



# ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

2930 Gay Avenue, San José, CA 95127 · Phone: 408-928-6800 · Fax: 408-928-6416 · [www.arusd.org](http://www.arusd.org)

August 4, 2017

## VIA U.S. MAIL AND E-MAIL

Luis Rojas  
Del Terra Group  
13181 Crossroads Pkwy. North, Suite 540  
City of Industry, CA 91746  
(E-mail: [luis@deltterra.com](mailto:luis@deltterra.com))

**Re: Request for Deliverables, Documents and Records pursuant to Program and Construction Management Agreement (Measure "I") dated November 10, 2016**

Dear Mr. Rojas:

Del Terra Real Estate Services Inc., dba Del Terra Group ("Del Terra") and Alum Rock Union Elementary School District ("the District") entered into a Program Management Agreement (the "Agreement") dated November 10, 2016, by which Del Terra agreed to assist the District with construction and program management services for the planning, programming, and construction of modernization projects at existing school facilities, as well as new construction projects relating to Bond Measure I.

The Agreement provides that the District is the sole owner of all documents prepared in the course of and in connection with Del Terra's work under the Agreement. (Art. 1.7.) The Agreement further provides that Del Terra shall maintain complete and accurate books and records with respect to services, expenses, receipts and other information required by District to verify the scope or charges for any services provided under the Agreement and any payment application submitted to the District by Del Terra. (Art. 6.1.1.) The Agreement requires that, upon the District's request, Del Terra will provide to the District all documents and records relating to the Agreement and the performance of the work under the Agreement. (See, e.g., Art. 1.7; Art. 6.1.2.)

The District is the subject of a recent Extraordinary Audit dated June 9, 2017, by the Fiscal Crisis & Management Assistance Team (FCMAT). In its audit report FCMAT recommended that:

1. The District should require all project files and documents to be immediately turned over to the District in an organized fashion and that, as per the Agreement, Del Terra should also assist the district in organizing the District's filing system and plan room per the terms of the Agreement;
2. The District should require Del terra to provide all reports, project files and documents per the terms and requirements of the Agreement;
3. The District should require Del Terra to provide monthly program and project budget and expenditure reports per the terms and requirements of the Agreement;

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Hilaria Bauer, Ph.D., Superintendent

Board of Trustees: Khanh Tran, President · Andrés Quintero, Vice-President  
Dolores Márquez-Frausto, Clerk · Esau Ruiz Herrera, Member · Karen Martinez, Member

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4. The District should notify Del Terra to develop and maintain with District staff an overall bond program financial management system in the area of program and project accounting;
5. The District should notify Del Terra to provide any and all documents regarding the District's CUPCAA contracting practices, including but not limited to all documents relating to the prequalification of contractors and bidders;
6. The District should request Del Terra to provide a retroactive list as well as a current list, of all key personnel and all personnel under the Agreement. If Del Terra personnel perform work in both program management and construction management, then Del Terra's response should include the percentage of time spent in each; and
7. The District should secure from Del Terra all bid documents or contracts that were prepared by the Del Terra Group and ensure that the proper bid documents are on file at the District.

At a special meeting held on July 27, 2017, the District's Governing Board acknowledged the FCMAT recommendations and the Board took an action to inform and respond to County Superintendent Jon Gundry that the District would notify Del Terra no later than August 4, 2017, to provide all of the above-requested information. Consistent with the Board's July 27 action, this is to request that Del Terra provide the District with all of the documents specified in items #1 - #7 above and all Measure I bond program and project files and documents relating to all services performed in connection with the Agreement including but not limited to all of the following documents, records, and information:

1. All monthly or quarterly summary reports required under Article 2.1.1.1 including:
  - a. Program Status Reports;
  - b. Project Schedules for each project including an update of actual performance against the approved baseline schedule;
  - c. Budget, actual, forecast to complete, and budget available balances
2. All meeting minutes for meetings and status updates of any kind (Art. 2.1.2);
3. The document control and master files archives system implemented pursuant to Article 2.1.5;
4. All master program schedules, master summary schedules and baseline schedules, construction schedules, critical path schedules, look-ahead schedules and other schedules prepared pursuant to Article 2.1.3 and Article 2.1.7;
5. All budgeting documents, reviews and evaluations prepared pursuant to Article 2.2.2;
6. All inspection reports or inspection logs retained pursuant to Article 2.1.4;
7. All cost estimates and recommendations prepared pursuant to Article 2.1.6 and Article 2.2.2;

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8. Written recommendations to the District for selection of design consultants and specialty consultants (Art. 2.2.3);
9. All documents comprising the design, constructability, and value engineering review and evaluations performed (Article 2.2.4);
10. All communication records maintained pursuant to Article 2.2.5;
11. All documents and written recommendations relating to your pre-qualification of contractors pursuant to Article 2.3.1;
12. All bid review documents and recommendations prepared pursuant to Article 2.3.3;
13. All submittal logs maintained pursuant to **Article 2.4.6**;
14. All schedule updates (Art. 2.4.4);
15. All request for information logs, and all analyses, evaluations and recommendations to the District per Article 2.4.6;
16. All written recommendations and change order logs and impact reports prepared pursuant to Article 2.4.7;
17. All files and construction records for all campus projects pursuant to Article 2.4.10;
18. All daily logs and site progress meeting minutes and report specified in Article 2.4.11;
19. All monthly payment applications and recommendations for approval. (Art. 2.4.12);
20. All cost accounting records (including records of actual costs and change orders) required by Article 2.4.13;
21. All as-built drawings. (Art. 2.4.14);
22. All punch lists (Art. 2.4.16);
23. All operations and maintenance manuals, warranties and certificates for equipment and building systems provided b contractors (Art. 2.4.17);
24. All closeout documentation required by Article 2.4.19;
25. All final reports and final financial summaries required by Article 2.4.20;
26. All warranty documentation as required by Article 2.5.2;
27. All expense and invoicing records as maintained pursuant to Articles 4.2.6 and 6.1.2;

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28. All payment schedules, proposed preliminary schedules and final schedules for payment required under Article 5.1;
29. All monthly payment applications. (Art. 5.1.1)
30. All books and records with respect to services, costs, expenses, receipts and information reflecting Del Terra's scope of work or charges. (Art. 6.1.1.)
31. Primary insurance certificates and amendatory endorsements effecting coverage. (Art. 8.2.8.)
32. Insurance certificates and endorsements for each of Del Terra's Subconsultants. (Art. 8.2.9.)

All documents relating to construction management services should be organized and catalogued by project.

This is also to request that, once the documents and information are delivered, District and Del Terra representatives meet to discuss the development and maintenance of an overall bond program financial management system in the area of program and project accounting.

As to the transfer of Del Terra's electronic and electronically stored records and files, please contact me to discuss the orderly transmission of such information and data to the District.

Please confirm all of the requested records, files and documents will be delivered to the District offices no later than Friday, August 28, 2017. Also, I am requesting that, no later than Monday, August 24, 2017, you inform me of the approximate volume of such records (including total approximate number of boxes to be delivered) so that we can arrange appropriate filing and/or storage space.

Please do not hesitate to contact me with any questions regarding the above. We thank you for your prompt attention to this request and look forward to receiving the documents.

Sincerely,



Kolvira Chheng  
Assistant Superintendent of Business Services

cc: Hilaria Bauer, Ph.D., Superintendent

Kevin Collins, Esq.  
Alston + Bird, LLP  
333 South Hope Street, 16<sup>th</sup> Floor  
Los Angeles, CA 90071

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Hilaria Bauer, Ph.D., Superintendent