

Extraordinary Audit

October 3, 2022



Los Angeles County Office of Education re: Bassett Unified School District

Michael H. Fine
Chief Executive Officer

October 3, 2022

Debra Duardo, MSW, Ed.D., Superintendent
Los Angeles County Office of Education
9300 Imperial Highway
Downey, CA 990242

Dear Superintendent Duardo:

In October 2019, the Los Angeles County Office of Education (LACOE) and the Fiscal Crisis and Management Assistance Team (FCMAT) entered into an agreement to conduct an Assembly Bill (AB) 139 extraordinary audit of the Bassett Unified School District to determine if fraud, misappropriation of funds or other illegal fiscal practices may have occurred.

The audit was requested because LACOE received a report, dated March 5, 2019, prepared for the Bassett Unified School District, indicating possible fraud, misappropriation of funds or other illegal fiscal practices by one of the district's contractors, who may have overcharged the district approximately \$1.8 million. There were also concerns that the superintendent and school board may have not fulfilled their fiduciary duties, based on their lack of any action to reclaim the overpayment of approximately \$1.8 million in public funds as outlined in the report. In addition, even though the superintendent and school board have been notified of the possible overbilling based on the March 5, 2019 report, a subsequent contract for additional work by the same contractor has been approved.

The study agreement scope and objectives for this report are as follows:

The Los Angeles County Office of Education (LACOE) received a report, dated March 5, 2019, prepared for the Bassett Unified School District indicating possible fraud, misappropriation of funds or other illegal fiscal practices by a district contractor, who may have overcharged the district approximately \$1.8 million. LACOE has provided that report to the local district attorney's office to investigate the allegation.

LACOE has requested FCMAT to assign professionals to conduct an AB 139 Extraordinary Audit based on allegations raised in that March 5, 2019 report. This audit will be conducted pursuant to Education Code Section 1241.5(b). There are concerns that the superintendent and school board have not fulfilled their fiduciary duty based on their lack of any action to reclaim the overpayment of approximately \$1.8 million in public funds as outlined in the report. In addition, even though the superintendent and school board have been notified of the possible overbilling based on the March 5, 2019 report, a subsequent contract for additional work has been approved with the same contractor. As part of the audit, FCMAT will review the March 5, 2019 report, prior payments and documentation concerning the contractor named in the report, the subsequent contract with the same contractor, and any payments and documentation related to the subsequent contract.

The scope of work includes a review, based on auditor's judgment, of determining whether any undisclosed or inappropriate related-party transactions were engaged in by the school

board, superintendent, or management connected directly or indirectly to the contractor named in this report. Based upon this review, determine whether any conflicts of interest standards may have been violated by any of the schools' local public officials, designated employees, or others as defined in the Political Reform Act (PRA) of 1974 (Government Code Sections 81000-91014).

This final report contains the study team's findings and recommendations.

FCMAT appreciates the opportunity to serve you and extends thanks to all the staff of the Los Angeles County Office of Education and the Bassett Unified School District for their cooperation and assistance during this review.

Sincerely,

A handwritten signature in black ink that reads "Michael H. Fine". The signature is written in a cursive style with a large, stylized initial "M".

Michael H. Fine
Chief Executive Officer

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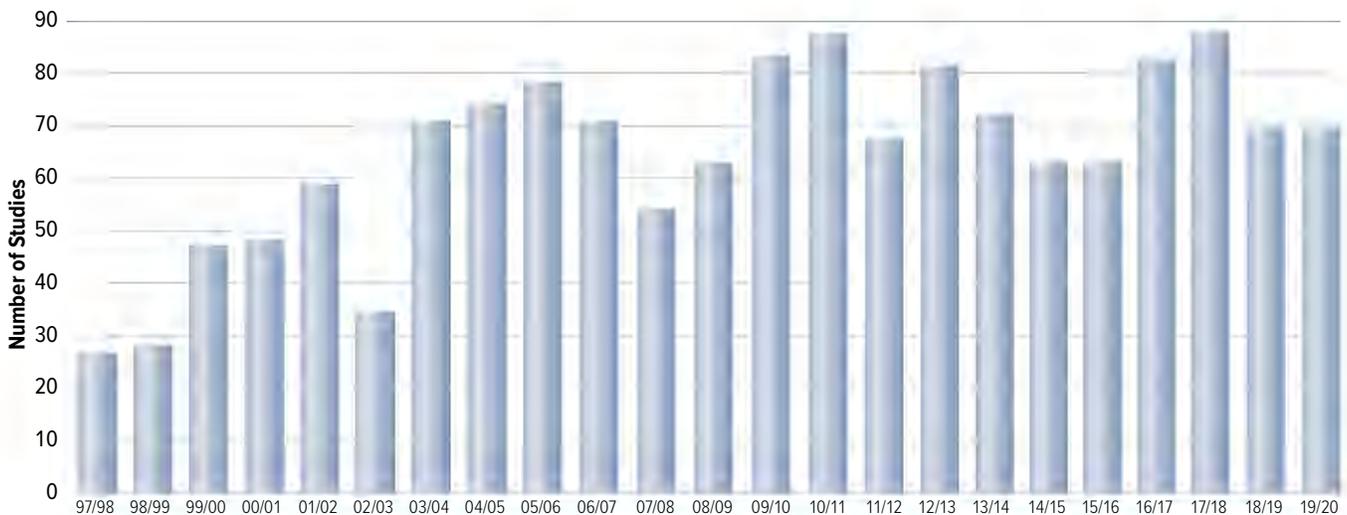
About FCMAT

FCMAT’s primary mission is to assist California’s local K-14 educational agencies to identify, prevent, and resolve financial, human resources and data management challenges. FCMAT provides fiscal and data management assistance, professional development training, product development and other related school business and data services. FCMAT’s fiscal and management assistance services are used not just to help avert fiscal crisis, but to promote sound financial practices, support the training and development of chief business officials and help to create efficient organizational operations. FCMAT’s data management services are used to help local educational agencies (LEAs) meet state reporting responsibilities, improve data quality, and inform instructional program decisions.

FCMAT may be requested to provide fiscal crisis or management assistance by a school district, charter school, community college, county office of education, the state superintendent of public instruction, or the Legislature.

When a request or assignment is received, FCMAT assembles a study team that works closely with the LEA to define the scope of work, conduct on-site fieldwork and provide a written report with findings and recommendations to help resolve issues, overcome challenges and plan for the future.

Studies by Fiscal Year



FCMAT has continued to make adjustments in the types of support provided based on the changing dynamics of K-14 LEAs and the implementation of major educational reforms. FCMAT also develops and provides numerous publications, software tools, workshops and professional learning opportunities to help LEAs operate more effectively and fulfill their fiscal oversight and data management responsibilities. The California School Information Services (CSIS) division of FCMAT assists the California Department of Education with the implementation of the California Longitudinal Pupil Achievement Data System (CALPADS). CSIS also hosts and maintains the Ed-Data website (www.ed-data.org) and provides technical expertise to the Ed-Data partnership: the California Department of Education, EdSource and FCMAT.

FCMAT was created by Assembly Bill (AB) 1200 in 1992 to assist LEAs to meet and sustain their financial obligations. AB 107 in 1997 charged FCMAT with responsibility for CSIS and its statewide data management work. AB 1115 in 1999 codified CSIS’ mission.

AB 1200 is also a statewide plan for county offices of education and school districts to work together locally to improve fiscal procedures and accountability standards. AB 2756 (2004) provides specific responsibilities to FCMAT with regard to districts that have received emergency state loans.

In January 2006, Senate Bill 430 (charter schools) and AB 1366 (community colleges) became law and expanded FCMAT's services to those types of LEAs.

On September 17, 2018 AB 1840 was signed into law. This legislation changed how fiscally insolvent districts are administered once an emergency appropriation has been made, shifting the former state-centric system to be more consistent with the principles of local control, and providing new responsibilities to FCMAT associated with the process.

Since 1992, FCMAT has been engaged to perform more than 1,400 reviews for LEAs, including school districts, county offices of education, charter schools and community colleges. The Kern County Superintendent of Schools is the administrative agent for FCMAT. The team is led by Michael H. Fine, Chief Executive Officer, with funding derived through appropriations in the state budget and a modest fee schedule for charges to requesting agencies.

Introduction

Study and Report Guidelines (AB 139 Audit Authority)

Education Code Section 1241.5(b) permits a county superintendent of schools to review or audit the expenditures and internal controls of any school district in the county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. This is known as an AB 139 extraordinary audit or review.

The purpose of an extraordinary audit is to determine if sufficient evidence exists that fraud, misappropriation of funds, or other illegal fiscal practices may have occurred, and to document the findings for referral to the local district attorney's office and further investigation by law enforcement if needed.

In writing its reports, FCMAT uses the Associated Press Stylebook, a comprehensive guide to usage and accepted style that emphasizes conciseness and clarity. In addition, this guide emphasizes plain language, discourages the use of jargon, and capitalizes relatively few terms.

Extraordinary Audit Procedures

An extraordinary audit is conducted based on the study team's experience and judgment. These audits have many components, including obtaining and examining available original source documents; corroborating documents and information through third-party sources when possible; interviewing potential witnesses; gaining an understanding of internal controls applicable to the scope of the work; and assessing factors such as intent, capability, opportunity, and possible pressures or motives.

The audit consists of gathering adequate information about specific allegations, establishing an audit plan, and performing audit test procedures, often based on sampling of transactions; using the team's judgment and experience to determine whether fraud, misappropriation of funds, or other illegal fiscal practices may have occurred; evaluating the loss that resulted from the inappropriate activity; and determining who was involved and how it may have occurred.

FCMAT visited the Bassett Unified School District and conducted on-site fieldwork in January 2020 through September 2021. This included conducting interviews, collecting data and reviewing documents. Following fieldwork, FCMAT continued its review, analysis, and any additional interviews as needed. The team examined numerous available district-provided documents and information provided by community members, including, but are not limited to, the following:

- Campaign forms and related documents (i.e., checks, bank statements, and deposits)
- Bank statements, deposits, checks/warrants, and available related supporting documentation
- Board minutes and agendas
- Credit card statements and transaction reports
- Travel and reimbursement documents
- Construction contracts, vendor contracts, agreements, schedules, architectural documents and other such documents

- General ledger detail and journal entry reports
- District board policies, administrative regulations, and board protocols
- Job descriptions
- Twenty-one banker's boxes containing various Del Terra Construction records
- Citizens' bond oversight committee documents
- Audit reports and investigator reports
- Purchase orders and purchase order reports, invoices, expense reports, receipts, and other such documents
- Various financial and communication documents from the Bassett Education Foundation
- Emails, social media, and public database documents

Study Team

The study team was composed of the following members:

Michael W. Ammermon
CPA, CFE, CRFAC, DABFA
Intervention Specialist

Terry Tao, AIA, Esq.
Tao Rossini, a Professional Corporation
FCMAT Consultant

Paul Horvat
CPA, CFE, MBA
FCMAT Consultant

John Lotze/Laura Haywood
FCMAT Technical Writers

Each team member reviewed the draft report to confirm its accuracy and to achieve consensus on the final recommendation.

Background

The Bassett Unified School District serves the cities of La Puente and the City of Industry. The district has one high school, one middle school, four elementary schools, one continuation school, one adult school, and one child development center.

In October 2019, the Los Angeles County Superintendent of Schools requested that FCMAT assist the Los Angeles County Office of Education (LACOE) by conducting an Assembly Bill (AB) 139 extraordinary audit to determine if fraud, misappropriation of funds or other illegal fiscal practices may have occurred at the Bassett Unified School District.

The Bassett community proposed four bond measures that passed. The Secretary of State County, City, School District & Ballot Measure Election Results describes the district's election results and ballot measure text as follows:

1. \$23 Million-November 2, 2004, Measure E, Education Bonds, 80.9% of vote, Pass (55% required).

To improve student safety, repair and upgrade every neighborhood school in the Bassett Unified School District by: fixing leaky roofs; upgrading outdated plumbing/sewer systems, installing fire safety equipment, upgrading heating/ventilation systems and electrical wiring for technology; acquire school facilities the District is currently leasing; repairing/constructing/equipping classrooms, libraries and facilities, shall the Bassett Unified School District issue \$23,000,000 in bonds at legal rates, with guaranteed annual independent financial audits, citizens' oversight, and no money for administrators' salaries?

2. \$20 Million-November 7, 2006, Measure E, Education Bonds, 73.4 % of vote, Pass (55% required).

To improve student safety, security, and learning by repairing and upgrading every school through repairing roofs; upgrading plumbing, heating/ventilation systems and electrical wiring for technology; installing fire detection equipment; providing increased disabled access; equipping classrooms; retiring facility debt; facilitating joint-use projects; and constructing and equipping new school facilities, shall the Bassett Unified School District issue \$20,000,000 in bonds at legal rates with guaranteed annual financial audits, citizens' oversight and no money for administrators' salaries?

3. \$30 Million-November 4, 2014, Measure V, Education Bonds, 62.4 % of vote, Pass (55% required).

To improve school facilities with funding that cannot be taken by the State, replace leaky roofs, improve student access to computer / modern technology, replace / upgrade outdated heating, air conditioning, electrical systems, modernize outdated classrooms and restrooms, acquire, construct, repair classrooms, facilities, sites and equipment, shall Bassett Unified School District issue \$30 million of bonds at legal rates, appoint an independent citizens' oversight committee and no money for teacher or administrator salaries?

4. \$50 Million-November 3, 2020, Measure BB, Education Bonds, 69.9 % of vote, Pass (55% required).

To improve school facilities, by replacing leaking roofs, improving student access to technology, repairing and upgrading security/fire/earthquake systems, modernizing, acquiring, constructing, repairing classrooms, restrooms, and facilities, shall Bassett Unified School District issue \$50 million of bonds, within legal interest rates, averaging \$2.66 million annually for 36 years (estimated), at projected rates of 6 cents per \$100 assessed value while bonds are outstanding, be adopted, with all funds staying local?

The bond funds total \$123 million. The description for all four bonds stated they would be used to improve student safety, to modernize the district's campuses, and for repairs.

In April 2015 and July 2019, the district entered into program and construction management agreements (see Appendices 1 and 28) with Del Terra Real Estate Services, Inc. dba Del Terra Group. The agreements provide in the Recitals, Section C that:

The District and Manager desire to enter into an agreement for the Manager to provide the District with professional services consisting of program and construction management services in connection with the planning, programming and construction of existing projects, and new construction projects related to the District's Bond Program, known as Measure V, and any match funding (Campus Projects).

Del Terra managed the district's modernization construction projects as both the project manager and construction manager. The president and chief executive officer of Del Terra is Luis Rojas. Del Terra is identified in the contracts as the district's agent and fiduciary. Acting as the district fiduciary means Del Terra has a responsibility to act in the district's best interest. The responsibilities of a fiduciary are discussed further below.

This audit was requested because the Los Angeles County Superintendent of Schools received a report dated March 5, 2019, issued for the Bassett Unified School District by the district's external law firm, Leal Trejo, APC, and signed by H. Francisco Leal (Leal Report), which (see Appendix 86) included the following finding:

"Based on our analysis, it appears Del Terra may have overcharged the District by \$1,831,567.14. One million dollars was identified as 'additional services' and 'assessments' for which there is no documentation."

When the Leal Report was issued, according to board members Armando Barajas and Patrice Stanzione, they were the only two board members unwilling to vote to approve additional Del Terra contracts. Because Barajas did not believe a few other district board members or management were concerned about the findings in the Leal Report, he took it upon himself to personally deliver the report to LACOE.

Because Barajas provided the Leal Report to LACOE and because of its comprehensive nature, LACOE was concerned that the district's superintendent and school board may have failed to fulfill their fiduciary duties when they did not take any action to reclaim the overpayment. Further, even though the superintendent and school board were notified of the possible overbilling, the district issued a subsequent contract to Del Terra for additional work.

When FCMAT discussed the district's inaction regarding the Leal Report with former district superintendent Debra French, she explained that she and then board president Delores Rivera met with LACOE to discuss both the Del Terra contract and one district board member's possible residency issue. French's concern about the construction issue was that the district's legal team informed her that Del Terra might sue the district because the previous superintendent may have breached the contract by not meeting the Del Terra timelines.

Del Terra has also been identified in previous FCMAT AB 139 audits of Montebello Unified School District in October 2018 and Alum Rock Union Elementary School District in June 2017. Those reports also describe irregularities in Del Terra's billing and contracting practices. Issues cited in those reports include little to no supporting documentation for billing provided to the district, and the amount of work being inconsistent with the amount billed. This report also finds similar billing and contracting irregularities and practices.

Because LACOE was concerned about the superintendent's and school board's inaction regarding Del Terra, it had reason to believe there may also be potential conflicts of interest and undisclosed related party issues. The indicators that point to the possibility of irregularities and conflicts of interest are explained in this report. When this audit began there was, and there continues to be, great interest by the Bassett community in many issues that they allege the district would not address.

When trying to locate Del Terra records, FCMAT was contacted by Bassett community members, staff and others who wanted to share their concerns. The audit consisted of interviews with district staff, administrative assistants, accountants, directors, teachers, superintendents, board members, community members, district labor associations, and representatives of the Bassett Education Foundation. Many of those interviewed did not want to meet anywhere near the district because they feared they may be watched by board member Paul Solano, his allies, or others. Therefore, most meetings and interviews were conducted away from district locations.

A few individuals FCMAT met with had gathered substantial information they wanted to share. And several individuals FCMAT met with said that district board member Paul Solano, who has been a board member for more than 20 years, was the real power in the district and is backed by the district's law firm.

One community member, Amadeo Rodriguez, had been researching and gathering evidence into alleged district irregularities. Rodriguez met with FCMAT many times. His research, documentation and information were well organized and proved extremely valuable. He alleged and provided compiled evidence regarding several issues, such as possible conflicts of interest.

Community members also alleged that former board member Natalie Ybarra mismanaged the Citizens for Bassett Schools – Yes on Measure V campaign account.

Ana Morales, a community member, assisted with the Citizens for Bassett Schools on Measure V campaign funds. Morales explained to FCMAT that even though she has no financial experience, the district's former superintendent, Alex Rojas, asked her to be a treasurer for the campaign funds. She stated that she agreed to help because no one else would. According to Morales, all campaign transactions and forms were taken care of by Ybarra. Even though Morales was not involved in the operations or management of the campaign funds, she was instrumental in coming forward to help FCMAT by working with the bank to obtain copies of records.

When FCMAT began its on-site fieldwork in January 2020, the district superintendent was Debra French. French succeeded superintendent Alex Rojas. When Alex Rojas departed, French was appointed as the district's interim superintendent for a contractual employment term to run from May 24, 2017 to June 30, 2018. Near the end of her interim term, French entered into a new contract as superintendent, which ran until June 30, 2020. At the end of French's employment term, she accepted a superintendent position in a school district in the Bay Area.

From the beginning of the audit until her departure, French provided FCMAT with unrestricted access to anything and anyone she could and continued to assist FCMAT even after the end of her term in June 2020. Her successors also cooperated fully with the FCMAT audit. Succeeding French was Art Cunha, assigned by LACOE as interim superintendent. He remained at the district from July 2020 to November 16, 2020 until Dr. Alejandro Alvarez was appointed superintendent by the district's school board.

When FCMAT first arrived at the district to obtain Del Terra-related documents, only two filing cabinet drawers of documents were available. A filing cabinet drawer is equivalent to approximately one banker's box. Given the size and scope of the district's construction projects and bond measures, one would reasonably expect to find at least 20 banker's boxes or more of financial documents and another 10 or more banker's boxes of plans, schedules, and other documents. The FCMAT team asked if anyone knew where more documents may be. No one knew. When asked where the staff was that handled the processing of Del Terra payments and documentation, FCMAT was told that person was reassigned and no longer at the district office. This reassigned staff member was Barbara Molina, who was identified as someone who may be able to shed more light on the accounting and business practices of the district and might be able to find more Del Terra documents.

Eventually the team was able to meet with Molina. She and a trusted co-worker who remained working at the district office searched for Del Terra records. Months after FCMAT began the audit, Molina notified FCMAT that she was able to find more Del Terra records. The total amount of records found was contained in approximately 21 banker's boxes, which Molina and her co-worker organized and labeled. On October 6, 2020, approximately nine months after the audit fieldwork began, with the help of Molina and her co-worker, FCMAT obtained custody of those records. It was important to find as many documents as possible because Del Terra did not meet with FCMAT at the district's and FCMAT's request. Nor did Del Terra provide any records, which they were obligated to produce under the terms of their contract with Bassett.

This report shows that LACOE and the community had good reason to be concerned. Many of the suspicions and concerns described above are corroborated by this report.

Occupational Fraud and Internal Controls

Fraud can include an array of irregularities and illegal acts characterized by intentional deception and misrepresentations of material facts. Although all employees have some degree of responsibility for internal controls, the governing board, superintendent and senior management ultimately are responsible.

Occupational Fraud

Occupational fraud includes asset misappropriation, corruption, and fraudulent financial statements. Occupational fraud occurs when an organization's owners, executives, managers or employees use their position in the organization to deliberately misuse or misapply the employer's resources or assets for personal benefit.

Asset misappropriation includes the theft or misuse of local educational agency (LEA) assets and may include taking cash, inventory, or other assets, and/or fraudulent disbursements. Asset misappropriation is the largest category of occupational fraud and includes numerous fraudulent disbursement schemes. Corruption schemes involve an employee(s)/board member(s) using his or her influence in business transactions to obtain a personal benefit that violates that employee's duty to the employer or the organization; conflicts of interest fall into this category. Financial statement fraud includes intentionally misstating or omitting material information in financial reports.

Although there are many different types of fraud, occupational fraud, including asset misappropriation and corruption, is more likely to occur when employees are in positions of trust and have access to assets. Embezzlement occurs when someone who is lawfully entrusted with property takes it for his or her personal use. Common elements in all fraud include the following:

- Intent, or knowingly committing a wrongful act
- Misrepresentation or intentional false and willful representation(s) of a material fact
- Reliance on weaknesses in the internal control structure, including when an individual relies on the fraudulent information
- Concealment to hide the act or facts
- Damages, loss or injury by the deceived party

This report finds that there are indicators that board member Solano and former board member Ybarra, and Del Terra, and others, had the incentive, capability, and opportunity to conduct themselves and their activities contrary to their fiduciary duties to the district.

Internal Controls

The accounting industry defines the term "internal control" as it applies to organizations, including school agencies. Internal control is "a process, effected by an entity's board of directors, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives relating to operations, reporting, and compliance" (The Committee of Sponsoring Organizations of the Treadway Commission – May 2013). The reference to achievement of objectives refers to an organization's work of planning, organizing, directing and performing routine tasks related to operations, and monitoring performance.

An organization establishes control over its operations by setting goals, objectives, budgets and performance expectations. Several factors influence the effectiveness of internal control, including the social

environment and how it affects employees' behavior, the availability and quality of information used to monitor the organization's operations, and the policies and procedures that guide the organization. Internal control helps an organization obtain timely feedback on its progress in meeting operational goals and guiding principles, producing reliable financial reports, and ensuring compliance with applicable laws and regulations.

Internal control is the principal mechanism for preventing and/or deterring fraud or illegal acts. Illegal acts, misappropriation of assets or other fraudulent activities can include an assortment of irregularities characterized by intentional deception and misrepresentation of material facts. Effective internal control provides reasonable assurance that operations are effective and efficient, that the financial information produced is reliable, and that the organization complies with all applicable laws and regulations.

Internal control provides the framework for an effective fraud prevention program. An effective internal control structure includes the policies and administrative regulations established by the board and operational procedures used by staff, adequate accounting and information systems, the work environment, and the professionalism of employees. The five integrated components of internal control and their summarized characteristics are included in the following table.

Internal Control Component	Characteristics
Control Environment	The set of standards, processes and structures that provide the basis for carrying out internal control across an organization. Comprises the integrity and ethical values of the organization. Commonly referred to as the moral tone of the organization, the control environment includes a code of ethical conduct; policies for ethics, hiring and promotion guidelines; proper assignment of authority and responsibility; oversight by management, the board or an audit committee; investigation of reported concerns; and effective disciplinary action for violations.
Risk Assessment	Identification and assessment of potential events that adversely affect the achievement of the organization's objectives, and the development of strategies to react in a timely manner.
Control Activities	Actions established by policies and procedures to enforce the governing board's directives. These include actions by management to prevent and identify misuse of the LEA's assets, including preventing employees from overriding controls in the system.
Information and Communication	Ensures that employees receive information regarding policies and procedures and understand their responsibility for internal control. Provides opportunity to discuss ethical dilemmas. Establishes clear means of communication within an organization to report suspected violations.
Monitoring Activities	Ongoing monitoring to ascertain that all components of internal control are present and functioning; ensures deficiencies are evaluated and corrective actions are implemented.

The five components of internal control are supported by numerous underlying principles that help ensure an entity achieves effective internal control. Each of the five components listed above and their relative principles must be present and functioning in an integrated manner to be effective. An effective system of internal control can provide reasonable but not absolute assurance that the organization will achieve its objectives.

Although the board and all employees in the district have some responsibility for internal control, the superintendent, board other key management personnel, and even Del Terra have a higher ethical standard, fiduciary duty and responsibility to safeguard the assets of the LEA.

Control Environment

The internal control environment establishes the organization's moral tone. Though intangible, it begins with the leadership and consists of employees' perception of the ethical conduct displayed by the governing board and executive management.

The control environment is a prerequisite that enables other components of internal control to be effective in achieving the goals and objectives to prevent and/or deter fraud or illegal acts. It sets the tone for the organization, provides discipline and control, and includes factors such as integrity, ethical values and competence of employees.

The control environment can be weakened significantly by a lack of experience in financial management and internal control.

As this report describes in the findings section, there are indicators that the tone at the top established by the district's leaders was weak. Certain board members were perceived as being above the rules, regulations and policies of the district. Questioning board member Solano's activities was considered by employees as a sure way to be reprimanded, reassigned, ridiculed, or worse. According to Molina, she was subjected to such treatment when she questioned Solano's travel reimbursement forms.

Control Activities

Control activities are a fundamental component of internal control and are a direct result of policies and procedures designed to prevent and detect misuse of an LEA's assets, including preventing any employee from overriding system controls. Examples of control and transaction activities include the following:

1. Performance reviews, which compare actual data with expectations. In accounting and business offices, this most often occurs when budgeted amounts are compared with actual expenditures to identify variances and followed up with budget transfers to prevent overspending.
2. Information processing, which includes the approvals, authorizations, verifications and reconciliations necessary to ensure that transactions are valid, complete and accurate.
3. Physical controls, which are the processes and procedures designed to safeguard and secure assets and records.
4. Supervisory controls, which assess whether the transaction control activities performed are accurate and in accordance with established policies and procedures.
5. Segregation of duties, which consists of processes and procedures that ensure that no employee or group is placed in a position to be able to commit and conceal errors or fraud in the normal course of duties. In general, segregation of duties includes separating the custody of assets, the authorization or approval of transactions affecting those assets, the recording or reporting of related transactions, and the execution of the transactions. Adequate segregation of duties provides for separate processing by different individuals at various stages of a transaction, and for independent review of the work; these measures reduce the likelihood that errors will remain undetected.

FCMAT discussed processing of documents, invoices, payments, and other procedures with district staff. One individual explained that Del Terra could simply walk into the business office with an invoice containing little or no documentation to support the invoiced amount and receive a check/warrant. That employee stated that Del Terra just submits an invoice and Linda [Bermudez][executive director of business] signs off without any checks or balances to see if the work has been performed. [Del Terra employee] Jerry [Quemada] walks into the business office, submits invoices, the business office then generates a requisition/purchase order, and the contractor is paid. No checks and balances established and implemented.

Conflicts of Interest

Actual (or Appearance of) Impropriety; Government Code Section 1090; Political Reform Act; and Common Law

Broadly defined, a conflict of interest occurs when a public official participates in a decision in which the official has a personal interest of some kind that may influence their conduct or be perceived as causing divided loyalty.

Some conflict-of-interest laws focus on financial interests, such as contracts that come before an agency for approval when the official (or the official's spouse or registered domestic partner) has some financial connection to the transaction. An official is considered to be participating in the making of a contract not just by voting to approve it, but also by participating in the preliminary phases leading up to the vote, such as the earliest discussions about the contract, planning, and soliciting for bids, developing specifications, etc. The decision to hire an employee is considered an approval of a contract for purposes of conflict-of-interest law.

As discussed below, the common law conflict-of-interest doctrine is not limited to financial conflict, but also addresses other situations in which a personal interest is involved, creating the potential for divided loyalty or the appearance of a conflict or impropriety in connection with the official's involvement in the decision.

