

Thomas E. Brinkman, Jr.

3215 Hardisty Avenue
Cincinnati, Ohio 45208
tom@gobrinkman.com

October 29, 2015

BY EMAIL (paula.boggsmuething@cincinnati-oh.gov)

Paula Boggs Muething
City Solicitor, City of Cincinnati
801 Plum Street, Room 214
Cincinnati, Ohio 45202

Re: Request for Initiation of Civil Action Pursuant to R.C. 733.56 et seq.

Ms. Boggs Muething:

As a taxpayer of the City of Cincinnati, I am writing to you, pursuant to the taxpayer lawsuit provisions of the Ohio Revised Code, due to the recent occurrence of an abuse of corporate powers and/or misapplication of funds within the government of the City of Cincinnati.

Article XIII, Section 3 of the Charter of the City of Cincinnati provides that:

Notwithstanding anything in this Charter to the contrary, no monies of the City of Cincinnati or any of its Boards or Commissions, from any source whatsoever, or funds of any other entity disbursed by the City or any of its Boards or Commissions, may be disbursed to any candidate for any public office, campaign committee of any candidate for any public office, political action committee, or political party, or may be expended for the purpose of advocating the election or defeat of any candidate for any public office, or for the passage or defeat of any ballot issue.

As indicated in the attached e-mails (including the attachments therein), on at least two occasions (June 29 and July 1, 2015), Willie Carden, the Director of the Cincinnati Parks Board, personally authorized and directed the disbursement of funds to pay for the production and design of a website in support of the parks levy. Such actions by the director of the Cincinnati Parks Board have clearly violated the foregoing prohibitions in the City Charter.

While the e-mails indicate or suggest that the funds would come out of those of the Park Foundation, the source of such funds is immaterial to the violation of the City Charter. For, firstly, the Cincinnati Parks Foundation is an entity created by the Board of Park Commissioners and the members are the individual commissioners themselves. Thus, any distinction between funds of the Parks Board and the Parks Foundation, especially as to who controls such funds, is meaningless and illusory. But secondly, any effort to distinguish between the use and control of "public funds" versus "private funds"

is also irrelevant. For Article XIII, Section 3 of the City Charter explicitly indicates that the restrictions and prohibitions therein are not limited to restricting the expenditure of public funds but also extends to “funds of any other entity disbursed by...any [] Boards [of the City of Cincinnati].” The bottom line is that Mr. Carden, as an employee of the Cincinnati Park Board and on its behalf, authorized and directed the payment of funds under the Park Board’s control to support efforts to pass a ballot issue. In so doing, Article XIII, Section 3 of the City Charter was violated.

In addition to the foregoing violation, Mr. Carden’s use of the City’s e-mail system to engage in activities supportive of a ballot issue constitutes a separate violation of Article XIII, Section 3 of the City Charter. Such action appears to be comparable to a situation a few years ago when City-computer resources were being used in support of a political campaign and which ultimately resulted in the issuance of a permanent injunction and the reimbursement of funds to the City. *See City of Cincinnati ex rel. Miller v. Quinlivan*, Hamilton County Common Pleas Case No. A-11-7741. Thus, there is well-established precedent concerning the inappropriate use of City-computer systems for political activities (which would include Mr. Carden’s use of the City-computer systems in this instance) and that such activities constitute a violation of Article XIII, Section 3 of the City Charter.

As the foregoing demonstrates, at a minimum, the foregoing actions clearly violate Article XIII, Section 3 of the City Charter, and constitute an abuse of corporate powers and/or the misapplication of funds of the City of Cincinnati. While I reserved the right to supplement this letter with additional facts or additional violations as further investigation on my part may reveal, I wanted to call to your immediate attention those violations which have recently been revealed by the disclosure of Mr. Carden’s e-mail.

Accordingly, pursuant to Sections 733.56 *et seq.* of the Ohio Revised Code, I hereby request that you, as City Solicitor, make application to a court of competent jurisdiction for an order of injunction to restrain the abuse of corporate powers and/or the misapplication of the foregoing funds, as well as the recovery of such funds on behalf of the City of Cincinnati.

I am sure you appreciate that time is of the essence and, thus, would ask for a prompt and immediate response.

Sincerely,

A handwritten signature in blue ink that reads "Tom Brinkman, Jr." with a stylized flourish at the end.

Thomas E. Brinkman, Jr.

Curt C. Hartman, Esq.

