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Human Resources



U.S. DEPARTMENT OF JUSTICE

*United States Attorney
Eastern District of California*

*Benjamin B. Wagner
United States Attorney*

2500 Tulare Street, Suite 4401
Fresno, CA 93721

Phone 559/497-4000
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August 24, 2015

VIA HAND DELIVERY

Fresno Unified School District
2309 Tulare Street
Fresno, California 93721-2266

Re: Grand Jury Investigation

To Whom It May Concern:

Attached please find a grand jury subpoena directed to the Fresno Unified School District ("FUSD"). The subpoena relates to a United States Department of Justice investigation into potential violations of federal law.

The subpoena requires the return of all responsive documents in the possession, custody, or control of FUSD to the federal grand jury in Fresno, California, on November 19, 2015. On that date, FUSD's custodian of records should be prepared to testify about the identity of the documents produced, the identity of the persons who conducted the search, and the identity and locations of the files from which the documents were retrieved. Alternatively, the documents may be submitted to the United States Attorney's Office, 2500 Tulare Street, Suite 4401, Fresno, California 93721, Attn: Grant B. Rabenn, Assistant United States Attorney. Please submit the documents using a trackable method such as a courier or overnight service.

If you choose to submit documents directly to the United States Attorney's Office, the documents must be accompanied by an affidavit sworn to by the officer responsible for document production compliance. Please be advised, however, that opting to deliver the documents to the United States Attorney's Office does not prevent the grand jury from requiring your custodian of records to testify at a later date. Importantly, the records may not be mailed to the grand jury or to the courthouse, as there are no provisions to receive them there.

Documents in Possession, Custody, or Control of FUSD

This subpoena requires production of all responsive documents in FUSD's possession, custody, or control, wherever the documents are located. The following attachment defines FUSD broadly to include all departments and entities related to FUSD.

Preservation and Production of Electronically Stored Documents

You are required to produce all "documents" (as defined in the attachment) responsive to the enclosed grand jury subpoena, including documents stored on your computer systems. The attachment sets forth the steps you must take to preserve responsive electronic documents in all locations within those computer systems, including servers, local drives, attached to personal computers, laptops, home computers used by employees to conduct business, backup media, archival media, handheld devices, and removable media. The types of electronic data called for by the subpoena include e-mail (and e-mail attachments), electronic calendars, word processing documents, spreadsheets, databases, and instant messaging communications.

Due to their format, electronically stored documents can be easily deleted, altered, or corrupted. Accordingly, you must immediately take every reasonable steps to preserve all responsive electronic documents. These steps include immediately discontinuing all data destruction and backup media recycling policies and notifying all company employees likely to have responsive data of their duty to preserve all potentially responsive electronic data in any devices under their control (e.g. files on their desktops, home computers used for business, handheld devices, cell phones, and tablets).

Failure to preserve electronic data or other documents responsive to the subpoena may result in criminal penalties being imposed on you and/or any persons responsible for deleting, altering, or destroying such data.

Return of Documents at Close of Investigation

The United States Attorney's Office will presume that any documents not designated "original" are copies and may destroy the documents at the conclusion of the investigation (unless it is determined that some of these materials need to be retained for a law enforcement purpose or pursuant to the Federal Records Act). If you want the submitted materials returned at the conclusion of the investigation, you must indicate that preference in writing when the documents are produced.

* * * *

Should you have any questions regarding this letter, or the attached subpoena, or should you or your counsel wish to discuss compliance with the subpoena, please do not hesitate to call me at 559.341.9278.

Sincerely,

BENJAMIN B. WAGNER
United States Attorney

By: /s/ GRANT B. RABENN
GRANT B. RABENN
Assistant United States Attorney

Encl.

UNITED STATES DISTRICT COURT

for the

Eastern District of California

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: CUSTODIAN OF RECORDS
Fresno Unified School District
2309 Tulare Street
Fresno, CA 93721-2266
Grand Jury Subpoena Number 2015-15-01

SUBPOENA FOR: PERSON DOCUMENTS OR OBJECTS

YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: U.S. COURTHOUSE AND FEDERAL BUILDING 2500 TULARE STREET, FRESNO, CA 93721 <u>CHECK IN AT/MAILING ADDRESS:</u> U.S. ATTORNEY'S OFFICE 2500 TULARE STREET, SUITE 4401 FRESNO, CA 93721	Date and Time: November 19, 2015 9:00 a.m.
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You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

See attachment.