Conflicts of interest are addressed in statute (Government Code Section 1090, the Political Reform Act - Government Code Section 87100 and following, Corporations Code Section 5233 for nonprofit organizations, Education Code Section 35107(e)), and in common law as reflected in court decisions. Government Code Section 1090 can carry some of the most severe consequences, and violations can rise to the level of a felony. A public official as used in Government Code Section 1090 includes board members, officers or certain designated employees of school districts, charter schools, and other governmental entities.

Financial Conflicts

Government Code Section 1090

Government Code Section 1090 prohibits the approval of contracts in which an official has a financial interest. Violations of this law can carry severe penalties. If a board member has an interest in a contract that is deemed to be a Government Code Section 1090 violation, then the entire board is prohibited from entering into the contract unless an exception or safe harbor applies. This is true even if the contract is with a vendor that has the best price and even if the board member with the conflict abstains from voting on the contract. Government Code Section 1090 is the strongest standard to meet.

Conflict-of-interest laws prohibit public officials from entering into contracts "made by them in their official capacity, or by any body or board of which they are members" (GC 1090(a)). The law does not apply only to board members; if an employee prepares or negotiates a contract in which the employee has a financial interest, or recommends its approval, this prohibition also applies to them. The prohibition is absolute absent a valid exception, and the contract is voidable and has no legal effect. It is not legally possible to abstain from a contract that violates Government Code Section 1090 unless a safe harbor is available, referred to as a "remote interest" under Government Code Section 1091 or "shall not be deemed to be interested" under Government Code Section 1091.5(a). If a board member's interest is only remote, the board can proceed to vote on the contract as long as the affected member abstains from discussion and voting on the matter.

The Fair Political Practices Commission (FPPC) issued An Overview of Section 1090 and FPPC Advice, October 2020, which adds further clarification for conflicts of interest as follows:

In *Thomson v. Call* (1985) 38 Cal.3d 633, the California Supreme Court explained the purpose underlying Section 1090:

[E]xamination of the goals and policy concerns underlying section 1090 convinces us of the logic and reasonableness of the trial court's solution. In *San Diego v. S.D. & L.A.R.R. Co.*, *supra*, 44 Cal. 106, we recognized the conflict-of-interest statutes' origins in the general principle that "no man can faithfully serve two masters whose interests are or **may be in conflict**": "The law, therefore, will not permit one who **acts in a fiduciary capacity** to deal with himself in his individual capacity. . . . For even if the honesty of the agency is unquestioned. . . yet the principal has in fact bargained for the exercise of all the skill, ability and industry of the agent, and he is entitled to demand the exertion of all this in his own favor." (44 Cal. at p. 113.) We reiterated this rationale more recently in *Stigall v. City of Taft*, *supra*, 58 Cal.2d 565: "The instant statutes [§ 1090 et seq.] are concerned with any interest, other than perhaps a remote or minimal interest, which would prevent the officials from exercising absolute loyalty and undivided allegiance to the best interests of the city." (58 Cal.2d at p. 569.)

Furthermore, Section 1090 is intended "not only to strike at actual impropriety, but also to **strike at the appearance of impropriety.**"

A contract that violates Section 1090 is void. The prohibition applies even when the terms of the proposed contract are demonstrably fair and equitable, or are plainly to the public entity's advantage.

Courts have recognized that Section 1090's prohibition must be broadly construed and strictly enforced. "An important, prophylactic statute such as Section 1090 should be construed broadly to close loopholes; it should not be constricted and enfeebled."

[Bold and underlining emphasis added]

[FCMAT has removed the footnote case citing from the quoted information.]

Political Reform Act

The Political Reform Act, enacted by Proposition 9 in June 1974, is another California law that focuses on financial conflicts. The act has been revised and continues to be revised. The stated intent of the act was to establish a process for most state and local officials, as well as certain designated employees, to publicly disclose their personal income and assets as follows:

[a]ssets and income of public officials which may be materially affected by their official actions...should be disqualified from acting in order that conflicts of interest may be avoided.

The act's provisions are enforced by the FPPC and supported by Government Code, requiring every state and local governmental agency to adopt a conflict of interest code. The FPPC is the state agency responsible for interpreting the provisions of the law and issuing California Form 700 – Statement of Economic Interests.

Because school governing board members are considered public officials and governing boards are considered legislative bodies, board members and certain designated individuals who participate in financial decisions for an LEA must file Form 700 annually by April 1, when they take office or begin in a position, and upon leaving office. Form 700 must usually be filed by April 1 for the preceding calendar year and within 30

days of assuming or leaving office or their position unless an exception applies. In addition, a consultant to the organization “who makes, participates in making, or acts in a staff capacity for making governmental decisions” may be required to complete a Form 700. Failure to follow FPPC Form 700 rules can result in fines, and in extreme cases, deliberate failure to file can result in criminal charges by the attorney general or district attorney, or civil or administrative action by the FPPC or private citizens.

The Political Reform Act concerns situations in which a public official’s economic interests are affected by a government decision in which the person participates or which the person attempts to influence. Failure to disclose information is a form of influence. If a conflict under the Political Reform Act exists, the public official must recuse themselves from every part of the decision-making process and abstain from voting. The FPPC has issued many detailed regulations about conflicts of interest discussed below.

Non-Financial Conflicts

Common Law

Court opinions lay out common law principles that require public officials to abstain from other kinds of decisions they have a personal interest in, even if the interest isn’t financial. For example, in the case of *Clark v. City of Hermosa Beach*, 48 Cal. App. 4th 1152 (CA2 1996), a city council member was considered to have a common law conflict of interest when he voted on a project that affected the view from his rented house. Even though he didn’t own the house and thus no financial interest was at stake, his personal interest was seen as having the capacity to influence the decision, or at least the potential to create an appearance of impropriety, even without a financial interest. The remedy for a common law conflict of interest is for the affected individual to disclose the conflict and abstain from participating in the discussion and voting on the matter.

Appearance of Impropriety

Conflicts of interest are applicable to not only economic interests but also to the appearance of impropriety, misconduct, or even indiscretion. Conflict of interest is about self-dealing. Often a government official may say they did not benefit financially from a transaction; therefore, there is no conflict of interest. However, those who may commit improprieties can have hidden interests that are not always economic. A hidden interest is an undisclosed or concealed interest that does not have to be financial. This can include when a board member’s actions are detrimental to the district because they provide a benefit to a friend, romantic interest, or relative, even though the board member themselves does not appear to benefit financially.

The office of the California attorney general published opinion, No. 97-511, dated December 5, 1997, that discusses the appearance of impropriety as follows:

The Supreme Court has declared that the purpose of section 1090’s prohibition “is to remove or limit the possibility of any personal influence, either directly or indirectly, which might bear on an official’s decision, as well as to void contracts which are actually obtained through fraud or dishonest conduct. . . .” (*Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569.) **The statutory goal is “not only to strike at actual impropriety, but also to strike at the appearance of impropriety.”** (*City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191, 197.)

[Bold emphasis added]

Limiting the possibility of any personal influence, either directly or indirectly, is about avoiding even the appearance of a conflict. Failure to do so can be dishonest and is a breach of a public official’s fiduciary responsibilities. When a public official such as a board member, or even any government employee, con-

ceals information relating to the official's personal interest in a decision, the official deprives the decision maker of information that may be necessary for the board or management to make an informed decision. By acting without disclosing his or her own personal interest (self-dealing), the board member or employee gains hidden influence over the outcome of other board members' decisions.

A governmental decision can be influenced by a board member concealing information from fellow board members or the public when, had that information been known, it would, or would have appeared to, alter the outcome of the decision. Failure to disclose information is a form of influence.

The FPPC provides many resources regarding conflicts of interest, such as An Overview of Section 1090 and FPPC Advice-October 2020, A Quick Guide to Section 1090-October 2020, and Recognizing Conflicts of Interest-August 2015. These resources provide further clarification regarding conflicts of interest, as follows:

Section 1090 "codifies the long-standing common law rule that barred public officials from being personally financially interested in the contracts they formed in their official capacities."

The prohibition is based on the rationale that a person cannot effectively serve two masters at the same time. Therefore, Section 1090 is designed to apply to any situation that "would prevent the officials involved from exercising absolute loyalty and undivided allegiance to the best interests of the [public entity concerned]." Section 1090's goals include eliminating temptation, avoiding the *appearance of impropriety*, and assuring the public of the official's undivided and uncompromised allegiance.

Furthermore, Section 1090 is intended "not only to strike at actual impropriety, but also to strike at the *appearance of impropriety*."

[Emphasis added]

[FCMAT has removed the footnote case citations from the quoted information.]

The Political Reform Act embodies voters' recognition that conflicts of interest in government decision-making by public officials pose a significant danger.

Under the Act, a public official will have a statutory conflict of interest with regard to a particular government decision if it is foreseeable that the outcome of the decision will have a financial impact on the official's personal finances or other financial interests. In such cases, *there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests*. In fact, preventing conflicts of interest was of such vital importance to the voters that the Act not only prohibits actual bias in decision-making but also "seeks to forestall ... the *appearance of possible improprieties*." [Emphasis added]

The issue of the appearance of possible improprieties is referenced in *Witt v. Morrow* (1977) 70 Cal. App. 3d 817 at 822–823 as follows:

Morrow asserts it is unconstitutional to automatically disqualify a public official from participating in decisions which may affect the investments of an entity which pays him However, the whole purpose of the Political Reform Act of 1974 is to preclude a government official from participating in decisions *where it appears he may not be totally objective because the outcome will likely benefit a corporation or individual by whom he is also employed*." [Emphasis added]

The Act applies to all "public officials," which is defined as "every member, officer, employee or consultant of a state or local government agency." (Government Code Section 82048)

Courts have recognized that Section 1090's prohibition must be broadly construed and strictly enforced. (*Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569-571.)

A civil service appointment is an employment contract (59 Ops.Cal.Atty.Gen. 223 (1960))

[FCMAT emphasizes that a board member voting on the hiring and pay raises of someone with whom they have an undisclosed relationship for any position, including a district director level position, is voting on an employment contract; however, this does not include collectively bargained raises, even those that affect a spouse.]

A decision to modify, extend, or renegotiate a contract in which an official has a financial interest can trigger a conflict where the official was involved in the making of the contract under Section 1090.

Reasonably Foreseeable Financial Effect

FPPC regulations 18700, the basic rule and guide to conflict of interest regulations, and 18701, which determines whether a financial effect is reasonably foreseeable, state the following:

2 Cal. Code Regs., Section 18700(a) states, "Basic Rule: A public official at any level of state or local government has a prohibited conflict of interest and may not make, participate in making, or in any way use or attempt to *use the official's position to influence a governmental decision when the official knows or has reason to know the official has a disqualifying financial interest*. A public official has a disqualifying financial interest if the decision will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, directly on the official, or the official's immediate family, or on any financial interest described in subdivision (c)(6)(A-F) herein. (Sections 87100, 87101, & 87103.)" [Emphasis added]

2 Cal. Code Regs., Section 18701(a) states, "Financial Interest Explicitly Involved: A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official's agency. A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6)."

Ethical Duty, Integrity, & Fiduciary Duty

It is not enough to evaluate a potential conflict of interest based on whether a board member has a direct financial interest. The public, management, and staff at a school district should expect the highest level of ethics and integrity from its board members and all public officials. Board members should show an ethical tone at the top and demonstrate the highest levels of ethics and fiduciary duty.

Board members are fiduciaries of the district. They have a fiduciary duty to be loyal, act in good faith, with prudence and full disclosure, in the best interest of the district, without any hint of self-dealing or personal interest in any transaction associated with the district. Fiduciary responsibilities are described further below.

When faced with potential conflicts of interest on the part of a public official such as a school board member, administrator or consultant, it is important to consider the legal and ethical standards and review any applicable board policies that may be even more restrictive than the statutory mandates. The board and management should demonstrate all forms of integrity.

Corruption

Corruption does not have to involve two or more parties; a single individual in a position of trust can exercise authority for his or her own personal gain. Personal gain can include but is not limited to helping a girlfriend/boyfriend/partner or other personal acquaintance get a job, promotion, or pay raise. And when the relationship is not disclosed to the public, management, or all fellow board members, and the interested board member votes on the position or salary increase(s) or fails to abstain and explain the reasons for abstaining, these actions may be considered a conflict of interest. Every conflict of interest issue requires one party to be in a position of trust, and every instance of corruption requires both a conflict of interest and a breach of that trust.

A conflict can result from being related to an applicant; engaging in social interaction outside of work with an applicant; or having a personal financial interest connected to an applicant or the company he or she represents.

District Bylaws and Protocols

The district has adopted board policies and protocols, which are specific local laws the board must follow. To maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public, the board has adopted Board Bylaw (BB) 9270 Conflict of Interest, stating that board members shall abstain from any official action in which their private or personal interest may conflict with their other official duties. Board policies and protocols are discussed in greater detail below.

Fiduciary Responsibilities

A fiduciary duty is the highest standard of care. The person who has a fiduciary duty is called the fiduciary, and the person to whom he or she owes the duty is typically referred to as the principal or the beneficiary. (Source: https://www.law.cornell.edu/wex/fiduciary_duty)

A fiduciary also may be a person who holds a legal or ethical relationship of trust with one or more other parties (a person or group of persons). In other words, a fiduciary takes care of money or other assets for another. Board members, administrators and managers are examples of those who have fiduciary responsibilities or duties. The Cornell law source cited above further describes several components of fiduciary duties, which FCMAT summarizes and applies to LEAs as follows:

Duty of Care: Before making a decision, collect all evidence and information available. Do your due diligence and review all the information and evidence available – do not just accept the information as it is presented. Assess information with a critical eye and ask the questions: who? what? when? and where? A fiduciary's responsibility is to protect the assets of the LEA.

Duty of Loyalty: You cannot use your position in the organization to further your private interests. Avoid anything that might injure the LEA.

Duty of Good Faith: Advance the interests of the LEA. Do not violate the law. Fulfill your duties and responsibilities.

Duty of Confidentiality: Keep confidential matters confidential, and never disclose confidential information for your own benefit or to avoid personal liability.

Duty of Prudence: Be trustworthy, with the degree of care and skill that a prudent board member, member of management, or fiduciary would exercise. Prudent means acting with wisdom and care, including exercising good judgment.

Duty of Disclosure: Act with complete candor. Be open, sincere, honest and transparent. Disclose all financial interests on Form 700, Statement of Economic Interests.

This report demonstrates that there is sufficient evidence that the actions and activities of board member Solano and former board member Ybarra, and Del Terra owner/principal Luis Rojas, are characteristic of individuals that may have failed in their fiduciary duties to the district.

Gift of Public Funds

Gifts of public funds are governed under Article 16, Section 6 of the California Constitution, which specifies that the state Legislature cannot authorize any county, city, or other political subdivision to make any gift of public funds to an individual or corporation. This constitutional provision prohibits making any gift of public money, including items of value, to any individual, including public employees, a corporation, or other government agency. The constitutional prohibition of gifts of public funds is designed to prevent the misuse of public money.

If the funds expended have a direct and substantial public purpose, with only an incidental benefit to an individual, a gift of public funds has likely not occurred. To justify the expenditure of public funds, the governing board must determine that the expenditure will benefit the education of the LEA's students. Expenditures that most directly and tangibly benefit students' education are more likely justified, but expenditures driven by personal motives are not, even if they have been a longstanding local custom or are based on benevolent intentions. If an LEA's governing board has determined that a particular type of expenditure serves a public purpose, courts will almost always defer to that finding. Therefore, if the LEA has a board policy stating that specific items are allowable, such as scholarships and awards, the expenditure will likely be considered allowable.

Gifts and awards to staff and/or students may be considered gifts of public funds unless the board has an established policy defining the parameters of allowable gifts and awards.

The evidence described in the findings section of this report includes indicators that gifts of public funds may have occurred.

False Claims

Payment of unsubstantiated invoices may constitute a gift of public funds and/or a false claim scheme. These schemes as defined by Government Code Section 12651 include situations in which the entity “knowingly presents or causes to be presented a false or fraudulent claim for payment or approval.” Entities that present false claims are liable to the district for triple damages, the costs of a civil action to recover the damages, and a civil penalty of between \$5,500 and \$11,000 per occurrence.

Government Code 12651(a)(1) and 12651(a)(2), states the following:

(a) Any person who commits any of the following enumerated acts in this subdivision shall have violated this article and shall be liable to the state or to the political subdivision for three times the amount of damages that the state or political subdivision sustains because of the act of that person. A person who commits any of the following enumerated acts shall also be liable to the state or to the political subdivision for the costs of a civil action brought to recover any of those penalties or damages, and shall be liable to the state or political subdivision for a civil penalty of not less than five thousand five hundred dollars (\$5,500) and not more than eleven thousand dollars (\$11,000) for each violation...

(1) Knowingly presents or causes to be presented a false or fraudulent claim for payment or approval.

(2) Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim.

The findings in this report demonstrate that false claims may have occurred.

Transaction Sampling

FCMAT developed and conducted audit procedures to analyze and evaluate allegations and identify potential outcomes of transactions sampled. The audit scope, objectives, and substantive transaction testing were based on the FCMAT study team's experience and professional judgment and did not include the testing or evaluation of all available transactions and records. An important distinction in FCMAT sampling and records review is the term available transactions and records. Available transactions sampled were those selected randomly and/or selected specifically based on the team's judgment. Neither all transactions nor all potential issues were examined, and not every irregularity that may have had merit was pursued. Transactions, audit scope items, and potential irregularities are evaluated and pursued based on the conditions of the books and records and the team's judgment.

Transactions selected, when applicable, are analyzed and compared to board policies, administrative regulations, operational procedures, and industry standards or best practices, and are evaluated for proper authorizations and reasonableness based on the team's judgment and technical expertise in school business operations, internal controls, and accounting best practices.

Sample testing and examination results are intended to provide reasonable but not absolute assurance of the accuracy of the transactions and financial activity and/or to identify whether fraud, misappropriation of funds or other illegal fiscal practices may have taken place during the period under review.

When a complete set of records may not be available, and there is the possibility of fraud, sampling various types of transactions is one of many methods that can help identify trends or other anomalies. This process also helps provide an understanding of the control environment and whether transactions and activities are properly monitored.

The district provided FCMAT with separate American Express and travel expense data files and accounting transactions. The transactions data spanned fiscal years 2017-18 through 2019-20. This data was compared with available supporting documents including cancelled checks/warrants, invoices, expense reports, receipts, purchase order reports, journal entries, credit card transactions, board policies, and administrative regulations.

The table below summarizes the results of sampled American Express and travel reimbursement transaction testing for the fiscal years ending June 30, 2018, 2019 and 2020.

Transaction Testing Results Fiscal Years 2017-18 through 2019-20 (Dollar amounts are rounded)				DEVIATIONS			
				Duplicate Employee Reimbursement		Incomplete Documents Invoice Issues Other Issues	
				(Dollars)	(Number)	(Dollars)	(Number)
Item	Description	Amounts	Quantity				
1	American Express Charges	\$59,065	80	\$0	0	\$0	0
2	Travel Expense Reimbursements	\$19,286	27	\$26	1	\$2,505	2
Totals		\$78,352	107	\$26	1	\$2,505	2

Transaction testing identified some types of deviations. A deviation is a transaction that does not meet the criteria of a reasonable transaction. For example, if a transaction is performed in such a way that it is

missing supporting documents or presented in a way that is different from other similar transactions, it is considered a deviation. A deviation by itself does not mean the transaction may be fraudulent; rather, it means that there is missing information or that further inquiry and analysis of the deviation may be needed if considered relevant to the testing performed. An internal control weakness also may not mean there is fraud; however, such weaknesses can indicate a potential for fraud to occur.

As FCMAT reviewed the 107 American Express charges and travel expense reimbursements, various internal control weaknesses were identified as follows:

- Numerous financial and approval documents were missing or incomplete. Missing detail receipts are necessary to identify which expenditures may or may not be allowed according to policy.
- Purchase order procedures were not used for specific purchases.
- Purpose of expenditure was not always listed with support documentation.
- Invoices did not match American Express statement transactions.

Of the deviations shown above, only one deviation is considered to be irregular. Irregular means outside of the regular pattern of approved transactions and may even be those transactions with internal control deficiencies. The irregular deviation is tied to a travel expense reimbursement submitted by Paul Solano. This reimbursement is described in the findings section below because it contains numerous inconsistencies.

FCMAT also asked the district to provide a random sample of purchase order transactions in 2015-16. The purpose of the purchase order testing was to confirm that purchase orders were properly signed as a past practice. Of the sample of 46 purchase orders, it was found that the superintendent was regularly signing them. No further purchase order sampling was considered necessary.

As part of the audit, FCMAT reviewed the March 5, 2019 report issued by the district's external law firm, Leal Trejo, APC, mentioned above, which was primarily about Del Terra overbilling the district. As described above, approximately 21 banker's boxes of Del Terra documents were eventually located and examined. Because Del Terra chose not to cooperate with the FCMAT audit and did not comply with the audit provisions in the district and Del Terra contracts, FCMAT's findings about Del Terra activities are based on the records available at the district. Those records were reviewed, and various documents were used to compile the audit findings below.

Findings

Del Terra

When the audit began and Del Terra records were being requested, FCMAT anticipated that Del Terra would cooperate with the audit. Del Terra is a construction company that builds, modernizes, and manages construction of school buildings. Former district superintendent French notified Del Terra about the audit in an email dated January 7, 2020. FCMAT contacted Luis Rojas, principal owner of Del Terra, via email on January 11, 2020 and received a response on February 3, 2020 indicating that he had a family matter to address; therefore, FCMAT did not resume communications until September 2020. Instead, FCMAT communicated with Jerome Quemada, Del Terra's construction manager. FCMAT's communications to Jerome Quemada were about specific subcontracts with the district; however, he did not respond. FCMAT remained hopeful that Luis Rojas would at some time agree to meet even though he did not cooperate in providing requested records to the district's law firm, as explained in the March 5, 2019 report by Leal Trejo, APC, the Leal Report (see Appendix 86).

The Leal Report states in its process section at bullet points five and seven, that attorney Francisco Leal met with Luis Rojas and had sent Del Terra two letters requesting information about various assessments and billings the district paid for; however, the requested information was not produced.

Meeting with Luis Rojas was important because FCMAT was informed that he had told the district that he no longer had access to all Del Terra's records for the district's construction projects. In an interview with FCMAT on July 20, 2020, former district board member Javier Romo stated that even back in 2011 he wanted to audit Del Terra's records; however, Luis Rojas told him that his computer was broken. Javier Romo took this to mean that Luis Rojas would not provide any records the district was requesting, and indeed he never did.

On September 11, 2020, Luis Rojas responded concerning Jerome Quemada not replying to FCMAT's requests, but he did not reply that he would meet with the team. FCMAT knew of the nature of Luis Rojas's family matter and decided not to pursue engaging with him until June 9, 2021, approximately nine months later. No response was received to the June 9 email; therefore, the team emailed Luis Rojas again on June 19, 2021, and again, no response was received. On June 24, 2021, Superintendent Alvarez emailed Luis Rojas imploring him to meet with FCMAT and citing the audit provisions of Del Terra's contracts with the district.

The contracts that Luis Rojas signed with the district contain two provisions about requirements that Del Terra maintain complete and accurate books and records and state that the district has the right to audit those records. These provisions are spelled out in Article 6 of the contracts as follows:

“6.1.1, Maintenance of Project Books and Records. Manager shall maintain complete and accurate books and records with respect to services, costs, expenses, receipts and other information required by District to verify the scope or charges for any services provided under this Agreement. Manager shall maintain such records in sufficient detail to permit District, District's independent auditors, or their designee to thoroughly evaluate and verify the nature, scope, value and charges for services performed under this Agreement. All such books and records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible.” [Emphasis added] The July 2019 agreement further adds “and shall be maintained for a minimum period of 5 years post termination of the Agreement, completion of the Projects or applicable statute, whichever is longer.”

“6.1.2, Audit of Records. District, District’s independent auditors, or their designee, upon reasonable notice shall have the right to examine and to audit books, records, documents, and ‘any’ (included in July 2019 agreement) other evidence sufficient to reflect properly all costs and expenses claimed to have been incurred ‘or earned’ (included in July 2019 agreement) in Manager’s performance of this Agreement ‘or of any contractor or consultant performing any scope of work or performing any service’ (included in July 2019 agreement). Such right to audit shall include but not be limited to, inspection at all reasonable times at Manager’s offices or facilities. In addition, Manager shall furnish facilities and cooperate fully with the audit. Upon request, Manager shall provide reproducible copies of books, records and other documents that are applicable to this Agreement for reproduction by the District or its designee at the District’s cost.”

FCMAT emailed Luis Rojas again on July 9, 2021, explaining in detail the importance of meeting. The July 9, 2021, email was lengthy and stated in part the following:

. . . Luis, you should want to cooperate with our audit because it will help you and also helps us. The FCMAT AB 139 audit is about alleged Del Terra billing issues and services performed matters which are alleged to be in excess of \$1.8 million. With your records that you possess and are required to maintain as part of your contractual obligations, you can contribute greatly to helping us understand if the billing allegations are without merit. The allegations include but are not limited to, breach of your fiduciary duty, failure to maintain and produce required records and documents, improper invoicing for services not authorized or performed, receiving double pay or overbilling for service already paid, and failure to properly close-out projects with DSA. These allegations total more than \$1.8 million in overbilling.

We know your email address is correct and we are operating under the presumption that you continue to receive our emails . . . Only you can help resolve the allegations. These billing issues are serious and we really want to hear what you have to say and help you help us find the documentation to support that you have not over billed the district and somehow it is a misunderstanding . . . We simply do not understand why you would not welcome meeting with us in order to clear up such material billing issues . . .

Del Terra’s program and construction management agreements with the district contain performance standards that impose a higher level of responsibility on Del Terra and its principal owner, Luis Rojas. The performance standards in the contracts at Article 1.3 are as follows:

“1.3.1 Standard of Care. Manager shall perform all services under this Agreement in a manner consistent with the standard of care, competence, skill, and knowledge under California law applicable to those who specialize in providing Program, Project and Construction Management services for projects of the type, scope and complexity of the Campus Projects.

1.3.2 Relationship. Manager serves as District’s **agent and fiduciary** in performing services under this Agreement. Managers shall (sic), in this capacity, maintain confidences and provide professional services in a manner consistent with District’s economic, educational and governmental best interests.” [Emphasis added]

Del Terra, and by extension, Luis Rojas, is a fiduciary of the district. Del Terra managed money, resources and assets of and on behalf of the district. Del Terra’s fiduciary duty of care, to be loyal and act in good faith, is to protect the assets of the district, protect the district from injury, not further its own private interests, and provide access to requested records.

Luis Rojas eventually responded in two emails dated July 15 and 16, 2021. Both emails essentially stated that he or his attorneys will respond to FCMAT’s emails. Since July 16, 2021 and through the date of this report, neither Luis Rojas nor his attorneys nor any representative of Del Terra has contacted FCMAT.

A. Introduction — Background on School Facilities

1. District Responsibility for Effective Use of Bond Funds

In 2014, the voters in the Bassett Unified School District passed Measure V, a \$30 million school general obligation bond. Measure V’s priorities were to fund major renovations, safety upgrades, infrastructure upgrades, and repairs to district schools. Homeowners would be taxed \$60 per \$100,000 of assessed property value annually. The ballot measure question was worded as follows:

“Bassett Schools Safety, College/Career Readiness Measure. To improve school facilities with funding that cannot be taken by the State, replace leaky roofs, improve student access to computer / modern technology, replace / upgrade outdated heating, air conditioning, electrical systems, modernize outdated classrooms and restrooms, acquire, construct, repair classrooms, facilities, sites and equipment, shall Bassett Unified School District issue \$30 million of bonds at legal rates, appoint an independent citizens’ oversight committee and no money for teacher or administrator salaries?”

Conceptually, a general obligation bond is a tax on the property owners who live in the boundaries of the district to provide funds for construction to ensure safe learning environments for the children who attend schools in the district. In exchange for property owners agreeing to tax themselves, the district’s board of education made an implied promise to effectively and efficiently use tax dollars to upgrade structures so children have a safe environment, and to provide infrastructure and improvements to increase the longevity and effectiveness of the district’s education programs.

Bassett Unified School District is a small school district that lacked both construction staff with the expertise to oversee and administer a general obligation bond and staff with the knowledge needed to negotiate the highly regulated state requirements for modernizing and building schools. As a result, the board looked to outside expertise to lead the district through a time-consuming and complicated state school construction process of evaluating classrooms, prioritizing projects, and upgrading outdated infrastructure.

