

FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP

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MINNEAPOLIS
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January 9, 2001

Mr. Harvey Cargill, Jr.
City Attorney
City of College Station, Texas
1101 Texas Avenue
College Station, Texas 77842

Dear Mr. Cargill:

Our Firm is pleased to assist you and the City of College Station, Texas ("City") in negotiating with the proposed developer and hotel/conference center operator and drafting all necessary documentation relating to the development and operation of the Highway 30/60 Corridor Hotel and Conference Center Project (the "Matter"). The purpose of this letter is to set forth our agreement with respect to the terms of our engagement. If you engage our firm on additional legal matters, this engagement letter will apply to those matters, unless separate engagement letters are executed for such matters.

Scope of Engagement. As counsel for you and the City, we will represent your interests in regard to the Matter. Although we will endeavor to achieve a result in this Matter that is satisfactory to you, it is understood that we make no promises or guarantees to you concerning the outcome and cannot do so.

Cooperation. To enable us effectively to perform the services contemplated, it is essential that you disclose fully and accurately all facts and keep us apprised of all developments relating to the Matter. You have agreed to cooperate fully with us and to make your representatives available to attend meetings, conferences, and other proceedings and we will schedule meetings and conferences to serve your convenience.

Fees. Our fees are based on the time spent by the attorneys and the paralegal personnel who work on the Matter. We will charge for all time spent in representing your interests, including, by way of illustration, telephone and office conferences with you and your representatives, opposing

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counsel, City Council members, and others; conferences among our attorneys and paralegal personnel; factual investigation if needed; legal research; responding to your requests for us to provide information to you or your auditors; drafting letters and other documents and travel if needed.

The hourly billing rates range from \$210 to \$375 for partners, from \$165 to \$245 for participating associates, from \$80 to \$200 for associates, from \$160 to \$350 for counsel and from \$105 to \$195 for staff attorneys. My time is billed at \$350.00 an hour. Also working on the Matter will be Heath Esterak and Larry Rubenstein whose billing rates are \$235.00 and \$310.00 per hour, respectively. Other lawyers and legal assistants may be assigned as necessary to achieve proper staffing. We will reasonably review such staffing, as well as any significant project (such as legal research), with you in advance. Work performed by legal assistants will be charged at rates ranging from \$55 to \$105 an hour. Billing rates for both attorneys and paralegal personnel are reviewed annually and generally are revised at the beginning of each year to reflect an attorney's and legal assistant's increased experience level, but we will discuss such increases with you in advance.

Other Charges. In addition to our fees for rendering professional services, our statement will include other charges for expenses and services incurred incident to the performance of our legal services, such as photocopying, delivery charges, travel expenses, long-distance telephone calls, facsimile transmissions, overtime for secretaries and other nonlegal staff, specialized computer applications such as computerized legal research and filing fees. Except in cases of emergencies, we will obtain your approval in advance for any overtime or significant computerized legal research. A copy of our current recharge schedule, which is subject to change from time to time, is attached. Unless special arrangements are otherwise made, fees and expenses of third parties, *e.g.*, court reporters, experts, investigators and consultants, are your responsibility and will be billed directly to you.

Billing Cycle. Our billing rates are based on the assumption of prompt payment. Consequently, fees for our legal services and other charges will be billed monthly and are payable within 30 days of receipt. Our bills will detail, by day and attorney, all work performed for you, and will summarize by attorney the total hours for the affected billing period.

Cost Estimates. Assuming that negotiations proceed without significant difficulty, I estimate that our total costs will be in the range of \$50,000 based on our experience with prior projects. Such estimates are by their nature inexact because of unforeseeable circumstances and, therefore, our actual fees and other charges billed may vary from such estimates. We will indicate to you if we believe we are going to exceed our estimate.

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Conflicts. If a controversy arises between you and any other client of our firm, we, after taking into account the rules of professional ethics applicable to us, may decline to represent either you or such other client or both you and such other client.

Termination or Withdrawal. Our representation may be terminated prior to the conclusion of the Matter by either of us by written notice to the other party. We reserve the right to withdraw from our representation if, among other things, you fail to honor the terms of this engagement letter, including the timely payment of our fees, or fail to cooperate or follow our advice on a material matter, or if any fact or circumstance would, in our view, render our continuing representation unlawful, unethical or ineffective. No such termination or withdrawal, however, will relieve you of the obligation to pay the legal fees owed us for services performed and other charges owing to us to the date of termination or withdrawal.

