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9 BEFORE THE DEPARTMENT OF JUSTICE

10 OFFICE OF THE ATTORNEY GENERAL

11 STATE OF CALIFORNIA
12

13 **IN THE MATTER OF THE INVESTIGATION OF**
14 **POSSIBLY UNLAWFUL AND WASTEFUL**
15 **ACTIVITIES BY OFFICIALS, OFFICERS, AND**
16 **EMPLOYEES OF THE CITY OF VERNON, AND**
THE POSSIBLE NEED FOR CHANGES IN
CALIFORNIA LAW.

**SUBPOENA TO PRODUCE
DOCUMENTS**

(Gov. Code, § 11181)

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18 TO: Custodian of Records, City of Vernon

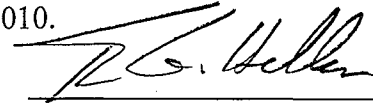
19 Pursuant to the powers conferred by Government Code sections 11180-11189 upon the
20 Attorney General of the State of California as head of the Department of Justice, which powers
21 and authority to conduct the above-entitled investigation have been delegated to Deputy Attorney
22 General Thomas G. Heller,

23 YOU ARE COMMANDED to produce documents described in Schedule C hereto which
24 are in your possession or under your control by 1:00 p.m. on Wednesday, September 22, 2010, at
25 the Office of the Attorney General, 300 South Spring Street, Suite 1702, Los Angeles, California
26 90013.

27 This subpoena requires the production of the original of each document unless there is in
28 your possession or under your control only a copy or photographic record thereof, in which case

1 this subpoena is for a true and legible copy of each such document. Failure to comply with the
2 requirements of this subpoena will subject you to liability for proceedings and penalties provided
3 by law.

4 Given under my hand this 15th day of September, 2010.



5
6 THOMAS G. HELLER

7 Deputy Attorney General

8 (213) 897-2628
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10 TO THE PERSON SERVED: You may seek the advice of an attorney in any matter
11 connected with this subpoena. You should consult your attorney promptly so that any problems
12 concerning your production of documents may be resolved within the time required by this
13 subpoena. You are further advised that you are hereby served this subpoena on behalf of the City
14 of Vernon, as a person upon whom a copy of this subpoena may be delivered to effect service on
15 said party under the provisions of the California Code of Civil Procedure section 416.50.
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1 3. “Document” means the original or any identical copy and all nonidentical copies
2 (whether different from the original because of notes or underlining made thereon, attachments
3 affixed thereto, annotations, marks, transmissions, highlighting of any kind, or otherwise) of any
4 written, printed, electronically generated/retained recorded material, or electronic data of writings
5 of every kind and description that are fixed in any form of physical media. Physical media
6 include, but are not limited to, paper media, phonographic media, photographic film media
7 (including pictures, prints, films, slides, and microfilm), magnetic media (including but not
8 limited to hard disks, floppy disks, compact disks, and magnetic tapes of any kind), computer
9 media, optical media, magneto-optical media, and other physical media on which notations or
10 markings of any kind can be affixed. Documents include, by way of example only, any
11 memorandum, request envelope, correspondence, electronic mail, report, note, Post-It, message,
12 telephone message, telephone log, diary, journal, appointment calendar, calendar, group scheduler
13 calendar, drawing, painting, accounting paper, minutes, working paper, financial report,
14 accounting report, work papers, drafts, facsimile, facsimile transmission, report, contract, invoice,
15 record of purchase or sale, Teletype message, chart, graph, index, directory, computer directory,
16 computer disk, computer tape, computer file, or any other written, printed, typed, punched, taped,
17 filmed, or graphic matter, however produced or reproduced. Documents also include the file,
18 folder tabs, and labels appended to or containing any documents. Documents include electronic
19 mail messages and information about the electronic mail messages (including message contents,
20 header information and logs of electronic mail system usage).

21 4. The term “and” means and/or.

22 5. The term “or” means and/or.

23 6. “Relating to” means constituting, containing, concerning, discussing, describing,
24 analyzing, identifying, or stating.

25 7. “Compensation” means, but is not limited to, any salaries, wages, and other job-
26 related earnings, including but not limited to pension or retirement benefits, healthcare benefits,
27 cash and in-kind gifts, bonuses and awards, fringe benefits, childcare services, loans, and advance
28 commissions.