The district needed a seasoned, knowledgeable and trusted advisor to guide them through the school construction process. The district decided to hire a program manager to act as that trusted advisor. But even though the district is a small school district that lacked the expertise and staffing to administer general obligation bond construction projects, specific to the construction projects turned over to Del Terra as described below, the board members, superintendents, and senior staff still had responsibilities or fiduciary duties as follows:

1. Duty of Care, to collect and review all evidence and information available, including physically inspecting the work performed and to not just accept the information as it is presented, and protect the assets of the district.
2. Duty of Prudence, to oversee the project with the degree of care and skill that a prudent board member, member of management, or fiduciary would exercise by acting with wisdom and care, including exercising good judgment.

To ensure the advisor, Del Terra, was acting in the best interests of the district and its students and staff, language was included in the district's contract to clarify the responsibilities of the selected program manager to act as "an agent and fiduciary," and for the program manager to "provide professional services in a manner consistent with district's economic, educational and governmental best interests." The exact language of the contract is as follows:

"Article 1.3.2 Relationship. Manager serves as District's agent and fiduciary in performing services under this Agreement. Managers shall (sic), in this capacity, maintain confidences and provide professional services in a manner consistent with District's economic, educational and governmental best interests." [Emphasis added.]

Fiduciary is defined in the Merriam-Webster Dictionary as "[R]elating to or involving trust (such as the trust between a customer and a professional)."

Black's Legal Dictionary defines fiduciary as follows:

"The term is derived from the Roman law, and means (as a noun) a person holding the character of a trustee, or a character analogous to that of a trustee, in respect to the trust and confidence involved in it and the scrupulous good faith and candor which it requires. Thus, a person is a fiduciary who is invested with rights and powers to be exercised for the benefit of another person. [Citations omitted.] . . .

A person or institution who manages money or property for another and who must exercise a standard of care in such management activity imposed by law or contractor . . .

The status of being a fiduciary gives rise to certain legal incidents and obligations, including the prohibition against investing the money or property in investments which are speculative or otherwise imprudent."

Fiduciaries must put aside their own personal interests and should never use their position to better their own financial interests.

For several years before the passage of Measure V, the district had worked with the construction management firm Del Terra, and based on relationships that had developed from that past work, the district chose Del Terra to be the fiduciary program manager responsible for guiding the district through its Measure V bond program. The district utilized no request for proposal (RFP) or formal process in selecting Del Terra. The best practice for selecting a program manager is to use the RFP process in selecting professionals for this type of scope of work.

A copy of the April 21, 2015 agreement (2015 Agreement) with Del Terra is included as Appendix 1. As a contracted fiduciary, Del Terra agreed to perform services that were only in the best interests of the district. The district's expectation was that Del Terra would prioritize student safety, spend bond funds efficiently, prepare for the long-term interests of the district, plan for the education programs, and upgrade district facilities to provide a safe and educationally superior program for the district's students now and in the future.

Del Terra contracted to provide both program management and construction management services. In all such contracts, program management services were built around Del Terra's knowledge, expertise, and years of experience providing oversight and control over project documents, establishing program priorities, managing budgets, interfacing with state agencies, obtaining state funding, and guiding other school districts through districtwide campus renovations.

Another arm of Del Terra, a construction management division, was contracted to manage subcontractors in various trades, schedules, and reports to state agencies, and to oversee the construction of projects.

2. Bond Process, District Process and Expectations

Measure V is a Proposition 39 general obligation bond. Under Proposition 39, the Legislature decreased the supermajority voting requirement to impose real property taxes from two-thirds of voters to 55% of voters.¹ The legislative intent of Proposition 39 is set forth in Education Code Section 15264, which states:

It is the intent of the Legislature that all of the following are realized:

- (a) Vigorous efforts are undertaken to ensure that the expenditure of bond measures, including those authorized pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, are in strict conformity with the law.
- (b) Taxpayers directly participate in the oversight of bond expenditures.
- (c) The members of the oversight committees appointed pursuant to this chapter promptly alert the public to any waste or improper expenditure of school construction bond money.
- (d) That unauthorized expenditures of school construction bond revenues are vigorously investigated, prosecuted, and that the courts act swiftly to restrain any improper expenditures.

The language of Proposition 39 outlined a legislative purpose under Education Code Section 15264, and FCMAT interprets that language as focusing on the propriety of expenditures and the hiring of knowledgeable and performance-driven vendors for a fair price.

Proposition 39 required a citizens' bond oversight committee, composed of members who represent different aspects of the public, to oversee the propriety of expenditures. To do this, the citizens' bond oversight committee reviews various aspects of the bond program to enforce the desire of the Legislature that funds be properly expended. Legislative focus under Proposition 39 was on the abilities and effectiveness in the district's managing and spending of bond funds. Although not stated explicitly, the Proposition 39 process anticipated that the typical hiring would be via an open request for proposal or public process to select a bond manager to ensure public participation and the subsequent creation of proper controls over expenditures.

In the district's case with Measure V, no request for proposal was undertaken. Del Terra was selected by the superintendent, Alex Rojas,² and the contract was entered into on April 21, 2015.

3. Contract Responsibilities

The 2015 agreement with Del Terra required a program manager with the "background, knowledge, experience, licenses and expertise necessary to provide" advice and guidance on planning, programming, and construction. In addition, the 2015 agreement required the program manager to provide a comprehensive program and construction management services to oversee all construction (see Recital Section A, C and D and Article 1.3.1 of the 2015 agreement). This included project needs assessment, architect and engineer coordination, Division of the State Architect (DSA) coordination, and development of budgets and schedules. Del Terra agreed to provide written progress reports monthly, which included program status reports for each project, schedules, budget, and balances (see Article 2.1.1 and 2.1.2).

¹ Under Proposition 13, passed in 1978, new taxes on real property required a two-thirds supermajority vote. See California Constitution Section 13 A (4).

² Alex Rojas was hired as deputy superintendent for the district on April 1, 2014. He later became interim superintendent in May 2014 and then district superintendent in October 2014. Alex Rojas resigned on May 24, 2017.

To ensure a quality construction product, Del Terra agreed to perform an evaluation of design documents for accuracy and completeness and advise the district on design costs, value engineering, materials and finishes, building systems, equipment, and methods of delivery (see Article 2.2.4).

The terms of the 2015 agreement confirm that the district expected to hire a program manager knowledgeable in developing a comprehensive bond construction program and evaluating the needs of each district site. The contract terms show the district's intent that Del Terra perform quality services, provide qualified personnel, provide an adequate number of personnel, and provide the vision to perform the work in a manner that is in the best interests of the district.

4. Division of the State Architect

In 1933, Long Beach experienced a magnitude 6.3 earthquake, which devastated more than 230 school buildings in Southern California.³ Assemblyman Charles Field sponsored legislation that provided a comprehensive system mandating a higher level of structural safety than found in the Uniform Building Code and created a state oversight process specific to public schools. This legislation is called the Field Act and created the Office of State Architect (now known as the Division of the State Architect), which is responsible to review, oversee, and approve all school construction in the state (Education Code Section 17280, and following). The DSA supersedes oversight by all local building departments (Education Code Section 17295). The Field Act states the following in Education Code Section 17307:

No contract for the construction or alteration of any school building, made or executed by the governing board of any school district . . . is valid, and no public money shall be paid for any work done under a contract or for any labor or materials furnished in constructing or altering any building, unless the plans, specifications, and estimates comply in every particular with the provisions of this article [the Field Act] and the requirements prescribed by the Department of General Services [DSA] [Brackets added by FCMAT, and emphasis added.]

The DSA requires a series of reports from architects, engineers, and inspectors in which each attest to their personal knowledge that all aspects of construction meet the requirements of the Field Act (see Education Code Section 17309).

Education Code Section 17312 states, "Any person who violates any of the provisions of this article [Field Act] or makes any false statements in any verified report or affidavit required pursuant to this article is guilty of a felony."

5. Safety Concerns, AB 300

In 1999, the Legislature enacted AB 300, which required the DSA to create an inventory of school buildings that are potentially seismically unsafe (see Education Code Section 17317). In 2002, the DSA published the seismic safety inventory of school buildings statewide, pursuant to AB 300. Based on archived building plans rather than field investigation, the AB 300 inventory concluded that over 7,000 schools required structural engineering analysis to determine if the structures could withstand seismic events. The AB 300 report placed school districts on notice that there may be seismic safety issues with school buildings on the list, which placed an obligation on the affected school districts to investigate.

³ As a result of the Long Beach earthquake of March 10, 1933, 230 school buildings were either destroyed, sustained major damage, or rendered unsafe to occupy. See The Field Act and Public School Construction: A 2007 Perspective. Alquist Seismic Safety Commission Report.

6. State Seismic Mitigation Program Funding

Many school districts in the state performed seismic investigations of school buildings based on schools that were listed in the AB 300 report and applied for State Seismic Mitigation Program (SSMP) funding to repair buildings determined to be vulnerable to earthquakes. In 2006, the state set aside seismic mitigation funding, but program-related difficulties prevented many school districts from accessing the funding. In 2012, the state made changes to Sections 1859.82.2 and 1859.82.3 of the State Allocation Board regulations. In August 2015, the state published the Seismic Mitigation Program Handbook to help guide school districts through the state funding process for structures vulnerable to earthquake forces. DSA Procedure PR 08-03 was revised in 2016 and includes guidelines on the evaluation needed to determine if buildings are vulnerable to earthquakes.

The reason the Legislature created the AB 300 report was to help identify seismically vulnerable structures so any unsafe school buildings could be identified and repaired. The SSMP was a companion program created to help fund half of the eligible expenses. However, more fundamentally, the law on design immunity under Government Code Section 830.6 creates an obligation for school districts to investigate potentially unsafe conditions and seek funding to repair the condition. The publication of the AB 300 report included buildings in the Bassett Unified School District and thus put the district on notice that a structural investigation was needed. In this case, not only did Del Terra have a contractual obligation, but since Del Terra was the agent and fiduciary of the district's governing board, Del Terra had a heightened responsibility and affirmative duty to investigate the safety of the buildings at the district and address this basic safety issue as part of the bond program.

The safety of students is one of the most basic responsibilities of the district and of a bond manager entrusted with responsibility to determine priorities for expenditures under a bond program. Thus, after Measure V was passed, as part of the prioritization and investigation of district's projects, Del Terra should have reviewed whether any of the district's buildings had safety issues that required remediation. All available evidence points to Del Terra failing to address seismic safety.

The following district buildings are listed in the AB 300 report with their respective building, unit, and classroom numbers:

1. Don Julian Elementary School Buildings 1, 2, 3 & 4.
2. Edgewood Academy Buildings 1, 2, 3, 4, C-5(5), H(6), K(7) and 7(8)
3. Thomas Erwin Adult Education Facility Buildings 1, 2, 3, 4, 5, K(6)
4. J.E. Van Wig Elementary School Building G(1), C(2), D(3), A(4), H(5), B(6), I(7)
5. Sunkist Elementary School Building 2, 3, 4, 5
6. Torch Middle School Building B(2), 3, C(4), D(5), E(6), H(7), and Building 1
7. Bassett High School Adult School
8. Bassett High School Buildings 1, 2, 3, 4, 5, 6, Unit II(7), Unit III(8), Unit IV(9), 10, Unit 1(11), IX(1), 2, 3

A copy of the entire AB 300 list is included in Appendix 73.

Del Terra's Vision

Del Terra presented its vision for the district's Measure V construction program focusing on safety. Reproduced below are two pages from Del Terra's Facilities Master Plan dated February 18, 2016.

Preliminary Goals and Objectives

- **Ensure Safety of all Districts Students and Staff**
- Bring our facilities into 21st Century Learning Environment Standards.
- Prioritization of projects
- Identifying and obtaining supplemental funding sources for the district.
- Reduce the Number of Portable Classrooms
- Increase Outdoor Learning Environments
- Evaluate possible reconfiguration of the District given the declining enrollment
- Continue work on Measure "E" projects





4

Appendix 72b: Del Terra Facilities Master Plan (2/18/16). Highlighting added by FCMAT.

District Priorities

Priority 1: 21st Century Learning Environments, Safety and Security

- Evaluate and address any potential structural safety items (Bassett HS and Torch are currently on the State's AB300 list and need seismic upgrades).
- Technology Upgrades and Flexible Environments
- Abate any remaining hazardous materials on campuses
- Ensure compliance with the Americans with Disabilities Act (ADA)
- Increase safety and security on all campuses including lighting, locks, and fencing
- Improve surfacing under play structures
- Intrusion Detection System
- Upgrade existing Fire Alarm systems
- Campus Wide Wi-Fi, New Phone Systems and Clock Systems
- Improved Site Circulation for safe student Drop-Off/Pick-Up as required by code
- Security Vestibule and Fencing
- Upgrade Classroom Finishes
- Photovoltaic Solar Panels

Priority 2: Infrastructure, Modernization

- Repair/Replace Roofing
- Reprogramming of School Site Administration Spaces
- Improve Administration buildings that were not previously modernized or replaced

Priority 3: Infrastructure, Miscellaneous Modernizations

- Site Utilities/Drainage Improvements
- Replace single pane windows with new high performance energy efficient windows
- New energy efficient lighting systems (Lights, Sensors, and Automatic Controls)
- New energy efficient Heating, Ventilating and Energy Management Systems
- Portable to Permanent Classroom Replacement
- Reconfigure Drop-Off and Pick-Up Areas
- Outdoor Learning Environments







Bassett Unified School District
Facilities Master Plan

5

Appendix 72b: Del Terra Facilities Master Plan (2/18/16). Highlighting added by FCMAT.

The No. 1 priority listed on Del Terra's Facilities Master Plan shown above was to evaluate the structural safety of district schools on the AB 300 list.

In addition, the Facilities Master Plan Del Terra presented to the district included reports that addressed critical infrastructure upgrades involving major utilities, mechanical systems, electrical systems, Americans with Disabilities Act (ADA) upgrades, and multiple other infrastructure related upgrades throughout the district.

Life Safety Work

Also included as a first priority in Del Terra's Facilities Master Plan and the above list at Appendix 72b was to upgrade fire alarms. This is a first priority because California Fire Code (CFC) Section 901.7 and 19 California Code of Regulations Section 1.14 require fire detection and alarm systems, fire hydrant systems, extinguishing systems, mechanical smoke exhaust systems, and smoke and heat vents to be operative at all times. Article 1.2.4 of DSA GL-2 requires installation of fire alarms on all new and alteration projects that exceed \$200,000.

Currently, the DSA requires nearly all school projects (with a very small number of exceptions) submitted for review to receive upgraded fire alarms as part of the basic infrastructure upgrade, regardless of the size or type of project.

Americans with Disabilities Act Compliance

On the list of Facilities Master Plan priorities, Del Terra also included compliance with the ADA as a first priority. A violation of the ADA is included as a civil rights violation under Civil Code Section 54. This means that failure to implement ADA requirements subjects the district to treble damages, or \$1,000 if no damages are sustained (Civil Code Section 54.3). In addition, an aggrieved claimant is entitled to injunctive relief and attorney's fees to mandate upgrades for ADA requirements. As a result, the DSA has taken the position that any project that requires ADA upgrades under Chapter 11B of the California Building Code Section 11B-202.4 requires upgrades to the path of travel to all project areas.

Requirements for an accessible path of travel under 11B-202.4 include the following:

- A primary entrance to the building or facility,
- Toilet and bathing facilities serving the area, and
- Drinking fountains serving the area.

As with fire and life safety, the DSA requires nearly all schools (with a very small number of exceptions) submitted for review to include upgraded ADA compliance as a part of the basic infrastructure upgrades for all alterations, additions or renovations, regardless of size or type of project.

Del Terra's Approach

Although Del Terra's Facilities Master Plan placed "safety of students and staff" as its first priority, the projects worked under the 2015 agreement were not infrastructure-, seismic- or safety-related. The first project was a 21st century classroom project for grades 6-12, for \$4,355,630 (see Invoice 36380-01 in Appendix 9), which included new carpet, paint, installation of flat screen televisions, and purchasing new furniture for the junior high and high school. This project was followed by a 21st century classroom project for TK-5 for \$5,045,758 (see Invoice 36382 in Appendix 33). With just these two 21st century classroom projects, which total \$9,401,388, approximately one-third of the \$30 million Measure V Bond was already encumbered and expended. The improvements planned under the 21st century schools projects did not address any infrastructure improvements, fire or life safety, AB 300 seismic review, or the structural reports dated July 2014 and included in the Facilities Master Plan. The remainder of the Measure V program under the 2015 agreement, and later under the 2019 agreement, ignored the top priority items. In fact, as described later in section B7 and C10, the 21st century classroom projects may have made safety conditions worse in classrooms by not following DSA procedures.

By committing one third of the Measure V funds to cosmetic projects, based on the records available to FCMAT, Del Terra did two things. First, Del Terra had the district commit funds to improve the inside of buildings that were likely to require extensive structural upgrades, or perhaps even replacement.⁴ Second, the commitment of funds reduced the amount of funding available to match SSMP funds that could have been requested upon completion of structural evaluations required under California Code of Regulations Title 2, Section 1859.82.3. A more detailed discussion of the commitment of funds to 21st century schools is in Section B of this report, and further discussion of DSA responsibilities is in Section F of this report.

⁴ Under both state funding requirements and DSA Policy EB3 applicable in 2015 through 2019, if the repair cost for building rehabilitation for structural, life safety, and ADA exceeds 50% of the replacement cost, then the state recommends replacement of the structure and funds will be calculated based only on replacement costs.

Failure to Close Out Previous Projects with DSA Prevented New Projects

To initiate infrastructure or seismic improvements, compliance with the Field Act and submission of plans to the DSA is required. The Field Act provides at Education Code Section 17307:

No contract for the construction or alteration of any school building, made or executed by the governing board of any school district . . . is valid, and no public money shall be paid for any work done under a contract or for any labor or materials furnished in constructing or altering any building, unless the plans, specifications, and estimates comply in every particular with the provisions of this article [the Field Act] and the requirements prescribed by the Department of General Services [DSA] [Brackets are added by FCMAT, and emphasis added.]

However, the DSA has a policy that prevents initiating new DSA projects if older projects have not been closed and certified by the DSA (see DSA Interpretation of Regulations (IR) A-20 and Section C of this report). When Del Terra entered into the 2015 agreement as program manager and construction manager for the Measure V bond program, every school had open projects (see Section C.5-C.7 of this report).

Beyond Del Terra's responsibility to close out DSA projects under the 2015 agreement, Del Terra also had obligations to perform DSA close out under several other agreements as follows:

1. 2013 amendment payment of \$240,000 (with a \$60,000 additional payment for extended duration) (see Appendix 20 for invoice 36240-16 dated 5/1/2014 for a total of \$300,000 and discussion in Section C.3 of this report).
2. 2014 amendment payment of \$460,000 (with \$10,000 in reimbursables for a total of \$470,000) (see Appendix 23 for invoice 36245-13 dated May 1, 2015 and discussion in Section C.4 of this report).
3. Additional services invoice 362240-01 for closeout for \$64,500 (see Appendix 25 for invoice 362240-01 dated June 1, 2016 and discussion in Section C.5 of this report).
4. 2019 agreement closeout service for \$23,265 (see discussion in Section C.7 of this report and Appendix 28, Exhibit B).

64295 BASSETT USD

Check Date: 05/28/14 Check No: 21372386

Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Available	Paid Amount
36240-16 RETENTION	05/01/14	051693AK	15,000.00	0.00	15,000.00

Vendor Number	Name	Total Discounts	TIN
0000007339	DEL TERRA GROUP	\$0.00	

Check Number	Date	Total Amount	Late Interest	Discount Taken	Total Paid Amount
21372386	05/28/14	\$15,000.00	0.00		\$15,000.00



Los Angeles County **BASSETT USD**
 904 NORTH WILLOW AVENUE
 LA PUENTE, CA 91746-1696
 626-931-3000

PAYABLE AT:
 ONE PENNS WAY
 NEW CASTLE, DE 19720
 62-20/311

21372386
 Date Issued: 05/28/14
 Amount
 \$15,000.00***

THE TREASURER OF LOS ANGELES COUNTY will pay exactly:

FIFTEEN THOUSAND AND 00/100 US DOLLARS

WARRANT CLEARANCE FUND
 FOR CURRENT FISCAL YEAR
 THIS WARRANT IS VOID AFTER
 SIX MONTHS FROM DATE ISSUED

WE CERTIFY THAT THIS IS A LEGAL ORDER LAWFULLY
 DRAWN AGAINST THE FUNDS OF THE DISTRICT/AGENCY.

Will pay to:

DEL TERRA GROUP
 13181 CROSSROADS PARKWAY NORTH
 SUITE # 540
 CITY OF INDUSTRY, CA 91746

FOR GOVERNING BOARD OF DISTRICT/AGENCY
 EXAMINED, APPROVED AND ALLOWED
 AITORIO DELGADO, Ed.D., COUNTY SUPERINTENDENT OF SCHOOLS
 BY _____ DEPUTY

The available records indicate Del Terra did not close out all district projects, leaving six uncertified projects (see discussion in Section C.8 of this report). By undertaking projects without DSA review, Del Terra may have violated Education Code Section 17307, including the possibility of inappropriate expenditure of public funds. This undocumented work resulted in the DSA issuing stop work orders on February 24, 2021 and its March 2, 2021 email (see Appendices 32 and 68).

Failure to Complete Program as Promised Under 2015 Agreement

Although the 2015 agreement required Del Terra to create a comprehensive program (Recital D), and the agreement “shall end when the District has issued notices of completion for all Campus Projects and all

punchlist items for the Campus Projects have been completed . . .” (Article 4.4.1), Del Terra discontinued working on the 2015 agreement on April 21, 2018, exactly three years after the 2015 agreement was entered into. At the time that Del Terra declared the 2015 agreement completed, Del Terra had been paid a program management fee of 4% based on the \$30 million Measure V bond ($\$30,000,000 \times 4\% = \1.2 million), but the district had only expended the following sums:

1. 21st century classrooms 6-12 with a total cost of \$4,355,630
2. 21st century classrooms TK-5 with a total cost of \$5,045,758
3. Development of a child development center with a total cost of \$3,591,965
4. Bassett High School (BHS) two classroom project, \$324,854, and BHS cabling project, \$88,511, with a total submitted cost of \$413,365

According to the records at the district of Del Terra’s accounting, these projects totaled \$13,406,718. Soft costs for Del Terra were \$4,687,994 (see Appendix 71). This left at least a value of \$11,905,288 ($\$30,000,000 - \$13,406,718 - \$4,687,994$) in services that Del Terra did not provide under the 2015 agreement.

Del Terra did not undertake any of the priority projects except technology under their Facilities Master Plan dated February 18, 2016 (see Appendix 72b).

Del Terra had a list of promised projects at Bassett High School in a 2015 list of projects (see list from Appendix 2), but during the 36 months of the 2015 agreement, Del Terra did not perform any measurable work on any Bassett High School project on the 2015 list of projects (see more detailed discussion in Sections E.7 and E.8 of this report).

Del Terra’s Timeline at the District

It is helpful to break down events into categories to follow the findings of this report. The timeline below lays out the sequence from three perspectives: contracts, invoices, and personnel. These perspectives are described below by year.

Del Terra's Timeline at BUSD



	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Contracts	<p>2009</p> <p>Sep. 1- 2009 Agreement. Program Management Agreement Bassett USD and Del Terra. Effective through June 30, 2010</p> <p>Oct. 14- Board ratifies Agreement for \$401,595 plus reimbursables of up to \$10,000</p> <p>2010</p> <p>Jul. 1- Professional Services Agreement from July 1, 2010 through December 31, 2013</p> <p>Jul. 22- 2010 Program Management Agreement (*no close out*) \$320,000</p> <p>2011</p> <p>No Notable Events</p>	<p>2012</p> <p>No Notable Events</p> <p>2013</p> <p>Feb. 8- 2013 Amendment to 2010 Agreement</p> <p>2014</p> <p>Apr. 1- 2014 Amendment to 2009 Agreement; Effective 4/1/14 expires 3/31/15</p> <p>Aug. 5- Board approves Fourth Amendment to 2010 Construction Management Agreement</p> <p>2015</p> <p>Mar. 31- 2014 Amendment expires</p> <p>Apr. 21- Board approves Program and Construction Management Agreement</p>	<p>2016</p> <p>Jun. 1- Extra Services for Facilities report HVAC Assessment, Facility Report, District Roofing Assessment and DSA Close Out</p> <p>Sep. 15- Extra Services Inv 36382 21st Century TK-5 Project Reprogramming & Replanning/ Tech</p> <p>Apr. 21- Del Terra declares that the 2015 Agreement had expired</p> <p>Jun.18 -Proposed Amendment to 2015 Agreement</p> <p>Jul. 29- 2019 Agreement with Close Out included</p> <p>Sep. 24 – Extra Services for BHS Adult School Modernization and Prop 39 Climate Energy Efficiency</p>	<p>2017</p> <p>No Notable Events</p> <p>2018</p> <p>Feb. 24- DSA stop work order BHS, Edgewood, Sunkist and Van Wig</p> <p>Mar. 2- DSA follow up letter</p> <p>Mar. 19- Contract with SGH to close out</p> <p>Apr. 17- Del Terra termination letter issued</p>	<p>2020</p> <p>No Notable Events</p> <p>2021</p>								
	Invoices	<p>2011</p> <p>Aug. 11- Inv 36220-11 Retention paid on 2009 Agreement</p> <p>2014</p> <p>May 1- Inv 36240-16 Rev. Retention paid on 2013 Amendment</p> <p>Nov. 4- Invoice 36360-02 Final Payment on Demonstration Classrooms</p>	<p>2015</p> <p>Apr. 29- Inv. 36370-01 for PM and CM Services sent to District for \$400,000</p> <p>May 1- Inv. 36245-13 Final Payment for 2013 Agreement for Close Out</p> <p>Jul. 1- Invoice 36255-01 for Development of Bond Program</p> <p>Sep. 1- Only invoice for 21st Century Classrooms 6-12 Project inv 36380-01</p>	<p>2016</p> <p>Jun. 1- Extra Services Invoices 36270-01, 362230-01, 362240-1, 36201-1 for various projects</p> <p>Jun. 8- First Invoice 36381-1 21st Century Schools TK-5 CM</p> <p>Sep. 15- Extra Services Invoice 36382 21st Century TK-5 Reprogramming/Replanning</p> <p>Oct. 6- Last substantive Invoice 36381-05 21st Century Schools TK-5 CM Project (paid 11/9/16)</p>	<p>2017</p> <p>Jun. 2- Last Inv 36381-06 21st Century Schools TK-5 CM retention payment</p> <p>May 3- Retention Payment for 2015 Agreement. Invoice 36250R</p>	<p>2018</p> <p>Feb. 5- Inv 36500-03 Retention/Final payment on Florence Flanner Modernization</p>	<p>2020</p> <p>May 21- Invoice 36511 for close out under 2019 Agreement</p>						
		Personnel	<p>Jul. 18, 2013- Reynoso appointed as Superintendent</p> <p>Mar. 21, 2014- Rojas hired as Deputy Superintendent</p> <p>May 22, 2014- Superintendent Reynoso takes medical leave, Alejandro Rojas appointed Acting Superintendent</p> <p>Oct. 2014- Board appoints Rojas as Superintendent for the District</p> <p>May 2017-French appointed as Superintendent until June 30, 2020</p>	<p>Nov. 4, 2014- The voters in Bassett Unified School District area pass Measure V with a 64.2% vote</p> <p>Aug. 2015- Debra French hired as Assistant Superintendent of Human Resources</p> <p>Aug. 2016- Linda Bermudez hired as Director of Policy Compliance and Partnerships</p> <p>Sep. 2016- Debra French appointed as Assistant Superintendent</p>	<p>May 24, 2017- Alejandro Rojas resigns as Superintendent, French appointed as Superintendent</p> <p>Jan. 2019- Bermudez Promoted to Executive Director of Business Services</p> <p>Feb. 2020- Bermudez announces medical leave</p> <p>Jun. 2021- Bermudez terminated from BUSD</p>								

Appendix 0: Del Terra's Timeline.

B. Del Terra's Failure to Account for the Work Provided; District Failure to Hold Del Terra Accountable — 21st Century Classrooms Projects

As addressed more comprehensively in Section A of this report, the voters in the Bassett Unified School District approved the \$30 million Measure V general obligation bond on November 4, 2014. Measure V's purpose was to provide funds for upgrading classrooms and other facilities and to improve safety, infrastructure, and access to technology among the district's seven K-12 schools and one adult school. To lead this effort, the district contracted with Del Terra to act as program manager and construction manager on April 21, 2015.

