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OUR FILE NUMBER:
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February 18, 2014

***VIA EMAIL – BRIANHEWS@CERRITOSNEWS.NET
AND 1ST CLASS MAIL***

Brian Hews-Editor
Hews Media Group – Community News
13047 E. Artesia Blvd. C-102
Cerritos, CA 90703

**Re: Cerritos Community College District / Brian Hews
Response to California Public Records Request**

Dear Mr. Hews:

The purpose of this letter is to provide the District's initial determination as mentioned in our February 3, 2014 response to your Public Records Act Request ("PRA") dated January 24, 2014. Your Public Records Act Request was directed to Ms. Andrea Wittig in the office of Dr. Linda Lacy, the Superintendent/President of the Cerritos Community College District. Your request provides:

Hews Media Group-Community Newspaper would like to formally request copies of any and all emails written between Linda Lacy, Robert Chester, Stephen Johnson, Angel Castillo, Richard Bukowiecki and Randy Albano, from the period of January 1, 2012 to the present.

The District has determined there are records in its possession responsive to your request. However, some of the records requested are not public records, as defined in Government Code section 6252(e), and some require redaction pursuant to Government Code section 6253(a). To the extent the records are exempt or include information that is exempt from disclosure pursuant to the Public Records Act, including, but not limited to, Government Code sections 6254(a) (preliminary drafts, notes, or intra-agency memoranda not retained by the District in the ordinary course of business), 6254(c) (personnel exception), 6254(f) (police investigatory records), 6254(k) (privileged material, including those within the attorney-client privilege and work product doctrine, including Evidence Code sections 915, 950 et seq., and 1040, student records pursuant to Education Code section 76200 et seq., and 20 USC section 1232g,) and 6255 (catch-all exception), such information will be withheld or redacted, as appropriate.

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The District will produce responsive emails on a rolling basis starting on Tuesday, February 25, 2014, after it is determined that the emails and their attachments are responsive and not exempt from disclosure pursuant to law. Additionally, because of the voluminous amount of documents, we are willing to produce responsive emails with attachments on a rolling basis but will need your written agreement to make the necessary statutory payments prior to any production, as discussed more fully, below.

The District does not store emails in the ordinary course of business in a manner that corresponds to your request and its Information Technology staff are not trained in the creation of data compilation, extraction, or the necessary programming. As a result, the District has had to hire a computer forensic consultant to assist with creating a data compilation and gathering accessible emails with their attachments to determine whether the District is in possession of responsive emails. The consultant assisted with the extraction and compilation of accessible emails from the District's email server and restored accessible deleted items. Additionally, the consultant imaged the six named individuals' computers and determined that there are no responsive emails saved locally on any of the six named individuals' computers' hard drives. See, Government Code section 6253.9(b)(2).

The consultant compiled more than 157,000 accessible documents from the six custodians' email accounts. The accessible deleted emails were restored and the physical size of these emails expanded to more than 18 Gigabytes once the data was decompressed. Another consultant then searched within the six email accounts identified in your PRA request to extract responsive emails that not only included the "To," "From," "CC" or "BCC" field, but also any of the other individuals names mentioned in the body of a forwarded email or the emails' attachments. Once this extraction was performed, we were able to eliminate more than 70% of the compiled accessible emails because they were not responsive to your request. However, there are still more than 37,000 documents comprised of 80,741 pages of material that must be reviewed prior to production.

The District will produce responsive emails on a rolling basis because we have determined that we can review no more than about 400 emails a day for responsiveness and propriety of disclosure.

Your request does not state a subject matter which makes it impossible to limit the number of potentially responsive emails that need to be reviewed. We also note that it will be costly for you to obtain all of the emails, unless the scope of your request is limited. If you are willing to limit your request to certain search terms, this will allow the District to produce responsive documents sooner and reduce the cost to you.

