

2017 ANNUAL REPORT OF THE CITIZENS' BOND OVERSIGHT COMMITTEE

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT,
2016/2017 FISCAL YEAR

The Alum Rock Union Elementary School District in San Jose is nestled in the beautiful foothills of the Santa Clara Valley in the San Francisco Bay Area. Alum Rock is a family-oriented community committed to its children and schools, and serves a student body rich in racial, ethnic, and cultural diversity. Many families are active in supporting the educational community.

The district has successfully forged partnerships with programs such as Head Start, Foothill Community Health Center, the San Jose Public Library, and Somos Mayfair to offer programs that empower families and support health and achievement for students.

The district's schools have won several awards. In 2016, Adelante and LUCHA were honored with California's Gold Ribbon Award for demonstrating exemplary achievements in implementing state standards in priority areas. In 2017, Renaissance Fischer and Renaissance Mathson were honored with the California Gold Ribbon Award.

We are pleased to deliver the Citizens' Bond Oversight Committees 2017 Annual Report to the ARUSD Board of Trustees and the Alum Rock Community. This Annual Report will include a response to the bond performance and financial audits, as well as the Fiscal Crisis Management & Assistance Team (FCMAT) audit of ARUSD, which included Bond Funds. The Citizens' Bond Oversight Committee (CBOC) currently oversees funds from Measure J, and is also responsible for oversight of Measure I, where bonds have yet to be issued.



Figure 1: Mathson Institute of Technology/ Renaissance II (1960) Renovation Complete: August 19, 2017

INTRODUCING THE CBOC

California Proposition 39, known as the School Facilities Local Vote Act, passed November 7, 2000. Prop 39 reduced the threshold needed to pass local California school district bond issues from a two-thirds supermajority vote to a 55 percent vote. California Education Code Section 15728 establishes requirements for a Citizen's Bond Oversight Committee to be established when bond measures are passed under Prop 39. This is a committee of local residents whose main charge is to inform the public of how their bond dollars are spent. The CBOC actively reviews and reports on the expenditures of taxpayers' money for school construction to ensure the bond funds are spent in accordance with the provisions of the Bond. During the 2016/2017 fiscal year, your committee was comprised of 7 appointed members, including a chairperson and vice chairperson. District staff provide technical and administrative assistance to the committee.

| Position | Name | Member Since |
|--|------------------|--------------|
| Chair (Business Organization) | Raymond Mueller | 2013 |
| Vice Chair (Parent/PTA) | Alison Cingolani | 2017 |
| Member (Taxpayers Organization) | Minh Pham | 2017 |
| Member (Senior Citizens Organization) | Frank Chavez | 2017 |
| Member (Community at Large) | Francine Brissey | 2018 |
| Member (Community at Large) | Vacant | |
| Member (Parent) | Vacant | |

COMMITTEE ACTIVITIES

The committee convened and participated in several key activities central to their main charge, such as preparing the Annual Report, and reviewing program expenditures and annual audits. The CBOC met on 3 occasions during the 2016/2017 fiscal year. There were challenges maintaining a quorum throughout 2016 due to committee vacancies. Recruitment to fill vacancies was done through web and direct outreach at Board meetings and meetings of other parent committees. Proceedings of CBOC meetings included:

- Appointment and Election of Chair, Vice Chair, and Secretary
- Review of Financial and Performance Audit
- Review and Revision of Committee Bylaws
- Review of Roles and Responsibilities
- Review of Ballot Languages for Bond Measures
- Review of Brown Act Requirements
- Review of Proposition 39
- Review of Program Management Fees
- Review of Project Status Reports
- Review of Expenditure Reports

ABOUT MEASURE J

Measure J was on the November 6, 2012 ballot where it was approved by 18,442 votes or 79.43%, the bond was issued for \$125 million.

The Ballot Language:

"To improve neighborhood schools by removing mold and asbestos; fixing leaky, deteriorated roofs; replacing inefficient/ aging heating, ventilation, and electrical systems to save money; improving fire safety/ security; updating computer technology/ science labs for 21st century learning; repairing aging restrooms; and acquiring, constructing, and repairing sites/ facilities, shall Alum Rock Union Elementary School District issue \$125 million in bonds at legal rates with required independent financial audits, citizens' oversight and no money for administrators' salaries?"



Figure 2 Adelante Dual Language Academy Restroom Renovation

ABOUT MEASURE I

Measure I was on the June 7, 2016 ballot where it was approved by 12,461 voters or 78.75%, the bond was issued for approximately \$140 million.

The Ballot Language:

"To improve local neighborhood schools, fix leaky, deteriorated roofs, improve fire safety, repair/upgrade classrooms, improve student safety and security, renovate outdated restrooms, upgrade heating/ventilation/electrical systems for energy efficiency, and computer technology, shall \$139,999,671.60 of Alum Rock Union Elementary School District bonds approved by the voters in June 2008, be reapproved at legal rates to renovate, acquire, construct, repair classrooms, sites, facilities/equipment, with independent audits, citizens' oversight, no money for administrators' salaries and all money controlled locally?"