Among the services Del Terra was asked to provide under Exhibit C of the 2015 agreement was "Develop [an] Initial Program Plan" at a cost not to exceed \$85,000. Del Terra was to create a list of projects under the 2015 Agreement in accordance with Article 1.2.1 of that document.⁵ Subsequently, Del Terra prepared a schedule and identified seven projects to form the program under the 2015 agreement (2015 program list):

1. 21st Century Classrooms 6-12
2. 21st Century Classrooms TK-5
3. BHS: New Snack Bar
4. BHS: New Courtyard
5. BHS: Little Theatre
6. BHS: Main Entrance
7. BHS: Swimming Pool Remodel⁶

Del Terra's Bond Program, Measure V Proposed Projected Construction Timeline listing the above seven projects is shown in Appendix 2.

Under the 2015 agreement, Del Terra was to be compensated for the work it performed on the projects identified in the 2015 program list with a program manager fee of 4% of the full bond program value. Del Terra was also to receive a construction management fee of 9.9% of construction funds expended. Below is a copy of Exhibit C of the 2015 agreement, which provides for the \$85,000 fee⁷ to "Develop Initial Program Plan," and which contains the program management and construction management fee provisions:

5 Article 1.2.1 of the 2015 agreement states: "Campus Projects. District shall, with the input from Manager, develop the list of all Campus Projects to be included in the Bond Program . . ."

6 As addressed in Section E of this report, other than some work on the BHS new snack bar, no work was performed on projects 4, 5, 6 or 7 until after Del Terra declared that the 2015 agreement funds were exhausted. Del Terra subsequently stopped work on district projects on April 21, 2018, and requested a new contract and additional funds, three years after the 2015 agreement was entered into.

7 This \$85,000 extra to develop initial program plan is paid out of the \$30 million bond of which 4% is paid to Del Terra. Thus, Del Terra receives 4% of this \$85,000 extra or \$3,400.

EXHIBIT C

FEE MANAGEMENT SERVICES AND REPORTS

Task	Fee
Program Management Services	4% of the full Bond Program value
Develop Initial Program Plan	Not to exceed \$85,000
Construction Management Services	9.90% of actual construction cost, inclusive of all change order increases and consultant costs
Additional Services	Hourly Basis, See Exhibit B for schedule or Mutually agreed upon Fee

Appendix 1: Exhibit C, 2015 agreement (4/21/15), Page 39. Highlighting added by FCMAT.

Del Terra’s first two projects as the project manager under the 2015 agreement were called 21st Century Classrooms TK-5 and 21st Century Classrooms 6-12. The names appear to match the intent of the bond: to improve student access to modern technology, improve infrastructure and safety, and upgrade classrooms. However, based on the information available to FCMAT, and because Del Terra would not cooperate with the audit, the only available district information indicates the 21st century classrooms project mainly involved carpeting, new furniture, some asbestos abatement, paint, and installation of flat screen TVs.

Del Terra’s 21st century classrooms projects resulted in the expenditure (excluding payments to Del Terra) of \$9,401,388⁸, approximately one-third of Measure V funds, on nonconstruction items such as furniture, carpeting, and flat screen TVs. In addition, the construction aspects of the two 21st century classrooms projects were not submitted to the DSA for review or approval⁹. Records could not be found showing that Del Terra performed any evaluation of the seismic safety addressed in 2016 Master Plan, ADA, fire alarm, or underlying infrastructure of the school buildings at the district before proceeding with the 21st century classrooms projects.

8 Backup information and background on these expenditures are provided later in Section B.6 of this report. However, Del Terra budgeted construction costs for the 21st Century Classrooms 6-12 project of \$4,355,630 and the 21st Century Classrooms TK-5 project of \$5,045,758, for a total of \$9,401,388. For construction management fees, Del Terra billed \$431,207 on the 21st Century Classrooms 6-12 project and \$499,530 on the 21st Century TK-5 project..

9 See discussion in Section C.9 of this Report addressing how DSA issued a notice of violation and addressed Del Terra’s failure to submit all but one project to DSA between 2015 and 2020.

1. Additional Services Invoice for Reprogramming and Re-Planning Services — 21st Century TK-5 Project

On September 15, 2016, during the construction of both the 21st Century TK-5 and the 21st Century 6-12 projects, Del Terra invoiced the district for \$230,000 for additional services of reprogramming and replanning the 21st Century TK-5 project.

A copy of the additional services invoice is shown below:



INVOICE #36382

Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

Date: September 15, 2016

To: Bassett Unified School District
 Attn: Dr. Alex J. Rojas
 Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746

Ref.: Additional Services
 Project/Construction Management Services
 21st. Century Classrooms Grades TK-5 Project

Total Project Budget **\$ 5,045,758**

Description

Under section 4.3.1 of the PM/CM Agreement, Additional Services. Manager shall be entitled to compensation for Additional Services. Additional Services are services not included in Manager's Basic Services and include: (a) services directed to be performed by District, and (c) services as requested by the District Administration.

As directed by Superintendent, reprogramming and re-planning services, multiple Scopes of Work scenarios and concepts for various Technology scenarios and educational approaches, after original Scope of work was defined. Additional consulting and management services were also required.

Fee

As per section PM/CM Agreement, section 4.3.2 Compensation. Manager's compensation for Additional Services shall be at the Hourly Rates for Services set forth in Exhibit B hereto or mutually agreed upon Fee amount.

District and Manager mutually agreed upon a Not To Exceed Fee of \$230,000.

Alex Rojas
Signature



All Items Received/Services Requested
Approved for Payment

Appendix 51: Additional Services Invoice 36382 for \$230,000 (9/15/16). Highlighting and red comment box added by FCMAT.

Del Terra's Initial Program Plan under the 2015 agreement included program management services for the 21st Century Classrooms TK-5 and 21st Century Classrooms 6-12 projects. The contracted program management responsibilities (discussed more fully below) included planning and coordinating the seven initial program projects of the 2015 program list. Thus, it is unclear why reprogramming or replanning of the two 21st century classrooms projects was submitted as an additional service. It is also unclear what services the additional \$230,000 was intended to pay for and thus how those services may or may not have differed from Del Terra's original contracted planning responsibilities as a program manager and the \$85,000 extra received for developing an initial program plan as addressed above.

Based on the vague description and lack of supporting documentation, it does not appear the \$230,000 was a valid district expenditure.¹⁰

2. Program Management Fees as Related to the 2015 Agreement

For context, when Del Terra presented its request for the reprogramming services for the 21st Century TK-5 project, Del Terra was being compensated for program management services in an amount equal to 4% of the entire value of Measure V (4% x \$30 million = \$1.2 million). This \$1.2 million for program management was divided into 36 payments of \$33,333. A retention of 5% was withheld from the \$33,333 each month; thus, Del Terra received \$31,666 each month for program management services for the seven 2015 program list projects, including the two 21st century classrooms projects.¹¹ The scope of program management services is outlined in Article 2.1.1 of the 2015 agreement as follows:

2.1.1 Program Management. Provide program management services during all phases (i.e. planning, pre-construction, bidding and award of contracts, construction, post-construction) of each Campus Project. Program management services will include management, oversight, and coordination of all Contractors, Subconsultants, vendors, and suppliers' Work, in connection with, and in the performance of, the delivery of the Campus Projects.

Appendix 1: 2015 Agreement, Page 11 (4/21/15). Highlighting added by FCMAT.

Del Terra's scope of services included reviewing designs and preparing bid documents under Article 2.3 of the 2015 agreement.

2.3 BIDDING AND AWARD OF CONTRACTS

For each Campus Project for which Manager is authorized by District to proceed, Manager shall perform the following services as deemed necessary by Manager, through the award of Construction Contract(s).

2.3.1 Bid Preparation. Review Drawings and Specifications and work with District staff, including Design Consultant(s) as necessary, to prepare Bid Documents. Recommend bundling of Bids where appropriate. Assist District staff in properly advertising request for Bids. Provide information uniformly to bidders, conduct pre-bid conference and pre-bid job walks. Monitor Campus Project Architect's responses to bidder questions and issuance of Addenda and assist in the preparation of Addenda as necessary.

Appendix 1: 2015 agreement, Page 13 (4/21/15). Highlighting added by FCMAT.

In this instance, 4% of the 21st Century Classrooms TK-5 cost of \$5,045,758 is \$201,830. This \$201,830 is a component of the total program management fee of \$1.2 million described above.

¹⁰ It appears that \$230,000 is 4% of an anticipated cumulative total of the two 21st century schools' projects. \$230,000 is 4% of \$5,750,000. Since Del Terra was paid monthly a cumulative total of 4% of \$30 million, it appears this \$230,000 may be a double payment of the 4% fee.

¹¹ It is not clear how Del Terra addressed the "priority one" projects under the 2016 Master Plan. Other than the 2016 special board meeting held on February 18, 2016, there are no references to work shown in Del Terra-related expenditures for structural evaluation of AB 300 seismic vulnerabilities, upgrade of fire alarms, or district-wide ADA upgrades.

An example of a Del Terra program management invoice submitted during the same time period as the requested \$230,000 reprogramming extra of September 2016 is shown below:



DEL TERRA

Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE #36250-16

77038181

Sept 11/16

11/11/16

Date: October 6, 2016

To: Bassett Unified School District
 Attn: Dr. Alex J. Rojas
 Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746

Ref.: Program Management Services - April 21, 2015 through April 30, 2018
 Board Approval 04/21/15

Billing Period: September 1 - 30, 2016

Program Management Fee From April 21, 2015 to April 30, 2018.	\$ 1,200,000
Total Retention (5%)	\$ 60,000
Total Fee less Retention	\$ 1,140,000

	Adjusted Fee	Work Period (in Months)	Total Billed To Date	Total Previously Billed	Monthly Fee Earned
Program Management	\$ 1,200,000	36	\$ 583,327	\$ 549,994	\$ 33,333

Total Fees Earned	\$ 583,327
Less: 5% Retention	\$ (29,166)
Less: Amounts Previously Invoiced	\$ (522,490)
Current Total Amount Due	\$ 31,666

Appendix 4: Program Management Services Invoice 36250-16 (for September 1-30, 2016), 10/6/16. Highlighting added by FCMAT.

The \$230,000 invoice for reprogramming and replanning for the 21st Century Classrooms TK-5 project appears to duplicate services Del Terra provided under the 2015 agreement for a fee of at least \$201,830 based on 4% of the Measure V project allotment of \$5,045,758. In addition to the program management fee, Del Terra was concurrently receiving construction management fees totaling 9.9% of all construction costs. It is difficult to distinguish the labor that was being expended toward program management hours and construction management hours under the 2015 agreement from the undocumented reprogramming hours that were invoiced on an hourly basis as additional services under Article 4.3.1 of the 2015 agreement.

FCMAT was not provided, nor could there be found, any detail, backup, or other information supporting the time or expenditures for a monthly invoice, net of retention, of \$31,666 or why program management fees were paid over a 36-month period.

3. 2015 Agreement Requirements for Additional Services

Under the 2015 agreement, Article 4.3.1 defines Additional Services as follows:

4.3.1 Additional Services. Manager shall be entitled to compensation for Additional Services. Additional Services are services not included in Manager's Basic Services and include: (a) services directed to be performed by District, (b) services for projects other than the Campus Projects as initially identified by the District under Section 1.2.1, (c) services made necessary by a substantial and material failure of a Contractor or the District to meet their obligations under Applicable Laws or contracts, and (d) services as requested by the District Administration.

Appendix 1: 2015 agreement, Page 20 (4/21/15). Highlighting added by FCMAT.

There is no record that FCMAT was provided or could find of any written or oral direction provided to Del Terra by the district, or any discussion of why the 21st Century Classrooms TK-5 project required additional reprogramming services or how they were distinguishable from the \$31,666 program management fee being paid monthly. Similarly, even though the reprogramming invoice description states the extra work was "directed by Superintendent," there is no record available of any approval by the superintendent or submission of the request to the district's governing board. In addition, it does not appear that Del Terra explained why the requested additional amount represented actual additional services, or why those services required additional manpower, provided value to the district, or were reasonably related to unanticipated work needed for the project.

Article 4.3.2 of the 2015 agreement provides two options for compensating additional services as follows:

4.3.2 Compensation. Manager's compensation for Additional Services shall be at the Hourly Rates for Services set forth in Exhibit B hereto or mutually agreed upon Fee amount.

Appendix 1: 2015 agreement, Page 20 (4/21/15). Highlighting added by FCMAT.

Thus, compensation may be based on established hourly rates and documentation of time spent, or the parties may determine a "mutually agreed upon Fee amount." The extra fee cannot exceed the value of the additional service provided or it would constitute a gift of public funds.

A review of the \$230,000 invoice for additional services (reproduced again below) shows that the additional reprogramming and replanning services were to be charged at "hourly rates," and not to exceed a total of \$230,000:

DEL TERRA		Please Remit Payment To: 13181 Crossroads Pkwy North, Suite 540 City of Industry, CA 91746 Tel (626) 839-9300 Fax (626) 839-9307
INVOICE #36382		
Date:	September 15, 2016	
To:	Bassett Unified School District Attn: Dr. Alex J. Rojas Superintendent of Schools 904 North Willow Avenue La Puente, CA 91746	
Ref.:	Additional Services Project/Construction Management Services 21st. Century Classrooms Grades TK-5 Project	
Total Project Budget	\$ 5,045,758	
<hr style="border-top: 1px dashed black;"/>		
Description		
Under section 4.3.1 of the PM/CM Agreement, Additional Services. Manager shall be entitled to compensation for Additional Services. Additional Services are services not included in Manager's Basic Services and include: (a) services directed to be performed by District, and (d) services as requested by the District Administration.		
As directed by Superintendent, reprogramming and re-planning services, multiple Scopes of Work scenarios and concepts for various Technology scenarios and educational approaches, after original Scope of work was defined. Additional consulting and management services were also required.		
FEE		
As per section PM/CM Agreement, section 4.3.2 Compensation, Manager's compensation for Additional Services shall be at the Hourly Rates for Services set forth in Exhibit B hereto or mutually agreed upon Fee amount.		
District and Manager mutually agreed upon a Not To Exceed Fee of \$230,000.		
		

Appendix 3: Additional Services Invoice 36382 for \$230,000 (9/15/16). Highlighting added by FCMAT.

Although Del Terra's invoice stated that the additional services were to be invoiced based on hourly rates, they were nonetheless billed as a lump sum for the maximum allowable amount of \$230,000. Superintendent Alex Rojas signed the invoice as "All items Received/Services Rendered" and approved the \$230,000 payment that was issued on November 28, 2016, as shown below.

64295 BASSETT USD

Check Date: 11/28/16 Check No: 23412923

Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Available	Paid Amount
36382	09/15/16	091201	230,000.00	0.00	230,000.00

Paying invoice number 36382

Vendor Number	Name	Total Discounts	TIN
0080007339	DEL TERRA GROUP	\$0.00	

Check Number	Date	Total Amount	Late Interest	Discount Taken	Total Paid Amount
23412923	11/28/16	\$230,000.00	0.00		\$230,000.00



Los Angeles County **BASSETT USD**
 904 NORTH WILLOW AVENUE
 LA PUENTE, CA 91746-1696
 626-931-3000

PAYABLE AT
 ONE PENNY WAY
 NEW CASTLE DE 19720
 62-20-311

23412923

Date Issued: 11/28/16

Amount

\$230,000.00***

THE TREASURER OF LOS ANGELES COUNTY will pay exactly:

TWO HUNDRED THIRTY THOUSAND AND 00/100 US DOLLARS

WARRANTY: EXCHANGE FUND
 FOR CURRENT FISCAL YEAR
 THIS WARRANT IS VOID AFTER
 SIX MONTHS FROM DATE ISSUED

WE CERTIFY THAT THIS IS A LEGAL ORDER LAWFULLY
 DRAWN AGAINST THE FUNDS OF THE RETROCT-AGENCY

pay to:

DEL TERRA GROUP
 13181 CROSSROADS PARKWAY NORTH
 SUITE # 540
 CITY OF INDUSTRY, CA 91746

FOR GOVERNING BOARD OF DISTRICT AGENCY
 EXAMINED, APPROVED AND ALLOWED
 DEBRA DUARDC, M.S.W., Ed.D., COUNTY SUPERINTENDENT OF SCHOOLS

BY _____ DEPUTY

Appendix 5: Warrant 23412923 for \$230,000 (11/28/16). Highlighting and red comment box added by FCMAT.

The invoice shows no attempt to quantify or justify the hours spent on the additional services. Even if the highest hourly rate of \$210 from the 2015 agreement is used, \$230,000 extra would have required 1,095 hours¹² (\$230,000 / \$210 per hour) of work from Del Terra. Because there are no time records, work prod-

12 See Section G of report addressing the manpower provided by Del Terra to the district. Given the manpower identified, there are no records of additional people assigned to the project other than the individuals addressed in Section G of this report.

uct, or other available documentation showing time was spent on reprogramming, there appears to be no underlying basis for the approval from former superintendent Alex Rojas to justify stamping that the services were rendered.

A second example of the lack of documentation that was provided with the Del Terra invoice for the additional services is provided below in invoice No. 36250-17 without description of the type of progress and services provided. In the October 2016 billing period, Del Terra simply submitted another invoice, No. 36250-17, sequentially numbered for the next billing period, and the district paid it.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE #36250-17

Date: November 2, 2016

To: Bassett Unified School District
 Attn: Dr. Alex J. Rojas
 Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746

Ref.: Program Management Services - April 21, 2015 through April 30, 2018
 Board Approval 04/21/15

Billing Period: October 1 - 31, 2016

770 36 ABD

Program Management Fee From April 21, 2015 to April 30, 2018:	\$ 1,200,000																																				
Total Retention (5%)	\$ 60,000																																				
Total Fee less Retention	\$ 1,140,000																																				
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;"></th> <th style="text-align: right; border-bottom: 1px solid black;"><u>Adjusted Fee</u></th> <th style="text-align: right; border-bottom: 1px solid black;"><u>Work Period</u> <small>(in Months)</small></th> <th style="text-align: right; border-bottom: 1px solid black;"><u>Total Billed</u> <small>To Date</small></th> <th style="text-align: right; border-bottom: 1px solid black;"><u>Total</u> <small>Previously Billed</small></th> <th style="text-align: right; border-bottom: 1px solid black;"><u>Monthly Fee</u> <small>Earned</small></th> </tr> </thead> <tbody> <tr> <td style="border-top: 1px solid black;">Program Management</td> <td style="text-align: right; border-top: 1px solid black;">\$ 1,200,000</td> <td style="text-align: right; border-top: 1px solid black;">36</td> <td style="text-align: right; border-top: 1px solid black;">\$ 616,660</td> <td style="text-align: right; border-top: 1px solid black;">\$ 583,327</td> <td style="text-align: right; border-top: 1px solid black;">\$ 33,333</td> </tr> <tr> <td style="border-top: 1px solid black;">Total Fees Earned</td> <td colspan="4"></td> <td style="text-align: right; border-top: 1px solid black;">\$ 616,660</td> </tr> <tr> <td style="border-top: 1px solid black;">Less: 5% Retention</td> <td colspan="4"></td> <td style="text-align: right; border-top: 1px solid black;">\$ (30,833)</td> </tr> <tr> <td style="border-top: 1px solid black;">Less: Amounts Previously Invoiced</td> <td colspan="4"></td> <td style="text-align: right; border-top: 1px solid black;">\$ (554,156)</td> </tr> <tr> <td style="border-top: 1px solid black;">Current Total Amount Due</td> <td colspan="4"></td> <td style="text-align: right; border-top: 1px solid black;">\$ 31,666</td> </tr> </tbody> </table>			<u>Adjusted Fee</u>	<u>Work Period</u> <small>(in Months)</small>	<u>Total Billed</u> <small>To Date</small>	<u>Total</u> <small>Previously Billed</small>	<u>Monthly Fee</u> <small>Earned</small>	Program Management	\$ 1,200,000	36	\$ 616,660	\$ 583,327	\$ 33,333	Total Fees Earned					\$ 616,660	Less: 5% Retention					\$ (30,833)	Less: Amounts Previously Invoiced					\$ (554,156)	Current Total Amount Due					\$ 31,666
	<u>Adjusted Fee</u>	<u>Work Period</u> <small>(in Months)</small>	<u>Total Billed</u> <small>To Date</small>	<u>Total</u> <small>Previously Billed</small>	<u>Monthly Fee</u> <small>Earned</small>																																
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Less: 5% Retention					\$ (30,833)																																
Less: Amounts Previously Invoiced					\$ (554,156)																																
Current Total Amount Due					\$ 31,666																																

Appendix 6: Program Management Monthly Invoice 36250-17 for October 1-31, 2016 (11/2/16). Highlighting added by FCMAT.

The scant documentation supporting the additional services payment leaves two questions unresolved. First, what programming or planning was not contemplated in the 4% program manager fee that was being paid concurrently for the 21st century classrooms TK-5 and 6-12 projects? Second, if the reprogramming fee

of \$230,000 was an additional service and due for the 21st Century Classrooms TK-5 Project, what was the regular fee of \$31,666 per month paying for?¹³ (See Section E of this report for additional information.)

4. Amendment to the 2009 Agreement – \$300,000 Demonstration Project Mockup

On August 5, 2014, before the passage of Measure V and eight months before entering into the agreement dated April 21, 2015, the district's governing board agreed to pay Del Terra to "modify 3 existing individual classrooms into Technology based Demonstration classrooms" through an amendment to its 2009 agreement with Del Terra. This August 5, 2014 document was called the Fourth Amendment to Construction Management Agreement (hereinafter referred to as the fourth amendment to the 2009 agreement). The work is referred to in a future additional services request as a mockup classroom. A copy of the fourth amendment to 2009 agreement is shown below:

¹³ The original planned Bassett High School projects were not undertaken. There were two projects (Child Development Center Modernization project at Florence E. Flanner Elementary School and BHS cabling project) that replaced the Bassett High School Projects in the original 2015 program list. See Section E of this report.

FOURTH AMENDMENT TO CONSTRUCTION MANAGEMENT AGREEMENT

THIS FOURTH AMENDMENT TO CONSTRUCTION MANAGEMENT AGREEMENT ("Amendment"), is entered into by and between the Bassett Unified School District (hereinafter referred to as "District"), and Del Terra Real Estate Services, Inc., dba Del Terra Group (hereinafter referred to as "Consultant"). District and Consultant may at times herein be referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

A. District and Consultant entered into a Construction Management Agreement dated May 25, 2010 (the "Agreement").

B. The Parties desire to amend the Project List, to expand the scope services and amend the payment provisions contained therein.

C. All terms of the Agreement, except those amended herein, shall remain unchanged and in full force and effect.

NOW THEREFORE, the Parties hereto agree as follows:

- Amend Scope of Services to include Construction Management Multiple-Prime Services
- Amend Exhibit "A", add to project list the following projects:
 - Improvements to 3 Classrooms, one each located at:
 - Bassett High School
 - Don Julian Elementary School
 - Edgewood Academy
 - The intent is to modify 3 existing individual classrooms into Technology based Demonstration classrooms
- Project budget is \$300,000 with a 10% Change Order limit approved by District Administration

Appendix 7: Fourth Amendment to 2009 agreement, Page 1 (8/5/14). Highlighting added by FCMAT.

Page 2 of the fourth amendment to the 2009 agreement has a board approval date of August 5, 2014 and is shown below:

The parties, through their authorized representatives, have executed this Agreement as of the day and year first written above.

BASSETT UNIFIED SCHOOL DISTRICT

By: 

Name: Dr. Alejandro J. Rojas

Title: Interim/Deputy Superintendent

ADDRESS FOR NOTICE:

Attn: _____

Bassett Unified School District
3904 N. Willow Avenue
La Puente, CA 90601
626.931.3005

DEL TERRA REAL ESTATE SERVICES, INC. dba/DEL TERRA GROUP

By: 

Name: Luis D. Rojas

Title: President and CEO

ADDRESS FOR NOTICE:

Mr. Luis D. Rojas
Del Terra Group
13181 Crossroads Pkwy, No., Ste. 540
City of Industry, CA 91746
626.839.9300

BOARD APPROVED : 8/5/14
P.O. #70126

Appendix 7: Fourth amendment to 2009 agreement, Page 2 (8/5/14). Highlighting and red oval added by FCMAT.

Page 3 of the fourth amendment to the 2009 agreement includes the scope of work for Bassett High School and is shown below:

Bassett High School Demonstration Classroom	
Demonstration Classroom Room 503	Estimate
Furniture	
Furniture Details:	Estimate:
(6) Flip Nest 2 person tables	\$4,500
(1) Explore Teaming Table on casters	\$1,000
(1) 32-50" TV for Teaming Table	\$300
(1) Team Collaboration Table	\$700
(36) Chairs on Casters	\$12,000
(4) Buoy (soft seating)	\$800
(1) Teachers Desk	\$600
(1) Teachers Chair	\$200
	\$22,100
Technology	
Technology Details:	Estimate:
70" Flat Display	\$7,000
Smart 6065 - 65" Flat Display	\$5,000
Smart 60wi - Interactive Projector	\$1,984
HD Video Camera	\$100
Digital Audio Amplification System	\$900
Classroom Control System	\$1,600
Cables, Switches, Modules, Extenders	\$2,000
Flat Panel Wall Mount	\$300
Install Freight Tax	\$9,000
	\$29,784
Materials	
Materials Details:	Estimate:
Carpet & Wallbase	\$3,300
Wall-Talker	\$1,500
Tackable Panels	\$1,600
Paint	\$1,500
Demo & Construction	\$30,000
Installation	\$4,000
	\$41,900
total	\$85,884
contingency 5%	\$4,500
Grand Total	\$90,384

Appendix 7: Fourth amendment to 2009 agreement, Page 3 (8/5/14). Highlighting added by FCMAT.

The work for each classroom in the 21st century classrooms projects is similar to that performed on the three demonstration classrooms under the fourth amendment to the 2009 agreement. All involved paint, furniture, carpeting, and installation of flat screen TVs in classrooms. Del Terra's ability to create the three

mockup classrooms a year before the 21st century classrooms projects shows that Del Terra had already planned out the basic 21st century classroom.¹⁴

Although the three demonstration classrooms appear to be the basis for the 21st century classrooms projects, Del Terra worded the invoice for the \$230,000 in additional services for “reprogramming and replanning” in a manner that suggested the need for different classroom configurations, and thus gave the appearance of a legitimate service. Del Terra’s invoice provided the following description of the scope of reprogramming work:

Invoice #36382 - 21st Century Classrooms Grades TK-5 Project

21st Century Classrooms additional services to reprogram original scope of work

Rationale to reprogram the original scope of work developed for the mock up classrooms which was originated by the previous Superintendent & a 3rd party Architect was not applicable for all classrooms throughout the entire District with the Measure V bonds current Budget. The original scope of work was not applicable to the individual classrooms. As such, Del Terra was requested by the Superintendent to reprogram the project scope and develop the individual scope of work for each instructional classroom in the entire district and to implement during the summer of years 2015 & 2016.

Appendix 33: Additional services Invoice 36382, Page 2 (9/15/16) and Check No. 23412923 for \$230,000 (check not shown here).

Del Terra submitted its invoice for \$230,000 for additional services on September 15, 2016, more than a year after its July 1, 2015 submission of its \$85,000 Invoice 36255-01 for developing the 2015 program list, which included the two 21st century classrooms projects. Thus the two 21st century classrooms projects were already established as part of the 2015 program list before the \$230,000 additional services invoices, and all work should have been considered base contract work under the 2015 agreement.

A review of the district’s 21st Century Classrooms TK-5 project records shows that the work involving construction, carpeting, furniture, and flat screen TVs was largely completed in August of 2016. The first invoice, No. 36381-01, was issued on June 8, 2016, and the last invoice, No. 36381-05, was issued on October 5, 2016. Those invoices largely predate the September 15, 2016 additional services invoice for “reprogramming and replanning.” With the work on the 21st Century Classrooms TK-5 project mostly complete by August 2016, it is unclear why subsequent additional programming was necessary.

¹⁴ The work addressed in the Fourth Amendment to the 2009 Agreement is a multiprime project for \$300,000 in services. Del Terra’s fee is embedded in the \$300,000 contract amount. Based on the breakdown accompanying Del Terra’s proposal, after subtracting hard costs, the Del Terra fee was increased by up to \$58,188 (Bassett High School \$85,884 + Don Julian Elementary School \$80,214 + Edgewood Academy \$75,514 = \$241,612. \$300,000 - \$241,612 = \$58,388). The fee increase could vary based on how much was spent on the demonstration classroom exceeding the budgeted numbers.

