



ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

2930 Gay Avenue, San José, CA 95127 · Phone: 408-928-6800 · Fax: 408-928-6416 · www.arusd.org

August 4, 2017

VIA U.S. MAIL AND E-MAIL

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

**Re: Request for Deliverables and Other Documents, Records and Files
pursuant to Construction Management Agreement (Measure "J") dated
October 1, 2013**

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 Construction Management Agreement (the "Agreement") dated October 1, 2013, by which Del Terra agreed to act as construction manager and to assist the District with the development and construction of projects to be funded by the District's Measure "J" bond program.

The Agreement specifies that Del Terra "shall compile, organize, catalogue and maintain at the District's Education Center all Project and site-related documentation relating to the construction management services" provided for in the Agreement "including but not limited to all accounting records, pay applications, expense reimbursement requests, correspondence, and reports." (Agreement, Art. 23.) The Agreement also provides that all documents "shall be organized in sufficient detail" to permit the District and its designees to thoroughly evaluate the nature and scope, cost and value of all expenditures, costs and expenses incurred in connection with the Project and construction management services hereunder." The Agreement further provides that all documents and written work product prepared by Del Terra in the performance of the Agreement are the sole and exclusive property of the District. (Agreement, Art. 18.)

The District is the subject of a recent Extraordinary Audit dated June 9, 2017, by the Fiscal Crisis & Management Assistance Team (FCMAT). With regard to the Agreement, FCMAT recommended that:

- The District should require Del Terra to provide a retroactive list (back to 2013) as well as a current list, of all key personnel and all personnel in program management and construction management contracts, and that if some personnel perform work in both areas, this should include the percentage of time spent in each;
- With regard to construction management services provided by Del Terra for the Fischer Middle School, George Middle School, Dorsa HVAC and LUCHA HVAC projects, the District should require supporting documentation relating to all such invoices including

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- personnel names and positions, timesheets, actual hours worked, and applicable hourly rate;
- The District should require the submittal of monthly schedule reports according to the Agreement;
 - The District should require the delivery of all documents and plans to the District upon completion of all projects, including past projects.

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, consistent with the requirements of Article 23, Del Terra provide the District with all of the documents specified above and all Measure J bond program construction management 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, appropriately compiled, organized, and catalogued, so that they may be maintained at the District's Administrative Offices (to the extent not already performed):

1. All construction management plan(s) for all projects pursuant to Article 2.B.1 of the Agreement;
2. All master schedule(s) pursuant to Article 2.B.2 of the Agreement;
3. All project and construction budget(s) for all projects pursuant to Article 2.B.3 of the Agreement;
4. All bid packages for all projects pursuant to Article 2.B.4 of the Agreement;
5. All notices and advertisements pursuant to Article 2.B.6 of the Agreement;
6. All meeting minutes prepared pursuant to Article 2.B.8 and Article 2.C.2 of the Agreement
7. All documents relating to Del Terra's review of design documents for all projects pursuant to Article 2.B.10 of the Agreement
8. All reports on project funding prepared pursuant to Article 2.B.11 of the Agreement;
9. All monthly schedule reports or other construction schedule reports prepared pursuant to Article 2.B.12 and Article 2.C.3 of the Agreement;
10. All project cost reports prepared pursuant to Article 2.B.13 of the Agreement;
11. All bid recommendations prepared pursuant to Article 2.B.14 of the Agreement;
12. All requests for proposals and responses thereto, as well as evaluations of proposals and subsequent recommendations to the District for work which was not subject to mandatory bidding requirements as specified in Article 2.B.15 of the Agreement;

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13. All construction contracts, notices of award and notices to proceed prepared pursuant to Article 2.B.16 of the Agreement;
14. All project site meeting minutes prepared pursuant to Article 2.C.2 of the Agreement;
15. All construction schedule reports prepared pursuant to Article 2.C.3 of the Agreement;
16. All authorizations issued by Del Terra for "minor variations in the work" pursuant to Article 2.C.4 of the Agreement;
17. All documents prepared in connection with the quality review required under Article 2.C.5 of the Agreement;
18. All construction cost records collected, prepared or maintained pursuant to Article 2.C.6 of the Agreement;
19. All change order recommendations and change order reports prepared pursuant to Article 2.C.7 of the Agreement;
20. All procedures developed and implemented by Del Terra for the review and processing of applications by contractors for progress and final payments, and all progress payment reports prepared pursuant to Article 2.C.8 of the Agreement;
21. All safety program reviews pursuant to Article 2.C.9 of the Agreement;
22. All consultants' or test laboratories' inspection and testing reports pursuant to Article 2.C.11 of the Agreement;
23. All daily progress logs prepared pursuant to Article 2.C.15 of the Agreement;
24. All project site records as specified in Article 2.C.16 of the Agreement;
25. All notice(s) of substantial completion and lists of incomplete and non-conforming work for all projects prepared pursuant to Article 2.C.19 of the Agreement;
26. All guarantees, affidavits, releases, bonds, keys, manuals, record drawings and daily logs for each project pursuant to Article 2.C.21 of the Agreement;
27. All final reports and final updates for each project as specified in Article 2.B ("Post Construction Phase") of the Agreement;
28. All accounting records, pay applications, expense reimbursement requests, correspondence, reports, or other construction documents retained pursuant to Article 23 of the Agreement.

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All documents, records and files should be delivered to the District compiled, organized, and catalogued by project.

As stated above, as to the Fischer Middle School, George Middle School, Dorsa HVAC and LUCHA HVAC projects and past invoices, FCMAT recommended, and the Board agreed, that the District should require supporting documentation relating to all such invoices including personnel names and positions, timesheets, actual hours worked, and applicable hourly rate. The District previously requested the above information from you in a letter to you dated September 13, 2016. On September 26 you responded that the District's former CBO approved a "phased billing approach." You also provided two binders of information relating to the above projects. We have reviewed the materials provided and we cannot find the referenced approvals from the former CBO or any supporting documentation relating to the construction management work performed on those projects. To follow up on the Board's action per the FCMAT recommendation the District requires all supporting documentation relating to all such invoices including personnel names and positions, timesheets, actual hours worked, and applicable hourly rate.

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

Sincerely,



Kolvira Chheng
Assistant Superintendent of Business Services

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