SCHEDULE B
INSTRUCTIONS

1. The relevant period of this subpoena is, unless otherwise so indicated, January 1, 2003, through the date of responding to this subpoena. This subpoena shall be deemed continuing in nature so as to require production of all documents and information responsive to any Request in this subpoena produced or obtained by you up to fourteen calendar days prior to the date of your full compliance with this subpoena. Any documents relating to this period are to be produced, regardless of whether the documents came into existence before, after, or during this period.

2. This subpoena is for production of the original of each document unless there is in your possession or under your control only a copy or photographic record thereof, in which case this request is for a true and legible copy of each such document. The subpoena also includes the production of all non-identical copies of documents, including drafts and copies upon which notations or additional writings have been made.

3. If documents responsive to a particular Request no longer exist for reasons other than the ordinary course of business or the implementation of the document retention policy as disclosed or described in response to this subpoena, but you have reason to believe responsive documents have been in existence, state the circumstances under which they were lost or destroyed, describe the documents to the fullest extent possible, state the Request(s) to which they are responsive, and identify persons having knowledge of the content of such documents.

4. Documents provided shall be complete and, unless privileged, unredacted and submitted as found in your files (e.g., documents that in their original condition were stapled, clipped or otherwise fastened together shall be produced in such form). You may submit photocopies on white paper (with color photocopies where necessary to interpret the document), in lieu of original documents, provided that such copies are accompanied by an affidavit of an officer of the City of Vernon stating that the copies are true, correct and complete copies of the original documents. The affidavit must also state that a diligent search for all requested documents has been conducted and must be signed under oath by the person most knowledgeable

1 about the documents and efforts made by you to comply with the subpoena. If there are no
2 documents responsive to a document request, as to each such document request, please so
3 indicate.

4 5. Computer files, including but not limited to all electronic mail messages, shall be
5 produced in electronic form, together with instructions and all other materials necessary to use or
6 interpret the data. Electronic mail messages should also be provided, even if only available on
7 backup or archive tapes or disks. Physical media (other than paper media) must be accompanied
8 by (a) an identification of the generally available software needed to open and view and document
9 or (b) a copy of the software needed to open and view the document.

10 6. Each document produced pursuant to this subpoena should be identified according to
11 the paragraph of the subpoena to which it is responsive. In lieu of indicating on each document
12 the paragraph to which it is responsive, you may provide an index of all documents you produce,
13 as long as this index shows the appropriate paragraph to which each document or group of
14 documents is responsive. Responsive documents from each person's files shall be produced
15 together, in one box or in consecutive boxes, or on one disk or consecutive disks, and within each
16 box or disk in file folders that segregate the person's files by specification number. If a document
17 is responsive to more than one specification, produce the document in response to the
18 specification to which it is primarily responsive. Mark each page or electronic medium (disk, tape
19 or CD) with corporate identification and consecutive document control numbers. Number each
20 box or electronic medium and mark each with the name(s) of the person(s) whose files are
21 contained therein, the Requests(s) to which they are responsive, and the document control
22 numbers contained therein.

23 7. For data produced in spreadsheets or tables, identify the fields and codes and a
24 description of the information contained in each coded field.

25 8. The document requests contained herein should be deemed to include all relevant
26 documents in the personnel files of all your former and present officials, council members,
27 officers, directors, employees, agents, consultants, representatives, and, unless privileged,
28 attorneys.

1 9. If any documents are withheld from production based on a claim of privilege, provide
2 a statement of the claim of privilege and all facts relied upon in support thereof. To the extent the
3 claim of privilege involves any employee, agent, representative, or outside attorney, identify the
4 person's name, division, and organization. If the claim of privilege relates to or relies on the
5 privileged status of any document, provide a log that includes each document's authors,
6 addressees, date, a description of each document, all recipients of the original and any copies, and
7 the Request(s) of this subpoena to which the document is responsive. Attachments to a document
8 should be identified as such and entered separately on the log. For each author, addressee, and
9 recipient, state the person's full name, title, and employer or firm, and denote all attorneys with
10 an asterisk. Include the number of pages of each document and provide a sufficient description of
11 the document to identify its general subject matter without revealing information over which a
12 privilege is claimed. For each document withheld under a claim that it constitutes or contains
13 attorney work product, also state whether the City asserts that the document was prepared in
14 anticipation of litigation or for trial and, if so, identify the anticipated litigation or trial upon
15 which the assertion is based. Submit all non-privileged portions of any responsive document
16 (including non-privileged or redactable attachments) for which a claim of privilege is asserted
17 (except where the only non-privileged information has already been produced in response to this
18 instruction), noting where redactions in the document have been made. Documents authored by
19 outside lawyers representing the City that were not directly or indirectly furnished to the City or
20 any third-party, such as internal law firm memoranda, may be omitted from the log.