5. Del Terra Tried to Justify Additional Charges, Claiming Savings of Architect Fees

The scant justification for the \$230,000 in additional fees includes Del Terra's implicit claim that the extra services kept the district from incurring additional architect fees. The narrative provided in Del Terra's \$230,000 additional services invoice, No. 36382, is shown below:

All Classrooms for the 21 St. Century classroom projects were redesigned without the use of an Architect, which provided additional Project savings for the project. Each school year of 2015 & 2016 where 21st Century Projects were implemented, all projects were completed ON TIME and schools were opened WITHOUT DELAY for the start of the school year in the months of August of both years.

Appendix 33: Additional services Invoice 36382, Page 2 (9/15/16). Highlighting added by FCMAT.

Del Terra's statement defies logic since there is no apparent basis for charging design or construction management fees for placement of furniture, carpeting, and purchase of flat screen TVs. That is work that most district maintenance departments perform on their own.¹⁵ The primary reason for hiring a specialist or an outside consultant is to obtain their expertise in evaluating safety, negotiating with state agencies such as the DSA, complying with competitive bidding rules, evaluating needed infrastructure upgrades, and helping the district prioritize the Measure V program.

Del Terra's justification for \$230,000 for additional "reprogramming" services rings hollow because very little special expertise is required to procure TVs, carpeting, and furniture.¹⁶ The review and layout of furniture and location of TVs does not require time-consuming calculations, design services, DSA approvals, DSA corrections, or any of the other time-consuming elements that ordinarily would be included in reprogramming something previously designed. To be clear, an architect or, more specifically, a structural engineer was required to provide a certification to DSA that no structural design was necessary for the mounting of TVs if this was considered a project exempt from DSA review under IR-22 (projects under \$100,000 adjusted annually). Since the 21st century schools exceeded the thresholds under IR-22 they were not exempt projects, and an architect and structural engineer were required to submit plans to DSA. The substitution of licensed design/engineering professionals with Del Terra may have cost the district more, necessitated a stop work notice by DSA, and subjected students and staff to unsafe conditions. This is primarily directing vendors to mount a TV set, install wiring, and place furniture. It is not clear how 1,095 hours or more were spent as an additional service or why this service was in addition to typical program management responsibilities.

As a direct result of Del Terra's failure to undertake the 21st century schools projects with an architect or structural engineer, DSA issued stop work orders for Edgewood Academy, Sunkist Elementary School, J.E. Van Wig Elementary School, and Bassett High School. This is discussed further in section F.1.

¹⁵ District maintenance departments will sometimes contract with an architect to determine mounting for flat screen TVs.

¹⁶ While Del Terra did not hire an architect and did not submit the 21st century schools projects to DSA, Del Terra was required to obtain a structural engineer opinion under DSA IR A-22 (Appendix 65) from a California registered structural engineer certifying the work did not contain any structural work. See Article 1.3.2.2.1 of Appendix 65. In this case, the installation of TV mounts is considered structural work that requires DSA review and approval, and the DSA application must be prepared by an architect or engineer. Refer to Section C.9 of this report concerning DSA site investigation and subsequent DSA notices issued on February 24, 2021 and March 2, 2021 that flat screen TV mounts were required to be submitted to the DSA.

6. Del Terra Not Entitled to Charge Construction Management Fees for Furniture, Fixtures, or Equipment Under 2015 Agreement

Exhibit C of the 2015 agreement states that the construction management services fee is 9.90% of “actual construction cost.” Because carpeting, furniture and purchasing flat screen TVs do not constitute construction under the 2015 agreement, Del Terra should not have charged 9.9% for construction management fees on these items. Below is Invoice No. 36381-06, one of Del Terra’s invoices for construction management services on the 21st Century Classrooms TK-5 project, in which ALL project costs are included in the calculation of construction management fees ($9.9\% \times \$5,045,758 = \$499,530$).



INVOICE #36381-06

Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

Date: June 2, 2017

To: Bassett Unified School District
 Attn: Dr. Alex J. Rojas
 Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746

Ref.: Construction Management Services
 21st. Century Classrooms Grades TK-5 Project

Billing Period: May 1-31, 2017

Close
82507AE

Total Project Budget \$ 5,045,758

Construction Management Fee: 9.9% of \$ 5,045,758 is \$ 499,530

Construction Phase	Gross Fee	Percent Complete	Total Billed To Date	Total Previously Billed	Current Amount Due
CM Services	499,530	100%	499,530	489,540	9,990

Total Fees Earned \$ 499,530

Less: Amounts Previously Invoiced \$ (489,540)

Current Total Amount Due \$ 9,990

Billings to Date

Current	Prior	Total	Remaining Balance
\$ 9,990	\$ 489,540	\$ 499,530	-

All items paid 6/2/17
Approved by [Signature] 6/7/18

Appendix 8: 21st Century TK-5 Construction Management Services Invoice 36381-06 (6/2/17).

Similarly, below is a Del Terra invoice for the 21st Century Classrooms 6-12 project, with a 9.9% fee applied to the entire cost of \$4,355,630 (9.9% x \$4,355,630 = \$431,207). The 21st Century 6-12 project invoice, No. 36380-01, is shown below:

DEL TERRA - 73

Please Remit Payment To:
 13131 Crossroads Pkwy North
 Suite 540
 City of Industry, CA 91746
 Tel: (626) 839-9200
 Fax: (626) 839-9107

Date: September 1, 2015

INVOICE #36380-01

Bassett Unified School District
 Attn: Arturo Sanchez-Macias
 Asst. Superintendent / Chief Business Officer
 104 North Willow Avenue
 La Puente, CA 91746

Construction Management Services
 21st Century Classrooms Grades 6-12 Project

Billing Period: May 1, - August 31, 2015

REQ. THIS AMOUNT

Total Project Budget \$ 5,014,981

Total CM Construction Management Fee, 9.9% \$ **496,483**

Project	Total Contract Amount	Total CM Fee (9.9%)	% Complete	Total Fee Billed To Date	Total Previously Billed	Current Amount Due	Fee Remaining
Total CM Fee	\$ 5,014,981	\$ 496,483	0%	\$ -	\$ -	\$ -	\$ 496,483
21st Century Clsrm Grades 6-12 - Phase a	\$ 4,355,630	\$ 431,207	100%	\$ 431,207	\$ -	\$ 431,207	\$ 65,276
21st Century Clsrm Grades 6-12 - Phase b	-	-	0%	-	-	-	-
	-	-	0%	-	-	-	-
Total				\$ 431,207	\$ -	\$ 431,207	

pay only

Total Gross Fee	\$496,483
Total Fee Billed To Date	\$431,207
Previously Invoiced	\$0
Total Current Fee Due	\$431,207
Fee Remaining	\$65,276

\$1,735,276 missing to list all total cost.

All Items Received/Services Rendered
 Approved for Payment *[Signature]*

All Items Received/Services Rendered
 Approved for Payment *[Signature]*

*Original invoice missing
 sent to Superintendent on 9/1/15
 For signature. Invoice originally signed by ARASO Sanchez-Macias*

Appendix 9 and 12: 21st Century 6-12 Invoice 36380-1 Construction Management Services, Page 1 (9/1/15). Highlighting added by FCMAT.

Of the \$9,401,388 in total costs for both projects, the district's accounting records show only \$1,735,500 was for construction services; all other charges were for equipment, furniture, or flat screen TVs. Nevertheless, Del Terra charged a construction management fee based on the projects' total cost.¹⁷

17 (\$5,045,758 for the TK-5 project + \$4,355,630 for the 6-12 project = \$9,401,388).

Exhibit C of the 2015 agreement provides that the construction management fee will be 9.9% of construction costs, and the language of the contract at Article 1.1.20 and 1.1.48 specifically excludes “fixtures, furniture and equipment” from “construction costs.”

Article 1.1.20 of the 2015 agreement defines construction costs as follows:

1.1.20 Construction Costs. The total cost of constructing a Campus Project, excluding the following: i) the cost of professional services to be rendered by Design Consultants, Specialty Consultants, or Manager; (ii) land acquisition costs; (iii) finance costs; (iv) District’s administrative costs; and (v) legal fees and related legal costs.

This definition does not include furniture, fixtures or equipment.¹⁸ The only items (other than an embedded construction cost for mounting of flat screen TVs)¹⁹ that would be eligible as construction costs were asbestos abatement, paint, and contractor-related construction costs. The total expenditure for construction costs on both 21st century classrooms projects was as follows:

21st Century Classrooms 6-12				
Contractor	Scope	Cost	Site	
AP Construction	15-02 Interior Painting	\$ 277,000	Torch	
AP Construction	15-02 Interior Painting	245,000	BHS	
Everlast	15-02 Interior Painting	105,000	Edgewood	
		<u>\$ 627,000</u>		
21st Century Classrooms TK-5				
Contractor				
AP Construction	16-01 Refurbishment of Classrooms	\$ 275,000	Sunkist	
AP Construction	16-01 Refurbishment of Classrooms	310,000	Don Julian	
AP Construction	16-01 Refurbishment of Classrooms	262,500	Van Wig	
AP Construction	16-01 Refurbishment of Classrooms	261,000	Edgewood	
		<u>\$ 1,108,500</u>		
	Total	\$ 1,735,500		

Although the total construction costs for all 21st century classrooms projects set forth above equaled \$1,735,500, Del Terra charged construction management fees of 9.9% on \$5,045,758²⁰ for the 21st Century Classrooms TK-5 project and 9.9% on \$4,355,630²¹ for the 21st Century Classrooms 6-12 project. Thus,

¹⁸ The program manager fee is tied to project costs (2015 agreement section 1.1.48), not construction costs. The construction manager fee is tied only to construction costs (2015 agreement section 1.1.20).

¹⁹ The mounting of flat screen TVs may be considered a construction cost. However, the invoices from the vendor who mounted the TVs do not have a separate breakdown for the costs of mounting.

²⁰ \$5,045,758 is the Del Terra budget amount for the 21st Century TK-5 Project.

²¹ \$4,355,630 is the Del Terra budget amount for the 21st Century 6-12 Project.

instead of applying 9.9% to \$9,401,388 and collecting \$930,737.41 in construction management fees,²² Del Terra should have excluded furniture and flat screen TVs from construction costs in accordance with the 2015 agreement and instead collected 9.9% on the \$1,735,500 in actual construction costs or \$171,814.50. This is an overcharge of \$758,922.91 ($\$930,737.41 - \$171,814.50 = \$758,922.91$).²³

7. Del Terra Charged for Construction Management Services That Duplicated Digital Networks

A review of documents for underlying vendor contract charges on all 21st century classrooms projects revealed entries for services that seem to duplicate the construction management services charged by Del Terra. The vendor that supplied and mounted the flat screen TVs for both 21st century classrooms projects was Digital Networks. The invoices from Digital Networks include charges for “Professional Services,” duplicating the construction management services for which the district is paying Del Terra at 9.9%. Digital Networks’ professional services fees are sometimes broken down using the term “Project Management.” Other Digital Networks invoices break down the professional services charge into other categories, as listed below:

1. Systems Commissioning
2. Project Management
3. General Consulting Engineering
4. CAD/Programming
5. On-Site Tech Support

Below is a representative example of a Digital Networks Invoice No. 14362, which provides a breakdown of professional services:

²² \$9,401,388 is the sum of the budgets for both the 21st Century TK-5 Project and the 21st Century 6-12 Project. ($\$5,045,758$ for the TK-5 project + $\$4,355,630$ for the 6-12 project = $\$9,401,388$).

²³ Note that a cost for installation of flat screen TVs was not added to this total due to lack of accuracy of the TV installation numbers. ($\$9,401,388 - \$1,735,500 = \$7,665,888 \times 9.9\% = \$758,922.91$)

DNG | Digital Networks Group

AV and IT Systems Integration

Communicate. Collaborate. Innovate.

REMIT TO: 20382 Hermana Circle, Lake Forest, CA 92630

Invoice #14362 08/03/2016

Job #160528 Progress Bill No. 3

Billing Information:
 Bassett USD
 Attn: Accounts Payable
 904 N. Willow Avenue
 La Puente, CA 91746
 Tel: 714.558.5580

RECEIVED

BY: IOB

Project Information
 160528 Bassett USD-Don Julian 2016 MOD
 904 N. Willow Avenue, La Puente, CA 91746
 PO #00000062464 Terms: NET/30

Mfr-Part No.	Qty	Description	Unit Price	Extended	%
PANASONIC TH160BP1U	24	30" Interactive LED Flat Panel	10,081.250	241,469.28	100%
Material Total:				241,469.28	100%
	24	PANASONIC TH-SVC85103KW1Y4th YEAR EXTENDED WARRANTY	1,350.00	32,400.00	100%
Panasonic Warranty Total:				32,400.00	100%
	201.2	ST-DSB2THRTE Installation Test:	120.00	24,144.00	100%
PROFESSIONAL SERVICES					
180		ST-DIGTESTDISP (System Commissioning)	115.99	20,862.00	100%
178		ST-DIGSCPRJMGTH (Project Management)	120.00	21,300.00	100%
80		ST-DIGSCCONSULTH (General Consulting/Engineering Services)	120.00	9,600.00	100%
24		ST-DIGSCSWPRGMH (CAD/PROGRAMMING)	120.00	2,880.00	100%
8		ST-DIG24HRSUPPORT (On-Site Tech Support)	146.25	708.00	100%
1		ST-DIG24HRSUPPORT (On-Site Tech Support)	141.35	141.35	100%
Professional Services Total:				66,660.00	100%

Del Terra Group

Project Ref: _____

Amount: _____

Reviewed By: [Signature]

Date Reviewed: _____

Date Forwarded: _____

Forwarded To: _____

DTG Processor: _____

Shipping & Handling: _____

CA Local Tax \$21,732.24

Total Amount Due: \$376,288.52

Appendix 10: Digital Networks Invoice 14362 (8/3/16). Highlighting added by FCMAT.

A full accounting for the Digital Networks project management and engineering fees is included as Appendix 11. The accounting in Appendix 11, also shown below, includes a 13.56% (\$341,808 / \$2,519,849.43) mark-up for professional services on the cost of all equipment supplied and installed by Digital Networks. The breakdown below is an accounting taken from district records of invoices and payments made to Digital Networks.

Bassett Payments Analysis Digital Networks Group, Inc. Detail								
Count	FILE/FOLDER	CHECK NUMBER	INVOICE AMOUNT	MONTH	INVOICE DATE	PROJECT INFORMATION	PROFESSIONAL SERVICES	PERCENT OF TOTAL SCOPE
1	NSP Digital Networks	23392689	\$36,915.13	08/01/16	08/03/16	Sunkist 2016 MOD	\$6,100.00	16.52%
2	NSP Digital Networks	23392687	\$24,069.22	08/01/16	08/03/16	Don Julian 2016 MOD	\$4,000.00	16.62%
3	NSP Digital Networks	23392688	\$20,645.80	08/01/16	08/03/16	Edgewood ES 2016 MOD	\$3,550.00	17.19%
4	NSP Digital Networks	23392685	\$20,246.24	08/01/16	08/03/16	Van Wig 2016 MOD	\$4,000.00	19.76%
5	NSP Digital Networks Pepp	23503622	\$275,811.14	08/01/16	08/03/16	Edgewood ES 2016 MOD	\$36,000.00	13.05%
6	NSP Digital Networks Pepp	23503622	\$322,137.33	08/01/16	08/03/16	Sunkist 2016 MOD	\$42,360.00	13.15%
7	NSP Digital Networks Pepp	23503622	\$322,131.33	08/01/16	08/03/16	Van Wig 2016 MOD	\$42,360.00	13.15%
8	NSP Digital Networks Pepp	23503622	\$375,295.52	08/01/16	08/03/16	Don Julian 2016 MOD	\$55,550.00	14.80%
9	NSP Digital Networks CMAS	23804850	\$16,810.32	04/01/17	04/26/17	Edgewood ES 2016 Extron MLC	\$672.00	4.00%
10	NSP Digital Networks CMAS	23804850	\$44,359.97	04/01/17	04/26/14	Torch MS 2016 Extron MLC Pnl	\$1,344.00	3.03%
11	NSP Digital Networks CMAS	23458617	\$113,043.72	08/01/16	08/03/16	Edgewood ES 2016 MOD	\$28,800.00	25.48%
12	NSP Digital Networks CMAS	23458617	\$125,514.58	08/01/16	08/03/16	Sunkist 2016 MOD	\$30,471.00	24.28%
13	NSP Digital Networks CMAS	23392686	\$125,514.58	08/01/16	08/03/16	Van Wig 2016 MOD	\$30,471.00	24.28%
14	NSP Digital Networks CMAS	23495149	\$144,430.53	08/01/16	08/03/16	Don Julian 2016 MOD	\$38,290.00	26.51%
15	NSP Digital Networks	23520109	\$36,067.13	08/03/16	08/03/16	Sunkist ES Mod Piggyback Contract	\$8,920.00	24.73%
16	NSP Digital Networks	23520109	\$36,067.13	08/03/16	08/03/16	Van Wig ES Mod Piggyback Contract	\$8,920.00	24.73%
17	NSP Digital Networks CMAS	23392686	\$1,365.55	06/01/16	06/30/16	Don Julian MOD CMAS	\$0.00	0.00%
18	NSP Digital Networks CMAS	23392686	\$1,233.23	06/01/16	06/30/16	Sunkist MOD CMAS	\$0.00	0.00%
19	NSP Digital Networks CMAS	23392686	\$1,233.23	06/01/16	06/30/16	Van Wig MOD CMAS	\$0.00	0.00%
20	NSP Digital Networks CMAS	23392686	\$998.23	06/01/16	06/30/16	Edgewood MOD CMAS	\$0.00	0.00%
21	NSP Digital Networks CMAS	23495149	\$17,718.85	08/01/16	08/03/16	Edgewood ES 2016 Extron MLC	\$0.00	0.00%
22	NSP Digital Networks CMAS	23495149	\$19,584.00	08/01/16	08/03/16	Van Wig 2016 MOD	\$0.00	0.00%
23	NSP Digital Networks CMAS	23495149	\$22,381.71	08/01/16	08/03/16	Don Julian 2016 MOD	\$0.00	0.00%
24	NSP Digital Networks CMAS	23495149	\$19,584.00	08/01/16	08/03/16	Sunkist 2016 MOD	\$0.00	0.00%
25	NSP Digital Networks	22513673	\$286,874.27	08/01/16	08/31/15	Edgewood Academy	\$0.00	0.00%
26	NSP Digital Networks	23520109	\$23,268.97	08/03/16	08/03/16	Edgewood ES Mod Piggyback Contract	\$0.00	0.00%
27	NSP Digital Networks	23520109	\$1,292.72	08/03/16	08/03/16	Don Julian ES Mod Piggyback Contract	\$0.00	0.00%
28	NSP Digital Networks 16-17-F11 BHS Closed	24139484	\$71,492.25	08/01/16	08/20/17	Bid #16-17-F11 BHS Cabling Project	No backup provided.	0.00%
29	NSP Digital Networks 16-17-F11 BHS Closed	24559081	\$4,276.36	04/01/18	04/16/18	Bid #16-17-F11 BHS Cabling Project	No backup provided.	0.00%
30	NSP Digital Networks 16-17-F11 BHS Closed	24210260	\$9,486.39	11/01/17	11/17/17	Bid #16-17-F11 BHS Cabling Project	No backup provided.	0.00%
			\$2,519,849.43				\$341,808.00	13.56%

Appendix 11: Accounting of district payments to Digital Networks, prepared by FCMAT.

As outlined earlier, the district paid Del Terra 4% for program management services, 9.9% for construction management services, and \$230,000 for reprogramming services. Article 1.6 of the 2015 agreement states, “Manager shall not separately invoice fees for services rendered by Subconsultants.” Thus, the Digital Networks professional service invoice amounts for planning, designing, and mounting flat screen TVs duplicates both program management and construction management fees being paid to Del Terra, as well as the fees Del Terra charged for reprogramming services addressed in Section B.1 of this report. As a result, if Digital Networks actually performed the design and planning for mounting flat screen TVs and the district paid for this service, under Article 1.6, Del Terra should not have been compensated for program management or construction management services that were provided by Digital Networks.

There is no record that Del Terra notified the district that Digital Networks would be charging professional fees to manage the project of siting, designing and mounting the flat screen TVs as required under Article 1.6 of the 2015 agreement. The 13.56% professional services fee charged by Digital Networks as outlined in Appendix 11 and shown above therefore seems to duplicate the 13.90%²⁴ charged by Del Terra for combined program management and construction management services.

There is also a Digital Networks charge for engineering services, which presumably includes designs and calculations for the mounting brackets. As addressed in Sections C.9 and F of this report, engineering calculations, including structural calculations, require DSA review and approval. In addition, the DSA has a policy that requires the architect or engineer of record to review, counter-stamp, and provide a statement of

24 Under Exhibit C to the 2015 agreement, the total consolidated program management and construction management fee is 13.9% (4% program management fee + 9.9% construction management fee = 13.9%).

responsibility for designs prepared by vendors under DSA IR A-18.²⁵ There are no available records addressing how Del Terra complied with this policy requiring structural review of the bracket mounts for the flat screen TVs installed at the 21st century classrooms projects. As addressed in Section B.4 of this report, Del Terra's invoicing indicates no architect or structural engineer was hired to oversee DSA compliance or to address the IR A-18 responsibilities.

8. Issues with 21st Century Classrooms 6-12 Project Costs and Invoicing

There are several problems with the invoicing for the 21st Century Classrooms 6-12 project. Invoice No. 36380-01 was issued on September 1, 2015, seeking a total construction management fee of \$431,207.²⁶

²⁵ IR A-18 has been in existence since February 1, 2008. Copies of IR A-18 from 2009 and 2020 are included in Appendix 78.

²⁶ Please note that while 9.9% of the budgeted cost is \$496,483, Del Terra's invoice 36380-01 seeks payment of \$431,207, ($\$4,355,630 \times 9.9\%$) which is based on a reduced construction budget of \$4,355,630 rather than the \$5,014,981 original budget. Handwritten notes appear to be district accounting department notes indicating that the original invoice is missing.

DEL TERRA - 735

DelTerra Remit Payment Co
 13181 Quince Orchard Pkwy North
 Suite 540
 City of Industry, CA 91746
 Tel: (626) 839-9300
 Fax: (626) 839-9107

Date: September 1, 2015

INVOICE #36380-01

Bassett Unified School District
 With Arturo Sanchez-Macias
 Asst. Superintendent / Chief Business Officer
 104 North Willow Avenue
 La Puente, CA 91746

Construction Management Services
 21st Century Classrooms Grades 6-12 Project

Billing Period: May 1, - August 31, 2015

REQ. THIS AMOUNT

Total Project Budget \$ 5,014,981

Total CM Construction Management Fee, 9.9% \$ 496,483

Project	Total Contract Amount	Total CM Fee (9.9%)	% Complete	Total Fee Billed To Date	Total Previously Billed	Current Amount Due	Fee Remaining
Total CM Fee	\$ 5,014,981	\$ 496,483	0%	\$ -	\$ -	\$ -	\$ 496,483
21st Century Clsrm Grades 6-12 - Phase a	\$ 4,355,630	\$ 431,207	100%	\$ 431,207	\$ -	\$ 431,207	\$ 65,276
21st Century Clsrm Grades 6-12 - Phase b	-	-	0%	-	-	-	-
	-	-	0%	-	-	-	-
Total				\$ 431,207	\$ -	\$ 431,207	

pay only

Total Gross Fee	\$496,483
Total Fee Billed To Date	\$431,207
Previously Invoiced	\$0
Total Current Fee Due	\$431,207
Fee Remaining	\$65,276

\$431,207 missing to list CM total cost.

All Items Received/Services Rendered
 Approved for Payment Alex Rojas

All Items Received/Services Rendered
 Approved for Payment [Signature]

original invoice missing
 sent to Superintendent on 9-14-15
 for signature, invoice originally signed by Arturo Sanchez-Macias

Appendix 9: 21st Century 6-12 Invoice 36380-1 for construction management services, Page 1 (9/1/15). Highlighting added by FCMAT.

This invoice was approved by the district's former superintendent Alex Rojas with the notation "All Items Received/Services Rendered." Payment was issued on October 1, 2015. The second page of this invoice shows a \$4,355,629.89 summary of costs, which is used for calculating the \$431,207 construction management fee (\$4,355,630 x 9.9% = \$431,207).

**BASSETT UNIFIED SCHOOL DISTRICT MEASURE "V"
CENTURY 21ST CLASSROOMS GRADES 6-12 PROJECT
SUMMARY**

EDGEWOOD ACADEMY

Advertisement	\$	1,006.13	
Construction	\$	118,650.00	
Testsing	\$	7,585.50	
Furniture & Equipment	\$	434,004.31	
EDGEWOOD ACADEMY TOTAL	\$	561,245.94	13% 21st Century

TORCH MIDDLE SCHOOL

Advertisement	\$	1,006.13	
Construction	\$	277,000.00	
Testsing	\$	22,050.00	
Furniture & Equipment	\$	1,317,845.59	
TORCH MIDDLE SCHOOL TOTAL	\$	1,617,901.72	17% 21st Century

BASSETT HIGH SCHOOL

Advertisement	\$	1,006.14	
Construction	\$	245,000.00	
Testsing	\$	8,785.50	
Furniture & Equipment	\$	1,921,690.59	
BASSETT HIGH SCHOOL TOTAL	\$	2,176,482.23	16% 21st Century

GRAND TOTAL

\$ 4,355,629.89

Appendix 9: 21st Century 6-12 Invoice 36380-1 for construction management services, Page 2 (9/1/15). Highlighting and red oval added by FCMAT.

The breakdown of the budget on pages 3 and 4 of this invoice shows that many of the costs are taken from quotes and proposals. Below is Page 3 of the invoice:

**BASSETT UNIFIED SCHOOL DISTRICT MEASURE "V"
CENTURY 21ST CLASSROOMS GRADES 6-12 PROJECT
DETAIL**

Edgewood Academy			
Advertisement		\$ 1,006.13	
	TOTAL		\$ 1,006.13
Construction			
Everlast Builders		\$ 105,000.00	
AP Construction		\$ 10,850.00	
AZ Home Inc.		\$ 2,800.00	
	TOTAL		\$ 118,650.00
Testing			
KCE Matrix		\$ 6,600.00	
AMEC		\$ 985.50	
	TOTAL		\$ 7,585.50
Furniture & Equipment			
Culver-Newlin		\$ 100,114.10	
		\$ 11,499.78	
		\$ 12,581.87	
KYA		\$ 31,018.72	
		\$ 15,042.71	
		\$ 5,011.58	
Digital Networks		\$ 255,671.37	
Claridge		\$ 3,064.18	
	TOTAL		\$ 434,004.31
Edgewood Academy TOTAL			\$ 561,245.94
TORCH MIDDLE SCHOOL			
Advertisement		\$ 1,006.13	
	TOTAL		\$ 1,006.13
Construction			
AP Construction		\$ 277,000.00	
	TOTAL		\$ 277,000.00
Testing			
KCE Matrix		\$ 22,050.00	
	TOTAL		\$ 22,050.00
Furniture & Equipment			
Culver-Newlin	Quote 317493	S/M 23 Classrooms	\$ 293,172.50
Culver-Newlin	Quote 317625	S/M Art Classroom	\$ 20,752.58
Culver-Newlin	Quote 317626	S/M Robotics	\$ 11,499.78
Culver-Newlin	Quote 317627	S/M Science Cllsrms	\$ 11,499.78
KYA	Proposal 06/17/15		\$ 135,293.70
KYA	Change Order	VCT M3	\$ 14,985.94
KYA	Change Order	VCT 26-27 31-32	\$ 13,375.62
Digital Networks	Quote AB#17795-TMS4F		\$ 774,559.16
Digital Networks	Quote AB#19632 Robotics		\$ 33,746.53
Digital Networks	Quote AB#17795-TMC1		\$ 8,960.00
	TOTAL		\$ 1,317,845.59
TORCH MIDDLE SCHOOL TOTAL			\$ 1,617,901.72

Appendix 9: 21st Century 6-12 Invoice 36380-1 for construction management services, Page 3 (9/1/15). Highlighting and red oval added by FCMAT.

