



City of Austin
Law Department

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

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FEB 07 2011
Admin / Finance

(512) 974-2268
Writer's Direct Line

(512) 974-2912
Writer's Fax Line

January 28, 2011

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

RE: Provide legal advice and counsel relating to Texas Open Meetings Act issues, as assigned by the City Attorney, including assisting the city to ensure that its policies and practices are in compliance with the Texas Open Meetings Act.

Dear Mr. ~~Cousar~~ Jim

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. Please include proof of professional liability insurance with minimum limits of one million dollars (\$1,000,000) per occurrence, per "Section II" of attached Addendum.

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 \$53,000.00 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
January 28, 2011
Page 2

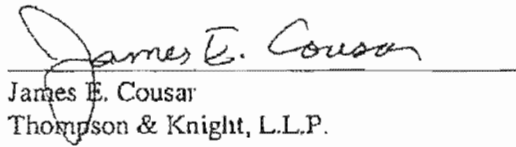
If you have any questions, please do not hesitate to call me.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Karen M. Kennard".

Karen M. Kennard
Acting City Attorney

AGREED:

A handwritten signature in black ink, appearing to read "James E. Cousar", positioned above a horizontal line.

James E. Cousar
Thompson & Knight, L.L.P.

Attachments: Terms of Engagement
Rate Schedule

KMK/tmm

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
Name	Classification (e.g., "partner," "associate," "paralegal")	Hourly Rate

Agreed:

JBL
Outside Counsel Initials

02/03/11
Date

Revised April 28, 2008

THOMPSON & KNIGHT LLP

ATTORNEYS AND COUNSELORS

1900 SAN JACINTO CENTER
98 SAN JACINTO BOULEVARD
AUSTIN, TEXAS 78701-4238
(512) 469-6100
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TAX ID No 75-2813804
WWW.TKLAW.COM

February 15, 2011
Invoice 41365663

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

REMITTANCE COPY

For Services Rendered Through January 31, 2011

Our Matter # 015990.000009
ADVICE AND COUNSEL ON TOMA

Matter Balance Brought Forward	\$	0.00
Fees for Professional Services		5,992.50
Reimbursable Costs		0.00
Net Current Billing For This Matter.....	\$	<u>5,992.50</u>
TOTAL DUE FOR THIS MATTER.....		<u>\$ 5,992.50</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# 49882
11-041

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THOMPSON & KNIGHT LLP

ATTORNEYS AND COUNSELORS

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Page 1
February 15, 2011
Invoice 41365663

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

INVOICE SUMMARY

For Services Rendered Through January 31, 2011

Our Matter # 015990.000009
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TOTAL DUE FOR THIS MATTER	\$	<u>5,992.50</u>

Please remit payment within fifteen (15) days

Our Matter # 015990.000009
ADVICE AND COUNSEL ON TOMA

01/26/2011	Telephone conference with City Attorney; e-mails with City Attorney; review TOMA caselaw and Attorney General opinions J COUSAR	1.00 hrs.
01/27/2011	Prepare for meeting with City legal department; conference with librarian; review additional caselaw; attend meeting J COUSAR	3.00 hrs.
01/28/2011	Prepare for executive session; conference with B. Heath; telephone conferences with R. Leavitt and B. Heath; review attorney-client privileged powerpoint; attend executive session; follow-up with city attorney; review 1980s TOMA cases and recent law review articles J COUSAR	6.00 hrs.
01/31/2011	Prepare for meeting with Mayor; review 2010 City Council agendas; review client materials from January 28; correspondence with B. Heath and R. Leavitt; attend meeting with Mayor; conference with City staff J COUSAR	4.10 hrs.

Fees for Professional Services \$ 5,992.50

Summary of Fees

Name	Title	Hours	Rate/Hr	Amount
COUSAR, J	PARTNER	14.10	\$ 425.00	\$ 5,992.50
Total		14.10		\$ 5,992.50

CURRENT FEES AND COSTS FOR THIS MATTER \$ 5,992.50

TOTAL DUE FOR THIS MATTER \$ 5,992.50

THOMPSON & KNIGHT LLP

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March 22, 2011
Invoice 41369685

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

REMITTANCE COPY

For Services Rendered Through February 28, 2011

Our Matter # 015990.000009
ADVICE AND COUNSEL ON TOMA

Matter Balance Brought Forward	\$	0.00
Fees for Professional Services	19,204.00	
Reimbursable Costs	25.00	
Net Current Billing For This Matter.....	\$	<u>19,229.00</u>
TOTAL DUE FOR THIS MATTER.....		<u>\$19,229.00</u>

