



# ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

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February 8, 2018

To: Board of Trustees

From: Kolvira Chheng, Assistant Superintendent of Business Services

Re: Item #10.02 - FMCAT Update - Request for Documents

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At a special board meeting held on July 27, 2017, the Board of Trustees authorized a formal written response to the FCMAT Extraordinary Audit. Consistent with the response and actions and timelines approved by the Board, the District sent Del Terra six separate letters on August 4, 2017, requesting deliverables, documents and records under the agreements between Del Terra and the District as follows:

1. Agreement for Additional Services: DSA Close Out Certification Services (Exhibit "A")
2. Request for Deliverables, Documents and Records pursuant to Program and Construction Management Agreement (Measure "I") dated November 10, 2016 (Exhibit "B")
3. Request for Deliverables, Documents and Records pursuant to Program Management Agreement (Measure "J") dated November 10, 2016 (Exhibit "C")
4. Request for Deliverables, Documents and Records pursuant to Construction Management Agreement (Measure "J") dated November 10, 2016 (Exhibit "D")
5. Request for Deliverables, Documents and Records pursuant to Program Management Agreement (Measure "J") dated May 9, 2013 (Exhibit "E")
6. Request for Deliverables, Documents and Records pursuant to Construction Management Agreement (Measure "J") dated October 1, 2013 (Exhibit "F")

## **Below are Updates at the October 12, 2017 Board Meeting Regarding DSA Close Out Certification Services**

With regard to letter #1 listed above (DSA Close Out Certification Services agreement), the letter included an August 18, 2017, deadline for Del Terra to provide requested documents and information to the District. On August 19, 2017, Del Terra requested a one week extension due to Mr. Luis Rojas being out of town and unavailable during the week of August 13 – 18. Subsequently, at a weekly meeting between the District and Del Terra held on August 24, 2017, Del Terra provided the District with the following items:

1. A response letter from Del Terra dated August 24, 2017 (included in Exhibit "A");
2. A print out of a screen shot indicating approximately 127 gigabytes of documents and plans relating to DSA close out projects (labeled "November 2013 thru June 2015");
  - a. At the August 24<sup>th</sup> meeting, Del Terra requested the District to review the files and inform Del Terra as to which files the District is requesting for its records and files.

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Hilaria Bauer, Ph.D., Superintendent

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

- b. On August 27, 2017, the District e-mailed Del Terra directing Del Terra to provide all files it had in its possession relating to the performance of the work under the DSA Close Out agreement;
  - c. At a regularly scheduled weekly meeting between the District and Del Terra on August 31, 2017, Del Terra provided the District with a hard drive believed to contain the 127 gigabytes of documents related to the DSA close out projects.
3. Matrices listing DSA close out projects and the status of each project
- a. Upon the District's review of the matrices, the District informed Del Terra that some items on the matrices do not match the list that was included in the DSA Close Out Certification Services agreement between the District and Del Terra.
  - b. Del Terra informed the District that the reason for the difference is because Del Terra created the matrices using information from the State's (DSA's) website rather than the list provided in the DSA Close Out Certification Services agreement.
  - c. The District provided Del Terra with the list that was included in the DSA Close Out Certification Services agreement for Del Terra to reconcile with its matrices.
  - d. As of this date Del Terra has not reconciled the project lists between the two documents.

The District also requested that, per the Board-approved response to the FCMAT Report, that Del Terra provides a spreadsheet detailing the status of all projects specified in the Agreement to include the following information: (i) the original projects that need to be certified (not all district projects ever completed, which causes confusion); (ii) the status of each project and whether the Del Terra Group obtained the certification and date of certification; (iii) an indication of the project certification work in progress and any significant issues; and (iv) a bottom-line total of projects still uncertified.

Del Terra has provided the District a spreadsheet which appears to show the certification status of 113 separate projects. That spreadsheet indicates that at least 33 separate projects on the spreadsheet remain uncertified.

The District is continuing in its review of the information provided by Del Terra.

**Below are Updates for the November 9, 2017 Board Meeting Regarding DSA Close Out Certification Services**

On October 26, 2017, at a regularly scheduled weekly meeting between the District and Del Terra, Del Terra provided a document titled "EXHIBIT "C" – Project List", which reflects a list of DSA close out certification projects. The District is currently reviewing the document.

**Below are Updates for the December 14, 2017 Board Meeting Regarding DSA Close Out Certification Services**

The District is continuing to review the documents, thus no further updates at this time.

**Below are Updates for the February 8, 2017 Board Meeting Regarding DSA Close Out Certification Services**

The District is continuing to review the documents, thus no further updates at this time.

**Below are Updates at the October 12, 2017 Board Meeting Regarding Documents and Information Relating to the 2013 and 2016 Measure J and Measure I Program Management Agreements and Construction Management Agreements**

With regard to letters #2 - #6 listed above relating to the several agreements for program management and construction management services, Del Terra was requested in each of the separate letters to provide all documents, deliverables and records to the District by August 28, 2017.

In a letter dated August 27, 2017 (Exhibit “G”), Del Terra stated that the District’s timeframe to provide the documentation is not consistent with industry standard and is unreasonable. According to Del Terra, this type of effort typically requires 60 days. Del Terra also suggested using an alternative approach by which the District would first identify what is in the District’s possession, and the District would then determine what further documentation the District desires for its files.

