



City of Austin
Law Department

301 W. 2nd Street, P.O. Box 1088
Austin, Texas 78767-1088
(512) 974-2268

(512) 974-2268
Writer's Direct Line

(512) 974-2912
Writer's Fax Line

April 28, 2011

James E. Cousar
Thompson & Knight, L.L.P.
98 San Jacinto Boulevard, Suite 1900
Austin, TX 78701

RE: Provide legal services related to the litigation related to Cause No.
D-1-GN-11-000639, as assigned by the City Attorney

Dear Mr. Cousar:

This Engagement Letter confirms that you will represent the City of Austin to provide legal services concerning the above-referenced matter. The City requires outside counsel to follow certain policies outlined in the attached Terms of Engagement. Please sign and return this Engagement Letter to Teresa Medina in the enclosed envelope, confirming that you agree to these policies.

I am the in-house attorney responsible for managing this matter (the "Managing Attorney"). The City will pay for the legal services you provide, in a total amount not to exceed **\$110,000.00** for all fees and expenses billed under this agreement.

We have agreed that your billing rate for this matter is **\$425.00** per hour. The agreed billing rates for any other named attorney(s) and paralegal(s) authorized to work on this matter, if any, are shown on the attached **Rate Schedule**. **The City will not pay for work by any person not listed on the Rate Schedule unless I preauthorize the change in writing in an amendment to the Rate Schedule.** Unless later agreed to in writing, these hourly rates are set for the duration of this engagement.

If you require consultant or subcontractor services, you must receive prior written approval from me. Pursuant to the City's accounting and auditing policies, you must bill the City on your letterhead for services rendered by other firms, i.e., court reporters, record companies, and consultants. The City cannot pay invoices from other businesses if they were not hired directly by the City.

James E. Cousar

4/28/2011

Page 2

If you have any questions, please do not hesitate to call me.

Sincerely)

A handwritten signature in black ink, appearing to read "Karen M. Kennard". The signature is fluid and cursive, with a large loop at the end.

Karen M. Kennard

City Attorney

AGREED:

James E. Cousar

Thompson & Knight, L.L.P.

Attachments: Terms of Engagement
Rate Schedule

KMK/tmm

Outside Counsel Hourly Rate Schedule and Authorized Staff

The City will only pay for work done by the staff named and at the hourly rates listed below.

The City expects that this matter will be leanly staffed and economically handled.

Work is to be done by the person with the appropriate qualifications and an appropriate hourly rate for the services performed.

The City expects that work on city matters will be done at hourly rates that are a substantial discount from the firm's general billing rates.

These hourly rates are set for the duration of the engagement.

Only the following people are authorized to work on this matter:

| | | |
|-----------------|---|--------------------|
| James E. Cousar | Partner | \$425/hr |
| Cleve Burke | Associate | \$295/hr |
| Laurie Miraglia | Librarian | \$95/hr |
| <u>Name</u> | <u>Classification (e.g., "partner," "associate," "paralegal")</u> | <u>Hourly Rate</u> |

Agreed:

Outside Counsel Initials

Date

THOMPSON & KNIGHT LLP

ATTORNEYS AND COUNSELORS

1900 SAN JACINTO CENTER
98 SAN JACINTO BOULEVARD
AUSTIN, TEXAS 78701-4238
(512) 469-6100
FAX (512) 469-6180
www.tklaw.com

TAX ID No. 75-2813604
WWW.TKLAW.COM

11-176
AUSTIN
DALLAS
DETROIT
FORT WORTH
HOUSTON
NEW YORK
ALGIERS
LONDON
MEXICO CITY
MONTERREY
PARIS

May 18, 2011
Invoice 41375841

CITY OF AUSTIN
ATTN JAMETTA JONES-ERVIN
LAW DEPARTMENT
PO BOX 1088
AUSTIN TX 78767

REMITTANCE COPY

For Services Rendered Through March 31, 2011

Our Matter # 015990.000011
AUSTIN BULLDOG V.

| | | |
|---|-----------|---------------------|
| Matter Balance Brought Forward | \$ | 0.00 |
| Fees for Professional Services | 29,808.00 | |
| Reimbursable Costs | 64.59 | |
| Net Current Billing For This Matter | \$ | <u>29,872.59</u> |
| TOTAL DUE FOR THIS MATTER | | <u>\$ 29,872.59</u> |

Please remit payment within fifteen (15) days to:
DEPT. 70, P.O. BOX 4346, HOUSTON, TX 77210-4346
**To ensure proper credit please return this copy
with your remittance.**

TM# 50708

THOMPSON & KNIGHT LLP

ATTORNEYS AND COUNSELORS

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Page 1
May 18, 2011
Invoice 41375841

CITY OF AUSTIN
ATTN JAMETTA JONES-ERVIN
LAW DEPARTMENT
PO BOX 1088
AUSTIN TX 78767

INVOICE SUMMARY

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AUSTIN BULLDOG V.