Please remit payment within fifteen (15) days to:
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MAR 25 2011

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TN# 49882

11-074

THOMPSON & KNIGHT LLP

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Page 1
March 22, 2011
Invoice 41369685

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

INVOICE SUMMARY

For Services Rendered Through February 28, 2011

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Our Matter # 015990.000009
ADVICE AND COUNSEL ON TOMA

02/01/2011	Conference call with outside attorneys; telephone conference with Mayor; telephone conference with other attorneys familiar with City practices; review document from client; edit document; work product notes regarding January 31 meeting J COUSAR 2.50 hrs.
02/02/2011	Telephone conference and e-mails with co-counsel; telephone conference with Mayor; prepare for and attend meeting with council member Bill Spelman; review published accounts; conference with co-counsel and City Attorney J COUSAR 3.50 hrs.
02/03/2011	Attend meeting at City Hall with Council Member Martinez; follow up with City Attorney; meeting with City Manager; review Martinez transcript; telephone conferences and e-mails with City Staff; review draft City Attorney memo J COUSAR 4.60 hrs.
02/04/2011	Review council member transcript, correspondence with co-counsel; correspondence with council members J COUSAR 1.10 hrs.
02/07/2011	Correspondence with co-counsel; correspondence with J. Cullom regarding TPIA requests; review council member transcripts J COUSAR 1.20 hrs.
02/08/2011	Meeting at City Hall with R. Shade and R. Leavitt; meeting with K. Kennard; review TPIA requests and responses; e-mails with B. Heath J COUSAR 4.30 hrs.
02/09/2011	Multiple e-mails with City Legal Department, B. Heath and R. Leavitt regarding TPIA issues; review and organize attorney notes from interviews; review TPIA exceptions J COUSAR 2.00 hrs.
02/10/2011	Per J. Cousar, locate and retrieve changes in open meeting legislation L MIRAGLIA 0.30 hrs.
02/11/2011	Correspondence with R. Leavitt and K. Kennard J COUSAR 0.20 hrs.
02/14/2011	Per J. Cousar, locate and retrieve Open Records Letter Rulings and Decisions L MIRAGLIA 1.00 hrs.
02/14/2011	Telephone conference with R. Leavitt; telephone conferences and e-mails with city attorneys; investigate law on TOMA and TPIA issues; conference with librarian; meeting with K. Kennard and R. Leavitt at City Hall; review PIA requests J COUSAR 4.80 hrs.
02/15/2011	Telephone conferences with two council members regarding PIA responses; correspondence among COA attorneys; review briefs from Dallas litigation; review February 16 and February 17 agendas J COUSAR 2.50 hrs.
02/16/2011	Telephone conference with council member; review documents potentially responsive to PIA requests; conference with staff; review correspondence from City Attorney; additional meeting with city staff; review stipend policies; review Dallas briefs; prepare for February 17 executive session J COUSAR 3.10 hrs.
02/17/2011	Additional review of potentially responsive documents; prepare for executive session; conference among attorneys; attend executive session J COUSAR 4.50 hrs.
02/18/2011	Separate meetings at City with City Attorney, legal staff, Mayor Pro Tem and council member Morrison; review documents potentially responsive to PIA requests; conference with co-counsel;

	follow-up correspondence	
	J COUSAR	3.30 hrs.
02/21/2011	Conference with associate regarding research needed; internal correspondence among attorneys; review interview with CM(?) on TOMA issues	
	J COUSAR	0.70 hrs.
02/22/2011	Review draft correspondence on PIA requests; review correspondence from requestors	
	J COUSAR	0.40 hrs.
02/22/2011	Research specific Texas Attorney General opinions that relate to the Texas Open Meetings Act	
	C BURKE	0.70 hrs.
02/23/2011	Correspondence with City legal team; review responses to PIA letter; review cited statutes, regulations and case law	
	J COUSAR	1.10 hrs.
02/24/2011	Correspondence among legal team; review e-mail and draft document from J. Cullom; review published accounts on PIA and TOMA issues	
	J COUSAR	1.00 hrs.
02/25/2011	Review draft legal memo to City Council; correspondence among attorneys regarding research needed; review caselaw	
	J COUSAR	0.70 hrs.
02/28/2011	Review new caselaw from B. Heath; internal correspondence; review and revise legal memo to council; telephone conferences and e-mails among outside counsel; investigate law; conference with TK librarian; conference call with City attorneys	
	J COUSAR	3.20 hrs.
02/28/2011	Per J. Cousar, locate and retrieve Texas Archives & Library Commission records retention information	
	L MIRAGLIA	0.30 hrs.

