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Public Works for a Better Government

December 14, 2011

The Honorable Dan Lungren, Chairman
Committee on House Administration
1309 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Lungren:

I'm sorry we were not able to meet last week when I was in Washington. I was able to meet with two staff members of the Committee and wanted to follow up on the issues they raised.

The first issue is whether the House Broadcast Studio will be permitted to finish the job they started, sending us the remaining archive files. I was presented with a draft agreement by staff which they proposed to circulate to each of the committees. I am certainly willing to continue to donate my time to process this valuable data as a service for the House of Representatives, but I proposed 3 very minor changes to the agreement, which were rejected out-of-hand. A red-line of the agreement is attached to this letter for your review.

The substantive changes were two-fold. First, I added a notation that the conditions of release were drawn from the House Broadcast Rules, not simply drawn up randomly. It is important that the public understands that conditions on use of this video are a result of deliberation by the House and a decision by the elected members, not arbitrary conditions imposed by staff or Public.Resource.Org.

The second change was to a clause indicating that I would acknowledge that video was the "property" of each committee. As you know, since you so graciously and eloquently opened up our Law.Gov session which you hosted with Congresswoman Lofgren in the Committee hearing room, the video is owned by the people and has no copyright. I am certainly willing to concede that it is up to each committee to agree to release physical disks, but ownership of the intellectual property in this Work of Government belongs to the American people. I therefore changed "property" to "discretion of."

I hope you'll understand that on advice of counsel I can't sign the document as drafted by the committee. I did drop off 30 signed copies of the modified version, and if that version is acceptable to you, I would be happy to processing the remaining files.

The other issue that was raised with staff was the donation that we had proposed to make to the House of Representatives of either a server or local RAID arrays containing your data. Staff rejected the offer out-of-hand, indicating that this would be an illegal gift to the House.

I'm not a lawyer, so I'm not in a position to argue the legality of gifts to the House. However, I should point out that I did donate 2 disk drives to the House Office of Art and Archives and they accepted the donation with a signed Deed of Gift. If indeed such donations are improper, they should probably send back the two disk drives. In addition, I've been paying the FedEx bills both ways for assisting the House Broadcast Studio in processing their archive. If a gift is illegal, I believe that means you need to reimburse us for the \$3,669.00 in FedEx charges we incurred and am accordingly submitting an invoice for your review. I apologize for any inconvenience this may cause.

Thank you again for the opportunity to work with you and the House of Representatives over the course of this year. It has been an honor to play a small part in making the archives of the House Broadcast Studio more accessible to the public.

Sincerely yours,

Carl Malamud
Public.Resource.Org

cc: The Honorable John Boehner, Speaker of the House
The Honorable Eric Cantor, Majority Leader of the House
The Honorable Darrell Issa, Chairman of the Committee on Oversight

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Public Works for a Better Government

INVOICE

To: Committee on House Administration
U.S. House of Representatives
Date: December 12, 2011
Terms: Net 30
Subj: Invoice for FedEx Charges Incurred
Total: \$3,669.00

Date	Invoice No.	Cost	Tracking No.	Weight
2011-05-26	176669077	\$201.34	794786118057	10.00
2011-06-06	177122910	\$180.84	794812082487	15.00
2011-08-22	181291345	\$139.68	797411263592	38.00
2011-06-01	176913150	\$182.12	157762007104	40.00
2011-06-06	177122910	\$180.84	794812082443	11.00
2011-07-04	178689016	\$18.36	794924898440	4.00
2011-05-30	176807006	\$246.23	794801975092	15.00
2011-08-03	180290054	\$404.30	876272490240	21.00
2011-11-07	185514968	\$277.52	872288964938	6.00
2011-05-30	176807006	\$246.23	794801975107	10.00
2011-07-22	179669799	\$105.10	874183685719	23.00
2011-08-03	180290054	\$404.30	876272490228	22.00
2011-05-26	176669077	\$201.34	794786118046	15.00
2011-05-23	176442401	\$206.35	794777771439	24.00
2011-08-03	180290054	\$404.30	876272490217	21.00
2011-08-17	181052881	\$27.82	797402861536	2.00
2011-08-22	181291345	\$139.68	797411263581	20.00
2011-06-17	177816130	\$102.65	797191943740	15.00
		\$3,669.00		312.00



Agreement With Respect to Recordings of Proceedings of Committees of the U.S. House of Representatives

WHEREAS the _____ of the U.S. House of Representatives (“the Committee”) seeks to ensure that recordings of its proceedings are available to the American public for archival purposes and utilization,

It is therefore AGREED by and among the parties:

1. Public.Resource.Org may display the recordings of select past Committee proceedings, provided by the Committee, to the public by webstreaming or other means, and shall promptly provide the Committee with links to any webstreams and **make** any other means used by Public.Resource.Org to disseminate recordings of the proceedings readily accessible to Committee.
2. Public.Resource.Org will notify viewers of the webstream and users of the recordings that per Rule 5, Clause 1 of the House Rules and Procedures for Broadcast Coverage of Congress, no portion of any recording may be used for a political purpose, nor may any portion of a recording be disseminated with commercial sponsorship except as part of a bona fide news program or public affairs documentary, nor may any portion of a recording be used in any commercial advertisement and require that any redistribution be subject to the same notice. Public.Resource.Org agrees not to commercially profit from the distribution of the recordings.
3. It is understood and agreed that any copies of the recordings remain the property of are furnished at the discretion of the Committee. The Committee expressly reserves the right to withdraw any or all recordings from the possession of Public.Resource.Org and to require Public.Resource.Org to cease utilization and distribution of the recordings to the public at the Committee’s sole discretion.
4. This agreement shall continue in effect until terminated by any party giving 60 days written notice to the other parties of its intent to terminate. If the agreement is terminated, Public.Resource.Org shall cease distribution of the recordings to the public.

5.

For Public.Resource.Org:

Date: December 8, 2011

For the Committee

Date