Date: August 27, 2015

Marianne Matherly, CLERK OF COURT



A handwritten signature in cursive script, appearing to read "Marianne Matherly".

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the United States Attorney, or Assistant United States Attorney, who requests this subpoena, are:

GRANT B. RABENN
Assistant U.S. Attorney
Telephone: (559) 497-4000
STREET ADDRESS:
U.S. ATTORNEY'S OFFICE
2500 TULARE STREET, SUITE 4401
FRESNO, CA 93721

SUBPOENA ATTACHMENT TO FRESNO UNIFIED SCHOOL DISTRICT "FUSD"
TO ACCOMPANY SUBPOENA DATED AUGUST 24, 2015

NOTICE CONCERNING DOCUMENT
DESTRUCTION AND OBSTRUCTION OF JUSTICE

Any person who withholds, alters, deletes, or destroys documents—including documents stored only in electronic form or accessible only through computer or other information-retrieval systems—demanded by this subpoena, or who removes or transfers such documents to outside the jurisdiction of the United States, may be subject to criminal prosecution for obstruction of justice, contempt of court, or other federal criminal violations. Conviction of any of these offenses may be punishable by substantial fine or imprisonment, or both.

SCHEDULE OF DOCUMENTS

I. DEFINITIONS

As used herein:

- A. "Agreement" means any contract, arrangement, understanding, or other type of agreement, formal or informal, oral or written, direct or indirect, tacit or express, implemented or unimplemented, successful or unsuccessful, between two or more persons.
- B. "Any" means one or more.
- C. "Associate" means any partner, colleague, personal contact, business contact, subordinate, or joint venturer.
- D. "Communication" means any discussion, conversation, inquiry, disclosure, transfer, or exchange of statements or information, however made, including orally, electronically, in writing, by facsimile, in person, by telephone, or by any other means.
- E. "Consultant" means any person, company, partnership, or other entity providing advice, opinions, analysis, recommendations, investigation, surveying, or otherwise assisting in any project, matter, business deal, or logistical concern. A consultant may be internal, i.e. providing consulting within an entity, or may be external, i.e. providing consulting to an outside entity.
- F. "Contractor" means any general contractor, prime contractor, subcontractor, or other company, partnership or other entity involved coordinating, managing, servicing, working on, or otherwise providing, construction services, including pre-construction or post-construction services or maintenance.

- G. "Document" means the original of all written, recorded, or graphic material and all electronic data of any kind, whether prepared by FUSD or by any other person, that is in FUSD's possession, custody, or control, including: memoranda, reports, evaluations, letters, telegrams, facsimiles, voice mails, text messages, instant messages, chat messages, electronic mail, audio and/or visual recordings, and other communications recorded in any form or medium; notes, minutes, and transcripts of conferences, meetings, and telephone or other communications; contracts and other agreements; checks, check registers, statements, ledgers, and other records of financial matters or commercial transactions; appointment books, calendars, schedules, notebooks, diaries, business cards, and contacts lists, including data in personal data/digital assistants ("PDAs"), cellular telephones, smartphones, and tablets; maps, diagrams, graphs, and charts; plans and specifications; publications; photographs; photocopies, microfilm, and other copies or reproductions; computer printouts; tallies, tabulations, and summaries of sales or bids; and all file folders, file tabs, folder tabs, mailing envelopes, facsimile transmission cover sheets, and any other proof or indicia of mailing (if applicable) associated with each original.
- i. The term "document" also includes spreadsheets, as well as underlying cell formulae and other codes.
 - ii. The term "document" also includes electronic mail messages and other documents and data stored in, or accessible through, computer or other information-retrieval systems, such as personal computers, portable computers, workstations, minicomputers, personal data/digital assistants ("PDAs"), cellular telephones, smartphones, tablets, archival voice-storage systems, group and collaborative tools, electronic messaging devices, portable or removable storage media, mainframes, servers, backup disks and tapes, archive disks and tapes, and other forms of online or offline storage, whether on or off FUSD premises.
 - iii. The term "document" also includes all drafts of a document and all duplicates of a document (whether or not identical) in the files of or in the files maintained on behalf of all directors, officers, managers, or other supervisory employees, duplicates of documents in all other files that are not identical duplicates of the originals (including copies that differ in any way, such as through notations, underlining, or other markings), and duplicates of documents of which the originals are not in the possession, custody, or control of FUSD.
 - iv. The term "document" also includes all data (including metadata, embedded, hidden, and other bibliographic or historical data describing or relating to documents created, revised, or distributed on computer systems) stored in electronic form or accessible through computer or other information-retrieval systems, together with instructions and all other materials necessary to use or interpret this data.
- H. "Family Member" means any spouse, child, grandchild, parent, grandparent, aunt, uncle, cousin, in-law, guardian, ward, domestic partner, or any other individual with familial relationship, whether by blood or marriage.