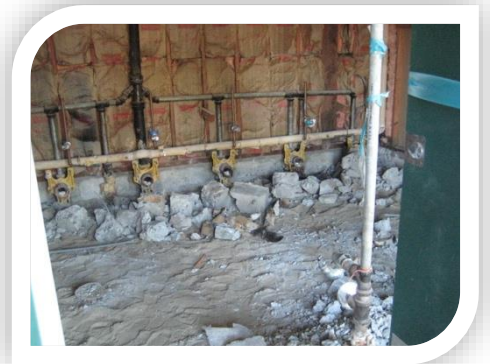


Figure 3 Adelante Dual Language Academy Restroom Renovation

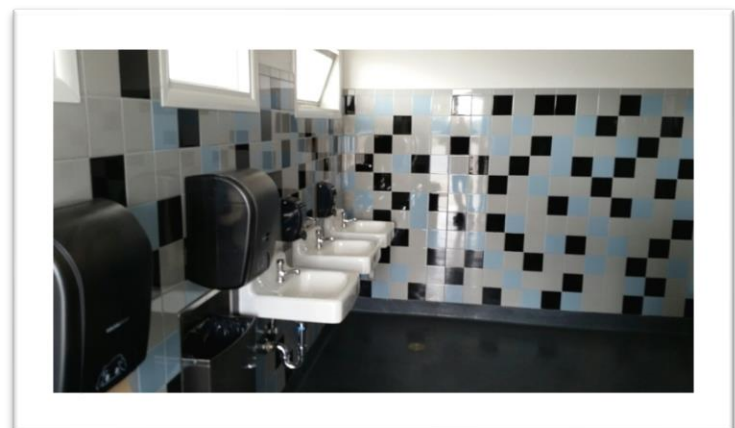


Figure 4 Adelante Dual Language Academy (1967) Restroom Renovation Completed October 12, 2016

BOND PROJECTS AND CONSTRUCTION

ARUSD is composed of 24 district schools, most of which were built in the fifties and sixties. In addition, ARUSD owns facilities leased by 3 charter schools, and is responsible for maintaining those buildings. As district facilities age, it becomes critical to invest in infrastructure projects such as renovating bathrooms, roofing, and adding or modernizing HVAC systems. In addition, the Board has begun planning for multipurpose buildings at George and Fischer.



Figure 5 Ryan STEAM Academy (1967) Walkway Construction



Figure 6 Ryan STEAM Academy (1967) Walkway Construction

| District Schools | |
|---|------|
| Adelante Dual Language Academy | 1967 |
| Alum Rock District Office | 1962 |
| Aptitud Community Academy at Goss | 1961 |
| Arbuckle/ Adelante II | 1961 |
| Cassell Elementary | 1963 |
| Chavez Elementary | 1962 |
| Cureton Elementary | 1952 |
| Dorsa Elementary | 1960 |
| Fischer Middle School/ Renaissance I | 1960 |
| George Middle School | 1969 |
| Hubbard Media Arts Academy | 1959 |
| Linda Vista Elementary | 1959 |
| LUCHA Elementary | 1964 |
| Lyndale Elementary | 1959 |
| Mathson Institute of Technology/ Renaissance II | 1960 |
| McCollam Elementary | 1959 |
| Meyer Elementary | 1962 |
| Ocala STEAM Academy | 1972 |
| Painter Elementary | 1961 |
| Russo McEntee Academy | 1956 |
| Ryan STEAM Academy | 1967 |
| San Antonio Elementary | 1967 |
| Sheppard Middle School | 1961 |
| Charter Schools | |
| Alpha (formerly Slonaker) | 1962 |
| KIPP Heartwood (formerly Miller) | 1959 |
| Escuela Popular (formerly Pala) | 1960 |

The major areas addressed in these projects were roofing, restroom modernization, and HVAC systems, including asbestos removal. Generally, the school year is spent planning, reviewing, and getting all the required permits and approvals, so that, as much as possible, the actual construction work can be accomplished while school is closed for the summer. There are a large number of agencies that are involved in planning and approving these projects. The city is involved in traffic flow analysis and permits. The Division of the State Architect reviews and approves all the building plans and issues permits to the School District. The federal government is involved indirectly, as the *Americans with Disabilities Act* imposes additional requirements on construction. These processes can entail several months of reviews and revisions before final approval.

While all of our school sites require investment, it is necessary to prioritize work to ensure our bond dollars are spent where most needed. Projects completed during the 2016/2017 fiscal year were prioritized based on a needs assessment conducted in 2008, inspections performed by the district maintenance department staff, and feedback from school site staff. The Bonds, Facilities and Finance subcommittee of the Board of Trustees reviews needs and provides recommendations to the Board, who makes final decisions on which projects move forward. During the 2016/2017 fiscal year, this subcommittee was chaired by Trustee Dolores Marquez.