From: [Carden, Willie](#)
To: ["Joyce Kamen"; jennifer@cincinnatiiparksfoundation.org; Klug, Marijane](#)
Cc: [Binford, Jackie](#)
Subject: Fw: CINCY PARK LEVY SITE REVISED PROPOSAL.pdf
Date: Monday, June 29, 2015 7:37:04 PM
Attachments: [CINCY PARK LEVY SITE REVISED PROPOSAL.pdf](#)
[ATT00001.txt](#)

Approved and we will pay this through the Parks Foundation. Jen, let talk tomorrow. Thank you

Willie F. Carden Jr.
Director of Parks
950 Eden Park Drive
Cincinnati, Ohio 45202
Phone (513) 352-4079
E-mail: Willie.Carden@cincinnati-oh.gov

"To be successful, you have to have your heart in your business and your business in your heart."

From: Kamen Creative LLC <joyce.kamen@gmail.com>
Sent: Sunday, June 28, 2015 8:42 PM
To: Carden, Willie
Subject: CINCY PARK LEVY SITE REVISED PROPOSAL.pdf

Hi Mr. Carden,

Attached is the revised cost proposal/ invoice from Webfeat for the rush production and design of the levy website. (They got the site up and running in 3 days.)

As you will see, their original quote was for \$1700, however we added a few more pages to the site once production began so there was an additional \$500 charge. Please let me know if you have any questions.

Many thanks!

My best,

Joyce

June 26, 2015

Cincinnati Park Board
Joyce Kamen
950 Eden Park Drive
Cincinnati, OH 45202

webFEAT Complete prides itself on its excellent customer service, incredible designs, and functional streamlined code! We are honored to provide this estimate for your review.

The site "outline" determines the estimate project costs. Changes in design or development that vary from the outline could result in additional costs. We are happy to estimate these costs for your approval should they occur. The proposal is provided for the domain:

RUSH SITE WORK

NEW WORDPRESS SITE NAVIGATION & CONTENT PAGES

INCLUDES MOBILE AND RESPONSIVE DESIGN!!

5 PAGE SITE... SITE design has been provided.

NOTE: Site design must be able to be converted to a WP theme in order to meet this deadline. Let's try to minimize the use of custom fonts.

DEADLINE: Site must be finished by noon on Friday and positioned for launch for Saturday at ????. (NEED TIME)

DESIGN DETAILS

INITIAL HOME PAGE DESIGN:

We will meet with you to obtain your design input for your new website. After this meeting (typically a phone conference), the design department will create the new site design mockup for your review. The file will have no REAL functionality (at this time.) We welcome your suggestions, changes and subsequent approval. We cannot move forward until we receive your signed approval on this initial mockup. Changes to the design once the approval has been given could result in additional billable time.

WORD PRESS SITE

This site is quoted as a WordPress site. The WordPress format will give you the capability to easily make content changes and page additions. Your input on theme selection will be requested at the design meeting.

INTERIOR PAGE:

A single interior page mockup will be created to provide an opportunity for you to see how interior pages will appear. Please review this page carefully and send us any changes or suggestions immediately to production@webfeatcomplete.com. We will need your supplied site content shortly after this approval.

CONTENT

When sending content please make sure it is marked for placement. This proposal includes the addition of static page content only one time. Changes to the content after the initial placement will result in project scope creep (and associated costs) Content should be furnished as a UNFORMATTED Word document and Emailed to production@webfeatcomplete.com. Content must be supplied within seven days after the approval of the initial and interior

site mockups. Content that is not supplied within 30 days will delay the project but final payment will still be due and payable.

Form Creation

Please review your site outline to determine the specifications for your form design/development. Most website forms will NOT store data. The form data from the user will be pushed to an email and emailed to the company designated email account. Form data is NOT stored unless it is specified on your site outline. If you require database storage of your form data, please consult with your rep for additional costs. NOTE: If your form requires social security numbers, birth dates, or other secure information, your form MUST be secure. This information cannot be emailed to you. If your form must be secure and it is NOT specified on the above site outline, please consult your rep for additional costs.

IMAGES

Photos must be provided as PC .JPG OR .GIF files. (Please have all Mac files converted to a PC format.) Please mark the images in a manner that will allow the design department to know where the images go. (EX: house.jpg is to be placed on the "house" page.) If images require excessive manipulation, color blending/changes, or cropping there will be additional charges. Images can be purchased at www.istock.com for professional legal image use.

