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**UTAH DEPARTMENT OF GOVERNMENT OPERATIONS
DIVISION OF ARCHIVES AND RECORDS SERVICE
GOVERNMENT RECORDS OFFICE**

BILL MARSHALL,

Petitioner,

vs.

UTAH VALLEY UNIVERSITY,

Respondent.

**RESPONDENT’S STATEMENT OF FACTS,
REASONS, AND LEGAL AUTHORITY**

Case No. 2026-004

Per Utah Code Ann. § 63G-2-403(5)(a), Utah Valley University (“UVU”), through Assistant Attorney General Nicole Ferguson, submits the following statement of facts, reasons, and legal authority in response to the Government Records Access and Management Act (“GRAMA”) appeal filed by Petitioner Bill Marshall. Mr. Marshall’s appeal should be denied as UVU conducted a reasonable search for records in response to his GRAMA request.

STATEMENT OF FACTS

1. On November 20, 2025, Petitioner submitted a GRAMA request to UVU seeking: (1) All records related to the destruction and/or removal of evidence and/or materials from the site of the assassination of Charlie Kirk on September 10, 2025. Such records shall include but not be limited to UVU police/security personnel emails and text messages, reports, directives,

contractor invoices and authorizations; and (2) All records related to the paving operation that occurred at the site on the UVU campus of the Charlie Kirk assassination, including email and text communications among university officials about the work, emails and text messages between the university and contractors involved in the operation, estimates, invoices for the work, purchase orders, and all related records.” *See* Exhibit A.

2. On November 24, 2025, the Record Officer notified Petitioner that due to the extraordinary circumstance of a high volume of record requests, they estimated the request would be completed within fifteen business days. *See* Exhibit B.

3. On December 15, 2025, the Record Officer denied Petitioner’s request, stating that the request was not reasonably specific as required under Utah Code Ann. § 63G-2-204(1)(a)(ii). For item one of the request, because the terms “evidence/materials” were too broad and did not identify the departments to search, and for item two of the request, as it was not clear which “university officials” or “related records” were intended. *See* Exhibit C.

4. On December 26, 2025, Petitioner appealed the Records Officer’s decision to UVU’s Chief Administrative Officer (“CAO”), Val Peterson, stating that the request was sufficiently described. *See* Exhibit D.

5. On January 8, 2026, the CAO granted Petitioner’s appeal in part, finding that the common meaning of the words “evidence” and “materials” were sufficient to conduct a search of the areas of the university reasonably likely to possess responsive records. *See* Exhibit E. In accordance with the above determination, the CAO provided Petitioner with responsive records.

6. UVU incorporates into this document all the arguments and authority discussed and cited in the CAO’s January 8, 2026, Appeal Response.

7. On January 9, 2026, Petitioner appealed to the Director of the Government Records Office, arguing that records responsive to the first item could not be withheld on the basis of ongoing law enforcement proceedings and that the search was inadequate with respect to the second item because it failed to identify records relating to the “paving operation.”

SUPPLEMENTAL RECORD PRODUCTION

In connection with this appeal response, UVU is simultaneously providing a supplemental production of records responsive to Petitioner’s GRAMA request. Certain information in the supplemental production has been classified as protected under to Utah Code Ann. § 63G-2-305(10)(c), § 63G-2-305(11), and § 63G-2-305(12), and as private under to Utah Code Ann. § 63G-2-302(2)(d). Pursuant to Utah Code Ann. § 63G-2-308(2), UVU has redacted only those portions of the records that are properly classified under GRAMA and is producing the remaining nonexempt portions.

Each redaction is marked with a citation to the applicable provision of GRAMA and/or other law that authorized the redaction. In addition to the records being produced, UVU has identified one record that is being withheld in full: a check relating to payment to the vendor that cleaned the site where Mr. Kirk was killed, which includes banking information and the name of the vendor. That record is classified as protected under Utah Code Ann. § 63G-2-305(11) and § 63G-2-305(12). The supplemental records identified as responsive have been provided with redactions made to classify as protected the identity of the those involved pursuant to Utah Code § 63G-2-305(11) based on the heightened public interest and concerns of threats to their life and safety should their identity become known, and with the other redactions identified above.

REASONS AND LEGAL AUTHORITY

Petitioner's Appeal Should be Denied Because UVU Conducted a Reasonable Search.

GRAMA provides that a governmental entity “shall conduct a reasonable search for a requested record.” Utah Code Ann. § 63G-2-201(7)(b). A “reasonable search” is one that is: “reasonable in scope and intensity” and “not unreasonably burdensome for the governmental entity.” Utah Code Ann. § 63G-2-103(24). In an appeal concerning whether a governmental entity possesses or maintains requested records, the governmental entity bears the burden to show by a preponderance of the evidence that its search for the requested records was reasonable. Utah Admin. Code R35-1-3(1)(a). If that showing is made, the burden shifts to the petitioner to show that the search efforts were not reasonable. Utah Admin. Code R35-1-3(1)(b).

Here, UVU conducted a reasonable search tailored to the wording of Petitioner's request and to the locations and custodians reasonably likely to possess responsive records. GRAMA requires reasonableness, not perfection, and does not require a governmental entity to search offices or personnel that are not reasonably likely to maintain responsive records.