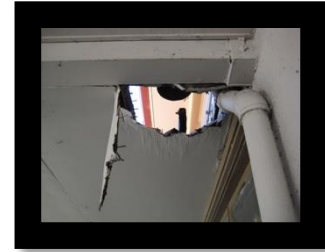


Figure 7 Chavez Elementary (1962) Roofing Projects



Figure 8 Chavez Elementary (1962) Roofing Projects

| Project | Cost |
|--|--------------|
| Roofing and asbestos removal at Renaissance Fischer | *\$7,206 |
| Roofing and asbestos removal at Russo McEntee | *\$63,895 |
| Roofing at Chavez | *\$287,929 |
| Roofing at Alpha/Slonaker and KIPP | \$187,933 |
| Restroom modernization at Adelante | *\$966,378 |
| Restroom modernization at Cassell | *\$1,301,879 |
| Restroom modernization at Dorsa | *\$581,809 |
| Restroom modernization at Ryan | *\$875,825 |
| HVAC at Dorsa | *\$1,044,703 |
| HVAC at LUCHA | *\$536,783 |
| Asphalt replacement at Adelante | \$94,350 |
| Concrete Replacement at Aptitude @ Goss | \$87,300 |
| Installation of portable classrooms at Hubbard | *\$973,935 |
| Alteration and repair of kitchen at Hubbard | \$23,258 |
| Fiber bar mulch for playground structure safety at Linda Vista and McCollam | \$6,117 |
| Fiber bar mulch for playground structure safety at Hubbard and Ryan | \$6,117 |
| Construction of new building at District Office to house Transportation and Bonds, Facilities Leases Departments | \$64,500 |
| Planning and design of multipurpose building at George | *\$150,458 |
| Planning and design of multipurpose building at Fischer | *\$54,059 |
| Program management services | \$484,408 |

Dollar amounts marked by an asterisk (*) indicate projects that were funded over multiple fiscal years. The amount listed is the amount paid in the 2016/2017 fiscal year only.

AUDIT REVIEW AND FINDINGS

A SUMMARY OF MEASURE J PERFORMANCE AUDIT, FINANCIAL STATEMENTS, AND INTERNAL CONTROL REPORT

PERFORMANCE AUDIT SUMMARY:

The independent auditing firm Crowe Horwath LLP drafted and submitted a performance audit of Measure J General Obligation Bonds for the 2016/2017 fiscal year (beginning July 1, 2016 and ending June 30, 2017) on April 24, 2018 to the Board of Trustees of ARUSD. This audit is required under Proposition 39 (2000), under Section 1(b)(3)C of Article 13A of the California Constitution.

The scope of the audit was based on a list of all Measure J project expenditures for the 2016/2017 fiscal year, which totaled \$11,211,400. The methodology used by the auditing firm included verifying the mathematical accuracy of the expenditure list and reconciling it to expenditures reported by the District in the District's audited Measure J Bonds financial statements for the 2016/2017 fiscal year. Crowe Horwath LLP selected a sample of expenditures totaling \$6,720,283. This data set was chosen to provide a representation of data across a range of construction projects and vendors and covered 60% of the fiscal year's total spending. Salaries of district employees, to the extent that they performed administrative oversight work on construction projects authorized by a voter approved bond measure were included per California State Attorney General's Opinion 04-110 of November 9, 2004.ⁱ

Based on the information provided, the auditing firm concluded that "in all significant respects," the District expended Measure J General Obligation Bond funds for the 2016/2017 fiscal year only for the specific projects developed by the Board of Trustees and approved by the voters in accordance with Proposition 39, per Section 1(b)(3)(C) of Article 13A of the California Constitution.ⁱⁱ

FINANCIAL STATEMENT SUMMARY:

To support the performance audit, the auditing firm first performed an audit of the District's financial statements of the "Balance Sheet" and "Statement of Revenues, Expenditures, and Change in Fund Balance" for the 2016/2017 fiscal year. Currently there are \$21,955,930 in assets (which includes \$21,891,518 of cash in the County Treasury and \$64,412 in Receivables), which reconciles with the liability and fund balance total of \$21,995,930 (made up of \$2,206,939 on Accounts Payable and \$19,748,991 in the fund balance).ⁱⁱⁱ

As for the "Statement of Revenues, Expenditures, and Change in Fund Balance," there were revenues of \$898,161 for the 2016/2017 fiscal year, of which \$636,571 came from federal interest subsidies and \$261,590 from interest income. There were expenditures of \$11,211,400 composed of \$107,224 in salaries, \$47,640 in benefits, \$5,308 in books & supplies, \$588,113 for contract services, capital outlays of \$7,511,032, principal retirements totaling \$2,270,000, and interest payments of \$682,083. In all, this was a net deduction of \$10,313,239 from the existing fund balance of \$30,062,230 on June 30, 2016. As such, the Measure J Bond fund balance at June 30, 2017 is \$19,748,991.^{iv}

INTERNAL CONTROLS REPORT SUMMARY:

Complementing the performance audit and the audit of financial statements for Measure J General Obligation Bonds for the 2016/2017 fiscal year, the auditing firm performed a report on “internal control over financial reporting and other matters based on an audit of financial statements performed in accordance with Government Auditing Standards.”