TERMS AND CONDITIONS

LICENSING

Copyrights and ownership of images is the responsibility of our customer. webFEAT Complete assumes no responsibility for image ownership or licensing on materials that are furnished by the client.

BROWSER SUPPORT

The site will be compatible with the following browsers: IE7, IE8, IE9, IE10, Mozilla Firefox, Google Chrome, Safari

GALLERIES (if shown in above site outline)

Photo galleries will have a maximum of 25 photos unless listed otherwise in the above outline. Time to manipulate and add additional images to a gallery will be billed at the hourly rate of \$125/hour.

SEARCH ENGINE OPTIMIZATION

Generic search engine optimization is included within the scope of this proposal unless otherwise noted in writing. Generic optimization is the use of the same metadata on ALL pages of the site. Dynamic sites DO include the ability for the administrator to create all metadata dynamically but static pages will fall under the classification of generic optimization. Please speak with your consultant for a separate estimate for organic SEO and a Pay Per Click campaign. This is very important for the success of the site and increased rankings in Google and other search engines.

SITE CHANGES, ALTERATIONS AND OUT OF SCOPE WORK

Items that are added to the site that are not included in the site outline will be billed at the prevailing hourly rate.

ONGOING SUPPORT AND MAINTENANCE

Ongoing support and maintenance contracts are available. Billable updates to the completed site may be necessitated by changes in new browser releases. If FTP access has been granted on the website ALL changes or alterations are billable at all times. Restoring a backup due to client changes or deletions will be billable.

Changes made to the site by outside sources are billable as hourly charges. These sources include (but are not limited to) damages caused by hackers, compromised FTP access, client employee negligence or intentional disruption, or other questionable access methods.

Site support is valid for 30 days after the launch date. Any necessary code adjustments will be made within the 30 day period providing they are within the original scope of work. However, if FTP access has been provided OR if site is hosted on a server other than the webFEAT servers, the support contract is invalid and all work is billable.

HOSTING & EMAIL

Hosting is assumed to be on the webFEAT servers. Current Hosting costs start at \$30 per month (billed quarterly). There is a \$75 setup fee per domain. These costs are NOT included in this estimate and will be invoiced when domain is moved to our server. New domains are purchased for three years at \$35 per year. Hosting fees do vary based on site files size, components or software needed, and bandwidth usage.

If the site is to be hosted on any server other than webFEAT Hosting, you must let us know this at the commencement of the project. Costs to obtain site functionality on another server will be billable at \$125 per hour.

Hosting information will be requested at the beginning of the project. We highly suggest that you obtain this information as soon as possible to avoid delays at launch.

ESTIMATED PROJECT COSTS: \$1700 (plus additional items below)

Additional Items Added During Production: \$500

- Calendar
- Donation
- Form
- News

NON-webFEAT HOSTING

If the new website will NOT be hosted at webFEAT, there is a \$250 upload fee. This fee includes time to upload the site files to another hosting provider and to test it on said provider. It does NOT include adjusting external servers hosting configuration nor does it include software that may be needed to host in that environment. This fee is waived, if site files are provided to you on disk.

PAYMENT TERMS

Site estimate is valid for 30 days. Payment is due in two payments. First payment is due upon signing. 2nd payment is due Net 30. Monthly fees for webFEAT Complete will begin in 30 days from date below. No launch date is implied unless indicated in writing on this contract.

Accepted by:

Cincinnati Park Board

_____ Date: _____

webFEAT Complete

_____ Date: _____

From: [Carden, Willie](#)
To: [Joyce Kamen](#)
Cc: jennifer@cincinnatiiparksfoundation.org
Subject: Re: LEVY WEBSITE INVOICES
Date: Wednesday, July 01, 2015 1:27:32 PM

Okay, approved. Thank you

Sent from my iPad

On Jun 30, 2015, at 8:54 AM, Joyce Kamen <joyce.kamen@gmail.com> wrote:

Good morning Mr. Carden,

As requested, the invoices for the Levy website are attached. (I just received the additional invoice that is for \$375 for one-time site set-up and hosting).

The vendor has requested that these payments be made ASAP. **NOTE THAT THE CHECKS NEED TO BE MADE OUT SEPARATELY: One goes to "Webfeat Hosting" and the other to "Webfeat Complete".**

Please let me know if you have any questions.

My best!

Joyce

Joyce Kamen
Principal—Kamen Creative LLC
joyce@kamencreative.com
KamenCreative.com
513.543.8109

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<Cincinnati Park Levy Hosting Invoice.pdf>

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