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October 18, 2023

The Honorable Scott S. Harris
Clerk of the Court
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

Re: *Speech First, Inc. v. Timothy Sands*
No. 23-156 – Request pursuant to Rule 32.3

Dear Mr. Harris:

Pursuant to Supreme Court Rule 32.3, the Respondent, Timothy Sands, requests permission to lodge non-record material to assist the Court's review of Respondent's Brief in Response to the Petition and Suggestion of Mootness ("Respondent's Brief").

The Respondent, who is sued in both his individual and official capacities, is President of Virginia Polytechnic Institute and State University ("Virginia Tech"). President Sands has executed a declaration calling to the Court's attention recent developments at Virginia Tech that provide the factual basis for his suggestion of mootness (the "Sands Declaration"). Specifically, the bias incident response protocol and bias incident response team ("BIRT"), which are the subject of the Petition, have been discontinued. Because the discontinuation occurred after the May 31, 2023 decision by the Fourth Circuit (wherein Respondent prevailed), there was no opportunity to include that information in the record below.

A copy of the Sands Declaration, formatted pursuant to the applicable rules, has been provided to the Court in the Appendix to Respondent's Brief; however, in an abundance of caution, we believe it also would be appropriate for the Court to have the original of the Sands Declaration, bearing his original signature.

Accordingly, Respondent respectfully requests that the original of the Sands Declaration be lodged with the Clerk, along with so many copies of that document as the Court may require.

Respectfully submitted,

/s/ William H. Hurd
Counsel of Record

cc: Counsel of record
w/ copy of Sands Declaration

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