Though the auditing firm “disclosed no instances of noncompliance of Government Auditing Standards,” they did “identify a deficiency” in internal control (defined as when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis) that is considered a “material weakness” (defined as a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected on a timely basis).^v The auditors listed the following issues in their report:

- Cash in County Treasury reconciliations were not accurately performed as of June 30, 2017.
- Payables in the Audited Financial Statements are the accumulation of 29 sub accounts (object codes 9500 - 9585). Reconciliations for these accounts were not performed as of June 30, 2017.
- The District does not have any evidence to support that the internal controls related to pay rate changes and the reconciliation between the Payroll Prelist and the Final Payroll Register had taken place. Because of the lack of evidence they were unable to determine that appropriate controls were in place and operating to ensure that only authorized transactions had taken place.
- The District has outsourced bond program management and construction management services to a third party vendor. As part of that contract, the vendor is to provide documentation to assist with the District’s financial reporting and internal control procedures. We noted a deficiency in internal controls related to a lack of documentation provided by that third party.
- The approval of the business office designee was missing for 4 out of 40 invoices tested as capital asset additions during the year ended June 30, 2017.^{vi}

The effect of these conditions required the auditors to make significant adjustments to arrive at the audited financial statement balances. It also prevented them from substantiating that appropriate internal controls have been implemented to ensure the accuracy of financial reporting, because the District did not establish and follow adequate internal control procedures. The fiscal impact that these deficiencies had on the Measure J Bond financial statement was not determinable for the auditors at this time.^{vii}

To resolve the issue, the auditors recommended that the District implement internal controls to ensure the accuracy of financial reporting. The District agreed with the recommendation and has begun to make changes, such as “assigning and training staff to perform monthly reconciliations of cash, account payables, and receivables to ensure their accuracy and completion in a timely manner.”^{viii}

CITIZENS' BOND OVERSIGHT COMMITTEE RESPONSE:

The Citizens' Bond Oversight Committee would like to thank the auditors for their work and the District staff for their technical support. On studying the audits, the Committee has noted several issues of concern and the lack of action taken by the District's Board of Trustees to resolve these concerns.

Originally the acceptance of the audits was scheduled for the Board meeting on May 8, 2018, which was cancelled due to lack of quorum. The Board re-scheduled the meeting for May 29, 2018, but the audit has still not been accepted as of the June 14, 2018 meeting of the Board. The Committee is concerned about the lack of timely review and acceptance of required audits of Measure J Bonds. Without the Board's prompt action, it is challenging to produce and share an accurate Annual Report with the public to maintain confidence that the bonds issued by the District are used appropriately for facility improvements.

Beyond that there were eight questions across the audits that the Committee was concerned with and requested the Auditor, the District, and Del Terra (the third party manager of bond projects) to address:

1. In the performance audit for Measure J Bonds, the auditor noted that they verified that funds were used to pay the salaries of district employees under Opinion 04-110 of the California Attorney General, issued on November 9, 2004. The opinion states that salaries can be paid, provided that employees performed administrative oversight work on construction projects authorized by a voter approved bond. The Committee would like to know specifically what kind of administrative work was performed as the original ballot language of Proposition 39 (2000) that bonds provide "no money for administrators' salaries."^{ix}
2. The auditors concluded their performance audit stating that the District expended Measure J Bonds for the fiscal year ending June 30, 2017 only for the specific projects developed by the Board of Trustees and approved by the voters "in all significant respects."^x Though the Committee is pleased that the bond funds are spent on its intended purposes, it is concerned about what were the "significant respects" and what aspects of the expenditures were not spent on its mandated aims.
3. Though the balance sheet and the statement of revenues, expenditures, and change in fund balance for Measure J Bonds are consistent, what were the specific school site projects funded by the Fiscal Year 2016-17 expenditure?
4. In the report on financial controls, the auditors found that reconciliations for cash in the County Treasury and payables in the Audited Financial Statements were not performed or accurately performed as of June 30, 2017. Though it is encouraging to have the auditor acknowledge that the District has been making changes to perform the reconciliation, what was the reason for not doing so in the first place?^{xi}
5. Why does the District not have any evidence to support internal controls related to pay rate changes and the reconciliation between the Payroll Prelist and the Final Payroll Register? Because of this, the auditors could not determine that there were sufficient internal controls to ensure that only authorized transactions took place.

6. Why is Del Terra, the third-party bond program and construction management vendor not providing documentation on project files to support proper disclosure of financial reporting and internal control procedures? What steps has the District taken to correct this?
7. Why was the approval of the business office designee missing on some invoices?
8. Why was the auditor not able to determine the fiscal impact of the material weaknesses of the internal controls on the Measure J Bond financial statement?

At the June 4, 2018 special meeting of the Citizens' Bond Oversight Committee, the Assistant Superintendent of Business Services, Mr. Kolvira Chheng, was able to address some of the issues noted above by providing the Committee with an update of actions taken to address the issues of concern raised by the auditing firm.