Page 4 of Invoice No. 36380-01 also shows the price is assembled from several quotes:

BASETT HIGH SCHOOL

Advertisement			\$	1,006.14		
TOTAL			\$			1,006.14
Construction						
AP Construction			\$	245,000.00		
TOTAL			\$			245,000.00
Testing						
AMEC			\$	985.50		
Titan Env.	Proposal 07/28/15		\$	7,800.00		
TOTAL			\$			8,785.50
Furniture & Equipment						
Culver-Newlin	Quote 316165	S/M (19) 36" H clsrms	\$	264,824.98		
Culver-Newlin	Quote 318111	S/M (11) 29" height	\$	132,903.16		
Culver-Newlin	Quote 318113	S/M Ceramics	\$	2,270.97		
Culver-Newlin	Quote 318115	S/M Physical Therapy	\$	13,707.30		
Culver-Newlin		Art Classroom	\$	19,666.04		
		S/M Science Clsrms	\$	35,799.24		
KYA	Proposal	6/17/2015	\$	247,459.10		
KYA		Band Room	\$	7,201.91		
KYA	Change Order	VCT Room 515	\$	1,234.06		
Digital Networks	Quote ABA#17795-BHSF		\$	1,119,870.80		
Digital Networks	Quote AB#19636		\$	72,888.92		
Digital Networks	Quote AB#19749	Band Room	\$	2,089.11		
Vasco Cabinet			\$	1,775.00		
TOTAL			\$			1,921,690.59
BASETT HIGH SCHOOL TOTAL			\$			2,176,482.23

Appendix 9: 21st Century 6-12 Invoice 36380-1 for construction management services, Page 4 (9/1/15). Highlighting and red oval added by FCMAT.

FCMAT performed a more detailed review of the district’s accounting records for two of the vendors that appear on the invoice. The vendor who provided the furniture was Culver Newlin, and the vendor who provided and installed the flat screen TVs was Digital Networks. The district’s accounting records show that although Invoice No. 36380-01 was submitted to the district on September 1, 2015, and paid on October 1, 2015, most of the work on the invoice occurred in 2016 through 2018 (see payment shown below issued to Del Terra dated October 1, 2015, Check No. 22436758 for \$431,207, paying invoice number 36380-01).

64295		BASSETT USD			
Check Date: 10/01/15			Check No: 22436758		
Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Available	Net Amount
36380-01	09/01/15	081188A	431,207.00	0.00	431,207.00

Vendor Number	Name	Total Discounts	TIN
000007339	DEL TERRA GROUP	\$0.00	

Check Number	Date	Total Amount	Late Interest	Discount Taken	Total Paid Amount
22436758	10/01/15	\$431,207.00	0.00		\$431,207.00



Los Angeles County **BASSETT USD**
 904 NORTH WILLOW AVENUE
 LA PUENTE, CA 91746-1696
 626-931-3000

PAYABLE AT:
 ONE PENNS WAY
 NEW CASTLE, DE 19720
 62-20/311

22436758

Date Issued: 10/01/15

Amount
\$431,207.00***

THE TREASURER OF LOS ANGELES COUNTY will pay exactly:

******FOUR HUNDRED THIRTY-ONE THOUSAND TWO HUNDRED SEVEN AND 00/100 US DOLLARS******

WARRANT CLEARANCE FUND
 FOR CURRENT FISCAL YEAR
 THIS WARRANT IS VOID AFTER
 SIX MONTHS FROM DATE ISSUED

WE CERTIFY THAT THIS IS A LEGAL ORDER LAWFULLY
 DRAWN AGAINST THE FUNDS OF THE DISTRICT/AGENCY.

pay to:

DEL TERRA GROUP
13181 CROSSROADS PARKWAY NORTH
SUITE # 540
CITY OF INDUSTRY, CA 91746

FOR GOVERNING BOARD OF DISTRICT/AGENCY

EXAMINED, APPROVED AND ALLOWED
AUTURO DELGADO, Ed.D., COUNTY SUPERINTENDENT OF SCHOOLS

BY _____ DEPUTY

Appendix 12: Warrant 22436758, payment of \$431,207 (10/1/15) for Invoice 36380-01.

The accounting below is from the district's records on Digital Networks' invoices and is for work that occurred in 2016 through 2018:

Construction Cost Analysis									
Digital Networks Group, Inc.									
Summary Billed Amounts by Month									
PROJECT	SUMMARY AMOUNTS		SUMMARY BILLED AMOUNTS BY MONTH					BILLED AMOUNT TOTALS	
	CHECK AMOUNT	AMOUNT BILLED	Jun-16	Aug-16	Apr-17	Nov-17	Apr-18		
Bid #16-17-F11 BHS Cabling Project	\$ 85,255.00	\$ 85,255.00	\$ -	\$ 71,492.25	\$ -	\$ 9,486.39	\$ 4,276.36	\$ 85,255.00	
Don Julian 2016 MOD	566,176.98	566,176.98	-	566,176.98	-	-	-	566,176.98	
Don Julian MOD CMAS	1,365.55	1,365.55	1,365.55	-	-	-	-	1,365.55	
Edgewood Academy	286,874.27	286,874.27	-	286,874.27	-	-	-	286,874.27	
Edgewood ES 2016 Extron MLC	34,529.17	34,529.17	-	17,718.85	16,810.32	-	-	34,529.17	
Edgewood ES 2016 MOD	409,500.66	409,500.66	-	409,500.66	-	-	-	409,500.66	
Edgewood MOD CMAS	998.23	998.23	998.23	-	-	-	-	998.23	
Sunkist 2016 MOD	504,151.04	504,151.04	-	504,151.04	-	-	-	504,151.04	
Sunkist MOD CMAS	1,233.23	1,233.23	1,233.23	-	-	-	-	1,233.23	
Torch MS 2016 Extron MLC Pnl	44,359.97	44,359.97	-	-	44,359.97	-	-	44,359.97	
Van Wig 2016 MOD	487,476.15	487,476.15	-	487,476.15	-	-	-	487,476.15	
Van Wig MOD CMAS	1,233.23	1,233.23	1,233.23	-	-	-	-	1,233.23	
	\$ 2,423,153.48	\$ 2,423,153.48	\$ 4,830.24	\$ 2,343,390.20	\$ 61,170.29	\$ 9,486.39	\$ 4,276.36	\$ 2,423,153.48	

Appendix 13: Accounting records based on district records of payment to Digital Networks, prepared by FCMAT.

For the Culver Newlin invoices outlined in the spreadsheet below, \$929,497.10 of invoices were paid in August 2015, just before the Del Terra invoice dated September 1, 2015. However, a cumulative total of \$1,338,886 (rounded) (Sept. \$9,238.44 + Oct. \$22,594.29 + Nov. \$2,166.38 + Dec. \$4,681.04 + Feb. \$36,862.74 + March \$27,013.06 + Aug. \$1,236,329.56) was spent after the September 1, 2015 invoice. Most significantly, \$1,236,329.56 was spent in August 2016, 11 months after Del Terra was paid for Invoice 36380-01. Invoicing in advance for future work is inconsistent with charging for construction management fees based on "actual construction costs."

Vendor	PROJECT	SUMMARY AMOUNTS		SUMMARY AMOUNTS BY MONTH - PAYMENTS OCCURING JULY 2015 - AUGUST 2016												
		CHECK AMOUNT	AMOUNT BILLED	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	May-16	Jun-16	Jul-16	Aug-16
Culver Newlin Inc.																
Bassett Adult School		\$ 55,031.63	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bassett High School		607,888.82	-	480,958.58	9,238.44	-	-	4,681.04	-	-	18,989.68	-	-	-	-	1,363.02
Bassett Unified School Dist		35,386.56	-	-	-	10,012.42	2,166.38	-	-	18,434.76	4,773.00	-	-	-	-	-
Don Julian		339,094.40	-	-	-	-	-	-	-	-	-	-	-	-	-	339,094.40
Edgewood Academy		396,127.08	-	111,613.88	-	12,581.87	-	-	-	-	-	-	-	-	-	271,931.33
Sunkist Elementary		308,078.69	-	-	-	-	-	-	-	-	-	-	-	-	-	308,078.69
Torch Middle School		358,603.00	-	336,924.64	-	-	-	-	-	18,427.98	3,250.38	-	-	-	-	-
Van Wig Elementary School		315,862.12	-	-	-	-	-	-	-	-	-	-	-	-	-	315,862.12
		\$ 2,416,072.30	\$ -	\$ 929,497.10	\$ 9,238.44	\$ 22,594.29	\$ 2,166.38	\$ 4,681.04	\$ -	\$ 36,862.74	\$ 27,013.06	\$ -	\$ -	\$ -	\$ -	\$ 1,236,329.56

Appendix 14: Accounting records based on district records of payment to Culver Newlin, prepared by FCMAT.

Under the terms of the 2015 agreement, Del Terra was only entitled to charge construction management fees based on "actual construction costs," not costs based on quotes or proposals for work that had not yet occurred. As a matter of policy, fees cannot be charged on theoretical costs because they are unverified and could be inaccurate or subject to change. If the actual costs are less, then a refund needs to be provided. In addition, the fee is not yet earned if the percentage is applied to a theoretical cost or quote amount. The 2015 agreement is unambiguous in its requirement that fees be based only on actual costs incurred. Exhibit C to the 2015 agreement states this and is shown below:

EXHIBIT C

FEE MANAGEMENT SERVICES AND REPORTS

Task	Fee
Program Management Services	4% of the full Bond Program value
Develop Initial Program Plan	Not to exceed \$85,000
Construction Management Services	9.90% of actual construction cost, inclusive of all change order increases and consultant costs

Appendix 1: Exhibit C, Page 39 of 39 from 2015 agreement. Highlighting added by FCMAT.

Former superintendent Alex Rojas, who signed the September 1, 2015, Invoice 36380-01, could not have accurately verified “All Items Received/Services Rendered” without asking whether the underlying work had been performed before agreeing to issue payment. This was likely not possible because most of the procurement occurred the following year, in 2016.²⁷ No evidence was presented to or found by FCMAT to demonstrate that any verification was performed to ensure that the amount billed reflected actual expenditures.

Former superintendent Rojas should have checked Invoice 36380-01 against invoices from vendors that had been received and paid to date, such as those from Culver Newlin and Digital Networks, to verify the Del Terra billings were correct. But even at a high level, the superintendent should have known the work being invoiced was not completed because these were significant projects (nearly 30% of the total bond program).

9. Some Invoices Appear Manipulated

FCMAT reviewed the 21st century schools Panasonic television installation and found every invoice that included the materials and labor for mounting the televisions appears to be proportionate to the cost of the television itself (see Appendices 66 and 76).

²⁷ While the 2017 and 2018 payments were included in the accounting for Digital Networks for completeness, the charges for 2017 and 2018 are for projects other than the two 21st century classrooms projects. As shown on the spreadsheet of payments to Digital Networks in Appendix 11, Section B.6, the invoices for the two 21st century classrooms projects – which is the bulk of the invoices – were issued on August 3, 2016.

Mfr-Part No.	Qty	Description	Unit Price	Extended	
PANASONIC TH80BF1U	18	80" Interactive LED Flat Panel	10,061.22	181,101.96	100%
Material Total:				181,101.96	100%
	18	PANASONIC TH-SVC85103XW1Y14th Year Extended Warranty	1,350.00	24,300.00	100%
Panasonic Warranty Total:				24,300.00	100%
	150	ST-DSINSTHRTE (Installation)	120.00	18,000.00	100%
	1	ST-DSINSTHRTE (Installation)	110.00	110.00	100%
Installation Total:				18,110.00	100%

Time expended in hours is not shown in invoice

Appendix 76: Digital Networks Invoice 14353. Highlighting and red comment box added by FCMAT.

None of the invoices appear to show actual time expended, and in some cases, the installation costs appear to be adjusted to reach the desired percentage of material costs.

A total of 84 televisions were accounted for among the Digital Networks invoices. Of those 84 televisions, the cost invoiced to the district for installation totaled \$84,499, or slightly more than \$1,000 for each installation. At a labor rate of \$120/hour, this would suggest that it took approximately eight hours to install each television. That would require at least one contractor present for 84 days, or two contractors present for 42 days, to install all 84 televisions. Based on what FCMAT can determine from the available documentation, it is evident that Del Terra did not track time expended. Instead, the available documents indicate that Del Terra forwarded invoices based on the original estimates without review before the work started and did not provide oversight while the work was performed. No time tickets were available or provided to FCMAT for any of the installation work.

The California Department of Industrial Relations requires that any project costing more than \$30,000 is subject to prevailing wage rates and requires certified payroll reports to be submitted. There are no certified payroll reports from Digital Networks from January 1 through August 15, 2016. It was Del Terra's responsibility as construction manager and fiduciary of the district to ensure that the certified payroll reports were filed with the Department of Industrial Relations, and it is their responsibility to keep those records in case they are audited. This again is an indicator of Del Terra's lack of proper project oversight.

In summary, invoices were submitted based on what appear to be manipulated percentages, with an inflated fee, based on an overstated cost of installation, rather than the actual cost expended on the project. Without Del Terra's cooperation and documents, the available evidence indicates a lack of due diligence and oversight by Del Terra over the process. This indicates that Del Terra may have failed to again exercise its fiduciary duty to properly manage the project or have Digital Networks report the hours expended.

10. Discrepancies in 21st Century Classrooms Invoices

Below is Page 3 from Invoice 36380-01 for the 21st Century Classrooms 6-12 project, which shows three invoices totaling \$817,265.69 taken from quotes for work at Torch Middle School.

TORCH MIDDLE SCHOOL

Advertisement			\$	1,006.13		\$	1,006.13
TOTAL							
Construction							
AP Construction			\$	277,000.00			
TOTAL						\$	277,000.00
Testing							
KCE Matrix			\$	22,050.00			
TOTAL						\$	22,050.00
Furniture & Equipment							
Culver-Newlin	Quote 317493	S/M 23 Classrooms	\$	293,172.50			
Culver-Newlin	Quote 317625	S/M Art Classroom	\$	20,752.58			
Culver-Newlin	Quote 317626	S/M Robotics	\$	11,499.78			
Culver-Newlin	Quote 317627	S/M Science Clssrms	\$	11,499.78			
KYA	Proposal 06/17/15		\$	135,293.70			
KYA	Change Order	VCT M3	\$	14,985.94			
KYA	Change Order	VCT 26-27 31-32	\$	13,375.62			
Digital Networks	Quote AB#17795-TM54F		\$	774,559.16			
Digital Networks	Quote AB#19632	Robotics	\$	33,746.53			
Digital Networks	Quote AB#17795-TMC1		\$	8,960.00			
TOTAL						\$	1,317,845.59
TORCH MIDDLE SCHOOL TOTAL						\$	1,617,901.72

Digital Networks Quote AB#17795-TM54F \$ 774,559.16
Digital Networks Quote AB#19632 Robotics \$ 33,746.53
Digital Networks Quote AB#17795-TMC1 \$ 8,960.00
Total = \$817,265.69
For Torch Middle School, only \$44,359.97 is actually invoiced from Digital Networks.

Appendix 9: 21st Century 6-12 Invoice 36380-1, Page 3 (9/1/15). Highlighting, red oval, red square, red arrows, and red comment boxes are added by FCMAT.

Accounting of the actual invoices received and paid to Digital Networks shows only one Torch Middle School invoice, No. 15425, for \$44,359.97, not the \$817,265.69 shown on the detail on Page 3 of Del Terra's invoice from Appendix 9 shown above.

Bassett Payments Analysis Digital Networks Group, Inc. Detail								
Count	FILE/FOLDER	CHECK NUMBER	INVOICE AMOUNT	MONTH	INVOICE DATE	PROJECT INFORMATION	PROFESSIONAL SERVICES	PERCENT OF TOTAL SCOPE
1	NSP Digital Networks	23392689	\$36,915.13	08/01/16	08/03/16	Sunkist 2016 MOD	\$6,100.00	16.52%
2	NSP Digital Networks	23392687	\$24,069.22	08/01/16	08/03/16	Don Julian 2016 MOD	\$4,000.00	16.62%
3	NSP Digital Networks	23392688	\$20,645.80	08/01/16	08/03/16	Edgewood ES 2016 MOD	\$3,550.00	17.19%
4	NSP Digital Networks	23392685	\$20,246.24	08/01/16	08/03/16	Van Wig 2016 MOD	\$4,000.00	19.76%
5	NSP Digital Networks Pepp	23503622	\$275,811.14	08/01/16	08/03/16	Edgewood ES 2016 MOD	\$36,000.00	13.05%
6	NSP Digital Networks Pepp	23503622	\$322,137.33	08/01/16	08/03/16	Sunkist 2016 MOD	\$42,360.00	13.15%
7	NSP Digital Networks Pepp	23503622	\$322,131.33	08/01/16	08/03/16	Van Wig 2016 MOD	\$42,360.00	13.15%
8	NSP Digital Networks Pepp	23503622	\$375,295.52	08/01/16	08/03/16	Don Julian 2016 MOD	\$55,550.00	14.80%
9	NSP Digital Networks CMAS	23804850	\$16,810.32	04/01/17	04/26/17	Edgewood ES 2016 Extron MLC	\$672.00	4.00%
10	NSP Digital Networks CMAS	23804850	\$44,359.97	04/01/17	04/26/14	Torch MS 2016 Extron MLC Pnl	\$1,344.00	3.03%
11	NSP Digital Networks CMAS	23458617	\$113,043.72	08/01/16	08/03/16	Edgewood ES 2016 MOD	\$28,800.00	25.48%
12	NSP Digital Networks CMAS	23458617	\$125,514.58	08/01/16	08/03/16	Sunkist 2016 MOD	\$30,471.00	24.28%
13	NSP Digital Networks CMAS	23392686	\$125,514.58	08/01/16	08/03/16	Van Wig 2016 MOD	\$30,471.00	24.28%
14	NSP Digital Networks CMAS	23495149	\$144,430.53	08/01/16	08/03/16	Don Julian 2016 MOD	\$38,290.00	26.51%
15	NSP Digital Networks	23520109	\$36,067.13	08/03/16	08/03/16	Sunkist ES Mod Piggyback Contract	\$8,920.00	24.73%
16	NSP Digital Networks	23520109	\$36,067.13	08/03/16	08/03/16	Van Wig ES Mod Piggyback Contract	\$8,920.00	24.73%
17	NSP Digital Networks CMAS	23392686	\$1,365.55	06/01/16	06/30/16	Don Julian MOD CMAS	\$0.00	0.00%
18	NSP Digital Networks CMAS	23392686	\$1,233.23	06/01/16	06/30/16	Sunkist MOD CMAS	\$0.00	0.00%
19	NSP Digital Networks CMAS	23392686	\$1,233.23	06/01/16	06/30/16	Van Wig MOD CMAS	\$0.00	0.00%
20	NSP Digital Networks CMAS	23392686	\$998.23	06/01/16	06/30/16	Edgewood MOD CMAS	\$0.00	0.00%
21	NSP Digital Networks CMAS	23495149	\$17,718.85	08/01/16	08/03/16	Edgewood ES 2016 Extron MLC	\$0.00	0.00%
22	NSP Digital Networks CMAS	23495149	\$19,584.00	08/01/16	08/03/16	Van Wig 2016 MOD	\$0.00	0.00%
23	NSP Digital Networks CMAS	23495149	\$22,381.71	08/01/16	08/03/16	Don Julian 2016 MOD	\$0.00	0.00%
24	NSP Digital Networks CMAS	23495149	\$19,584.00	08/01/16	08/03/16	Sunkist 2016 MOD	\$0.00	0.00%
25	NSP Digital Networks	22513673	\$286,874.27	08/01/16	08/31/15	Edgewood Academy	\$0.00	0.00%
26	NSP Digital Networks	23520109	\$23,268.97	08/03/16	08/03/16	Edgewood ES Mod Piggyback Contract	\$0.00	0.00%
27	NSP Digital Networks	23520109	\$1,292.72	08/03/16	08/03/16	Don Julian ES Mod Piggyback Contract	\$0.00	0.00%
28	NSP Digital Networks 16-17-F11 BHS Closed	24139484	\$71,492.25	08/01/16	08/20/17	Bid #16-17-F11 BHS Cabling Project	No backup provided.	0.00%
29	NSP Digital Networks 16-17-F11 BHS Closed	24559081	\$4,276.36	04/01/18	04/16/18	Bid #16-17-F11 BHS Cabling Project	No backup provided.	0.00%
30	NSP Digital Networks 16-17-F11 BHS Closed	24210260	\$9,486.39	11/01/17	11/17/17	Bid #16-17-F11 BHS Cabling Project	No backup provided.	0.00%
			\$2,519,849.43				\$341,808.00	13.56%

Appendix 11: Accounting records based on district records of payment to Digital Networks. Highlighting added by FCMAT.

The single invoice, No. 15425, from Digital Networks for Torch Middle School is shown below:

Digital Networks Group, Inc. 20382 Hermana Circle Lake Forest, CA 92630 (949) 428-6333 FAX: (949) 428-6334 License # 822511		<h1 style="margin: 0;">Invoice</h1> Invoice No: 15425 Date: 04/26/2017 Job 170062 Progress Bill No. 1 Page 1 of 1			
Billing Information: Bassett USD 904 N. Willow Avenue La Puente, CA 91746 (626) 931-3000		Project Information: 170062 Bassett USD-Torch MS Extron MLC Pnl 904 N Willow Ave, La Puente, CA 91746-1698 PO# 0000082428 TERMS: NET30			
Description	Contract Amount	Amount Completed	Retention Withheld	Net Amount Due	%
INSTALLATION LABOR for Torch MS Extron MLC Panels AB# 20983-REV2	3,622.00	3,622.00	0.00	3,622.00	100
PROFESSIONAL SERVICES for Torch MS Extron MLC Panels AB# 20983-REV2	1,344.00	1,344.00	0.00	1,344.00	100
MATERIAL/EQUIPMENT for Torch MS Extron MLC AB# 20983-REV2	36,224.34	36,224.34	0.00	36,224.34	100
SALES TAX	3,169.63	3,169.63	0.00	3,169.63	100
Totals:		44,359.97	44,359.97	0.00	44,359.97

Total Invoice Amount: \$44,359.97

RECEIVED

MAY 05 2017

Bassett Unified School District
Purchasing Department

All Items Received/Services Rendered
Approved for Payment *[Signature]*

Appendix 15: Digital Networks Invoice No. 15425 \$44,359.97 (4/26/17). Highlighting added by FCMAT.

The discrepancy indicates that, based on the district's records, Del Terra improperly billed \$76,517.66 in construction management fees on the sum of \$772,905.72 (\$817,265.69 – 44,359.97 = \$772,905.72, for which a construction management fee 9.9% would equal \$76,517.67). While Del Terra billed \$76,517.67

based on a 9.9% markup, the actual amount billed for services and equipment by the vendor, Digital Networks, was only \$44,359.97.

C. Failure to Properly Close Out Projects

1. Del Terra Contracted to Close Out All Projects

a. Definition of Closeout

Prior to entering into the 2015 agreement with Del Terra, the Bassett Unified School District had past construction projects at every school that were never properly closed out with the DSA. The DSA defines closeout as follows:

Project closeout is the process that the DSA uses to determine that the constructed project complies with the codes and regulations governing school construction (the codes and regulations being those used for the original design). Project closeout consists of examination of specific project files for documents required to be submitted before, during and after construction, and to determine if outstanding issues have been resolved. After the file is examined, the project file is closed either with certification or without certification. After the project is closed, the files are sent to State Archives. (DSA Project Certification Guide (Rev. 3/18/15) p.2.)

The DSA Project Certification Guide defines project certification as:

.... a letter issued by the DSA certifying that the building project has been completed in accordance with the requirements as to the safety of design and construction pursuant to Education Code sections 17280-17316 and 81130-81147.

The DSA further addresses the importance of closeout and certification of a project as follows:

Why is Certification Important?

Provides a method to determine the safety of school construction.

School Board members may be personally liable for projects until certified.

The DSA will be unable to approve new proposed projects associated with uncertified construction (See DSA IR A-20 at Appendix 79 and 80 for in depth discussion).

b. Importance of DSA Closeout

The district has had a number of contractors and construction managers perform work at several district sites since the late 1990s, including Del Terra. Lack of closeout with DSA certification on any project that requires DSA oversight and approval²⁸ is problematic because it can prevent a school district from starting new projects. DSA IR A-20 provides the following policy:

²⁸ All public school districts in the state of California are required to comply with the Field Act, codified at Education Code Section 17280 and following for K-12 school districts and Section 81130 for community colleges. All Field Act compliant buildings are subject to state oversight by the DSA and must receive DSA approvals for any alteration, addition or modification (with some minor exceptions). A more complete discussion of the Field Act and its application to school districts is provided in Section A of this report.

New work involving uncertified projects cannot be approved by DSA until the issue of certification is resolved. DSA will not approve (stamp out) plans and specifications for alteration and/or addition projects on, or utilizing portions of, uncertified projects. [Emphasis added]

The policy provides that any uncertified project on a school campus bars further DSA approvals across the entire campus:

DSA may begin review of other projects not identified in Section 1 [DSA exempt projects which do not require DSA approvals] above, associated with uncertified projects. However, DSA approval (stamp out) of the plans and specifications shall be withheld until the issue of certification is resolved.²⁹ [Emphasis added.]

As addressed on Page 2 of the DSA Certification Guide, this DSA policy relates to personal liability that may be imputed to school district governing board members arising from unsafe conditions resulting from uncertified projects (Government Code Section 830.6 addresses school district design immunity). Thus, until all liability issues associated with a project closeout are fully addressed, no new projects can be started. Without such strong consequences, unfinished work or unsafe conditions could be forgotten and left incomplete. This DSA policy has been in place since at least April 15, 2008.³⁰

When the district and Del Terra entered into the 2015 agreement, every school at the district had one or more open uncertified projects. The 2015 agreement required Del Terra to complete closeout of those projects and to engage in the DSA process to start new modernization, renovation, or modification of projects at district schools. Typically, construction managers or program managers will complete the closeout process on outstanding prior projects on campuses where their program is planned without charging an additional cost (except if the closeout is extensive or requires significant testing). Nevertheless, as shown below, on June 1, 2016, Del Terra generated a \$64,500 closeout invoice, No. 362240-01, as an additional service.³¹

²⁹ There are several exceptions to DSA policy prohibiting the start of new DSA projects until earlier projects are closed out. Those exceptions include items like fire alarm upgrades, security camera wiring, and door hardware upgrades. None of these situations are the case in this audit and did not arise during Del Terra's work at the district.

³⁰ See history of IR A-20 indicating "Original Issue 04/15/08." A copy of IR A-20 is included in Appendices 79 and 80.

³¹ Seeking additional compensation for closeout is not in and of itself improper, especially if the closeout is unusual, difficult, or involves testing. However, the goal is to finish closeout so new projects can be started on district campuses. The issue addressed here is not the request, but the completion of Del Terra's obligation to close out projects.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746,
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE #362240-01

Date: June 1, 2016
To: Bassett Unified School District
 Attn: Dr. Alex J. Rojas
 Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746
Ref.: DSA Close Out Assessment and Report
 Contract Board Approval 04/21/15

 Per Program and Construction Management Agreement, Board Approved 4/21/15
 As requested by District Administration : Facility Repofrts, Assessments and Updates
 DSA Close Out Assesment and Report, Phase 1 (Evaluation and Close Out Analysis)

Fee Earned	\$ 64,500
Less: Amounts Previously Invoiced	\$ -
Current Total Amount Due	\$ 64,500

Billings to Date	Current	Prior	Total
	\$ 64,500	\$ -	\$ 64,500

Received Services Rendered
 Payment

Appendix 25: Invoice 362240-01 Additional Services DSA Close Out Report for \$64,500 (6/1/16).

Although this invoice states “DSA Close-Out Assessment and Report,” DSA closeout status has been available online since the late 1990s; the stated scope of work therefore does not make sense.³² The district’s files do not contain time sheets, backup documentation, or a list of lingering projects showing they had all been closed out that would justify payment of this \$64,500 invoice. Del Terra’s request for \$64,500 for an updated “DSA Close Out Assessment and Report” is of questionable credibility because Del Terra had previously contracted to close out all district projects no less than three times before 2015.

As discussed in greater detail below, Del Terra contracted to close out the district’s open projects in an agreement dated September 1, 2009 (hereinafter referred to as the 2009 agreement), again in 2013 in an amendment to an unrelated 2010 agreement (hereinafter referred to as the 2013 amendment), and a third time in an April 2014 amendment to the 2009 agreement (hereinafter referred to as the 2014 amendment).

³² The online link for DSA closeout status is <https://www.apps2.dgs.ca.gov/dsa/tracker/CountySchoolProjects.aspx?County=19>.

Del Terra invoiced a total of more than \$760,000³³ for closeout services for the three contracts, yet all the available information seems to demonstrate they still failed to complete those services. The district paid every Del Terra invoice, all before entering into the 2015 agreement and receiving the \$64,500 additional services request in Invoice 362240-01 discussed above.

2. Del Terra's Failure to Close Out Projects as Required Under 2009 Agreement

The 2009 agreement included a number of services to be provided by Del Terra, including closeout of all bond projects with the DSA. The 2009 agreement describes the program manager's responsibilities, including to act in the best interest of the district. The cover page of the 2009 agreement is shown below.

