title research fees) are at no out of pocket cost to the taxing authority.

**V.**

Taxing Authority agrees to pay the Firm as compensation for services rendered hereunder, the percentage as set forth below, of the total amount of all delinquent taxes, penalty and interest which are subject to this contract and which are actually collected and paid to the Taxing Authority's Collector of Taxes, when an equal amount of Section 33.07 or 33.08 penalties is recovered from the taxpayer. Other taxes, including current taxes, which are turned over to the Firm by the Taxing Authority's Tax Assessor-Collector because of the necessity of filing claims in Bankruptcy, with other Federal authorities, or for other reasons, shall become subject to the terms of this contract at the time they are turned over to the Firm and the Firm shall be entitled to the appropriate percentage, as set forth below, of any amounts of delinquent taxes, penalties, and interest actually received by the Taxing Authority, and also the appropriate percentage, as set forth below, of current taxes actually received by the Taxing Authority when such percentage is actually recovered from the taxpayer, if collected prior to July 1st of any tax year.

Compensation Amounts

15% for all delinquent tax years.

**VI.**

Taxing Authority agrees to furnish to the Firm all data and information as to the name, and address of the taxpayer, the legal description of the property, years and amount of taxes due. Taxing Authority further agrees to update said information by furnishing a list of paid accounts and adjustments to the tax roll as necessary. Section 33.48(a) (4) of the Texas Property Tax Code provides: "In addition to other costs authorized by law, a taxing unit is entitled to recover…reasonable expenses that are incurred by the taxing unit in determining the name, identity and location of necessary parties and in procuring necessary legal descriptions of the property on which a delinquent tax is due:..." The Firm agrees to advance on behalf of Taxing Authority such costs and expenses. In consideration of the advancement of such costs and expenses by the Firm, Taxing Authority assigns its right to recover the same to the extent approved by the Court and/or customarily and usually approved by the Court. The Firm expressly waives any claim against Taxing Authority for uncollected costs or expenses.

**VII.**

This Contract shall commence on **June 18, 2024** and continue in force and effect until **June 18, 2027** and thereafter on a month to month basis 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 this agreement; and further provided that the Firm shall have an additional six (6) months to reduce to payment or judgment all tax litigation and bankruptcy claims filed prior to the date this agreement becomes terminated.

**VIII.**

Every provision of this Agreement is intended to be severable. If any term or provision hereof is hereafter deemed by a Court to be illegal, invalid, void or unenforceable, for any reason or to any extent whatsoever, such illegality, invalidity, or unenforceability shall not affect the validity of the remainder of this Agreement, it being intended that such remaining provisions shall be construed in a manner most closely approximating the intention of the Parties with respect to the illegal, invalid, void or unenforceable provision or part thereof.

Pursuant to Chapters 2252, 2271, and 2274 of the Texas Government Code, the Firm verifies that it does not and will not for the term of this contract boycott Israel or energy companies; that it does not have a policy which discriminates against a firearm entity or firearm trade association nor will it create such a policy for the term of this contract; and that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization.

The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. If you have a complaint against or dispute with this firm involving professional misconduct, the State Bar's Office of Chief Disciplinary Counsel will provide you with information about how to file a complaint.

In consideration of the terms and compensation here stated, the Firm hereby accepts said employment and undertakes the performance of this Contract as above written.

This Contract is executed on behalf of the Client by the presiding officer of the governing body who is authorized to execute this instrument by Order heretofore passed and duly recorded in its minutes.

WITNESS the signatures of all parties hereto in duplicate originals this the ______ day of _______________________________, 2024, Walker County, Texas.