Client Documents. We will maintain all documents you furnish us in our client files for this Matter. At the conclusion of this Matter (or earlier if appropriate), it is your obligation to advise us as to which, if any, of the documents in our files you wish us to return to you. We may keep copies thereof to the extent we believe advisable for our records. We will retain any remaining documents in our files for a certain period of time and ultimately destroy them in accordance with our record retention program schedule then in effect. All documents requested will be provided in electronic format.

This letter and the attached *Additional Terms of Engagement* constitute the entire terms of the engagement of Fulbright & Jaworski L.L.P. in the Representation. These written terms of engagement are not subject to any oral agreements or understandings, and they can be modified only by further written agreement signed both by City and Fulbright & Jaworski L.L.P. Unless expressly stated in these terms of engagement, no obligation or undertaking shall be implied on the part of either City or Fulbright & Jaworski L.L.P.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

THE CITY OF COLLEGE STATION, TEXAS

By: _____
LYNN MCILHANEY, MAYOR

Date: _____

ATTEST:

CONNIE HOOKS, City Secretary

Date: _____

APPROVED:

THOMAS E. BRYMER, City Manager

CHARLES CRYAN, Director of Fiscal Services

HARVEY CARGILL, JR., City Attorney

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FULBRIGHT & JAWORSKI L.L.P.

By: _____

Date: _____

FULBRIGHT & JAWORSKI L.L.P.

Additional Terms of Engagement

This is a supplement to our engagement letter, dated January 8, 2001. The purpose of this document is to set out additional terms of our agreement to provide the representation described in our engagement letter (the "Representation") concerning the matters described therein (the "Matter"). Because these additional terms of engagement are a part of our agreement to provide legal services, the City should review them carefully and should promptly communicate to us any questions concerning this document. We suggest that the City retain this statement of additional terms along with our engagement letter and any related documents.

The Scope of the Representation

As lawyers, we undertake to provide representation and advice on the legal matters for which we are engaged. It is important for our clients to have a clear understanding of the legal services that we have agreed to provide. Thus, if there are any questions about the scope of the Representation that we are to provide in the Matter, please raise those questions promptly, so that we may resolve them at the outset of the Representation.

Any expressions on our part concerning the outcome of the Representation, or any other legal matters, are based on our professional judgment and are not guarantees. Such expressions, even when described as opinions, are necessarily limited by our knowledge of the facts and are based on our views of the state of the law at the time they are expressed.

Upon accepting this engagement on your behalf, Fulbright & Jaworski L.L.P. agrees to do the following: (1) provide legal counsel in accordance with these terms of engagement and the related engagement letter, and in reliance upon information and guidance provided by the City; and (2) keep the City promptly informed about the status and progress of the Representation.

To enable us to provide effective representation, the City agrees to do the following: (1) disclose to us, fully and accurately and on a timely basis, all facts and documents that are or might be material or that we may request, (2) keep us apprised on a timely basis of all developments relating to the Representation that are or might be material, (3) attend meetings, conferences, and other proceedings when it is reasonable to do so, and (4) otherwise cooperate fully with us.

Our firm has been engaged to provide legal services in connection with the Representation in the Matter, as specifically defined in our engagement letter. After completion of the Representation, changes may occur in the applicable laws or regulations that could affect your future rights and liabilities in regard to the Matter. Unless we are actually engaged after the completion of the Representation to provide additional advice on such issues, the firm has no continuing obligation to give advice with respect to any future legal developments that may pertain to the Matter.

Who Will Provide the Legal Services

Customarily, each client of the firm has a relationship principally with one attorney, or perhaps a few attorneys. At the same time, however, the work required in the Representation, or parts of it, may be performed by other firm personnel, including lawyers and legal assistants. Such delegation may be for the purpose of involving other firm personnel with special expertise in a given area or for the purpose of providing services on an efficient and timely basis.

Our Relationships With Others

Our law firm represents many companies and individuals. In some instances, the applicable rules of professional conduct may limit our ability to represent clients with conflicting or potentially conflicting interests. Those rules of conduct often allow us to exercise our independent judgment in determining whether our relationship with one client prevents us from representing another. In other situations, we may be permitted to represent a client only if the other clients consent to that representation.