Therefore, we write to advise you that the cost of producing the requested records will be significant. To date the cost of data compilation, extraction, or programming is approximately

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\$6,200. Additionally, the District charges \$0.08 per page for the direct cost of copying records. Therefore, if all of the 80,741 pages are disclosable, the cost of providing hard copies could amount to as much as \$6,459.28 if every page of each document were produced. As a result, of the potential significant costs, we will need to receive your written agreement that Hews Media Group will pay for the compilation, extraction, programming and copying costs in an amount not to exceed \$12,659.28. If, you are willing to modify your request to provide words that can be used as search criteria, then the cost of providing copies can be reduced.

Additionally, and as addressed in our February 3, 2014, correspondence, your broad request seeks emails that may be stored on backup tape. As mentioned in our prior correspondence, the District possesses more than 230 backup tapes for the relevant period. Information stored on backup tapes will require restoration to accessible form and the compilation of data may require the construction of a computer report to extract data (Government Code section 6253.9(b)(2).)

Your request seeks records dating back to January 1, 2012. As previously advised, a majority of the relevant time period deleted responsive records reside only on the District's 230 disaster recovery backup tapes, and can only be restored to a readable format with great effort and expense. As you may be aware, backup tapes and systems are unorganized data that the federal and California courts have determined to be inaccessible or at least would require an inordinate expense to compile. The only way to tell what is on a particular set of tapes is to restore each and every tape in the set. Absent payment to the District of the expense to restore this otherwise inaccessible data, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. Government Code section 6255(a).

Such electronically stored data may be fully or partially exempt from disclosure (consistent with Government Code section 6253.9) and/or the public interest served by not disclosing the record may clearly outweigh the public interest served by disclosure of the record, absent payment by the requesting party of the costs associated with extracting and compiling the electronically stored data that is being requested. As a matter of policy, the Public Records Act, the California Code of Civil Procedure, and California case law require a requesting party to pay the costs of restoring information from backup tapes and backup systems. (See Government Code sections 6253.9 and 6255, and Code of Civil Procedure section 2031.280(e).)

As a result, of your Public Records Act request, the District suspended reusing backup tapes. On February 3, 2014, we advised that we will obtain quotes to restore the backup tapes to accessible data so that we may learn whether they contain any responsive disclosable emails. In speaking with vendors we learned that it will cost more than \$208,200 to spin and restore the information stored on the backup tapes to an accessible format. Additionally, there is approximately a \$5,000 charge for each Exchange database restore for each set or period of backup tapes. There currently appears to be eighteen different sets or periods of backup tapes that may hold information responsive to your request.

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The District's disaster recovery backup tapes are comprised of two types of tapes. The District initially used Super DLT-1 tapes ("SDLT"). Each SDLT tape can hold 160 GB of native electronically stored information or 320 GBs of compressed information. There are a total of 96 SDLT tapes and it costs \$500 to spin and restore each of these backup tapes. During the time period covered by your request, the District also started using a different type of backup tape system, Quantum Data Cartridge LTO-5 ("LTO") tapes with 1.5 Terabyte ("TB")¹ native capacity and the ability to compress 3 TB of data. Our vendor informed that it costs \$750 to spin each LTO tape. Please advise whether Hews Media Group will agree to pay the costs associated with restoring the information stored on the backup tapes to an accessible format.

Consistent with Government Code section 6253.1, if you can modify your request such that it "reasonably describes an identifiable record or records" by providing a reasonably specific description of the emails desired, i.e., a more specific description of the documents you are seeking, as opposed to all emails between the six employees, or provide a description of the categories of information sought, or specifying a more concise time period, or by specifying search terms, this may speed the process and reduce Hews Media Groups cost. (Government Code section 6253.1(a).

We anticipate having the first set of responsive documents compiled and extracted from the District's accesible emails available to you on February 25, 2014. The number of documents and their relevance to you will be greatly enhanced by modifying your PRA request.

Very truly yours,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO



Warren S. Kinsler

WSK/jkc

cc: Dr. Linda Lacy, Superintendent/President
Mr. Raul Salinas, Esq.

¹ 1 Terabyte is the equivalent of 1000 Gigabytes. Assuming 16,000 email per GB, 1 TB could hold 16,000,000 emails.