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Our Matter # 015990.000011
AUSTIN BULLDOG V.

| | | |
|------------|--|-----------|
| 03/02/2011 | Discuss Austin Bulldog v. City of Austin with J. Cousar; review original petition; review Local Government Records Act; research caselaw on claims against officials rather than governmental bodies; research caselaw on the private cause of action to enforce statutory remedies C BURKE | 2.80 hrs. |
| 03/02/2011 | Telephone conference with City Attorney; review new petition; investigate law on records retention and absence of private cause of action; other legal research; conference with librarian; conference with associate attorney; review reports of new litigation; telephone conference with other City staff J COUSAR | 5.10 hrs. |
| 03/03/2011 | Review caselaw and other authority; conference with City attorney; conference with City Council at executive session; conference with C. Burke; correspondence with Plaintiff's counsel J COUSAR | 5.80 hrs. |
| 03/03/2011 | Review LGRA and caselaw regarding private cause of action; review Government Code subchapter on local government records; research caselaw on TPIA and no implied cause of action; discuss findings with J. Cousar C BURKE | 2.50 hrs. |
| 03/04/2011 | Telephone conferences and e-mails with plaintiff's counsel; review City Attorney correspondence and memo; investigate law on plaintiff's claims J COUSAR | 2.10 hrs. |
| 03/07/2011 | Research caselaw on the immunity and distinction between discretionary and ministerial acts C BURKE | 1.60 hrs. |
| 03/07/2011 | Telephone conference with attorney for plaintiff; review amended petition; prepare for March 8 work session; correspondence with city attorney; forward settlement proposal J COUSAR | 2.20 hrs. |
| 03/08/2011 | Telephone conference with clients; review settlement proposal with City Attorney; investigate law on statutes cited in case and case law; conference with librarian J COUSAR | 2.20 hrs. |
| 03/08/2011 | Research caselaw on official immunity and suits for declaratory relief, injunctive relief, and mandamus; discuss same with J. Cousar; review secondary sources on recent Supreme Court cases on governmental immunity C BURKE | 2.20 hrs. |
| 03/09/2011 | Research and review articles on immunity; review caselaw on procedure for plea to jurisdiction; confer with J. Cousar regarding research related to enforcement of statutes regulating governmental conduct C BURKE | 1.40 hrs. |
| 03/09/2011 | Detailed review of Texas law on immunity, procedures for plea to jurisdiction, and private enforcement of statutes; conference with C. Burke; correspondence with City Attorney; set up council conferences J COUSAR | 4.00 hrs. |
| 03/10/2011 | Investigate law on immunity; conference with C. Burke and librarian; review caselaw and Attorney General opinions; draft and revise correspondence to City Council Members and Mayor; set up meeting with Mayor and City Council Members; telephone conference and e-mails with City Attorney J COUSAR | 3.50 hrs. |
| 03/10/2011 | Per J. Cousar, locate and retrieve cases regarding custodian of public records L MIRAGLIA | 0.60 hrs. |
| 03/11/2011 | Research caselaw and procedure for plea to the jurisdiction | |

| | | | |
|------------|------------|-----------|---|
| 03/11/2011 | C BURKE | 1.10 hrs. | Draft plea to jurisdiction; confer with associate attorney; review additional reports; e-mails with City legal; telephone conference with council staff and set up meetings |
| 03/14/2011 | J COUSAR | 1.30 hrs. | Research caselaw on plea to jurisdiction procedure and actions to enforce statutes against the government; research document retention and destruction rules in Texas Government Code Ch. 441 |
| 03/14/2011 | C BURKE | 2.90 hrs. | Correspondence with attorney for plaintiffs; telephone conference with council members; meeting with Mayor; draft responsive pleadings; meeting with council member Morrison; review case law |
| 03/15/2011 | J COUSAR | 2.00 hrs. | Per J. Cousar, locate and retrieve cases and underlying district court filings |
| 03/15/2011 | L MIRAGLIA | 0.50 hrs. | Research caselaw regarding governmental immunity, pleas to the jurisdiction, and citizen's suit to enforce statutes on government conduct |
| 03/15/2011 | C BURKE | 2.10 hrs. | Correspondence with City legal team regarding litigation and reports to council at coming meetings; investigate law on controlling legal issues; conference with staff regarding related litigation; review case files; attend meetings at City Hall with three council members and City attorney |
| 03/16/2011 | J COUSAR | 3.50 hrs. | Correspondence with counsel for plaintiff; telephone conference with counsel for plaintiff; meetings with council member Spelman; conference with Mayor Leffingwell; conference with A. Morgan; review additional documents responsive to PIA requests |
| 03/17/2011 | J COUSAR | 1.40 hrs. | Review additional e-mails to be released to plaintiff per TPIA requests; multiple telephone calls and e-mails with City team; draft responsive pleading |
| 03/18/2011 | J COUSAR | 2.10 hrs. | Telephone conference with attorney for Austin Bulldog; meeting with City Attorney and City staff; draft letter to plaintiff's attorney |
| 03/21/2011 | J COUSAR | 1.90 hrs. | Conference with City Council member; review new media accounts; draft pleadings; correspondence with City legal team; conference with City staff |
| 03/22/2011 | J COUSAR | 1.30 hrs. | Prepare responsive pleading; conference with legal team |
| 03/22/2011 | J COUSAR | 3.00 hrs. | Prepare responsive pleadings; investigate law; conference with City legal team; review new Austin Bulldog demand to County Attorney; conference with County Attorney |
| 03/23/2011 | J COUSAR | 2.80 hrs. | Per J. Cousar, locate and retrieve information regarding and briefs filed in Supreme Court case |
| 03/24/2011 | L MIRAGLIA | 0.30 hrs. | Per J. Cousar, locate and retrieve opinions citing Texas Government Code section 552.3215 |
| 03/24/2011 | L MIRAGLIA | 0.50 hrs. | Attend City Council executive session; confer with City legal team and council members; update review of caselaw for responsive pleading |
| 03/24/2011 | J COUSAR | 2.40 hrs. | Draft responsive pleadings; telephone conferences and e-mails with City team; review response to Attorney General on cost issue; telephone conferences and e-mails with plaintiff's attorney; conference with librarian; review City Charter and City Code |
| 03/25/2011 | J COUSAR | 2.00 hrs. | |