Rules concerning conflicts of interest vary with the jurisdiction. In order to avoid any uncertainty, it is our policy that the governing rules will be those applicable to the particular office of our firm that prepares the engagement letter for a particular matter. The acceptance by the City of our engagement letter constitutes an express agreement with that policy, unless the engagement letter specifically states that some other rules of professional responsibility will govern our attorney-client relationship.

In addition to our representation of other companies and individuals, we also regularly represent lawyers and law firms. As a result, opposing counsel in the Matter may be a lawyer or law firm that we may represent now or in the future. Likewise, opposing counsel in the Matter may represent our firm now or in the future. Further, we have professional and personal relationships with many other attorneys, often because of our participation in bar associations and other professional organizations. It is our professional judgment that such relationships with other

attorneys do not adversely affect our ability to represent any client. The acceptance of these terms of engagement represents an unqualified consent to any such relationships between our firm and other lawyers or law firms, even counsel who is representing a party that is adverse to the City in the Matter that is the subject of this engagement or in some other matter.

Disclaimer

Fulbright & Jaworski L.L.P. has made no promises or guarantees to the City about the outcome of the Representation or the Matter, and nothing in these terms of engagement shall be construed as such a promise or guarantee.

Termination

At any time, the City may, with or without cause, terminate the Representation by notifying us of your intention to do so. Any such termination of services will not affect the obligation to pay reasonable legal services rendered and expenses incurred before termination, as well as additional services and charges reasonably incurred in connection with an orderly transition of the Matter.

We are subject to the codes or rules of professional responsibility for the jurisdictions in which we practice. There are several types of conduct or circumstances that could result in our withdrawing from representing a client, including, for example, the following: non-payment of fees or costs; misrepresentation or failure to disclose material facts; fraudulent or criminal conduct; action contrary to our advice; and conflict of interest with another client. We try to identify in advance and discuss with our clients any situation that may lead to our withdrawal.

A failure by the City to meet any obligations under these terms of engagement shall entitle Fulbright & Jaworski L.L.P. to terminate the Representation. In that event, the City will take all steps necessary to release Fulbright & Jaworski L.L.P. of any further obligations in the Representation or the Matter, including without limitation the execution of any documents necessary to effectuate our withdrawal from the Representation or the Matter. The right of Fulbright & Jaworski L.L.P. to withdraw in such circumstances is in addition to any rights created by statute or recognized by the governing rules of professional conduct.

Billing Arrangements and Terms of Payment

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Our engagement letter specifically explains our fees for services in the Matter. We will bill on a regular basis, normally each month, for both fees and expenses. It is agreed that the City will make full payment within 30 days of receiving our statement. We will give notice if an account becomes delinquent, and it is further agreed that any delinquent account must be paid upon the giving of such notice. If the delinquency continues and you do not arrange satisfactory payment terms, we may withdraw from the Representation and pursue collection of our account.

Document Retention

At the close of any matter, we send our files in that matter to a storage facility for storage at our expense. The attorney closing the file determines how long we will maintain the files in storage. After that time, we will destroy the documents in the stored files.

At the conclusion of the Representation, we return to the client any documents that are specifically requested to be returned. As to any documents so returned, we may elect to keep a copy of the documents in our stored files. Any documents that are not already subject to disclosure by the City under the Texas Open Record Act shall not be disclosed to other clients without the City's consent.

Charges for Other Expenses and Services

Typically, our invoices will include amounts, not only for legal services rendered, but also for other expenses and services. Examples include charges for photocopying, long-distance telephone calls, travel and conference expenses, messenger deliveries, computerized research, and facsimile and other electronic transmissions. In addition, we reserve the right to send to you for direct payment any invoices delivered to us by others, including experts and any vendors.

It is not our policy to make any profit on any of these other expenses and services. Our invoices will reflect the cost to us of the products and services. In some situations, the actual cost of providing the product or service is difficult to establish, in which case we will use our professional judgment on the charges to be made. In some situations, we can arrange for ancillary services to be provided by third parties with direct billing to the client. Attached is a copy of our current recharge schedule for other expenses and services, which is subject to change from time to time.