- I. "Fresno Unified School District" or "FUSD" means any officer, director, employee, or agent thereof, including any entities connected to, a part of, or controlled by the Fresno Unified School District.
- J. "Including" and all variations of that word, such as include or includes, means including, but not limited to.
- K. "Measure Q" means the November 2, 2010 Fresno Unified School District bond proposition, which allotted approximately \$280 million in bond money to the Fresno Unified School District.
- L. "Person" means any natural person, association (including trade association), company, cooperative, firm, public or private corporation (whether or not organized for profit), joint venture, institute, partnership, sole proprietorship, governmental entity (whether local, county, state, or federal), or other form of business or legal entity, and shall include any officer, director, employee, or agent thereof.
- M. "Relating to" or "related to" means directly or indirectly refer or pertain to, discuss, describe; reflect, contain, examine, analyze, study, report on, comment on, evidence, constitute, show, consider, recommend, concern, record, or set forth, in whole or in part.
- N. "You" means the person to which this subpoena is addressed; any parent, predecessor, successor, division, affiliate, or subsidiary (whether wholly owned or not) of that person; any joint venture to which any such person is or was a party; officer, director, manager, employee, attorney, agent, representative, consultant, affiliated person, or other person acting or purporting to act for or on behalf of any of them.

II. INSTRUCTIONS

- A. Unless otherwise specifically provided herein, the documents that must be produced in response to this subpoena include all responsive documents sent, dated, received, used, or in effect at any time from January 1, 2009 through the present (the "subpoena period"). The date of this subpoena is its date of service.
- B. FUSD may produce original documents or accurate and complete copies of originals. If copies are produced, FUSD must submit a sworn declaration or affidavit certifying that the original version of those documents will be maintained intact and will be made available for production and/or inspection upon request to the current grand jury or any successor grand jury or the USAO.
- C. This subpoena and schedule of documents call for the production of all responsive documents in the possession, custody, or control of FUSD without regard to the physical location of the documents and without regard to whether the documents were prepared by or for FUSD.

- D. Use of the singular or the plural in this subpoena should not be deemed a limitation, and the use of the singular should be construed to include, where appropriate, the plural. "And," "or," "any," and "all" as used herein are terms of inclusion and not exclusion and shall be construed so as to bring within the scope of this subpoena any document or information that might otherwise be construed to be outside its scope. Use of a verb in the present tense in referring to activities being carried on shall include such activity at any time during the subpoena period, regardless of whether these activities are carried on at present. The terms "between" and "among" are mutually interchangeable and encompass each other.
- E. Any documents that are withheld in whole or in part from production based on a claim of privilege shall be assigned document control numbers (with unique consecutive numbers for each page of each document); for purposes of this instruction, each attachment to a document shall be treated as a separate document and separately logged, if withheld, and cross-referenced, if produced. FUSD shall also provide a statement of the claim of privilege and all facts relied upon in support of the decision to withhold each document, in the form of a log that conforms with the requirements set forth below. FUSD is encouraged to propose categorical limitations to exclude certain classes of privileged documents from its log.
- i. For each document identified on FUSD's privilege log, state:
- a) The document's control numbers;
 - b) All authors of the document;
 - c) All addressees of the document;
 - d) All recipients of the document or of any copies of the document, to the extent not included among the document's addressees;
 - e) Each person to whom the withheld material or its contents, or any part of it, was disclosed;
 - f) The date of the document;
 - g) A description of the subject matter of the document;
 - h) The nature or type of the privilege that FUSD is asserting for the document (e.g., "attorney-client privilege");
 - i) The specifications of this schedule to which the document is responsive;
 - j) The document control numbers of any attachments to the document, regardless of whether any privilege is being asserted for such attachments; and
 - k) Whether the document has been produced in redacted form.