³³ Del Terra was paid \$300,000 under the 2013 amendment and \$401,595 under the 2009 agreement (which included a number of services, including DSA closeout of legacy projects). Under the 2014 amendment, exclusively for closeout services, Del Terra was paid an additional \$460,000. Del Terra received \$760,000 (\$300,000 + \$460,000) solely for closeout services, in addition to the portion of the \$401,595 intended for closeout services under the 2009 agreement.

PROGRAM MANAGEMENT AGREEMENT

This Program Management Agreement ("Agreement") is made and entered into effective **September 1, 2009**, ("Effective Date") by and between the Bassett Unified School District ("District") and Del Terra Group ("Program Manager").

NOW, THEREFORE, the parties agree as follows:

1. **RETENTION OF PROGRAM MANAGER.** District and Program Manager agree that Program Manager shall be retained to provide planning and program management services in connection with projects identified in the District's Master Facilities Plan attached hereto as Exhibit A (the "Projects", which collectively may be referred to as the "Program") and hereby incorporated by reference. By agreeing to this Agreement, Program Manager consents to be bound by the terms of this Agreement as applied to the Projects.

The Program Manager shall be the District's agent on the Projects. The Program Manager shall be responsible, to the extent described in this Agreement, for ensuring that the Projects are properly completed in a competent and professional manner within the District's budget and in accordance with the District's schedule for timely completion of the Projects. Program Manager shall act in the best interest of the District, including providing quality control for the Program, ensuring due diligence from all parties involved in the Program, and ensuring that the Program is completed in the most cost effective manner possible.

The term of this Agreement shall be the Effective Date through **June 30, 2010** ("Agreement Term"). Notwithstanding the Agreement Term, the District may elect to terminate this Agreement pursuant to section 4(A), at any point during the Agreement Term, with no penalty to the District. Under such circumstances, the District shall compensate the Program Manager for work actually completed prior to termination pursuant to section 4(C).

Payment to Program Manager shall be as set forth in Exhibit B, attached hereto and hereby incorporated by reference. All Program Manager services set forth herein shall be considered basic services. All Program Manager services and expenses necessary to ensure that the Projects are properly completed that are in any way related to the overall coordination, administration and scheduling are included in the compensation set forth in Exhibit B.

Program Manager also acts as the District's construction manager for certain specific projects included in the Program pursuant to a separate Construction Manager Agreement. Program Manager shall ensure that its work and its billing for work under this Program Manager Agreement is at all times segregated from its work and its billing for work under the Construction Manager Agreement, and shall not double-bill work. Program Manager shall perform its two roles in the most cost-effective manner possible. As further set forth in Exhibit B, Program Manager shall provide contemporaneous description of work performed for all time segregated and billed as Program Manager.

Exhibit A of the 2009 agreement required Del Terra to “close all Bond projects with DSA:”

**EXHIBIT "A"
BASSETT UNIFIED SCHOOL DISTRICT**

The program manager shall provide the following services in addition to the duties listed on paragraph 2. Assist and coordinate with architect to close all Bond projects with DSA, ensure that contractor, consultants, testing and inspection laboratories provide verified reports, testing and inspection documents, contract information DSA 102, DSA 6 forms, notice of completion, change order documentation and any other additional documentation required to close these projects with DSA certification.

Appendix 16: 2009 agreement, Page 12 (9/1/09). Highlighting added by FCMAT.

Under the 2009 agreement, Del Terra was subject to a retention clause, which is understood in the construction industry as an amount of compensation due the contractor that the payer is entitled to withhold until it has verified that all contracted work is complete. In the instructions for the G 702 application for certificates for payments, the American Institute of Architects defines “retention” as follows:

Retainage (or retention) is a percentage of your payment that the GC or owner will hold until the project or job is complete.

Exhibit B in the 2009 agreement includes the following statement authorizing retention:

The District shall withhold a retention of 5% of the Total Compensation. Any amounts withheld pursuant to this section shall be released to Program Manager as follows: (a) any undisputed Retention portion shall be released to the Program Manager within thirty (30) days of the termination of this Agreement, and (b) any disputed Retention amount withheld shall be released upon final resolution of the issue for which the funds were withheld, in a fashion consistent with that final resolution. The final resolution may be determined by, for example, a court judgment or order, a mediated settlement or a resolution mutually agreed to by the parties.

Appendix 16: 2009 agreement, Page 13 (9/1/09). Highlighting added by FCMAT.

The available documentation that FCMAT could find or was provided by the district indicates that Del Terra did not complete the project closeout services it was obligated to perform under Exhibit A of the 2009 agreement before requesting the release of retention funds on August 2, 2010. FCMAT concludes that Del Terra did not complete the project closeout services through review of the DSA website tracker system. By examining the project dates against the project status, the team compiled the following 29 projects remaining that were not closed out by Del Terra with the DSA:

1. 03-110311 Bassett High School
2. 03-113107 Bassett High School
3. 03-112694 Bassett High School

4. 03-109520 Bassett High School
5. 03-109960 Bassett High School
6. 03-108692 Edgewood Academy
7. 03-110425 J.E. Van Wig Elementary School
8. 03-109484 Sunkist Elementary School
9. 03-109217 Edgewood Academy
10. 03-109215 Don Julian Elementary School
11. 03-109219 J.E. Van Wig Elementary School
12. 03-115199 Bassett High School
13. 03-115110 Bassett High School
14. 03-112026 Bassett High School
15. 03-115247 Torch Middle School
16. 03-115206 Edgewood Academy
17. 03-115235 Torch Middle school
18. 03-115554 Don Julian Elementary School
19. 03-115198 Don Julian Elementary School
20. 03-105862 Parent / Resources Center
21. 03-102381 Various
22. 03-102567 Various
23. 03-103720 Edgewood Academy
24. 03-101459 Various
25. 03-115690 Bassett High School
26. 03-112683 Thomas Erwin Adult Education Facility Marquee
27. 03-110365 Sunkist Elementary School
28. 03-109218 Sunkist Elementary School
29. 03-112399 Edgewood Academy (Interim Housing)

Given the 29 projects that were still not closed out, Del Terra should not have received retention or been released from its contractual obligations under the 2009 agreement to “close all bond projects with DSA.” Review of the invoices shows Del Terra was paid in full, including retention, on the 2009 agreement on September 1, 2010, with the payment of Invoice 36220-11, shown below.

DELTERRA

Please Remit Payment To:
13181 Crossroads Pkwy North, Suite 200
City of Industry, CA 91746
Tel (626) 839-9300
Fax (626) 839-9307

Bassett Unified School District
Mr. Jim Ballard
904 North Willow Avenue
La Puente, CA 91746

Invoice No.: 36220-11
Date: 08/02/10

**Program Management Services Agreement III
(September 1, 2009 - June 30, 2010)**

Billing Period: Retention

21147

Current Progress Billing

Gross Progress Billing for Performance of Program Management Services	\$ 401,595.00
Less: Amounts previously billed	\$ (381,515.25)
Net Total Fee Due	\$ 20,079.75

[Handwritten signature]

[Handwritten signature]
8-8-10

Appendix 17: Retention Invoice 36220-11 on 2009 agreement (8/2/10).

When the district paid Invoice 36220-11 in 2010, Del Terra had not completed the closeout process. A record of the payment is shown below.

64295		BASSETT USD		Check No: 18291751	
Check Date: 09/01/10					
Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Available	Paid Amount
36220-11	08/02/10	21147U	20,079.75	0.00	20,079.75

Vendor Number	Name	Total Discounts	TIN
0000007339	DEL TERRA GROUP	\$0.00	

Check Number	Date	Total Amount	Late Interest	Discount Taken	Total Paid Amount
18291751	09/01/10	\$20,079.75	0.00		\$20,079.75



Los Angeles County

BASSETT USD
 904 NORTH WILLOW AVENUE
 LA PUENTE, CA 91746-1698
 628-931-3000

PAYABLE AT:
 ONE PENN'S WAY
 NEW CASTLE, DE 19720
 62-20/311

18291751

Date Issued: 09/01/10

Amount
\$20,079.75***

THE TREASURER OF LOS ANGELES COUNTY will pay exactly:

****TWENTY THOUSAND SEVENTY-NINE AND 75/100 US DOLLARS****

WARRANT CLEARANCE FUND
 FOR CURRENT FISCAL YEAR
 THIS WARRANT IS VOID AFTER
 SIX MONTHS FROM DATE ISSUED

WE CERTIFY THAT THIS IS A LEGAL ORDER LAWFULLY
 DRAWN AGAINST THE FUNDS OF THE DISTRICT/AGENCY.

Will pay to:

DEL TERRA GROUP
 13181 CROSSROADS PARKWAY NORTH
 SUITE 200
 CITY OF INDUSTRY, CA 91746

FOR GOVERNING BOARD OF DISTRICT/AGENCY

EXAMINED, APPROVED AND ALLOWED
 DR. DARLUNE P. BOYLES, COUNTY SUPERINTENDENT OF SCHOOLS

BY _____ DEPUTY

Appendix 18: Check No. 18291751 for \$20,079.25 (9/1/10).

Del Terra's failure to honor its contractual obligations to close out the 29 open projects continued to prevent the district from opening new DSA projects. Yet the district chose to contract again with Del Terra in 2013 for services that Del Terra previously failed to perform but for which they billed and were paid.

EXHIBIT "A"
BASSETT UNIFIED SCHOOL DISTRICT
DSA CLOSEOUT CERTIFICATION SERVICES

The program manager shall provide the following services in addition to the duties listed on paragraph 2.

- Provide the necessary DSA close-out services for the un-closed/open Bond, non-Bond and legacy projects.
- Work with District Administration and Staff, existing District design consultants and State Agencies to confirm the existing status of the DSA open projects. In addition, Del Terra may utilize inspectors of Record services on a limited basis to control costs and avoid redundancies.
- Assist and coordinate with architect(s) to close open District projects with DSA, ensure that contractor, consultants, testing and inspection laboratories provide verified reports, testing and inspection documents, contract information DSA 102, DSA 6 forms, notice of completion, change order documentation and any other additional documentation required to close these projects with DSA certification.
- Perform all actions necessary to achieve DSA Closeout with Certification for all District buildings that have not received a DSA certification.
- Prepare a schedule of proposed actions to achieve DSA closeout certification.
- Consult with DSA and review District documents, including project deviation and correction notices and change order files.
- Submit written reports to the District monthly detailing the closeout status.
- Provide all administration, coordination, scheduling, tracking, budgeting, invoicing, attendance at meetings (District or otherwise), as needed to complete the provision of DSA Closeout Certification Services to the District.

This scope of services and deliverables are contingent upon currently known project information. The ability for the Program Manager to obtain DSA approvals of existing open 'A' Numbers will be based upon the capacity to gather comprehensive and accurate information from previously prepared construction documents, existing project records and District's previous consultants (architects, engineers and IORs) to accurately complete their contractual duties. Further, there it is unknown at this time the level of compliance of the plans (construction documents) to actual construction and DSA inspection reports.

Appendix 19: 2013 amendment to 2010 agreement, Exhibit A, Page 2 (2/8/13). Highlighting and blue ink underlines added by FCMAT.

The scope of services for "DSA Closeout Certification Services" plainly lays out responsibility to "[p]erform all actions necessary to achieve DSA Closeout with Certification for all District buildings that have not received a DSA certification" [emphasis added]. In addition, the scope of services required Del Terra to "[p]rovide all administration, coordination, scheduling, tracking, budgeting, invoicing, attendance at meetings (District or otherwise), as needed to complete the provision of DSA Closeout Certification Services to the District" [emphasis added]. Thus the expectation was that the 2013 amendment would ensure closeout of all district projects for a payment of \$240,000 to Del Terra.

Del Terra subsequently requested \$60,000 to extend the 2013 amendment from December 31, 2013 through March 31, 2014 to complete closeout. By May 1, 2014, Del Terra had been paid \$285,000, representing the entire contract amount of the 2013 amendment except for 5% retention. Del Terra subsequently issued Invoice 36240-16, seeking payment of retention, which was \$15,000. Even though the retention

invoice characterized the payment as program management fees, the scope of the 2013 amendment included only project closeout services.

The payment of retention meant by definition that Del Terra had “completed closeout of District buildings” or “completed DSA closeout for the District” as required by the 2013 amendment. The retention Invoice 36240-16 is shown below:



INVOICE #36240-16 Rev.

Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

Date: May 1, 2014

To: Bassett Unified School District
 Attn: Robert Jenkins
 Director of Facilities & Transportation
 904 North Willow Avenue
 La Puente, CA 91746

Ref.: Program Management Services - January 1, 2013 through December 31, 2013
 P.O. #30066 - Board Approval 02/07/13
 * Amendment to Extend the Contract to March 31, 2014
 P.O. #51693A - Board Approval 12/19/13

Billing Period: January 1, 2013 - March 31, 2014 (RETENTION)

Program Management Fee:	\$ 240,000
Extend Contract to March 31, 2014	\$ 60,000
	\$ 300,000

Current Progress Billing

Retention Billing for Performance of Program Management Services	\$ 15,000.00
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Description of Work Performed:
Continuation of Program Management Services

Net Total Fee Due	\$ 15,000.00
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Contract Summary

Contract Amount	\$	300,000
Less Previous Payments	\$	285,000
Retention	\$	15,000
Current Amount Due	\$	15,000



Got 51693A k

Appendix 20: Retention Invoice 36240-16 (5/1/14). Highlighting added by FCMAT.

Once again, the district did not insist that Del Terra complete its contractual responsibilities to close out the open projects but instead issued a final retention payment for Invoice 36240-16. The district did not hold Del Terra responsible for completing their closeout scope, continued to issue new contracts for closeout that did not occur, and imposed no consequences for Del Terra if they did not complete the contracted closeouts.

Despite having entered into and been paid for multiple contracts, a review of the DSA closeout records shows that only eight open projects were closed out between the date of the 2013 amendment and the next agreement for closeout entered into in 2014. In 2013, the following DSA projects were closed out:

1. 03-110311 Bassett High School was closed out on 11/7/2013
2. 03-113107 Bassett High School was closed out on 1/9/2013
3. 03-112694 Bassett High School was closed out on 11/26/2013
4. 03-109520 Bassett High School was closed out on 2/11/2013
5. 03-109960 Bassett High School was closed out on 3/26/2013
6. 03-108692 Edgewood Academy was closed out on 7/29/2013
7. 03-110425 J.E. Van Wig Elementary School was closed out on 10/30/2013
8. 03-109484 Sunkist Elementary School was closed out on 3/26/2013

However, as of December 31, 2014, the following 21 projects were still not closed:

1. 03-109217 Edgewood Academy
2. 03-109215 Don Julian Elementary School
3. 03-109219 J.E. Van Wig Elementary School
4. 03-115199 Bassett High School
5. 03-112026 Bassett High School
6. 03-115247 Torch Middle School
7. 03-115206 Edgewood Academy
8. 03-115235 Torch Middle School
9. 03-115554 Don Julian Elementary School
10. 03-115198 Don Julian Elementary School
11. 03-105862 Parent / Resources Center
12. 03-102381 Various
13. 03-102567 Various
14. 03-103720 Edgewood Academy
15. 03-101459 Various
16. 03-115690 Bassett High School
17. 03-115110 Bassett High School
18. 03-112683 Thomas Erwin Adult Education Facility Marquee
19. 03-110365 Sunkist Elementary School
20. 03-109218 Sunkist Elementary School
21. 03-112399 Edgewood Academy (Interim Housing)

The district was legally entitled to reject Del Terra's May 1, 2014 request for release of retention and insist that Del Terra perform its contractually required scope of completing closeout. However, the district paid

the retention Invoice No. 36240-16 rather than holding Del Terra responsible for closeout of the 21 remaining open projects as required under the 2013 amendment and the previously discussed 2009 agreement. The paid retention Invoice 36240-16 is shown below:

64295 BASSETT USD

Check Date: 05/28/14 Check No: 21372386

Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Available	Paid Amount
36240-16 RETENTION	05/01/14	051693AK	15,000.00	0.00	15,000.00

Vendor Number	Name	Total Discounts	TIN
000007339	DEL TERRA GROUP	\$0.00	

Check Number	Date	Total Amount	Late Interest	Discount Taken	Total Paid Amount
21372386	05/28/14	\$15,000.00	0.00		\$15,000.00



Los Angeles County **BASSETT USD**
 834 NORTH WILLOW AVENUE
 LA PUENTE, CA 91748-1698
 626-931-3000

PAYABLE AT
 ONE PENNS WAY
 NEW CASTLE, DE 19720
 62-29311

21372386
 Date Issued: 05/28/14
 Amount \$15,000.00***

THE TREASURER OF LOS ANGELES COUNTY will pay exactly:

*****FIFTEEN THOUSAND AND 00/100 US DOLLARS*****

WARRANT CLEARANCE FUND FOR CURRENT FISCAL YEAR. THIS WARRANT IS VOID AFTER SIX MONTHS FROM DATE ISSUED.

WE CERTIFY THAT THIS IS A LEGAL ORDER PROPERLY DRAWN AGAINST THE FUNDS OF THE DISTRICT/AGENCY.

FOR GOVERNING BOARD OF DISTRICT/AGENCY
 EXAMINED, APPROVED AND ALLOWED
 AURURO DELGADO, B.S.D., COUNTY SUPERINTENDENT OF SCHOOLS

Will pay to: **DEL TERRA GROUP**
 13181 CROSSROADS PARKWAY NORTH
 SUITE # 540
 CITY OF INDUSTRY, CA 91746

BY _____ DEPUTY

Appendix 21: Check No. 21372386 for \$15,000 (5/28/14). Highlighting and red oval added by FCMAT.

After failing again to satisfy its contractual obligation to close out the pending district projects, Del Terra sought and received another closeout amendment. As the district’s agent and fiduciary, Del Terra had and continues to have a responsibility to act in the best interests of the district yet did not appear to do so.

4. 2014 Amendment

On April 1, 2014, Del Terra requested an amendment to the 2009 agreement. The 2014 amendment provided a single scope of work: to “[p]rovide the necessary DSA close-out services for the un-closed/open Bond, non-Bond and legacy projects.” The 2014 amendment was an entirely different agreement from the 2013 amendment under which Del Terra received \$300,000. It was also in addition to the underlying 2009 agreement, which included DSA closeout in its scope of work. Language in Exhibit A of the 2014 amendment sets forth closeout as the sole scope of work. The 2014 amendment is shown below:

AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT ("Amendment"), is entered into by and between the Bassett Unified School District (hereinafter referred to as "District"), and Del Terra Group (hereinafter referred to as "Consultant"). District and Consultant may at times herein be referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

A. District and Consultant entered into a Professional Services Agreement dated July 1, 2010 (the "Agreement") which expired on December 31, 2013.

B. The Parties desire to expand the scope services, confirm time of contract and amend the payment provisions contained therein. All terms of the Agreement, except those amended herein, shall remain unchanged and in full force and effect.

C. District had previously extended Consultant's agreement through March 31, 2014 via multiple Amendments approved by the Board of Education.

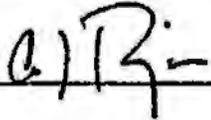
NOW THEREFORE, the Parties hereto agree as follows:

1. **Exhibit**. Exhibit "A" Additional Services as defined hereto Exhibit "A".
2. **Exhibit**. Exhibit "B" Fee and Payment Process as defined hereto Exhibit "B".
3. **Effective Date**. The effective date of this Amendment is April 1, 2014.
4. **Contract Expiration**. This Amendment shall expire on March 31, 2015.
5. **No Other Modification**. Except as amended hereby, the Agreement shall remain unchanged and in full force and effect.
6. **Counterparts**. This Amendment may be executed in any number of counterparts, all of which shall constitute by one original.

Appendix 22: 2014 amendment to 2009 agreement, Page 1 (4/1/14).

The parties, through their authorized representatives, have executed this Agreement as of the day and year first written above.

BASSETT UNIFIED SCHOOL DISTRICT

By: 
Name: _____
Title: _____

ADDRESS FOR NOTICE:

Attn: _____
Bassett Unified School District
7904 N. Willow Avenue
La Puente, CA 90601
626.931.3005

**BOARD AMENDED: 05/22/14
P.O. # 51693AA**

DEL TERRA REAL ESTATE SERVICES, INC. dba/DEL TERRA GROUP

By: 
Name: Luis D. Rojas
Title: President and CEO

ADDRESS FOR NOTICE:

Mr. Luis D. Rojas
Del Terra Group
13181 Crossroads Pkwy, No., Ste. 540
City of Industry, CA 91746
626.839.9300

This requested scope of services is nearly identical to the 2013 amendment and encompasses the closeout scope of the original underlying 2009 agreement. The language defining the scope of the 2014 amendment was, again, entirely for closeout services, as detailed in Exhibit A, which is shown below:

EXHIBIT "A"

ADDITIONAL SERVICES: DSA CLOSEOUT CERTIFICATION SERVICES

The program manager shall provide the following services in addition to the duties listed on the Master Agreement dated July 1, 2010.

- Provide the necessary DSA close-out services for the un-closed/open Bond, non-Bond and legacy projects.
- Work with District Administration and Staff, existing District design consultants and State Agencies to confirm the existing status of the DSA open projects. In addition, Del Terra may utilize Inspectors of Record services on a limited basis to control costs and avoid redundancies.
- Assist and coordinate with architect(s) to close open District projects with DSA, ensure that contractor, consultants, testing and inspection laboratories provide verified reports, testing and inspection documents, contract information DSA 102, DSA 6 forms, notice of completion, change order documentation and any other additional documentation required to close these projects with DSA certification.
- Perform all actions necessary to achieve DSA Closeout with Certification for all District buildings that have not received a DSA certification.
- Prepare a schedule of proposed actions to achieve DSA closeout certification.
- Consult with DSA and review District documents, including project deviation and correction notices and change order files.
- Submit written reports to the District monthly detailing the closeout status.
- Provide all administration, coordination, scheduling, tracking, budgeting, invoicing, attendance at meetings (District or otherwise), as needed to complete the provision of DSA Closeout Certification Services to the District.

Appendix 22: 2014 amendment to 2009 agreement, Page 3 (4/1/14). Highlighting and underlining added by FCMAT.

Del Terra was contracted to be paid \$460,000³⁴ and was paid a total of \$460,000, billed in equal monthly amounts from May 2014 through May 2015 as specified in Exhibit B of the 2014 amendment, which is shown below.

³⁴ By the time of the 2014 amendment, Del Terra had been paid \$300,000 under the 2013 amendment and \$401,595 under the 2009 agreement (which included a number of services, including DSA closeout of legacy projects). The 2014 amendment, exclusively for closeout services, would pay Del Terra an additional \$460,000. As noted above, Del Terra thus received \$760,000 solely for closeout services, in addition to the portion of the \$401,595 intended for closeout services under 2009 agreement.

EXHIBIT "B"**FEE and PAYMENT PROCESS**

Program Manager shall be compensated as follows:

\$ 460,000.00 ("Base Compensation") plus Reimbursable Expenses (as defined below) up to **\$ 10,000.00** for a total of up to **\$ 470,000.00** in total compensation ("Total Compensation"). The Total Compensation shall be paid in 12 equal monthly installments totaling the Base Compensation less a five percent (5%) retention, as set forth below, plus verified Reimbursable Expenses, as set forth below.

Appendix 22: 2014 amendment to 2009 agreement, Page 4 (4/1/14).

Del Terra billed \$460,000 in 12 equal monthly amounts of \$36,417, with a 5% retention payment ($\$460,000 \times 5\% \text{ retention} = \$23,000$. $\$460,000 - \$23,000 = \$437,000 / 12 \text{ months} = \$36,417$).

Even though Del Terra previously had not completed the 2009 agreement closeout or the 2013 amendment closeout, as in both closeout amendments, (2013 amendment to the 2010 agreement and 2014 amendment to the 2009 agreement), as shown above, Del Terra essentially guaranteed DSA close out by saying they would "[p]erform **all actions necessary** to achieve DSA Closeout Certification for all District buildings that have not received a DSA certification" [emphasis added].

There is no record of questions from the district's governing board about why Del Terra had not completed the 2009 agreement closeout services, the 2013 amendment closeout services for which Del Terra was paid \$300,000, or why Del Terra was entitled to an additional \$460,000 in costs solely for closeout services. The record provides no explanation or breakdown of the basis for the \$460,000 cost. Also, the record is similarly lacking any explanation why the previous \$300,000 under the 2013 amendment and portion of the 2009 agreement for \$401,595 was inadequate to accomplish closeout of the district projects.

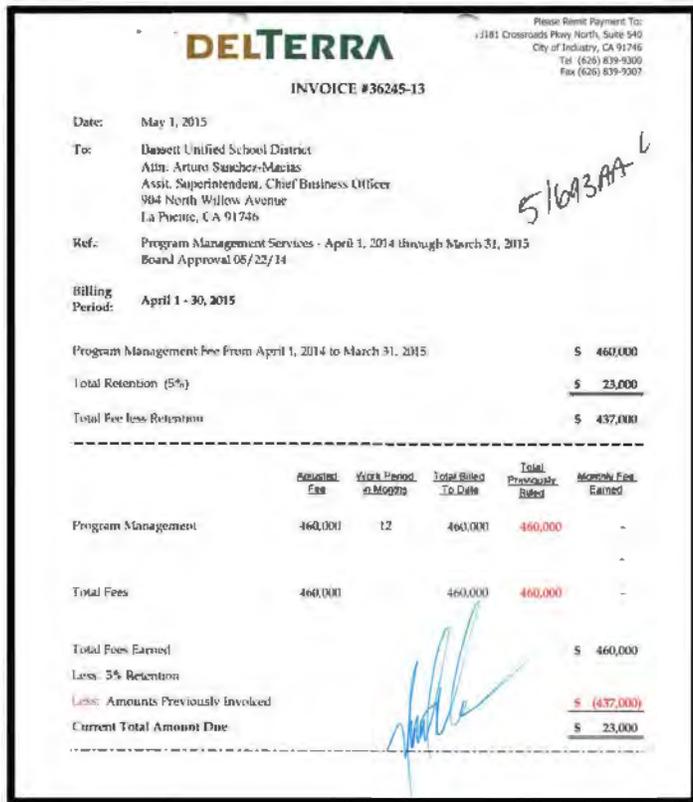
The district's files contain no monthly reports or progress reports on closeout efforts under the 2014 amendment.³⁵ Review of the DSA closeout records shows only 10 of the remaining 21 projects were closed between the date of the 2014 amendment and the next agreement for closeout entered into in 2015. Below is a list of projects closed out or certified pursuant to the 2014 amendment (April 1, 2014, through March 31, 2015):

1. 03-109217 Edgewood Academy was closed out on 12/23/2014.
2. 03-109215 Don Julian Elementary School was closed out on 12/23/2014.
3. 03-109219 J.E. Van Wig Elementary School was closed out on 12/23/2014.
4. 03-115199 Bassett High School was closed out on 7/29/15.
5. 03-112026 Bassett High School was closed out on 9/16/15.
6. 03-115247 Torch Middle School was closed out on 10/14/15.
7. 03-115206 Edgewood Academy was closed out on 9/16/15.
8. 03-115235 Torch Middle school was closed out on 2/11/15.

³⁵ The district had no records of 2009 closeout reports or 2013 closeout reports.

- 9. 03-115554 Don Julian Elementary School was closed out on 4/21/15.
- 10. 03-115198 Don Julian Elementary School was closed out on 7/29/15.

On May 1, 2015, Del Terra submitted Invoice No. 36245-13 for a final retention payment under the 2014 amendment. This invoice was issued for completion of closeout services exactly one year after Del Terra invoiced for retention on a closeout scope exclusively under the 2013 amendment, on May 1, 2014. Invoice No. 36245-13 is shown below.



Appendix 23: Retention Invoice 36245-13 (5/1/15).

As discussed previously regarding the May 1, 2014, closeout retention payment on the 2013 amendment, Del Terra was not entitled to receive retention on the 2014 amendment until all contractually required work was complete. As cited in the 2013 amendment in Appendix 22, contractually, Del Terra had not yet “[p]erform[ed] all actions necessary to achieve DSA Closeout with Certification for all District buildings that have not received a DSA certification,” nor had it “[p]rovide[d] all administration, coordination, scheduling, tracking, budgeting, invoicing, attendance at meetings (District or otherwise), as needed to complete the provision of DSA Closeout Certification Services to the District” [emphasis added].

