



U.S. Department of Justice
JOHN W. HUBER
United States Attorney
District of Utah

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April 4, 2017

Samuel Alba, Esq.
Max D. Wheeler, Esq.
SNOW CHRISTENSEN & MARTINEAU
Attorneys for Utah Transit Authority
10 Exchange Place, 11th Floor
Salt Lake City, Utah 84111

Re: Non-Prosecution Agreement – Utah Transit Authority

Dear Counsel:

On the condition that Utah Transit Authority (“UTA”) fulfills its obligations under this agreement (“Agreement”), UTA will not be a target of any federal investigation by the United States Attorney’s Office for the District of Utah (“this Office”) and this Office will not bring any criminal action against UTA for any conduct relating to the ongoing investigation including, but not limited to, UTA’s operation of mass public transit services, application for federal grants and funding, expenditure and use of federal funds, or the negotiation for, and/or acquisition of, real property, equipment and other capital improvements related to UTA’s operations. In addition, this Office and the U.S. Department of Transportation’s Office of Inspector General (“OIG”) confirm that no referral has been made to the Federal Transit Administration for civil debarment or suspension action against UTA. This “Agreement” applies only to conduct that occurred prior to April 3, 2017.

In August 2014, the State of Utah’s Office of Legislative Auditor released an audit (Legislative Audit”) of UTA. The Legislative Audit identified several areas where the lack of adequate institutional controls and oversight led to problematic actions taken by UTA.

Based on information learned from the Legislative Audit and the on-going investigation, UTA recognized the need for improved institutional conformity with financial and ethical requirements and acknowledges the following issues and concerns (the “four core issues”) focused on during the investigation:

- (a) Inadequate controls over federal funds and drawdowns from federal grants;

- (b) Improper handling and disclosure of property acquisition and disposition, including inadequate oversight of transit-oriented development projects;
- (c) Non-compliance with ethical standards, resulting in benefits to UTA employees and/or Board members; and
- (d) Improper approval of executive bonuses.

UTA has put forth efforts to rectify the four core issues, including a number of reforms as outlined in the October 4, 2016, letter to this Office (attached as Attachment A), and will continue to monitor its reforms to ensure continued compliance.

This Agreement does not constitute an admission of criminal or civil liability by UTA, but is a demonstration of UTA's willingness to cooperate in good faith with the ongoing investigation and to facilitate its earliest possible conclusion. This Agreement applies to all federal criminal offenses related to the four core issues. This Agreement applies to UTA only. This Agreement does not apply to any other entities nor to any individuals, including UTA's present and former board members, officers, employees, contractors, and consultants.

It is understood that UTA shall:

- (a) completely disclose to this Office all relevant facts it learns about regarding individual criminal misconduct of any UTA personnel acting within their official capacity and identify all individuals of whom UTA learns are involved in or responsible for the misconduct at issue, regardless of their position, status or seniority. UTA will use its best efforts to learn of such acts and will provide information to this Office if any are found.
- (b) cooperate fully with this Office, and any other law enforcement agency designated by this Office, with respect to the ongoing investigation or UTA's compliance with the terms of this Agreement;
- (c) at this Office's request, use its best efforts to promptly secure the attendance and truthful statements or testimony of any current UTA board member, officer, employee, contractor, and consultant at any meeting, interview, grand jury hearing, trial, or court proceeding;
- (d) use its best efforts to promptly provide this Office, upon request, any document, record, or other tangible evidence relating to matters or conduct about which this Office or any designated law enforcement agency inquires that relates to the ongoing investigation of UTA or UTA's compliance with this Agreement;
- (e) to the extent known by UTA, bring to this Office's attention all criminal conduct by or criminal investigations of UTA, including any of its present and former board members, officers, employees, contractors, and consultants that come to the attention of UTA's board members, chief officers, or senior managerial employees;