- ii. FUSD's privilege log shall also conform with all of the following requirements:
 - a) Provide a separate legend containing the full name, title, and employer or company affiliation of each author, addressee, and recipient identified on FUSD's privilege log.
 - b) All attorneys acting in a legal capacity with respect to the withheld document or communication, and only those attorneys, shall be identified on the privilege log with an asterisk.
 - c) The description of the subject matter of each document shall describe the nature of the document in a manner that, though not revealing information that is itself privileged, provides sufficiently detailed information to enable the United States Attorney's Office ("USAO") to assess the applicability of the privilege claimed.
 - d) For each document withheld under a claim that it constitutes or contains attorney work product, also state whether FUSD asserts that the document was prepared in anticipation of litigation or for trial and, if so, identify the anticipated litigation or trial upon which the assertion is based.
 - e) Produce all non-privileged portions of any responsive document (including non-privileged or redactable attachments) for which a claim of privilege is asserted, except where the only non-privileged information in the document has already been produced. Note where any redactions in the document have been made.
 - f) The privilege log shall be produced in both hard-copy and electronic form, the electronic form of which shall be both searchable and sortable.
 - g) Documents sent solely between counsel for FUSD, including in-house counsel acting solely in a legal capacity, and documents authored by FUSD's outside counsel that were not directly or indirectly furnished to any third party, such as internal law firm memoranda, may be omitted from the privilege log. However, any attachments to such documents must be included on the privilege log (if a privilege is applicable to such materials), unless the attachments are addressed and sent solely to counsel.
- iii. In addition, any document or part of a document withheld under a claim of privilege must be preserved.

- F. If any portion of any document is responsive to any paragraph or subparagraph in Section III below, then the entire document must be produced, including all supporting, underlying, or explanatory documents and all attached, annexed, or appended documents, including file attachments to electronic communications. Documents should be submitted as found in FUSD's files (e.g., documents that in their original condition were stapled, clipped, or otherwise fastened together, or maintained in separate file folders, shall be produced in such form). Documents should also be produced in the order in which they appear in FUSD's files and should not be shuffled or otherwise rearranged. If a document contains privileged material, the entire document must be produced, with the privileged material redacted and documented as set forth in Paragraph II.E., above.
- G. Mark each page of each document submitted—whether in hard-copy or electronic format—with identification and consecutive document control numbers. The document control number should appear in the lower right-hand corner of each page in a location that does not obscure any information on the page. Place all documents produced in hard-copy format in file folders. Mark each file folder with FUSD's identification, the name of the person whose documents are in the folder, and how the original file was labeled. Where a document is responsive to more than one paragraph or subparagraph of Section III below, FUSD shall produce it only once.
- H. If you produce original documents, mark them with the designation "Original" and produce a list of all documents so designated. At the conclusion of the investigation, all documents produced in response to the Subpoena that are not marked "Original" will be disposed of by the USAO. Documents not marked as "Original" will be returned to you only if you specifically request their return at the time the documents are produced (unless the USAO determines that they should be retained for a law enforcement purpose or pursuant to the Federal Records Act)
- I. The definition of "document" used in this schedule (see Paragraph I.G) includes data stored in any electronic form. FUSD is required to review such data and determine whether it contains material responsive to this subpoena. In addition, FUSD should immediately take the following steps to ensure that it preserves all types of electronic data, wherever located, that may be responsive to this subpoena:
- i. Electronic Data to Be Preserved. The following (subparagraphs a-g) types of electronic data should be preserved, in accordance with the steps set forth in Paragraphs II.I.ii. through vii., below:
 - a) All electronic mail, information about electronic mail (including information on message contents, header information, and logs of electronic mail system usage), any attachments, archived e-mail, and any other electronic communications, including any data from Instant Messaging programs, Internet Relay Chat systems, or any voice mail programs, containing information responsive to the subpoena;