With respect to the portion of the request seeking records related to the removal of evidence and/or materials from site of the assassination of Charlie Kirk,” UVU consulted the departments and personnel reasonably likely to have been involved in that work. Stacy Fowler, an assistant GRAMA Records Officer, consulted with the Utah Valley University Police Department (UVUPD) regarding this request and was told that UVUPD did not have control of the crime scene or involvement in the removal of evidence or materials from the site of the incident so they would not have responsive records. See Exhibit F, Declaration of Stacy Fowler, ¶ 4. Because UVUPD did not participate in any aspect of the evidence removal process, a search of UVUPD emails and text messages was not conducted as it was not reasonably likely that the

search would produce responsive records related to “the destruction and/or removal of evidence and/or materials from the site of the assassination of Charlie Kirk.” Under GRAMA, it is both appropriate and expected that an institution tailor its search efforts to a reasonable scope- to those offices or custodians reasonably likely to hold responsive records. This is particularly important when a request—such as this one—seeks “all records” but does not identify a specific custodian or department to search. UVU consulted the departments and personnel reasonable likely to have been involved in that work. As set forth in the declarations submitted with this response, UVU determined that the UVU Police Department did not control the scene cleanup or removal work at issue and did not participate in that process. Because UVUPD was not reasonably likely to possess responsive records concerning that work, it was reasonable not to conduct a further search of UVUPD communications for that category of records. Instead, UVU directed its search to the offices and personnel actually involved in coordinating and carrying out the post-incident cleanup and removal activities.

After the site was returned to UVU’s control, Frank Young, Associate Vice President of Facilities Planning at UVU, was involved in coordinating the cleanup and removal of materials from the site, as well as coordinating the paving operation at the site of the shooting. As described in Exhibit G, Mr. Young searched for responsive records within a reasonable timeframe tied to the period when that work occurred and also sought responsive records from other UVU personnel directly involved in that work. That search produced responsive records, which have been provided with appropriate redactions.

To the extent UVU determined that certain categories of requested records were not maintained by UVU, UVU informed Petitioner accordingly and, where known, directed

Petitioner to the Division of Facilities and Construction Management (DFCM), which may maintain those records, consistent with Utah Code Ann. § 63G-2-204(4)(b)(iii).

Mr. Peterson's appeal response stated that there was a UVU Police Report that was responsive to this request as it mentioned the collection of evidence, however, a closer review of the report during this appeal shows that it is in fact not responsive to the request as it does not discuss destruction and/or removal of evidence and/or materials from the shooting site.

Even if there were a police report or other police records related to the removal or destruction of evidence that would be responsive to this request, such records would be protected from release under Utah Code Ann. §§ 63G-2-305(10)(a)-(c). Section 305(10)(a)-(c) protects records created or maintained for "civil, criminal, or administrative enforcement purposes" if the record's release could reasonably be expected to interfere with investigations undertaken for enforcement purposes, enforcement proceedings, or would create a danger of depriving a person of a right to a fair trial or impartial hearing.

There is an ongoing criminal investigation and prosecution related to the September 10, 2025, Turning Point event on UVU's campus. Releasing records relating to evidence removal could reasonably be expected to interfere with those proceedings by revealing information that may be related to the investigation or other matters that could bear on trial fairness.

Regarding the portion of Mr. Marshall's request seeking, "estimates, invoices for the work, purchase orders, and all related records" relating to the paving of the site, Ms. Fowler was informed by Mr. Young that UVU did not pay for the work completed, so there were no estimates, invoices, or purchase orders to provide.

Petitioner's assertion that additional emails, text messages, estimates, invoices, purchase orders, or other records "should" exist is not sufficient to show that UVU's search was

unreasonable. The relevant question is whether UVU used methods reasonably calculated to locate responsive records in the places where such records were reasonably likely to be found. The declarations and production of records establish that it did. Petitioner has not shown, by a preponderance of the evidence, that UVU's search efforts were unreasonable.

UVU has shown that it has conducted a reasonable search for records by reaching out to the relevant departments to determine whether those departments had responsive records. As discussed above, a search for records was conducted and responsive records have been provided to Mr. Marshall. In an appeal case where a governmental entity has shown it has conducted a reasonable search by a preponderance of the evidence, "the burden of proof shifts to the petitioner who must show by a preponderance of the evidence that the search efforts were not reasonable." Utah Administrative Rule R35-1-3(1)(b). Mr. Marshall's conjectures that a search was not reasonable, or that records still exist, is not enough. He has not met his burden in this case.

CONCLUSION

For the reasons discussed above, the Director should deny Petitioner's appeal.

Dated this 12th day of March 2026.

DEREK BROWN
UTAH ATTORNEY GENERAL'S OFFICE



NICOLE FERGUSON
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I served a copy RESPONDENT’S STATEMENT OF FACTS, REASONS, AND LEGAL AUTHORITY on this 5th day of March by email and mail to the following:

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DATED this 5th day of March, 2026

/s/ Nicole Ferguson
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