SCHEDULE C

1. All minutes, resolutions and ordinances of the City of Vernon, or any committee or subcommittee thereof, from January 1, 2003 to the present.

2. All documents relating to all Compensation provided by the City of Vernon to Roirdan Burnett, Eric T. Fresch, Jeffrey A. Harrison, Bruce Malkenhorst Sr., Donal O'Callaghan, or any other present or former official, officer, or employee of the City of Vernon who received Compensation from the City of Vernon of more than \$110,000 in any single fiscal or calendar year. This Request includes, without limitation, employment contracts, records reflecting terms of employment, records reflecting the basis for the Compensation, payroll records, and receipts. This request is not limited to any time period.

3. All resolutions of the City of Vernon relating to the Compensation provided by the City of Vernon to Roirdan Burnett, Eric T. Fresch, Jeffrey A. Harrison, Bruce Malkenhorst Sr., Donal O'Callaghan, or any other present or former official, officer, or employee of the City of Vernon who received Compensation from the City of Vernon of more than \$110,000 in any single fiscal or calendar year. This request is not limited to any time period.

4. All minutes of the meetings of the City Council of the City of Vernon relating to the Compensation provided by the City to Roirdan Burnett, Eric T. Fresch, Jeffrey A. Harrison, Bruce Malkenhorst Sr., Donal O'Callaghan, or any other present or former official, officer, or employee of the City of Vernon who received Compensation from the City of Vernon of more than \$110,000 in any single fiscal or calendar year. This request is not limited to any time period.

5. All documents relating to all Compensation provided by the City of Vernon to city council members from January 1, 2003 to the present.

6. All documents relating to actual or prospective pension or other retirement benefits of Roirdan Burnett, Eric T. Fresch, Jeffrey A. Harrison, Bruce Malkenhorst Sr., Donal O'Callaghan, or any other present or former official, officer, or employee of the City of Vernon who received Compensation from the City of Vernon of more than \$110,000 in any single fiscal or calendar year. This request is not limited to any time period.

1 7. All documents relating to expense reimbursement by the City of Vernon to Roirdan
2 Burnett, Eric T. Fresch, Jeffrey A. Harrison, Bruce Malkenhorst Sr., Donal O'Callaghan, or any
3 other city manager, city attorney, department head, or council member, from January 1, 2003 to
4 the present. This includes, without limitation, all expense reports submitted by the above-
5 referenced persons.

6 8. All documents relating to reports of or reimbursement for overtime worked by
7 Roirdan Burnett, Eric T. Fresch, Jeffrey A. Harrison, Bruce Malkenhorst Sr., Donal O'Callaghan,
8 or any other city manager, city attorney, department head, or council member, from January 1,
9 2003 to the present.

10 9. All documents reflecting amounts other than Compensation that were paid, loaned, or
11 provided by or on behalf of the City of Vernon to Roirdan Burnett, Eric T. Fresch, the Law
12 Offices of Eric T. Fresch, Jeffrey A. Harrison, Bruce Malkenhorst Sr., Donal O'Callaghan, or any
13 other city manager, city attorney, department head, or council member, from January 1, 2003 to
14 the present. This includes, without limitation, loan documents, car contracts, credit card
15 statements, and invoices for services performed as an independent contractor or consultant.

16 10. All documents relating to any Compensation or other remuneration, payments, loans,
17 insurance benefits, retirement or pension benefits, gifts, or other item or thing of value that has
18 been given by the City of Vernon to any relative of Roirdan Burnett, Eric T. Fresch, Jeffrey A.
19 Harrison, Bruce Malkenhorst Sr., Donal O'Callaghan, or any other present or former official,
20 officer, or employee of the City of Vernon who received Compensation from the City of Vernon
21 of more than \$110,000 in any single fiscal or calendar year, from January 1, 2003 to the present.

22 11. All documents identifying the organizational units of the City of Vernon, including,
23 without limitation, city boards, commissions, or agencies; and the names, job titles, and
24 responsibilities of the officials, officers, and employees in each of the identified organizational
25 units.

26 12. All documents identifying the past and current City of Vernon officials, officers, and
27 employees who are members in the California Public Employees' Retirement System.
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