- Regarding Question 1 on staff salaries from bond funds, there were two staff members employed under the Attorney General's opinion: the Director of Facilities, Bonds, & Leases, Mr. Louie Moran, and one accountant dedicated for bond revenue accounting.
- On June 4, 2018, a list of specific school-site projects funded by Measure J Bonds in the 2016-17 Fiscal Year was prepared by the Business Services Office of the District and distributed to the Committee. A copy of this is attached to this report. This addresses the request in Question 3.
- For Question 4, the cause of the discrepancies on the reconciliations of cash in the County Treasury and the Audited Financial Statements were due to a number of technical and personnel issues dating to 2014. The current accounting system required a lot of manual input. This and the turnover of key staff led to the District falling behind on the required work. Since then, there has been corrective action taken to rectify the issue, including assigning additional staff (with the backlog resolved on January 2018, which will be verified by a third-party audit from the Santa Clara County Office of Education), as well as a future transition to the accounting systems used by the Santa Clara County Office of Education to be completed by July 1, 2019.
- On Question 5, the lack of evidence to support internal controls for pay rate changes was due to District Human Resources not properly initiating payroll changes to District Payroll. At the time of the preparation of this report, the District has addressed this issue by setting up new workflows where Human Resources will submit to Payroll to initiate pay rate changes. Payroll must sign off on such changes before they take effect.
- Mr. Chheng informed the Committee of the District's ongoing efforts to address Question 6, the lack of project file documentation from Del Terra, the third-part bond program and construction management vendor. The latest request of information to Del Terra was made on May 16, 2018, of which Del Terra had yet to respond.
- To rectify the lack of documented approval of the business office designee on some invoices in Question 7, Mr. Chheng reported that he had instituted a new procedure from February 2017, requiring three business office signatures on all invoices.

Based upon this update, the Citizens' Bond Oversight Committee would like to thank Assistant Superintendent Chheng, as well as the professional staff of the District, for their efforts in taking corrective actions to resolve the issues that were raised by the auditing firm in the audit of Measure J Performance, Financial Statements, and Internal Controls. The Committee is appreciative of the fact that the District is working to ensure that Measure J Bond funds are properly spent for their intended purpose of maintaining and upgrading educational facilities for the Alum Rock Union Elementary School District Community.

The auditors, Crowe & Horwath LLP, made themselves available to the Committee at its regular meeting on June 18, 2018. They provided further clarification regarding the questions raised in this response.

- Regarding the questions about administrative work funded by Measure J Bonds in Question 1, they certified that funds were spent on accounting services provided by the Bond Accountant.
- For Question 2, where we raised concerns about the threshold for deeming that bond funds were spent correctly "in all significant respects," they explained that an audit does not give an absolute assurance for the entirety of the bond funds because of the use of a representative sample, and to cover that, they use the term "significant respects."
- In Question 3, where the Committee asked why specific school site projects were not itemized in the "Statement of Revenues, Expenditures, and Change In Fund Balance for Measure J Bonds," the Auditor explained that financial statements do not have an itemized list of capital outlays per the current California reporting rules for school districts. They also stated that this audit is in regards to the "overall gross financial statement" of the District's bond funds, and is part of the overall District-wide financial audit.
- After deferring to District administration on the issues raised in Questions 4 and 5, the auditors noted that they "highlighted risks" about insufficient internal district controls found during the audit. However the auditor pointed out both that they did not look at the entirety of the payroll and that in the course of their audit they found no transactions that were inaccurate. Even though the auditor did not find errors, there were insufficient internal controls to ensure that only authorized transactions took place. This made the process susceptible to errors.
- Responding to Question 8 about being unable to determine the fiscal impact of the material weaknesses of the internal controls of the Measure J Bond financial statement, the auditor said that since there were no errors found in the audit's \$6.7 million sample data set, they could not make a determination on the fiscal impact, as errors would be the basis for the estimation of any fiscal impact.

There are still questions that the Committee feels that the bond management contractor Del Terra and the Board of Trustees of the District still need to address, including providing further clarification for the concerns raised in Questions 2, 6, and 8. We hope to hear from the Board of Trustees and Del Terra in the near future and look forward to discussing the completion of the District's corrective actions in a future report.

At the time of issue for this report, the Committee finds to the best of its knowledge, per Article 13A, Section 1 (b) (3) of the California Constitution, that the Measures J Bond funds for the 2016/2017 fiscal year were spent only for the specific projects developed by the District's Board of Trustees and approved by the voters. However, the issues noted pose serious questions about the ability of the District and the third-party bond and construction management vendor, Del Terra, to accurately ensure that bond funds are spent properly and that the community truly receives the best value for limited funds. With the weaknesses in reporting, it may be difficult for the community to maintain confidence in the bond measure if these issues are not corrected promptly and with transparency. It is the hope of the Citizens' Bond Oversight Committee that the District and the third-party bond & construction management vendor will provide answers to these important issues as soon as possible.

