

South Texas College
Board of Trustees
Finance, Audit, and Human Resources Special Committee
Ann Richards Administration Building Board Room
Pecan Campus, McAllen, Texas
Tuesday, March 31, 2020 @ 4:30 p.m.

Agenda

“At anytime during the course of this meeting, the Board of Trustees may retire to Executive Session under Texas Government Code 551.071(2) to confer with its legal counsel on any subject matter on this agenda in which the duty of the attorney to the Board of Trustees under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at anytime during the course of this meeting, the Board of Trustees may retire to Executive Session to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more of the exceptions to the Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code.”

- I. Presentation and Interview of Firms for Delinquent Tax Collection Services for Hidalgo County and Starr County
- II. Review and Recommend Action on Firm for Delinquent Tax Collection Services for Hidalgo County and Starr CountyReturn to Agenda

Date: 3/25/20

Re: STC Delinquent Tax Counsel

From: Chuy Ramirez

This summary is suggested as supplementary to any notice (including posted bulletin notice and internet-notice) which the College has previously issued in order to comply with the public notice requirements of HB 2826 and Section 2254.101, Government Code, as amended (the “Act”). Previously posted bulletin notice and written materials providing some Notice required under HB 2826 and Section 2254.101 have been attached to agendas of College meetings. Thus, the following material, satisfies the remainder of the public notice requirement. This public notice may be placed directly under the College trustee’s meeting Agenda Item: “Engagement of Bond Counsel” and/or may be attached to the agenda and/or the District’s notice in its webpage, prior to the next board meeting. Such procedures will satisfy the requirement that “Public Notice” be issued under the Act.

The Public Notice Requirements Under HB 2826 are the following:

This public notice is issued as required by Government Code Section 2254.10, et. Seq., as amended by provisions of HB 2826 (the “Act”). Such notice is required on or before the time of giving written notice of the meeting at which a contingency fee contract for legal services is to be approved.

The College seeks to engage the services of delinquent tax counsel, which may be a contingency fee agreement, with fees determined as provided under the Act. In that regard, the College needs to engage the services of delinquent tax counsel who has demonstrated competence, qualifications and experience in the requested services. The College has included in its Request for Proposals for Delinquent Tax Counsel which have been fully disclosed to the public prior to the trustee’s meeting (and thus satisfied) the matters required to be disclosed under sections (A) through (C) below. Further notice is provided in sections (D) through (F) below:

- (A) the services sought by the College;
- (B) the competence, qualifications and experience demonstrated by the law firm which would be selected as counsel;
- (C) the terms of the engagement agreement, which included counsel's obligations, fees and the right of the College to terminate or continue the agreement beyond the initial term and the relationship between the parties;

The following notices are provided:

- (D) the legal services sought by the College cannot be adequately performed by the College's general counsel, other counsel regularly engaged by the College and the supporting personnel of the College. The tax collection services require competences, experience and legal knowledge which are not normally had by general counsel and the College's supporting personnel. Specifically, the College's Request for Qualifications sets out these competences, experience and legal knowledge essential to the delinquent tax collection services which the College seeks. Further, the specialized legal services required by the fee agreement require a high cost of implementing the appropriate infrastructure and technology and employing sufficient in-house attorneys and staff with the level of experience and competence necessary to perform the myriad of services.
- (E) for the same reasons described in (D) above, a contingent fee contract for legal services is in the best interest of the residents of the College. In HB 2826, the Texas Legislature expressly recognizes that delinquent tax collection services are unique and particularly limited given the financial stability and technological resources and competences, experience and legal knowledge that are required to be had in order for legal counsel to perform its services in an efficient manner. The areas of legal practice which delinquent counsel typically is required to engage in in order to perform its services include: Texas constitutional, statutory and common law as it relates to legal titles, probate, encumbrances mortgages, foreclosures; collection procedures; interest and usury; federal tax law and bankruptcy law;

(F) the engagement of delinquent tax collection counsel on a contingency fee basis is in the best interest of the College and of its residents on the basis of the following: (1) the College has the benefit of receiving and relying on the legal advice of a qualified and experienced legal counsel; (2) the College avoids having to pay significant amounts of money as fees for a multiplicity of legal services and reimburseable costs and expenses; (3) a contingency fee allows the College to pay for legal fees as they are earned by legal counsel rather than to rely on its Maintenance and Operations Fund. Further, Texas Tax Code Sections 6.30, 33.07, 33.08, 33.11, and 33.48 specifically provide for an additional penalty imposed on delinquent taxes to compensate collection attorneys