Fees for Professional Services \$ 19,204.00

Summary of Fees

Name	Title	Hours	Rate/Hr	Amount
COUSAR, J	PARTNER	44.70	\$ 425.00 ✓	\$ 18,997.50
BURKE, C	ASSOCIATE	0.70	295.00	206.50
Total		<u>47.00</u>		<u>\$ 19,204.00</u>

Reimbursable Costs

Copy Charges	25.00
Total Reimbursable Costs	<u>\$ 25.00</u>
CURRENT FEES AND COSTS FOR THIS MATTER	<u>\$ 19,229.00</u>
TOTAL DUE FOR THIS MATTER	<u>\$ 19,229.00</u>

THOMPSON & KNIGHT LLP

ATTORNEYS AND COUNSELORS

1900 SAN JACINTO CENTER
98 SAN JACINTO BOULEVARD
AUSTIN, TEXAS 78701-4238



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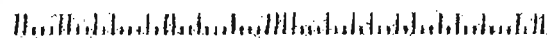
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MAR 02 2011

LAW DEPARTMENT



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Austin, Texas 78767-1088
(512) 974-2268

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Writer's Fax Line

March 28, 2011

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

RE: Rate Schedule Amendment

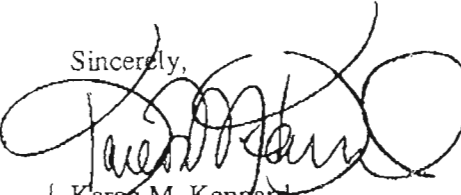
Dear Jim:

This letter authorizes an amendment to the legal services contract dated February 28, 2011 to retain you and your firm for legal services related to Texas Open Meetings Act Issues. This amendment authorizes the following people to provide services on this matter, effective February 1, 2011, at the rate set forth below.

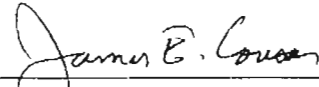
- James E. Cousar - Partner \$425/hr
- Cleve Burke - Associate \$295/hr
- Laurie Miraglia-Librarian \$95/hr

Please indicate your approval by signing this letter below, and returning it in the enclosed envelope to Teresa Medina, City of Austin Law Department, at your earliest convenience.

Sincerely,


Karen M. Kennard
City Attorney

AGREED:


James E. Cousar
Thompson & Knight, L.L.P.

*Initial letter was issued
January 28, 2011*

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APR 26 2011

LAW DEPARTMENT

11-172

TM# 49882

THOMPSON & KNIGHT LLP

ATTORNEYS AND COUNSELORS

1900 SAN JACINTO CENTER
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TAX ID No. 75-2813604
WWW.TKLAW.COM

April 13, 2011
Invoice 41371877

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 # 015990.000009
ADVICE AND COUNSEL ON TOMA

Matter Balance Brought Forward	\$	0.00
Fees for Professional Services	11,481.00	
Reimbursable Costs	48.80	
Net Current Billing For This Matter	\$	<u>11,529.80</u>
TOTAL DUE FOR THIS MATTER		<u>\$ 11,529.80</u>

Please remit payment within fifteen (15) days to:
DEPT. 70, P.O. BOX 4346, HOUSTON, TX 77210-4346
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THOMPSON & KNIGHT LLP

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Page 1
April 13, 2011
Invoice 41371877

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Please remit payment within fifteen (15) days