The Committee also notes that this is a provisional audit response because the Board of Trustees has not yet accepted the findings of the audit or provided an official response as of June 18, 2018. As such, the Citizens' Bond Oversight Committee is making this report to the community based on the draft audit provided by Crowe & Horwath LLP on April 24, 2018, and reserves the right to submit an amended response at a later date, contingent on any changes to the audit and/or the submission of new information regarding Measure J Bond funds for the 2016/2017 fiscal year not covered in the original audit.

FCMAT AB139 EXTRAORDINARY AUDIT AND CBOC RESPONSE

In October 2016, Santa Clara County Office of Education (SCCOE) Superintendent, Jon Gundry, received allegations of potential fraud, misappropriation of funds or other illegal practices at Alum Rock Union Elementary School District (ARUSD) from an anonymous source. Due to the seriousness of these allegations, SCCOE contracted with the Fiscal Crisis and Management Assistance Team (FCMAT), in December 2016.

While the allegations centered around the contract concerning the Program/Construction Manager, DelTerra Real Estate Services, Inc. dba Del Terra Group, the investigation would include all aspects of school business and contracting at ARUSD. Two allegations were reported to SCCOE:

1. DelTerra double-billed the District by submitting fees totaling 4% of the total construction costs for project management and an additional 6% for construction management and subsequently assigned the same individual to both contracts.
2. DelTerra has invoiced the district approximately \$330,000.00 for construction management services for projects that have not yet begun. The claim is that DelTerra has knowingly submitted fraudulent invoices in violation of Government Code 12651(a)(1) and Government Code 12651 (a)(2).

FCMAT conducted an AB139 Extraordinary Audit of ARUSD in accordance with Education Code 1245.1 (b). While the allegations focused on the Bond Program, specifically, Measure G (2008) and Measure J (2012), the AB139 Extraordinary Audit examined all related business transactions from July 1, 2013, through March 31, 2017, with a 100% sample size. On June 9, 2017 FCMAT released their official report. This report produced 8 findings and 56 recommendation in the following areas:

1. Government Code False Claims
 - a. Procurement and Bidding
 - b. Payment Fees/Schedule
 - c. DSA Closeout Services Contract and Payment Issues
 - d. Program Management Performance and Scope of Work Issues
 - e. Contract Administration by District and Del Terra
 - f. Construction Management Services Contracts
 - g. Payment Issues
 - h. Contract Language Issues
 - i. Performance Issues
 - j. Substantive Testing
2. Internal Control Deficiencies
 - a. Leadership
 - b. Board Policies
 - c. Vendor Payments
3. Conflict of Interest
 - a. Political Reform Act – Disclosures, Conflict of Interests and Enforcements
4. Reporting Requirements for Nonvoter-Approved Debt
5. Fiscal Independence

Under Program Management Performance and Scope of Work Issues, 4 out of the 14 recommendations specifically mention the involvement of the CBOC, the recommendations are as follows:

- 1. Enforce contract language stating that Del Terra assists with citizens' oversight committee meetings. This should include submittal and discussion at every meeting of all program-level and project-specific budget and expenditure reports, including an explanation of exception sheets showing the changes since the last meeting.**

CBOC Response: As a matter of routine, the CBOC requests expenditure data from Del Terra. Del Terra did furnish some of the requested information, but habitually did so in the form of large data dumps provided during the meetings, with no opportunity for in-depth analysis and questions by CBOC members. There has not been a Del Terra representative present at a CBOC meeting since November 2017, and while ARUSD staff continued to pass along the requests of the CBOC, Del Terra has furnished minimal data since that date. At that time, they notified the Business Office they would not be attending meetings, as SCOE had halted payment pending Del Terra's response to conflict of interest concerns raised by district counsel. The CBOC will continue to make these requests and ensure that they are noted in the minutes of CBOC meetings.

- 2. Hold quarterly citizens' oversight committee meetings, and include detailed financial and schedule information.**

CBOC Response: Prior to October 5, 2017, the committee bylaws as approved by the ARUSD Board of Trustees were extremely restrictive to the CBOC. The previous bylaws restricted the CBOC to "at least one meeting a year, but shall not meet more frequently than quarterly." On October 5, 2017, after a training facilitated by CALBOC, the bylaws for the CBOC were revised in order to comply with the Brown Act and allow for the CBOC to determine the frequency of the meetings as appropriate to oversight needs. In addition, the new bylaws allow for special meetings and more clearly define the workings of the meeting (quorum, agendas, method and time of notice, public comments, voting, and actions). The CBOC actively follows these bylaws, with regular meetings scheduled. All schedules, agendas, and minutes are posted by the ARUSD Business Services staff to ARUSD website. The public is welcomed and encouraged to join and participate in all meetings.