- (f) continue to implement the institutional reforms outlined in UTA's counsel's October 4, 2016, letter to this Office, focusing in particular on those reforms intended to address the four core issues;
- (g) waive the Attorney-Client and Work Product privilege with respect to all documents or information requested, subpoenaed, or that UTA is obligated to disclose or promptly secure under paragraphs (c) and (d) above during the investigation, along with the subject matters covered by those documents and requests (the "waiver"). UTA has previously asserted claims of Attorney-Client and Work Product privilege over many documents subpoenaed during the investigation. As part of its cooperation throughout the investigation, UTA voluntarily offered and agreed to the waiver under this Agreement, without any suggestion or prompting by this Office. The waiver shall include UTA's previously asserted privilege claims with respect to those documents. This waiver expressly excludes any privileged communications with, or work product generated by or under the direction of, outside counsel UTA retained in its defense during the present investigation;
- (h) retain a monitor, under the terms described in Attachment B, to ensure the continued implementation of institutional improvements outlined in UTA's counsel's October 4, 2016, letter to this Office, focusing in particular on those reforms intended to address the four core issues, as well as recommendations by the monitor concerning additional reforms intended to address the four core issues.

With the exception of the hiring of a monitor, which shall expire after a period of 36 months from retention (or sooner as provided in Attachment B), this Agreement and UTA's obligations hereunder shall remain in effect for a term of either (a) 36 months from the date this Agreement is executed, or (b) the date upon which all prosecutions, if any, arising out of the four core issues are final, whichever is later.

It is understood that should UTA violate or fail to comply with any provision of this Agreement, UTA may thereafter be subject to prosecution for any federal violation of which this Office has knowledge. Furthermore, it is understood that should UTA violate or fail to comply with any provision of this Agreement, UTA may be subject to suspension, debarment, or other civil sanctions. It is understood that if it is determined that UTA has violated this Agreement, then all statements made and documents provided by UTA or its officers, directors, employees, or agents (collectively, "UTA representatives") to this Office, OIG, or other designated law enforcement agents, and any testimony given by UTA representatives in any related proceeding, whether prior to or subsequent to the signing of this Agreement, and any leads from such statements or testimony, may be admissible in evidence in any debarment or civil sanction proceeding brought against UTA.

It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office. This Office will, however, bring the cooperation of UTA to the attention of other prosecuting and/or investigative officers if requested by UTA.

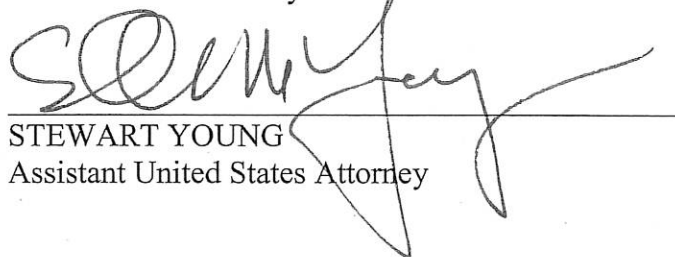
With respect to this matter, from the date of the signing of this Agreement forward, the Agreement supersedes all prior understandings, promises and/or conditions related to the ongoing investigation, if any, between this Office and UTA. No additional promises, agreements or conditions have been entered into other than those set forth in this letter, and none will be entered into unless in writing and signed by all parties.

Sincerely,



JOHN W. HUBER

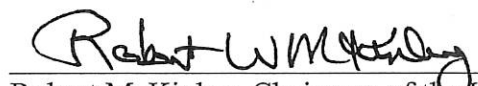
United States Attorney



STEWART YOUNG

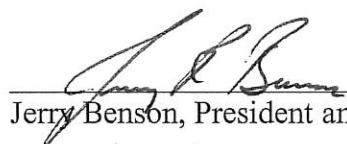
Assistant United States Attorney

AGREED AND CONSENTED TO:



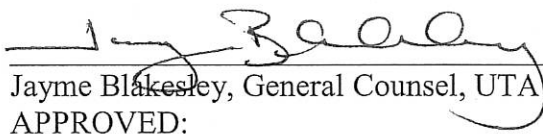
Robert McKinley, Chairman of the UTA Board

4-4-2017
Date



Jerry Benson, President and CEO of UTA

4-4-17
Date



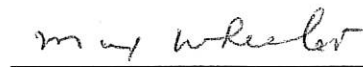
Jayme Blakesley, General Counsel, UTA
APPROVED:

04 April 2017
Date



Samuel Alba, Esq.
Attorney for UTA

4-4-17
Date



Max D. Wheeler, Esq.
Attorney for UTA

4-4-17
Date