- b) All files that contain information from electronic calendars or scheduling programs responsive to the subpoena;
 - c) All user-created files (including word-processing files, spreadsheets, and slide presentations) that contain information responsive to the subpoena;
 - d) All databases (including all records and fields and structural information in the databases) or other data files that contain any information (such as sales, pricing, customer, financial, accounting, and billing information) responsive to the subpoena;
 - e) All logs of activity on computer systems that may have been used to process or to store electronic data containing information responsive to the subpoena;
 - f) All electronic data files created or used by spreadsheet programs that contain information responsive to the subpoena; and
 - g) All other electronic data containing information that is responsive to the subpoena.
- ii. Online Data Storage: Servers/Mainframes. Regarding your FUSD 's servers, mainframes, and any other electronic data storage devices, do not modify or delete any electronic data existing as of the date of the subpoena that contain information that meets any of the criteria set forth in Paragraph II.I.i., above, unless a true and correct copy of each such electronic data file has been made and steps have been taken to ensure that this copy will be preserved and accessible for purposes of this grand jury investigation.
- iii. Off-Line Data Storage: Backups, Archives, and Other Removable Media. Regarding all electronic media used for off-line storage, including magnetic tapes and cartridges and other media that, at the date of service of this subpoena, contain any electronic data meeting the criteria listed in Paragraph II.I.i., immediately stop any activity that may result in the loss of such electronic data, including rotation, destruction, overwriting, or erasure of such media in whole or in part. This requirement is intended to cover all removable electronic media used for data storage in connection with FUSD's computer systems, including magnetic tapes and cartridges, magneto-optical disks, floppy diskettes, CDs, DVDs, USB thumb drives, and all other media, whether used with personal computers, mainframes, other computers, or other electronic data storage devices, and whether containing active data, backup data, archived data, or any other electronic data, for FUSD's computer systems.

- iv. Replacement of Data-Storage Devices. Do not dispose of any electronic data-storage devices or media that may be replaced due to failure, upgrade, or other reasons if such devices or media may contain electronic data meeting the criteria listed in Paragraph II.I.i., above.
 - v. Local-User Hard Drives on Personal Computers, Handheld Devices. Regarding electronic data meeting the criteria listed in Paragraph II.I.i., above, that existed on stand-alone computers (including desktops, laptops, and home computers used to conduct FUSD's business) and handheld devices (including personal data/digital assistants ("PDAs"), cellular telephones, smartphones, and tablets) as of the date of this subpoena, do not alter or erase this electronic data and do not perform other procedures (such as data compression, disk de-fragmentation, optimization routines, or reassignment of hard drives) that may affect this data, unless a true and correct copy has been made of these active files, copies have been made of all directory listings (including system files) for all directories and subdirectories containing those files, and arrangements have been made to preserve the copies during the pendency of this grand jury investigation.
 - vi. Custom-Designed Programs and Utilities. Preserve copies of all application programs and utilities that are used to process electronic data responsive to this subpoena.
 - vii. Log of System Modifications. Maintain an activity log to document modifications made to any electronic data-processing system that may affect the system's capability to process any electronic data meeting the criteria listed in Paragraph II.I.i., regardless of whether these modifications were made by employees, contractors, vendors, or any other third parties.
- J. Unless otherwise requested by a USAO representative, electronic documents (e.g., e-mail) and data shall be produced in electronic form only. Electronic documents and data shall be produced in a format that allows the USAO to access, use, and print them; together with instructions and all other materials necessary to use or interpret the data, including record layouts, data dictionaries, and passwords. For data submitted electronically, submit a description of the data's source.

Before you prepare documents or information for production in electronic form (for example, before you attempt to copy, for your response to this schedule, documents or information from an electronically stored source onto a disk or other electronic storage medium), you must contact a USAO representative to arrange a meeting or conference call with FUSD's personnel who are familiar with the electronic files in which the documents or information are stored, to explain to USAO representatives the manner in which the documents or information are stored and the types of information that are available on the electronic source. USAO representatives must approve the format and production method for electronic data before FUSD responds to this subpoena.

K. This subpoena requires FUSD to:

- i. Appear before the grand jury through an authorized, knowledgeable representative at the time and place set;
- ii. Produce before the grand jury all documents described in this schedule of documents; and
- iii. Identify and authenticate all documents so produced.

L. The representative who appears before the grand jury for FUSD will be questioned under oath regarding methods of compliance and whether all documents described in this schedule of documents have been produced. The representative making the appearance should be prepared to explain what was done, how, where, when, and by whom to comply with the demands set forth in this schedule of documents.