- 3. Make renewed efforts to obtain full oversight committee membership with a minimum of seven people and all required categories filled. Even without full membership, quarterly committee meetings should be held.**

CBOC Response: The CBOC is not funded by the District. It is a group of volunteers who are concerned about the their community and the future of ARUSD. The District, by law, provides administrative and technical assistance to the committee. The committee is formed of a minimum of 7 members but this committee has had a high turnover of members over the last several years. At times it has struggled to make a quorum (a voting majority – 4 of 7 members). It has been a challenge to retain members on the ARUSD CBOC. It is a regular order of business to discuss methods of community outreach and new, innovative ways of reaching out to the community to promote applying to the CBOC. The District has posted applications on the website for any interested parties; as of yet district staff have received very few applications. The Board, whose responsibility it is to maintain a full CBOC under California Education Code, has not made efforts to advertise or fill vacancies on the Committee.

4. Have the committee present an annual report to the board at a regular meeting, with presentations by the committee officers, not the program manager.

The CBOC intends to present this Annual Report in person at a regularly scheduled Board meeting. However, we are concerned that the Board President, Esau Herrera, has recently prevented the CBOC from regularly presenting to the public in Board meetings. Instead, the CBOC monthly reports are placed on the agenda as a “written report”, and as such are available to the public only buried in the meeting minutes of the Board, which are approved and posted sometimes several months past the meeting dates.

In conclusion, FCMAT found that there was “sufficient evidence to demonstrate that fraud, misappropriation of funds and/or assets, or other illegal activities may have occurred in the specific areas reviewed.” (pg. 69 FCMAT Audit Report) While the FCMAT audit has discovered sufficient evidence to suggest illegal activities, it is important to remember that only the courts can determine that illegal activities have taken place. As of the issuance of this report, no official determination of guilt or innocence exists.

The final recommendation of FCMAT is as follows:

The county superintendent should:

1. Notify the governing board of the Alum Rock Union Elementary School District, the state controller, the superintendent of public instruction and the local district attorney that sufficient evidence exists to indicate that fraud or misappropriation of district funds and/or assets or other illegal activities *may* have occurred.

In addition, the CBOC is actively attempting to work with the ARUSD Board of Trustees to promote awareness, in a clear and timely manner for the public, to which the CBOC reports. The circulation of the annual report, the request of documents from the DeTerra Group, the requests to speak and address the Board of Trustees for the benefit of the public, the circulation, promotion and advertisement of vacant CBOC seats are examples of how the CBOC wishes to engage and report to the public in cooperation with ARUSD Board of Trustees.

To learn more about the FCMAT audit at ARUSD, please visit FCMAT.org or for the official audit report, follow the link below:

<http://fcmat.org/wp-content/uploads/sites/4/2017/06/Alum-Rock-UESD-final-report.pdf>

For Jon Gundry, Superintendent of Schools, summary of the FCMAT audit report, as reported to the ARUSD Board of Trustees and ARUSD Superintendent Hilaria Bauer, on July 13, 2017, please follow the link below:

<https://www.sccoe.org/supoffice/Documents/Superintendent%27s%20Report%20to%20the%20Alum%20Rock%20Board.pdf>

THE DISTRICT'S PROGRESS IN RESOLVING ISSUES

At the Alum Rock Union Elementary School District (ARUSD) January 18 Board meeting, the Santa Clara County Office of Education (SCCOE) named a team of experts who will provide fiscal expertise to assist the district in strengthening its financial and operational processes. The district's fiscal challenges led to conditional approval of its budget by the SCCOE. Dr. Mary Ann Dewan, then Interim County Superintendent of Schools, selected the firm of Bill McGuire and Associates to work with ARUSD. Each of the three individuals on the team has over 30 years' experience in school business, administration, and leadership.

In March of 2018, Dr. Dewan invoked SCCOE's authority to "stay and rescind" or veto district actions that may put Alum Rock at further risk of insolvency (EC1240). The action was based on Alum Rock's failure to reconcile books, perform the required annual audit for the last school year in a timely manner and having "a persistent absence of transparent and prudent board governance involving fiscal stewardship, conflicts of interest and contracting."

On April 23, 2018, SCCOE announced the appointment of Dr. William Gillaspie, former deputy administrative officer for the Fiscal Crisis & Management Assistance Team (FCMAT) as Fiscal Advisor to the district to assist the district in strengthening its financial and operational processes.

The extensive support provided by SCCOE to ARUSD has greatly assisted the district in resolving issues identified in the FCMAT Audit, Financial Audit, and Performance Audit. District staff have been working closely with the Fiscal Expert team to balance books, transition to well-supported and effective software, and establish and strengthen operational processes.