On August 31, 2017, at a regularly scheduled weekly meeting between the District and Del Terra, the District directed an alternative approach with which Del Terra would provide the District with a list of all projects since 2013 for which Del Terra provided program management and/or construction management services. Additionally, Del Terra would provide by project a list of documentation that the District should have. Once that is provided by Del Terra, the District will review the list to determine if additional documents are required. Del Terra informed the District that it will work on producing the requested deliverables.

The District’s August 4 letter did not direct Del Terra to create documents, but rather to provide program and project documents which, under the agreements, Del Terra was already required to have compiled and maintained in an organized document archive system. On that basis, on September 14, 2017, the District sent Del Terra a letter (Exhibit “H”) clarifying that Del Terra must provide all documentation under the agreements.

On September 21, 2017, the District received a letter from Del Terra informing the District that it is gathering all of the requested documents pursuant to the District’s September 14, 2017 letter. (Exhibit “I”.) However, Del Terra noted that it is not a simple effort and will take a reasonable amount of time to complete and that Del Terra was reserving its “right to seek compensation for additional services based upon the duplication of effort that is required by the District’s request”.

The District responded to Del Terra on September 29, 2017 (Exhibit “J”), emphasizing that documents must be submitted in an organized fashion pursuant of the various program management agreements and that since Del Terra was required to develop and implement a document management control system as part of its “Basic Services” under the agreements, and that, as provided in the agreement, all documents are to be maintained at the District Office, the provision of the required documents in an organized fashion to the District would not be an

additional service for which the District would pay additional compensation to Del Terra. Additionally, Del Terra was reminded of the District's multiple requests beginning in September 2016 for documents supporting Del Terra's billing for construction management services for the Fischer Middle School, George Middle School, Dorsa HVAC and LUHCA HVAC projects, including all supporting documentation relating to all Del Terra invoices including personnel names and positions, timesheets, actual hours worked, and applicable hourly rates.

On October 3, 2017, the District received a letter from Del Terra (Exhibit "K") indicating that it is compiling documents relating the construction management services for the Fischer Middle School, George Middle School, Dorsa HVAC and LUHCA HVAC projects. Those documents were originally requested by the District on September 13, 2016. Since October 3, Del Terra has not provided the requested documents.

On Friday, October 6, 2017, Del Terra provided the following items:

1. External Hard Drive believed to contain some project documents
2. Measure "J" Project Documentation List 2013-2017
3. Del Terra Document Filing System Index
4. Screen Shot of Del Terra File Structure

The "Measure 'J' Project Documentation List 2013-2017" provided by Del Terra (Exhibit "L") indicates that a least thirty-three (33) separate District Measure J projects are missing "Warranties/Guarantee", seven (7) separate projects are missing signed construction contract agreements, and that at least thirty (30) projects do not have signed bid and/or contract-related documents.

The District is continuing in its review of the documents provided on October 6 to identify other missing documents and files and in an effort to assess the organization of the materials provided.

**Below are Updates for the November 9, 2017 Board Meeting Regarding Documents and Information Relating to the 2013 and 2016 Measure J and Measure I Program Management Agreements and Construction Management Agreements**

On October 13, 2017, the District sent Del Terra a letter requesting the following clarification regarding documents that Del Terra provided to the District on October 6:

- Whether the external hard drive contained all of the documents requested by the District in each of the above five (5) August 4 letters related to Program and Construction Management Agreements (other than the documents noted as "Missing" on the "Project Documentation List 2013-2017").
- How Del Terra intends to recover and/or provide those documents noted as "M – Missing" and "X-Need Executed Copy".
- Whether the external hard drive provided by Del Terra contained all program management documents for Measure J and Measure I, since the Filing System Index and the Screen Shot of Del Terra File Structure appear to relate to documents and the file structure for individual construction projects, not to the bond program management overall.

On October 26, 2017, at a regularly scheduled weekly meeting between the District and Del Terra, Del Terra informed the District that it is gathering all of the requested documents pursuant to the District's October 13, 2017 letter. As of Wednesday, November 8, 2017, Del Terra has not produced any additional documents as requested in the District's October 13, 2017 letter.

**Below are Updates for the December 14, 2017 Board Meeting Regarding Documents and Information Relating to the 2013 and 2016 Measure J and Measure I Program Management Agreements and Construction Management Agreements.**

In reviewing the documents provided by Del Terra on October 6, 2017, District's staff noted the following:

- The file structure convention is inconsistent, for example, some files are grouped by individual projects while some are group by type of projects, thus making it difficult for staff to tie the documents in the hard drive to the matrix.
- The District will need to meet with Del Terra to reconcile the documents matrix to the documents provided in the hard drive.
- There appears to be missing documents which were listed on the documents matrix, titled "Measure 'J' Project Documentation List 2013 – 2017".

On Monday, December 11, 2017, the District received a hard drive from Del Terra and is in the process of reviewing the materials.

**Below are Updates for the February 8, 2017 Board Meeting Regarding Documents and Information Relating to the 2013 and 2016 Measure J and Measure I Program Management Agreements and Construction Management Agreements.**

District is continuing to review the documents, thus no further updates at this time. However, as noted above, due to the large volume of documents and inconsistent filing structure, it has been challenging for district staff to reconcile documents from the hard drive to the matrix.