M. In lieu of producing documents before the grand jury, FUSD, at its sole election, may also comply with the subpoena by producing all responsive documents via certified or registered mail, or via equivalent delivery, to:

Grant B. Rabenn, Assistant U.S. Attorney
U.S. Attorney's Office, Eastern District of California
2500 Tulare Street, Suite 4401
Fresno, California 93721

FUSD may produce documents in this manner provided that it meets each of the following prerequisites:

- i. FUSD gives notice to the United States a minimum of fourteen (14) days before the date of its scheduled appearance before the grand Jury;
- ii. The official of FUSD responsible for complying with this subpoena submits with the subpoenaed documents a sworn statement that:
 - a) States the name and position of each person assisting in the search for the documents;
 - b) Describes all locations searched, including FUSD's computer system and all removable media;
 - c) Identifies the documents produced by number; and
 - d) Certifies that the documents produced fully comply with the demands of the subpoena and that FUSD has withheld no documents, except on grounds of privilege in accordance with Paragraph II.E., above.

N. Regardless of which production method FUSD chooses, the grand jury reserves the right to require the official of FUSD responsible for compliance with this subpoena or any other employee involved in the search to testify about FUSD's efforts to comply with the subpoena.

- O. The scope of the demands of this subpoena may not be modified, limited, deferred, or otherwise varied unless confirmed or acknowledged in writing, or made of record before the grand jury or in open court, by a duly authorized representative of the USAO.
- P. All communications or inquiries from counsel for FUSD regarding this subpoena and schedule of documents should be addressed to:

Grant B. Rabenn, Assistant U.S. Attorney
U.S. Attorney's Office, Eastern District of California
2500 Tulare Street, Suite 4401
Fresno, California 93721
Telephone number: 559.497.4000

III. DOCUMENTS TO BE PRODUCED

Part I

FUSD must produce to the grand jury the following documents. For each cover letter or other transmittal accompanying documents produced in response to Paragraphs III. A – B below, FUSD must identify the specific paragraph of the subpoena to which each document or group of documents is responsive and the custodian(s) from whose files the document(s) originated.

- A. Personnel Data. For each present and former officer, director, employee, or agent of FUSD who has or had any responsibility for, or has or had participated in formulating, proposing, recommending, establishing, approving, negotiating, or otherwise working on:
 - (a) the prices and terms of conditions for any school or other FUSD facility construction project that was approved pursuant to a lease-leaseback contracting method; (b) the selection of school or other FUSD facility construction projects that were approved pursuant to a lease-leaseback contracting method; (c) the selection of Contractors or Consultants for school or other FUSD facility constructions projects that were approved pursuant to a lease-leaseback contracting method ; (d) the use of Measure Q bond funds for school or other FUSD facility construction projects.
- i. Full name, including any aliases;
- ii. Last known residence address and telephone numbers;
- iii. All electronic mail identifiers and addresses, including non-FUSD addresses and providers (e.g., Gmail, Yahoo, Hotmail); and cellular telephone numbers and cellular service providers (e.g., Verizon, AT&T), assigned to or used by the person;
- iv. Date and place of birth and Social Security Number.
- v. All titles or positions with FUSD;

- vi. Separately for each title or position identified in the immediate paragraph above:
 - a) The individual's tenure;
 - b) Duties and responsibilities, including the identification of any specific areas, Contractors, Consultants, or facilities for which the individual had responsibility in that position;
 - c) Business address;
 - d) E-mail address;
 - e) Any telephone and facsimile numbers; and
 - f) The names of the individual's immediate superiors, immediate subordinates, secretaries, and administrative, support, or other assisting staff (together with the date and place of birth for each such superior, immediate subordinate, secretary or administrative, support, or other assisting staff); and
- vii. The reason for and date of demotion, separation, and/or termination from FUSD if the individual is no longer employed by FUSD.

B. Contractors and Consultants. For each calendar year during the subpoena period, for any Contractor(s) and Consultant(s) involved in the construction of school or other FUSD facilities that were approved pursuant to a lease-leaseback contracting method or that were funded by Measure Q, provide:

- (a) the name, address, telephone numbers, and contracting agent(s);
- (b) the total dollar amount paid to each Contractor and Consultant;
- (c) the specific types of contracts entered into with each Contractor and Consultant; and
- (d) a description of the nature of the Contractor and Consultant's business and work provided to FUSD.

Part 2

FUSD must produce to the grand jury the following documents. For each cover letter or other transmittal accompanying documents produced in response to Paragraphs III.C. - K., below, FUSD must identify the specific paragraph of the subpoena to which each document or group of documents is responsive and the custodian(s) from whose files the document(s) originated.