The district has continued to attempt to work with Del Terra to resolve issues with missing documentation. This excerpt from the FCMAT Update presented to the board at the May 10, 2018 meeting as Agenda item 12.02 shows one example of Del Terra's continuing failure to perform the scope of their contract:

In addition to the documents noted above, the District has made several requests for documents supporting Del Terra's billings for construction management services in relation to the Fischer Middle School Multi-Purpose Building Project, Gorge Middle School Multi-Purpose Building Project, Dorsa HVAC and LUCHA HVAC projects, where the District was billed and paid for construction management services at the 6% CM rate totaling approximately \$329K, although construction had not yet begun at the time of the billing. The requests specified for Del Terra to provide all supporting documentation, such as personnel names and positions, timesheets, actual hours worked, and applicable hourly rate. The District first requested this information in September 2016. The applicable construction management agreements provide that pre-construction services would be billed "on an hourly basis for work actually performed." As of this date, the District has not received the back-up documentation that is responsive to this request. This information is necessary for the District in order for staff to be able to calculate the actual amount that should have been paid to Del Terra.

The CBOC is encouraged by the progress made by district staff working in cooperation with support furnished by SCCOE, and exhorts the district to continue to strengthen operational processes and enhance staff training and cross-training.

WHAT IS A GENERAL OBLIGATION BOND?

General obligation bonds fund projects such as the renovation of existing classrooms and school facilities, as well as construction of new schools and classrooms. Similar to a home loan, general obligation bonds are typically repaid over 30 years. The loan repayment comes from a tax on all taxable property – residential, commercial, agricultural and industrial – located in the District.

WHAT IS THE CITIZENS' BOND OVERSIGHT COMMITTEE AND WHY DOES IT MATTER TO ME?

As required by Education Code Section 15278, the District appoints a committee of local residents, whose main charge is to inform the public about how the bond dollars are being spent. The committee, known as the Citizens' Bond Oversight Committee, actively reviews and reports on the expenditure of taxpayer's money for school construction to ensure that bond funds are spent in accordance with the provisions of the bond. The committee is comprised of volunteers who represent specific constituencies, such as senior citizens, parents, businesses, or the community-at-large. This additional oversight is important because you pay for these bonds as part of your property taxes.

HOW CAN I BE SURE THAT GENERAL BOND OBLIGATION FUNDS WILL BE SPENT ON IMPROVING OUR SCHOOLS?

Each year, a fiscal and performance audit of bond expenditures is conducted. The audits verify that ARUSD complied in all material respects with bond measure requirements to expend proceeds only on the school facilities projects specified in the bond measure legislation. The CBOC is responsible for reviewing the audit reports and is required to present this information to the public each year.

CAN BOND FUNDS BE USED FOR TEACHER OR ADMINISTRATIVE SALARIES?

No. Only personnel working directly for the bond program are charged to the bond. To manage and coordinate a construction project to completion, personnel need to monitor contracts and project funding, oversee construction progress, and perform overall project management and accounting. Bond funds cannot be used to pay teacher or site administrator salaries, pensions or benefits. The annual fiscal and performance audit of the bond measures reviews all personnel charged to the bond and verifies that they are charged properly and meet state requirements.

DOES THE CITIZENS' BOND OVERSIGHT COMMITTEE OVERSEE THE ACTUAL CONSTRUCTION?

No. A team of consultants and professional management companies are contracted to provide these services.

HOW ARE CONSTRUCTION MANAGEMENT, ARCHITECTS/ ENGINEERS, CONTRACTORS AND PROFESSIONAL CONSULTANTS FOR BOND PROJECTS SELECTED?

District administration defines specific requirements, and then solicits proposals from qualified companies willing to work on a project. Contract award recommendations are made to the Board of Trustees for final approval.

WHY DO THE COSTS OF THE PROJECTS OFTEN FLUCTUATE FROM THE ORIGINAL ESTIMATED COSTS?

Construction costs change depending on the cost of materials and the current economy. When the prices of raw materials such as steel or copper wiring rise, it can dramatically increase the cost of the project. Also if there are a lot of construction projects underway in the area, it can result in strained labor resources and bids tend to come in higher.

ⁱ Crowe Horwath LLP, “Alum Rock Union Elementary School District: Measure J General Obligation Bonds Performance Audit, June 30, 2017.” April 24, 2018, pg. 3.

ⁱⁱ Ibid.

ⁱⁱⁱ Crowe Horwath LLP, “Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial Statement, June 30, 2017.” April 24, 2018, pg. 3.

^{iv} Crowe Horwath LLP, “Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial Statement, June 30, 2017.” April 24, 2018, pg. 4.

^v Crowe Horwath LLP, “Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial Statement, June 30, 2017.” April 24, 2018, pg. 8.

^{vi} Crowe Horwath LLP, “Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial Statement, June 30, 2017.” April 24, 2018, pg. 10.

^{vii} Ibid.

^{viii} Crowe Horwath LLP, “Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial Statement, June 30, 2017.” April 24, 2018, pg. 11.

^{ix} Crowe Horwath LLP, “Alum Rock Union Elementary School District: Measure J General Obligation Bonds Performance Audit, June 30, 2017.” April 24, 2018, pg. 2.

^x Crowe Horwath LLP, “Alum Rock Union Elementary School District: Measure J General Obligation Bonds Performance Audit, June 30, 2017.” April 24, 2018, pg. 3.

^{xi} Crowe Horwath LLP, “Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial Statement, June 30, 2017.” April 24, 2018, pgs. 10-11.

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