| | | |
|------------|--|-----------|
| 03/25/2011 | Per J. Cousar, locate and retrieve information regarding provision of copies under Texas Public Information Act L MIRAGLIA | 0.40 hrs. |
| 03/27/2011 | Correspondence among counsel for City; review e-mail from plaintiff's attorney; review City Attorney's draft memo to City Council J COUSAR | 0.60 hrs. |
| 03/28/2011 | Conference with associate regarding research on privilege on e-mails with attorney-client privileged content; meet with City Council member; review documents potentially responsive to PIA requests; draft memos to City Council members; review correspondence and memos from legal team J COUSAR | 2.00 hrs. |
| 03/29/2011 | Conference with City legal team; attend executive session and public session; attend meeting with Mayor; attend meetings with individual Council members; e-mails with plaintiff's attorney J COUSAR | 3.00 hrs. |
| 03/30/2011 | Correspondence with attorney for plaintiff; telephone conference with council members and aides; telephone conferences and e-mails with plaintiff's attorney; conference with legal assistant; review personal system e-mails to be released J COUSAR | 1.80 hrs. |
| 03/31/2011 | Telephone conferences with clients and client staff; e-mails with plaintiff's attorney; draft and forward rule 11 agreement; review and edit released e-mail information J COUSAR | 2.10 hrs. |

Fees for Professional Services \$ 29,808.00

Summary of Fees

| Name | Title | Hours | Rate/Hr | Amount |
|-------------|------------|--------------|-------------|---------------------|
| COUSAR, J | PARTNER | 58.10 | \$ 425.00 ✓ | \$ 24,692.50 |
| BURKE, C | ASSOCIATE | 16.60 | 295.00 ✓ | 4,897.00 |
| MIRAGLIA, L | FILE CLERK | 2.30 | 95.00 ✓ | 218.50 |
| Total | | <u>77.00</u> | | <u>\$ 29,808.00</u> |

Reimbursable Costs

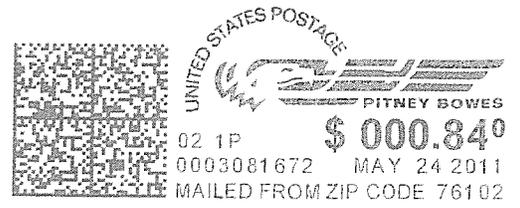
| | | |
|--------------------------------|--|-----------------|
| 03/15/2011 | Copies - VENDOR: Fran L Vincent - petty cash for copy of filings at Travis County District Court | \$ 20.00 |
| 03/15/2011 | Delivery Charges - VENDOR: Courier Depot - Travis County District Court | \$ 16.69 |
| 03/23/2011 | Copies - VENDOR: Fran L Vincent - petty cash for copy of filings at Travis County District Court | \$ 15.00 |
| 03/23/2011 | Delivery Charges - VENDOR: Courier Depot - Travis County District Clerk | \$ 10.00 |
| | Copy Charges | 0.30 |
| | Electronic Research | 2.60 |
| Total Reimbursable Costs | | <u>\$ 64.59</u> |

CURRENT FEES AND COSTS FOR THIS MATTER \$ 29,872.59

TOTAL DUE FOR THIS MATTER.....\$ 29,872.59

HOMPSON & KNIGHT LLP

ATTORNEYS AND COUNSELORS
1700 PACIFIC AVENUE • SUITE 3300
DALLAS, TEXAS 75201-4693



RECEIVED
MAY 27 2011
LAW DEPARTMENT

FIRST CLASS MAIL