C. For each person identified in response to Paragraph III.A., above, FUSD must produce the following for the subpoena time period:

- i. Calendars, Appointment Books, Telephone Directories. (a) All calendars, calendar pads, notepads, daybooks, appointment books, reminder pads, notebooks, telephone listing books or files, contact lists, rolodexes, business cards, e-mail directories, and diaries, and entries therein, related to any Contractor or Consultant identified in response to Paragraph III.B., above, or any Associate of or Person employed by any such Contractor or Consultant, or relating to any construction projects using the lease-leaseback contracting method or that were funded by Measure Q; and including electronic data stored on any desktop computer, laptop, home computer, personal data/digital assistant ("PDA"), cellular telephone, smartphone, tablet, or any other electronic device or removable media (including floppy diskettes, CDs/DVDs, USB thumb drives) containing that information.

- D. Agreements Between FUSD and Contractors and Consultants. All documents reflecting or relating to any actual, possible, or proposed agreement, regardless of whether an agreement was reached or whether an agreement was implemented or successfully executed, between FUSD or any current or former officer, director, employee, or agent of a FUSD, and any current or former officer, director, employee, or agent of any Contractor or Consultant, including without limitation any Contractor or Consultant identified in response to Paragraph III.B., or any Associate of or Person employed by any such Contractor or Consultant, relating to any construction projects using the lease-leaseback contracting method or that were funded by Measure Q.

- E. Agreements Between FUSD Officers, Directors, Employees, Agents, or Family Members/Associates and Contractors and Consultants for FUSD. All documents reflecting or relating to any actual, possible, or proposed agreement, regardless of whether an agreement was reached or whether an agreement was implemented or successfully executed, between any current or former officer, director, employee or agent of FUSD, or any Family Member or Associate of any current or former officer, director, employee or agent of FUSD, and any Contractor or Consultant identified in response to Paragraph III.B., or any Associate of or Person employed by any such Contractor or Consultant, or any current or former officer, director, employee, or agent of any such Contractor, Consultant..

- F. Certain Types of Communications, Agreements and Meetings. All documents reflecting or relating to (a) any actual, possible, or proposed agreement, regardless of whether an agreement was reached or whether an agreement was implemented or successfully executed, or (b) any actual, possible, or proposed meeting, discussion, conversation, contact, or communications between any current or former officer, director, employee, or agent of any Contractor or Consultant, or any Associate of or Person employed by any such Contractor or Consultant, including without limitation any Contractor or Consultant identified in response to Paragraph III.B., and FUSD, or any current or former officer, director, employee, or agent of FUSD, or any Family Member or Associate of any current or former officer, director, employee, or agent of FUSD, relating to:
 - i. The campaign for and passage of Measure Q, implementation of Measure Q, and the use and/or disbursement of any Measure Q funds;

- ii. Lease-leaseback contracting, including any decisions, discussions, or policies, including but not limited to documents relating to:
 - a. The bidding, planning for, construction, and maintenance of Gaston Middle School;
 - b. The bidding, planning for, and constructions relating to the rebuilding/refurbishment/modernization of Fresno High School;
 - c. The bidding, planning for, construction, relating to the rebuilding/refurbishment/modernization of Bullard High School;
 - d. Pre-construction or construction consulting agreements with any Contractor or Consultant, or other entity providing construction services to FUSD; including without limitation any such agreements made with Harris Constructions or Bush Construction.
 - iii. Any contributions, support, events, payments, or other forms of assistance by FUSD Contractors and Consultants for the election of any School Board member or candidate, or any contributions, support, events, payments, or actions taken to oppose the election of any School Board member or candidate;
 - iv. Consulting agreements, contracts, or any other financial dealings, or other communications, in any form, with Harris Construction and any director, employee, or agent of Harris Construction, whether relating to any official construction projects or any other FUSD events, such as The State of Education event or The Convocation event, and relating to any fundraising event, whether related to FUSD, the FUSD School Board, or any other politician and/or political campaign;
 - v. Consulting agreements, contracts, or any other financial dealings, or other communications, in any form, with Bush Construction and any director, employee, or agent of Bush Construction, whether relating to any official construction projects or any other FUSD events, such as The State of Education event or The Convocation event, and relating to any fundraising event, whether related to FUSD, the FUSD School Board, or any other politician and/or political campaign;
 - vi. As for any of the above items at Paragraphs III.F.i –v., above, FUSD must disclose any actual or potential efforts to prevent disclosure of any communications or agreements between FUSD, *and* any Contractor or Consultant providing services to FUSD.
- G. Record Retention Policies. All documents relating to FUSD's practices, policies, plans, or procedures concerning the retention, destruction, secrecy, or confidentiality of documents, including any instructions or suggestions (a) that documents be destroyed, altered, or removed from FUSD's files or that data be altered on, or deleted from, FUSD's computer system; (b) that documents be removed or transferred to another location; (c) that information should not be committed to writing or should not be retained in FUSD's files or stored on FUSD's computer system.