Our Matter # 015990.000009

ADVICE AND COUNSEL ON TOMA

03/01/2011	Correspondence with client regarding Attorney General ruling; telephone conference with council members and aides; review Texas case law on potential claims under TPIA or TOMA J COUSAR	2.40 hrs.
03/02/2011	Telephone conference and e-mails with City Attorney and City staff J COUSAR	0.50 hrs.
03/02/2011	Per J. Cousar, locate and retrieve Texas Archives & Library Commission records retention schedules and materials L MIRAGLIA	0.20 hrs.
03/03/2011	Conference with R. Leavitt and City attorney; attend executive session J COUSAR	1.50 hrs.
03/04/2011	Review additional client documents; e-mails among City legal team; investigate law for March 8 briefing J COUSAR	1.10 hrs.
03/07/2011	Correspondence among legal team; correspondence with Mayor J COUSAR	0.50 hrs.
03/08/2011	Per J. Cousar, locate and retrieve articles regarding prior open meetings prosecutions L MIRAGLIA	0.50 hrs.
03/08/2011	Locate and retrieve articles discussing immunity issues L MIRAGLIA	0.30 hrs.
03/08/2011	Correspondence with K. Kennard; conference with Mayor; conference with City legal team; attend City Council work session for briefing J COUSAR	1.60 hrs.
03/09/2011	E-mails with City attorney; review published publications; correspondence among legal team J COUSAR	0.60 hrs.
03/09/2011	Locate and retrieve cases and rules under Texas Local Government Code L MIRAGLIA	0.30 hrs.
03/11/2011	Research caselaw addressing potential defamation issues C BURKE	0.70 hrs.
03/14/2011	Correspondence with legal team; prepare for March 15 meeting J COUSAR	0.50 hrs.
03/15/2011	Meeting and e-mails with City legal team J COUSAR	0.50 hrs.
03/16/2011	Confer with A. Morgan; correspondence among legal team; review additional documents produced in response to PIA requests J COUSAR	0.60 hrs.
03/17/2011	Correspondence among attorneys; review legislative developments J COUSAR	0.50 hrs.
03/18/2011	E-mails with City staff and legal team; conference with City staff and legal team; review documents; review pending TPIA requests J COUSAR	2.10 hrs.
03/21/2011	Correspondence with City legal team; review correspondence from outside parties; review draft presentations and correspondence regarding March 22 and March 24 council sessions; telephone conference with City Council members J COUSAR	1.20 hrs.
03/22/2011	Conference with legal team; work on responses to County Attorney J COUSAR	1.10 hrs.

03/23/2011	Prepare for March 25 City Council executive session; telephone conferences and e-mails with City legal team; conference with County Attorney regarding compliance measures J COUSAR	1.10 hrs.
03/24/2011	Review draft executive session presentation; telephone conferences and e-mails with City legal team; conference with council members and attorneys; attend executive session J COUSAR	1.80 hrs.
03/25/2011	Review new WDT opinion on TOMA; telephone conferences and correspondence among City legal team; telephone conferences with council members and Mayor's staff J COUSAR	1.60 hrs.
03/27/2011	Review commentary on new Alpine opinion; review Alpine opinion; e-mail among counsel J COUSAR	0.90 hrs.
03/28/2011	Review outline for Tuesday work session; review City legal memo to Council on retention issues; work with City staff on litigation hold questions J COUSAR	1.50 hrs.
03/29/2011	Conference with City legal team; attend City Council executive session and City Council public session; follow-up meetings with City Council members J COUSAR	2.00 hrs.
03/30/2011	Meet with legal team; telephone conferences and e-mails with client and City legal team J COUSAR	0.60 hrs.
03/30/2011	Index personal system emails and texts to be potentially released F VINCENT	1.50 hrs.
03/31/2011	Complete indexing of personal emails and texts F VINCENT	4.50 hrs.
03/31/2011	Review and revise draft e-mail policy; multiple telephone conferences and e-mails with City legal team and City staff; prepare for April 1 ACM meeting J COUSAR	1.90 hrs.

Fees for Professional Services \$ 11,481.00

Summary of Fees

Name	Title	Hours	Rate/Hr	Amount
COUSAR, J	PARTNER	26.10	\$ 425.00 ✓	\$ 11,092.50
BURKE, C	ASSOCIATE	0.70	295.00	206.50
MIRAGLIA, L	INFORMATION SPECI	1.30	140.00	182.00
Total		<u>34.10</u>		<u>\$ 11,481.00</u>

Reimbursable Costs

Copy Charges	35.20
Electronic Research	13.60
Total Reimbursable Costs	<u>\$ 48.80</u>

CURRENT FEES AND COSTS FOR THIS MATTER..... \$ 11,529.80

TOTAL DUE FOR THIS MATTER..... \$ 11,529.80



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April 28, 2011

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

RE: Amendment No. 1 to Engagement Letter Dated February 28, 2011 regarding
Texas Open Meetings Act Issues.

*Original letter was
issued January 28, 2011*


Dear Mr. Cousar:

This letter is to notify you of an increase in our original contract agreement to provide legal services concerning the above-referenced matter. The increase is for the amount of \$35,000.00, for a contract total not to exceed \$88,000.00. The total contract includes:

\$53,000.00 per the initial agreement of February 28, 2011; and
\$35,000.00 per this supplemental agreement.

Please sign and return this letter to Teresa Medina in the self addressed envelope.

Sincerely,


Karen M. Kennard
City Attorney

AGREED:

James E. Cousar
Thompson & Knight, L.L.P.