**PERDUE, BRANDON, FIELDER, COLLINS & MOTT, L.L.P.**
Attorneys At Law
1235 North Loop West, Suite 600
Houston, Texas 77008
(713) 862-1860 or 1 (800) 833-5886
(713) 862-1429 Fax

By: Leslie Schkade

Leslie Schkade, Partner

**CITY OF HUNTSVILLE**

By:________________________________________

Attest:______________________________________

# PUBLIC NOTICE

NOTICE PURSUANT TO GOVERNMENT CODE SEC. 2254.1036

WHEREAS, the City of Huntsville will consider approving 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. 2254.1036 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 City of Huntsville is pursuing a contract with the Firm for the collection of delinquent ad valorem taxes owed to the City of Huntsville. Through this contract the City of Huntsville seeks to increase recovery of delinquent debts in as expeditious a manner as possible. GOVT. CODE § 2254.1036(1)(A).

B. The City of Huntsville believes the Firm has the competency, qualifications, and experience necessary to fulfill the contract. GOVT. CODE § 2254.1036(1)(B). The Firm has collected delinquent government receivables for over 50 years, including the collection of delinquent taxes. The Firm currently has 15 primary offices and multiple satellite offices throughout Texas, Oklahoma and Florida. It employs over 400 individuals, including 63 attorneys. It uses a multi-office, fully integrated team approach allowing the City of Huntsville 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 City of Huntsville 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 City of Huntsville and the Firm is as follows: GOVT. CODE § 2254.1036(1)(C). The Firm has represented the City since 2002 in the collection of delinquent ad valorem taxes.

D. The City of Huntsville is unable to collect its own delinquent tax accounts. GOVT. CODE § 2254.1036(1)(D). The City of Huntsville 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 City.

E. These collection services cannot be provided for an hourly fee. GOVT. CODE § 2254.1036(1)(E). The Texas Property Tax Code allows the assessment of a percentage-based fee to recover the costs of collecting delinquent taxes. This percentage-based fee is assessed only against the delinquent taxpayer and not the City of Huntsville or other taxpayers of the City. 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 the amount of the delinquent ad valorem taxes due. Moreover, the City of Huntsville will bear the cost of these hourly fees and not the debtor, because Texas law does not expressly authorize the City to pay for collection services based on an hourly fee.

F. The City of Huntsville 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 tax accounts. Additionally, the percentage-based collection penalty is a pass-through expense to the debtor and not an expense to the City or its taxpayers.

**CERTIFICATE**

I, Kristy Doll, City Secretary, do hereby certify that the above notice was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, www.HuntsvilleTX.gov, in compliance with Chapter 551, Texas Government Code.

DATE OF POSTING: June 12, 2024

TIME OF POSTING: 12:00 p.m.

TAKEN DOWN:

*Kristy Doll*

Kristy Doll, City Secretary

**Written Findings:**

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

In an open meeting, the City of Huntsville considered all matters listed in 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 City Council, 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 the City of Huntsville; 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 City of Huntsville does not have funds to pay the estimated amounts required under a contract providing only for the payment of hourly fees.

Therefore, the City of Huntsville hereby approves the formation of the contract by and between the City 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.

_____________________________________________

CITY OF HUNTSVILLE

**CITY COUNCIL AGENDA**
6/18/2024

**Agenda Item Number:** 6.a.

**Agenda Item:** City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.087 for deliberation regarding economic development negotiations - Project Goose

**Initiating Department/Presenter:** Economic Development

**Presenter:**
Tammy Gann, Director of Economic Development

**Recommended Motion:** No action required

**Strategic Initiative:** Goal #3, Economic Development – Promote and enhance a strong and diverse economy.

**Discussion:**

**Previous Council Action:**

**Financial Implications:**

**Approvals:**
Tammy Gann
Aron Kulhavy

**Associated Information:**

**CITY COUNCIL AGENDA**
6/18/2024

**Agenda Item Number:** 6.b.

**Agenda Item:** City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.087 for deliberation regarding economic development negotiations - Project Blondie

**Initiating Department/Presenter:** Economic Development

**Presenter:**
Tammy Gann, Director of Economic Development

**Recommended Motion:** No action required

**Strategic Initiative:** Goal #3, Economic Development – Promote and enhance a strong and diverse economy.

**Discussion:**

**Previous Council Action:**

**Financial Implications:**

**Approvals:**
Tammy Gann
Aron Kulhavy

**Associated Information:**