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Standards of Professionalism and Attorney Complaint Information

Pursuant to rules promulgated by the Texas Supreme Court and the State Bar of Texas, we are to advise clients that the State Bar of Texas investigates and prosecutes complaints of professional misconduct against attorneys licensed in Texas. A brochure entitled *Attorney Complaint Information* is available at all of our Texas offices and is likewise available upon request. A client that has any questions about State Bar's disciplinary process should call the Office of the General Counsel of the State Bar of Texas at 1-800-932-1900 toll free.

The Texas Lawyer's Creed A Mandate for Professionalism

*Promulgated and Adopted by the
Texas Supreme Court and the Texas Court of Criminal Appeals*

I am a lawyer; I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.

THE TEXAS LAWYER'S CREED — A Mandate for Professionalism

The Texas Supreme Court and the Texas Court of Criminal Appeals adopted this Creed, with the requirement that lawyers advise their clients of its contents when undertaking representation.

I am a lawyer; I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.

I. OUR LEGAL SYSTEM. A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism. I am passionately proud of my profession. Therefore, "My word is my bond." I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life. I commit myself to an adequate and effective pro bono program. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed. I will always be conscious of my duty to the judicial system.

II. LAWYER TO CLIENT. A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest. I will advise my client of the contents of this Creed when undertaking representation. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice. I will advise my client that civility and courtesy are expected and are not a sign of weakness. I will advise my client of proper and expected behavior. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party. I will advise my client that we will not pursue tactics which are intended primarily for delay. I will advise my client that we will not pursue any course of action which is without merit. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

III. LAWYER TO LAWYER. A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy,

candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct. I will be courteous, civil, and prompt in oral and written communications. I will not quarrel over matters of form or style, but I will concentrate on matters of substance. I will identify for other counsel or parties all changes I have made in documents submitted for review. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are canceled. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence. I will not arbitrarily schedule a deposition, Court appearance, or hearing until a good faith effort has been made to schedule it by agreement. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party. I will refrain from excessive and abusive discovery. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage

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nor permit my witness to quibble about words where their meaning is reasonably clear. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

IV. LAWYER AND JUDGE. Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol. I will conduct myself in court in a professional manner and demonstrate my respect for the Court and the law. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility. I will be punctual. I will not engage in any conduct which offends the dignity and decorum of proceedings. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage. I will respect the rulings of the Court. I will give the issues in controversy deliberate, impartial and studied analysis and consideration. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

FULBRIGHT & JAWORSKI L.L.P.
(San Antonio)

Expenses and Services Summary

<u><i>EXPENSE/SERVICE</i></u>	<u><i>CHARGE</i></u>
Binding N/A	(Pricing varies in other office locations)
Data Base Research Lexis, Westlaw, Information America	Direct Cost or Allocation of Direct Cost (varies based on search type)
Deliveries	
Overnight/Express	Direct Cost
Outside Courier	Direct Cost
In-House	N/A (Pricing varies in other office locations)
Courthouse Messengers	\$40.00/Hour plus Transportation (Pricing varies in other office locations)
Document Scanning	N/A (Pricing varies in other office locations)
Duplicating	
Photocopy	\$0.15 per page
Microfilm/Microfiche	\$0.50 per page
Videography (duplication)	\$5.00/tape plus \$20.00/duplication
Electronic Mail (via Internet)	No Charge
Library Research by Library Staff	\$95.00 per hour
Weekend & Late Evening Air Conditioning	N/A (Pricing varies in other office locations)
Postage Direct Cost on any item or group of items which cost \$1.00 or more	
Secretarial Overtime	\$28.00 per hour (Pricing varies in other office locations).
Facsimile (Outgoing)	\$0.50 per page plus applicable LD charges

Expenses and Services Summary

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EXPENSE/SERVICE

CHARGE

Telephone - Long Distance (Domestic)	\$0.15 per minute
Long Distance (International)	Allocation of direct cost which varies by location of call.
File Storage Retrieval	N/A (Pricing varies in other office locations)
Transportation	
Mileage (personal automobile)	Applicable IRS allowable rate per mile
Lodging	Direct Cost
Meals	Direct Cost
Car Rental/Airline/Rail/Etc.	Direct Cost
CD-ROM Research	\$30.00 - \$50.00 per Search (rate varies based on length of search)
Graphic Arts	\$55.00 to \$115.00 per hour, plus direct cost of supplies