KMK/tmm

THOMPSON & KNIGHT LLP

ATTORNEYS AND COUNSELORS

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

May 20, 2011
Invoice 41376147

CITY OF AUSTIN
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PO BOX 1088
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RECEIVED

MAY 26 2011

LAW DEPARTMENT

Tm# 49882

11-168

THOMPSON & KNIGHT LLP

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Page 1
May 20, 2011
Invoice 41376147

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Reimbursable Costs	29.49	
Net Current Billing For This Matter	\$	<u>11,759.49</u>
TOTAL DUE FOR THIS MATTER	\$	<u>11,759.49</u>

Please remit payment within fifteen (15) days

Our Matter # 015990.000009

ADVICE AND COUNSEL ON TOMA

04/01/2011	Conference with J. Cullom; prepare for and attend meeting of City Manager and Assistant City Managers; review new client materials J COUSAR	1.20 hrs.
04/04/2011	Work with outside attorneys on Alpine litigation issues J COUSAR	1.00 hrs.
04/05/2011	Attend City Council executive session; multiple telephone conferences and e-mails with City legal team and attorneys for council members; memo to R. Heath; review S. Romero legal memo and TEC advisory opinion; meeting with City Attorney; confer with Mayor and council members J COUSAR	2.50 hrs.
04/06/2011	Prepare for meeting with City Attorney, R. Leavitt and council member attorneys; prepare documents for meeting; investigate law; multiple telephone conferences and e-mails with R. Leavitt and B. Heath; telephone conference with council member; prepare documents for R. Heath J COUSAR	2.90 hrs.
04/07/2011	Attend executive session and City Council hearing; conference with City Attorney, outside counsel and Council members; review potential policy; review R. Heath legal memo J COUSAR	5.00 hrs.
04/08/2011	Work with City legal on response to County Attorney; e-mails with City legal and outside attorneys J COUSAR	0.70 hrs.
04/11/2011	Correspondence among City legal team; telephone conference with council member; meeting with council member to review non-City e-mails to be released J COUSAR	1.50 hrs.
04/12/2011	Correspondence with City Legal; telephone conference with City legal; telephone conference with outside attorney J COUSAR	0.50 hrs.
04/13/2011	E-mails with K. Kennard and City legal team; review draft response to County Attorney J COUSAR	0.40 hrs.
04/14/2011	Review and revise draft memo to council on staff briefings and staff memos; emails with K. Kennard; correspondence with R. Leavitt J COUSAR	1.50 hrs.
04/15/2011	Review correspondence from City Attorney; review proposed legislation; correspondence among legal team; review K. Kennard memo J COUSAR	0.90 hrs.
04/18/2011	Correspondence with K. Kennard; review and revise memo on staff communications J COUSAR	1.50 hrs.
04/19/2011	Telephone conference with R. Leavitt; correspondence among City legal team; prepare for April 21 council meeting J COUSAR	0.50 hrs.
04/20/2011	Confer with outside counsel for council members; prepare for April 21 executive session; e-mails and telephone conferences with City legal team J COUSAR	1.40 hrs.
04/21/2011	Confer with City legal team; correspondence with legal team; confer with council members; attend executive session J COUSAR	2.00 hrs.
04/22/2011	Review correspondence from City Attorney and draft "bucket list" J COUSAR	0.20 hrs.
04/26/2011	Attend executive session; review legislative history of staff briefing exception adoption and	

	repeal; conference and emails with R. Leavitt		
	J COUSAR	1.10 hrs.	
04/27/2011	Draft letter to county attorney regarding additional documents relating to city business; telephone conference with council member; confer with staff; review 6th Circuit case		
	J COUSAR	0.80 hrs.	
04/28/2011	Prepare for and attend Council meeting; e-mails and conferences with city legal team		
	J COUSAR	1.50 hrs.	
04/29/2011	Additional review of legislative history of TOMA amendment for legislative intent issues		
	J COUSAR	0.50 hrs.	
Fees for Professional Services			<u>\$ 11,730.00</u>

Summary of Fees

Name	Title	Hours	Rate/Hr	Amount
COUSAR, J	PARTNER	27.60	\$ 425.00	\$ 11,730.00
Total		<u>27.60</u>		<u>\$ 11,730.00</u>

Reimbursable Costs

04/06/2011	Meals - VENDOR: Tiff's Treats LTD. - one doz cookies for meeting	\$ 11.89
	Copy Charges	17.60
Total Reimbursable Costs		<u>\$ 29.49</u>
CURRENT FEES AND COSTS FOR THIS MATTER		<u>\$ 11,759.49</u>
TOTAL DUE FOR THIS MATTER.....		<u>\$ 11,759.49</u>

THOMPSON & KNIGHT LLP

ATTORNEYS AND COUNSELORS

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98 SAN JACINTO BOULEVARD
AUSTIN, TEXAS 78701-4238



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