- H. Information Technology Unit. The following documents related to FUSD's information technology unit: (a) current organizational charts for FUSD's information technology ("IT") unit; (b) written policies related to document retention and management, along with documents sufficient to show when the policy was in effect and whether the policy is enforced and by whom; and (c) any existing diagrams of FUSD's IT infrastructure.
- I. Conflict of Interest and Financial Disclosure Laws. All documents setting forth FUSD's policies or procedures concerning compliance with local, county, and state conflict of interest and financial disclosure laws, and all reports of any compliance audits or investigations undertaken pursuant to that policy.
- J. For each person identified in response to Paragraph III.A., above:
 - i. Travel and Entertainment Expenses. All documents relating to business expenses incurred for transportation, hotels, entertainment, meals, or other related expenditures by these persons, including travel vouchers, travel itineraries, frequent-flier account statements, requests for reimbursement, and all back-up documentation, credit-card receipts, and other bills or invoices.
- K. Annual Reports and Financial Statements. All documents constituting FUSD's annual reports and annual financial statements, including management letters from any of FUSD's accounting firms, and reports made to the FUSD School Board, or the State of California.

PROOF OF SERVICE

This subpoena for *(name of individual or organization)* Fresno Unified School District (Subpoena No. 2015-15-01)

was received by me on *(date)* _____

I served the subpoena by delivering a copy to the named person as follows:

Fresno Unified School District
2309 Tulare Street
Fresno, CA 93721-2266

on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

U.S. ATTORNEY'S OFFICE
2500 Tulare Street, Suite 4401
Fresno, CA 93721

Server's address

Additional information regarding attempted service, etc.:

TRANSMISSION LETTER

For documents requested by
Grand Jury Subpoena

August 27, 2015

United States Attorney's Office
2500 Tulare Street, Suite 4401
Fresno, CA 93721
Telephone: (559) 497-4000
Attn: Maria Robles

Re: *GJ Subpoena # 2015-15-01*
AUSA GRANT B. RABENN

Materials requested pursuant to the above grand jury subpoena:

- Are attached hereto;
- Were mailed under separate cover to the U.S. Attorney's Office on _____ (date);
- Were picked up by special agent on _____ (date);
- Were mailed under separate cover to a special agent on _____ (date);
- No record found;
- Other:

By: _____
Custodian of Records
Fresno Unified School District
2309 Tulare Street
Fresno, CA 93721-2266

RULE 902(11) CERTIFICATE OF RECORDS OF REGULARLY CONDUCTED ACTIVITY

1. I am an employee of Fresno Unified School District.

My Title is _____.

In the course of my employment, I have access to customer-related records of my employer, and I am authorized to certify these records as a custodian of records.

2. Pursuant to federal Grand Jury Subpoena # 2015-15-01, my employer has produced records to the U.S. Attorney's Office for the Eastern District of California, consisting of documents relating to the account(s) or person(s) listed below.

3. Pursuant to Federal Rule of Evidence 902(11), I certify that the records produced in response to Grand Jury Subpoena # 2015-15-01:

(A) Were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; and

(B) Were kept in the course of my employer's regularly conducted activity; and

(C) Were made by my employer as a regular practice.

Under the penalties of perjury under the laws of the United States, I certify that the above is true and correct, and if called as a witness, I could competently testify thereto.

Executed this ___ day of _____, 201___, at _____.

Name:
Title:

Account name(s) or number(s) for documents provided: _____

CERTIFICATE PROVIDED TO:
ATTN: GRANT B. RABENN
The United States Attorney's Office
Eastern District of California
2500 Tulare Street, Suite 4401
Fresno, CA 93721