Similarly, as discussed in relation to the May 1, 2014, retention payment for the 2013 amendment, the district did not enforce its contractual right to demand completion of all closeouts of district projects. The district did not withhold retention as it was obligated to do under the 2014 amendment, which stated the following:

The District shall withhold retention of 5% of the Total Compensation. Any amounts withheld pursuant to this section shall be released to Program Manager as follows: (a) any undisputed Retention portion shall be released to the Program Manager within thirty (30) days of the expiration or termination of this Agreement, and (b) any disputed Retention amount withheld shall be released upon final resolution of the issue for which the funds were withheld, in a fashion consistent with that final resolution. The final resolution may be determined by, for example, a court judgment or order, a mediated settlement or a resolution mutually agreed to by the parties.

Appendix 22: 2014 amendment to 2009 agreement, Exhibit B, Page 4 (4/1/14). Highlighting added by FCMAT.

Under the 2014 amendment, the district was obligated to withhold retention and insist on completion of closeout as contractually promised. Under the language of Exhibit B, the district was obligated to insist on closeout following resolution of any disputes.

Instead, the district released the 2014 amendment retention. The check/warrant the district issued is shown below:

64295		BASSETT USD		Check No: 22167385	
Check Date: 05/20/15					
Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Available	Paid Amount
36245-13	05/01/15	51693AAL	23,000.00	0.00	23,000.00

Vendor Number	Name	Total Discounts	TIN
0000007339	DEL TERRA GROUP	\$0.00	

Check Number	Date	Total Amount	Late Interest	Discount Taken	Total Paid Amount
22167385	05/20/15	\$23,000.00	0.00		\$23,000.00



Los Angeles County

BASSETT USD
 904 NORTH WILLOW AVENUE
 LA PUENTE, CA 91746-1696
 626-931-3000

PAYABLE AT
 ONE PENNS WAY
 NEW CASTLE, DE 19720
 62-20/311

22167385

Date Issued: 05/20/15

Amount
\$23,000.00***

THE TREASURER OF LOS ANGELES COUNTY will pay exactly:

****TWENTY-THREE THOUSAND AND 00/100 US DOLLARS****

WARRANTY CLEARANCE FUND
 FOR CURRENT FISCAL YEAR
 THIS WARRANT IS VOID AFTER
 SIX MONTHS FROM DATE ISSUED

WE CERTIFY THAT THIS IS A LEGAL ORDER LAWFULLY
 DRAWN AGAINST THE FUNDS OF THE DISTRICT/AGENCY

FOR GOVERNING BOARD OF DISTRICT/AGENCY

EXAMINED, APPROVED AND ALLOWED
 AUTURO DELGADO, Ed.D., COUNTY SUPERINTENDENT OF SCHOOLS

BY _____ DEPUTY

pay to: **DEL TERRA GROUP**
13181 CROSSROADS PARKWAY NORTH
SUITE # 540
CITY OF INDUSTRY, CA 91746

Appendix 24: Check No. 22167385 for \$23,000 (5/20/15).

On May 20, 2015, when the retention was released and final payment made for closeout services under the 2014 amendment, the following 11 projects were still uncertified with the DSA:

- 03-105862 Parent/Resources Center – Open since 11/16/2007

2. 03-102381 Various – Open since 10/16/2001
3. 03-102567 Various – Open since 10/16/2001
4. 03-103720 Edgewood Academy – Open since 2/5/2004
5. 03-101459 Various – Open since 9/9/2003
6. 03-115690 Bassett High School – Opened 11/17/2014
7. 03-115110 Bassett High School – Opened 10/30/2013
8. 03-112683 Thomas Erwin Adult Education Facility Marquee – Opened 10/28/2009
9. 03-110365 Sunkist Elementary School – Opened 5/11/2007
10. 03-109218 Sunkist Elementary School – Opened 4/6/2006
11. 03-112399 Edgewood Academy (Interim Housing) – Opened 9/22/2009

This means that Del Terra's closeout services were far from complete, despite Del Terra having collected more than \$760,000 solely for closeout between 2009 and 2014.

5. Del Terra's Additional Services

As discussed earlier in this report, on April 21, 2015, the district and Del Terra entered into the 2015 agreement for bond management and construction management services. However, the district at that time was still prevented from opening new DSA projects at most of its schools because of the 11 remaining uncertified projects. From April 21, 2015 until June 1, 2016, the only project submitted to the DSA was a 2014 HVAC project at Don Julian Elementary School.³⁶ Although several additional invoices were submitted by Del Terra as addressed in Section D of this report, records show the main services provided by Del Terra seemed to be determining the next projects that would proceed under what Del Terra called "Develop Initial Program Plan." That work yielded a list of projects that included the 21st Century Classrooms TK-5 and 21st Century Classrooms 6-12 projects (see discussion in Section B of this report).

On June 1, 2016, approximately one year after entering into the 2015 agreement, Del Terra submitted an invoice for \$64,500 for additional services to then superintendent Alex Rojas for closeout. This closeout Invoice 362240-01 is shown below:

³⁶ The 21st Century Classrooms TK-5 and the 21st Century Classrooms 6-12 projects, discussed earlier in this report, were not submitted to the DSA.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 510
 City of Industry, CA 91746,
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE #362240-01

Date: June 1, 2016
 To: Bassett Unified School District
 Attn: Dr. Alex J. Rojas
 Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746
 Ref.: DSA Close Out Assessment and Report
 Contract Board Approval 04/21/15

Per Program and Construction Management Agreement, Board Approved 4/21/15
 As requested by District Administration : Facility Repofts, Assessments and Updates
 DSA Close Out Assesment and Report, Phase 1 (Evaluation and Close Out Analysis)

Fee Earned	\$ 64,500
Less: Amounts Previously Invoiced	\$ -
Current Total Amount Due	\$ 64,500

Billings to Date	Current	Prior	Total
	\$ 64,500	\$ -	\$ 64,500

Alex Rojas signature

Appendix 25: Invoice 362240-01, Additional Services DSA Close Out Report for \$64,500 (6/1/16). Highlighting and red comment boxes added by FCMAT.

Although the invoice indicates it includes services for “DSA Close Out Assessment and Report,” the DSA closeout status of all projects has been publicly available and easily accessible online since the late 1990s. Under Invoice 362240-01 it is not clear what closeout services were performed other than printing the DSA closeout status from the DSA website.³⁷ Former superintendent Rojas nevertheless approved this invoice and stamped it, indicating “All Items Received/Services Rendered.” The district’s files do not contain time sheets, backup documentation, or a list of closed projects that would indicate the payment of the \$64,500 invoice was justified.

FCMAT’s review of various district-provided files revealed that when the invoice for closeout was initiated on June 1, 2016, most of the projects noted as incomplete in Section C.4 of this report under the 2014 amendment were still not certified. The DSA project status tracker at <https://www.apps2.dgs.ca.gov/dsa/tracker/ProjectStatus.aspx> shows the following nine projects were still not certified:

³⁷ The DSA website for closeout status is located at <https://www.apps2.dgs.ca.gov/dsa/tracker/ProjectStatus.aspx>. Although this is a new DSA tracker, there has been some form of DSA tracker for project status and closeout for at least two decades.

1. 03-105862 Parent /Resources Center – Open since 11/16/2007
2. 03-102381 Various – Open since 10/16/2001
3. 03-102567 Various – Open since 10/16/2001
4. 03-103720 Edgewood Academy – Open since 2/5/2004
5. 03-101459 Various – Open since 9/9/2003
6. 03-115690 Bassett High School – Open Since 11/17/2014
7. 03-115110 Bassett High School – Open since 10/30/2013
8. 03-112683 Thomas Erwin Adult Education Facility Marquee – Open since 10/28/2009
9. 03-112399 Edgewood Academy (Interim Housing) – Open since 9/22/2009

When Alex Rojas signed the 2014 amendment as the district’s deputy superintendent, the presumption is that by signing the agreement, he should have been fully aware of the scope and status of work for close-out of district projects. The available information indicates as superintendent two years later in 2016, Alex Rojas had no basis to certify Invoice 362240-01 as “All Items Received / Services Rendered” because the scope of work was not complete; therefore, Del Terra had not earned its full fee for the entire closeout invoice. As a consequence of the delayed closeout, the district’s program was still obstructed by DSA’s prohibition against starting new DSA projects under IR A-20.

6. Del Terra’s Failure to Close Out the Child Development Center Modernization Project at Florence E. Flanner Elementary School

The Child Development Center Modernization project at Florence E. Flanner Elementary School (Flanner Project) was identified by the DSA as the only project begun during Del Terra’s tenure as program manager and construction manager under the 2015 agreement. According to the DSA website, the Flanner Project, DSA 03-118482, was begun with DSA on November 13, 2017. This project comprised the alteration of two existing buildings at Florence E. Flanner Elementary School. Under Article 2.4.19 of the 2015 agreement, Del Terra was responsible to close out all projects begun under its watch as program manager:

2.4.19 Closeout Documentation. Coordinate completion, issuance and Contractor’s submission of all closeout documents to District including, such as As-Builts, lien waivers and releases, operations and maintenance manuals and warranties, permit inspections, and certificates and notices of completion, occupancy and Acceptance.

Appendix 1: 2015 agreement, Page 16 (4/21/15).

Exhibit A of the 2015 agreement also lists “Project Close-Out” as one of Del Terra’s contracted responsibilities:

EXHIBIT A	
<u>SCOPE OF SERVICES</u>	
<u>PROGRAM MANAGEMENT SERVICES</u>	<u>CONSTRUCTION MANAGEMENT SERVICES</u>
<ul style="list-style-type: none"> 1. Design Management 2. Prepare Project Cost Estimates 3. Development of Project Controls and Systems 4. Manage Program and Project Level Accounting and Reconciliation Activities 5. Create Program & Project Level Schedules 6. Develop Program and Project Level Budgets 7. Pre-Construction & Planning <ul style="list-style-type: none"> ▪ Development of Division 0 & 1 (Boiler Plate) ▪ Project Needs Assessment/Site Evaluation ▪ A/E Coordination ▪ Design Management (limited to New projects and Existing 	<ul style="list-style-type: none"> ▪ Contract Administration ▪ Construction Observation ▪ Jobsite Meetings ▪ IOR Coordination ▪ Schedule Management ▪ Coordination of Inspection Services ▪ Safety & QC oversight ▪ Perform pre-punch inspections & corrections ▪ Change Order Management ▪ Contractor Payment Oversight <p>8. Post-Construction Services</p> <ul style="list-style-type: none"> ▪ Close-Out Documentation ▪ Coordinate owner move-in schedule ▪ As-Built Drawings ▪ Warranties, M&O Documents & Training ▪ Building Commissioning ▪ Project Close-Out

Appendix 1: 2015 agreement, Exhibit A from Page 37 (4/21/15). Highlighting added by FCMAT.

Article 4.1 of the 2015 agreement required completion of all requirements of the agreement, including the closeout scope.

4.1.1 Basis of Compensation. In exchange for the full, timely and complete performance of all of the requirements of this Agreement, the District shall pay Manager in accordance with this Agreement. Manager’s fee for Program and

Appendix 1: Exhibit A. Highlighting added by FCMAT.

Even though the Flanner Project was not certified, the district’s executive director of business services, Linda Bermudez, approved the final Invoice 36500-03 as “All Items Received/Services Rendered.” This approved final invoice is shown below:

DELTERRA

Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE #36500-04/03

Date: February 5, 2019
To: Bassett Unified School District
 Attn: Debra French
 Interim Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746
Ref.: Construction Management Services
 Child Development Center Modernization Project at Florence Flanner School
Billing Period: May 1 - November 30, 2018

All Items Received Services Rendered
 Approved for Payment
Linda Bermudez

Linda Bermudez
signature

11412AA

Original Project Budget	\$ 3,591,965
Adjusted Budget Amount	<u>\$ 254,318</u>
Total Project Budget Amount	\$ 3,846,283

Construction Management Fee: 9.9% of \$ 3,846,283 is \$ 380,782

<u>Construction Phase</u>	<u>Gross Fee</u>	<u>Percent Complete</u>	<u>Total Billed To Date</u>	<u>Total Previously Billed</u>	<u>Current Amount Due</u>
CM Services	380,782	100.0%	380,782	337,825	42,957
Total Fees Earned					\$ 380,782
Less: Amounts Previously Invoiced					\$ 337,825
Current Total Amount Due					\$ 42,957

Billings to Date

<u>Current</u>	<u>Prior</u>	<u>Total</u>	<u>Remaining Balance</u>
\$ 42,957	\$ 337,825	\$ 380,782	-

Appendix 26: Invoice 36500-03 for 100% on Flanner Project for \$42,957 (2/5/19). Highlighting, red oval, and red comment box added by FCMAT.
 This invoice was paid on March 18, 2019, as shown below.

7. Del Terra’s Requested 2019 Contract Amendment and Fees for Closeout

After Del Terra declared its work under the 2015 agreement complete on April 21, 2018,³⁸ Del Terra asked the district for yet another contract amendment to cover project closeout even though that scope was included in the 2009 agreement, 2013 amendment, 2013 amendment extension, 2014 amendment, the additional \$64,500 paid under Invoice 362240-01 under the 2015 agreement, and \$230,000 paid by Invoice 36382 under the 2015 agreement. When the request was made in 2019, the same list of six projects remained uncertified:³⁹

1. 03-105862 Parent /Resources Center (Edgewood Academy) – Open since 11/16/2007
2. 03-102381 Various (J.E. Van Wig Elementary School and Sunkist Elementary School) – Open since 10/16/2001
3. 03-102567 Various (Sunkist Elementary, Don Julian Elementary School, and Erwin Elementary School) – Open since 10/16/2001
4. 03-118482 Florence E. Flanner Elementary School – Open since 1/16/18
5. 03-103720 Edgewood Academy – Open since 2/5/2004
6. 03-101459 Various (J.E. Van Wig Elementary School and Erwin Elementary School) – Open since 9/9/2003

Exhibit B of the 2019 agreement includes closeout in its scope as follows:

Bassett Unified School District Del Terra Group: Program and Construction Management Contract Fee Extension Forecast: June 2019 v.3 - CM Fee Reduction and Overall PM Fee Reduced												
Project Name	Project Value	Start of PM/CM Effort	Est'd End of PM/CM Effort	PM Fee (4.0%)	CM Fee (5.9%)	Total Fee (100%)	PM Fee Allocation			CM Fee Allocation		
							Program Development (40%)	Pre-Const., Planning, Design (50%)	Bid Award (10%)	Percent Complete of Constr. (90%)	Close Out (10%)	Total Fee (100%)
Bassett HS Swimming Pool Remodel: Option A	\$3,850,000			\$ 154,000	\$ 227,150	\$ 381,150	\$ 61,600	\$ 77,000	\$ 15,400	\$ 204,435	\$ 22,715	\$ 381,150
DSA Close Out: Outstanding 'A' #'s	\$235,000			\$ 9,400	\$ 13,865	\$ 23,265	\$ 3,760	\$ 4,700	\$ 940	\$ 12,479	\$ 1,387	\$ 23,265
BHS Gym: New HVAC	\$1,271,875			\$ 50,875	\$ 75,041	\$ 125,916	\$ 20,350	\$ 25,438	\$ 5,088	\$ 67,537	\$ 7,504	\$ 125,916
Locker Room Renovations: Various Sites	\$1,320,000			\$ 52,800	\$ 77,800	\$ 130,680	\$ 21,120	\$ 26,400	\$ 5,280	\$ 70,092	\$ 7,788	\$ 130,680
AB1266 Compliance	\$310,000			\$ 12,400	\$ 18,290	\$ 30,690	\$ 4,960	\$ 6,200	\$ 1,240	\$ 16,461	\$ 1,829	\$ 30,690
BHS Football Field Renovation	\$1,056,000			\$ 42,240	\$ 62,304	\$ 104,544	\$ 16,896	\$ 21,120	\$ 4,224	\$ 56,074	\$ 6,230	\$ 104,544
				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL PROGRAM	\$8,042,875			\$ 321,715	\$ 474,530	\$ 796,245	\$ 128,686	\$ 160,858	\$ 32,172	\$ 427,077	\$ 47,453	\$ 796,245
						Total Previously Invoiced	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
						Total Amount Remaining	\$ 128,686	\$ 160,858	\$ 32,172	\$ 427,077	\$ 47,453	\$ 796,245

Appendix 28: 2019 Agreement Exhibit B from Page 38 (7/29/19). Highlighting added by FCMAT.

38 On April 21, 2018, three years after commencement of the 2015 agreement, Del Terra declared that the 2015 agreement was expired, and services were completed. A new bond program agreement was presented to the district and is referred to in this report as the 2019 agreement.

39 This is the 2021 list of uncertified projects that continue to be open at the time of the writing of this report.

The above exhibit to the 2019 agreement designates \$235,000 to be spent on project closeout. Del Terra also expected to charge a construction management and program management fee of \$23,265 on top of the \$235,000 line item cost.

8. Member of the Measure V Bond Oversight Committee Objected to New Contract, Additional Payments to Del Terra

Before the district and Del Terra entered into the 2019 agreement, a member of the Measure V Citizens' Bond Oversight Committee voiced objections to the district superintendent. On February 1, 2019, committee member Dena Florez sent a letter to district Superintendent French questioning further expenditures on closeout and requesting that her concerns be shared with both the bond oversight committee and the district's governing board.

February 1, 2019

Ms. Debra French
Superintendent Bassett Unified School District
904 N. Willow Avenue
La Puente, CA 91746

Good morning Ms. French,

I hope all is well with you.

I am writing to express my opposition to allocating \$245,000 to Division State Architects (DSA) Closeouts. I would like my concern to be shared with the members of the Bond Oversight Committee and the Board Members of Bassett Unified School District to whom the BOC reports.

My concerns about this particular allocation began at our Bond Oversight Meeting (BOC) on Monday, January 28, 2019 but I wanted to wait and review the information I requested. I hoped to share my concerns with you after the BOC meeting, but you went into a meeting with one of our Board Members so we did not get the opportunity to speak.

At the Board meeting yesterday, Thursday, January 31, I had an opportunity to speak with Jerry (I apologize, I didn't get his last name) and Luis Rojas from Del Terra Group while the Board went into closed session. The content of that conversation further strengthened my opposition to allocating funds to DSA Closeouts. It has also created doubt in my mind about other projects, but for now this is the one I am tackling.

The costs of the DSA Closeouts should have been included in the projects they pertained to. I shared this opinion with both Jerry and Mr. Rojas. When I questioned the accountability and why this had not been done, Mr. Rojas's response was, "Whose building is it?" I question his response as the district does not have a Project Manager on staff, at least not to my knowledge. I then asked them what percentage they are receiving for their work, the response was 9%. It is my opinion that 9% is very high. My question to you is, did we do our due diligence and research what other districts were paying so we can obtain comparisons to determine if 9% was a reasonable fee? I did request a copy of Del Terra's contract as part of my public records request.

Ms. French, as you know Measure V passed with about 62% of the voters that voted. This bond is costing homeowners \$60 per \$100,000 of assessed property value annually! We have a fiduciary responsibility to the members of our community to make the most efficient use of these funds.

Below is a link that provides information regarding DSA Construction Projects: Submittal, Review, Oversight and Certification, <http://www.dgs.ca.gov/dsa/Programs/progProject.aspx>. I am sure you will find this very helpful.

Thank you for your time.

Dena Florez
Member of the Community
Bond Oversight Committee Member
dflorez4busd@gmail.com

Appendix 29: Letter from Dena Florez, Bond Oversight Committee member (2/1/19). Highlighting added by FCMAT.

Despite objections from Ms. Florez, the district moved forward with the 2019 agreement (see Appendix 28), which was signed on July 29, 2019 and which included closeout services for DSA projects that were not

closed out under the 2009 agreement, 2013 amendment, 2013 amendment extension, 2014 amendment, or the 2015 agreement. A copy of this 2019 agreement is included in Appendix 28 to this report. The first page and signature page are shown below:

<p>PROGRAM AND CONSTRUCTION MANAGEMENT AGREEMENT</p> <p>This PROGRAM AND CONSTRUCTION MANAGEMENT AGREEMENT ("Agreement") is entered into on this <u>29</u> day of July, 2019, between the BASSETT UNIFIED SCHOOL DISTRICT ("District") and DEL TERRA REAL ESTATE SERVICES, Inc., dba DEL TERRA GROUP ("Manager"), collectively the ("Parties") for program, project and construction management services.</p> <p style="text-align: center;">RECITALS</p> <p>A. The District is a K-12 school district that operates in the County of Los Angeles, California.</p> <p>B. The Manager is a corporation licensed to do business in California. The Manager represents it has the background, knowledge, experience, licenses and expertise necessary to provide the services set forth in this Agreement and agrees to ensure that any services that requires specific licensure is performed by appropriately licensed contractors.</p> <p>C. The District and Manager desire to enter into an agreement for the Manager to provide the District with professional services consisting of program and construction management services in connection with the planning, programming and construction of existing projects, and new construction projects related to the District's Bond Program, known as Measure V, and any match funding (Campus Projects).</p> <p>D. It is the intention of the parties that the Manager provide comprehensive program, project and construction management services under the supervision of the District's Superintendent or designee that will enable the Campus Projects to be completed and constructed in accordance with the program and project schedules to be agreed to by the Parties.</p> <p>NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:</p> <p style="text-align: center;">ARTICLE I GENERAL PROVISIONS</p> <p>1.1 DEFINITIONS</p> <p>1.1.1 Acceptance. The point after Final Completion when Contractor has fully performed all the requirements of the Contract Documents and the Work of a Campus Project is certified as complete and accepted by the District in a signed writing approved by the Board and in compliance with all applicable regulations.</p> <p>1.1.2 Addendum, Addenda. Written or graphic information (including, without limitation, Drawings or Specifications) prepared and issued prior to the receipt of the Contractor's Bid for a Campus Project, which modify or interpret the Bid Documents by additions, deletions, clarifications or corrections to said Bid Documents.</p> <p><small>Bassett Unified School District</small></p>
--

Appendix 28: 2019 agreement, Page 1 (7/29/19).

10.19 GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of California. For all purposes, the parties shall be considered to have performed their respective obligations under this Agreement in the County of Los Angeles. The parties understand and agree that the appropriate venue for any and all legal action is the federal or state court having jurisdiction within the County of Los Angeles, California.

10.20 PLURAL, SINGULAR

Definitions of terms that are phrased in the singular shall be deemed to include the plural, and vice versa, where appropriate to the circumstances.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement, on the day and year first above written.

BASSETT UNIFIED SCHOOL DISTRICT

By: 

Title: SUPERINTENDENT

APPROVED AS TO FORM:

DATE BOARD ^{AMENDED} APPROVED: 7/29/19

PO/CONTRACT NO: 71038

ATTEST:

DEL TERRA GROUP

By: 

Title: TRUSTEE

Appendix 28: 2019 agreement, Page 38 (7/29/19), signature of Debra French and presumably Luis Rojas.

As noted above, Exhibit B of the 2019 agreement includes a line item for DSA closeout at a cost of \$235,000, in addition to which Del Terra charged a management fee of \$23,265.

Although Del Terra was once again expected to perform the promised closeout services under the 2019 agreement, all available evidence indicates this did not happen. Instead of Del Terra performing close-out of projects, on July 29, 2019, it appears that Del Terra had the district hire INK Architects to complete closeout. So the district approved a contract with a third-party vendor, Leslie Sydnor dba INK Architects, for DSA closeout and certification services for eight open DSA application numbers – the exact same closeout services the district hired Del Terra to perform in 2009, 2013, 2014, 2015, and in the 2019 agreement.

Del Terra was paid a management fee of \$3,760 for Invoice 36511-01, which is shown below.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

Bassett Unified School District
 Attn: Linda Bermudez
 Executive Director of Business Services
 904 North Willow Avenue
 La Puente, CA 91746

Date: 11/25/2019
 Invoice No. : 36511-01

Program Management Services:
DSA Close Out - Outstanding "A" #s
 Measure V: Board Approved 07/29/19

PO# 77038B B

Billing Period: August 1, 2019 - October 31, 2019

Total Est. Project Budget:	\$	235,000
Total Committed Cost to Date	\$	-
<u>Project Budget Remaining Balance</u>	\$	<u>235,000</u>
<u>Total Program Management Fee (4%):</u>	\$	<u>9,400</u>

Program Phase	Fee %	Fee Per Phase	Percent Complete	Total Billed To Date	Total Previously Billed	Current Amount Due
Program Development	40.00%	\$ 3,760.00	100%	3,760.00	-	3,760.00
Pre-Construction, Planning & Design	50.00%	4,700.00	0%	-	-	-
Bid Award	10.00%	940.00	0%	-	-	-
Total	100.00%	9,400.00	40%	3,760.00	-	3,760.00

Billings to Date

Current	Prior	Total	Remaining Balance
3,760.00	0.00	3,760.00	5,640.00

All Items Received/Services Rendered
 Approved for Payment

Appendix 69: Invoice 36511-01 closeout, 11/25/19.

Del Terra was paid for Invoice 36511-01 on December 26, 2019, with Check/Warrant No. 25666915 as shown below.

64295 **BASSETT USD**

Check Date: 12/26/19 Check No: 25666915

Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Available	Paid Amount
36501-01	11/25/19	770386C	61,600.00	0.00	61,600.00
36511-01	11/25/19	770386B	3,760.00	0.00	3,760.00
36521-01	11/25/19	770386A	20,350.00	0.00	20,350.00
36551-01	11/25/19	770386D	32,539.88	0.00	32,539.88

DTG 12/27/19

Vendor Number	Name	Total Discounts	TIN
000007339	DEL TERRA GROUP	\$0.00	

Check Number	Date	Total Amount	Late Interest	Discount Taken	Total Paid Amount
25666915	12/26/19	\$118,249.88	0.00		\$118,249.88



Los Angeles County

BASSETT USD
 904 NORTH WILLOW AVENUE
 LA PUENTE, CA 91746-1698
 626 931 3000

PAYABLE AT
 ONE PENNS WAY
 NEW CASTLE, DE 19720
 62 26 311

25666915

Date Issued: 12/26/19

Amount: \$118,249.88***

THE TREASURER OF LOS ANGELES COUNTY will pay exactly:

****ONE HUNDRED EIGHTEEN THOUSAND TWO HUNDRED FORTY-NINE AND 88/100 US DOLLARS****

WARRANT CLEARANCE FUND:
 FOR CURRENT FISCAL YEAR
 THIS WARRANT IS VOID AFTER
 SIX MONTHS FROM DATE ISSUED

FOR GOVERNING BOARD OF DISTRICT/AGENCY

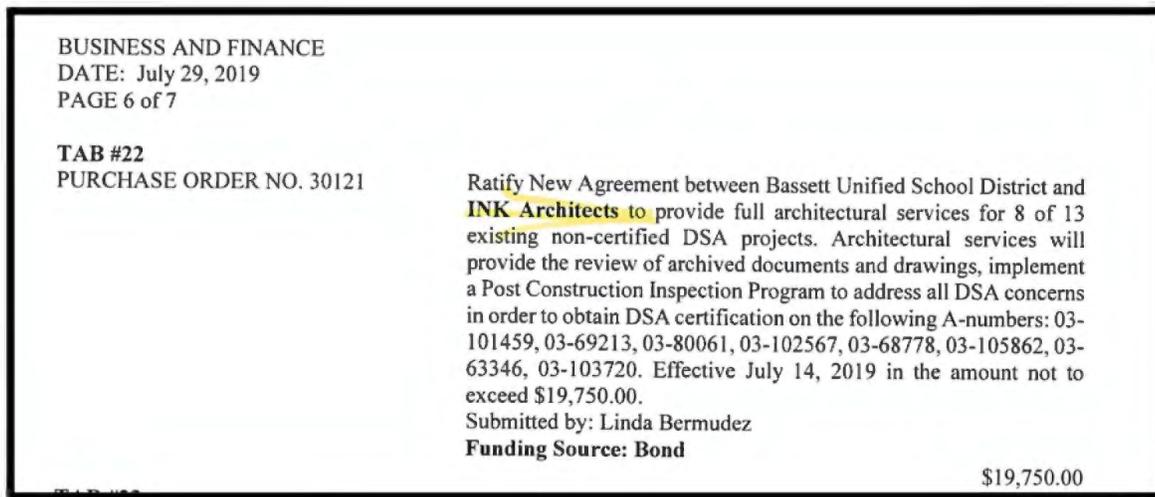
EXAMINED, APPROVED AND ALLOWED:
 DOBRA DUBROV, M.S.W., Ed.D., COUNTY SUPERINTENDENT OF SCHOOLS

pay to:
DEL TERRA GROUP
 13181 CROSSROADS PARKWAY NORTH
 SUITE # 540
 CITY OF INDUSTRY, CA 91746

BY _____ DEPUTY

Appendix 70: Check for \$3,760 on Invoice 36511-01 (12/26/19). Highlighting added by FCMAT.

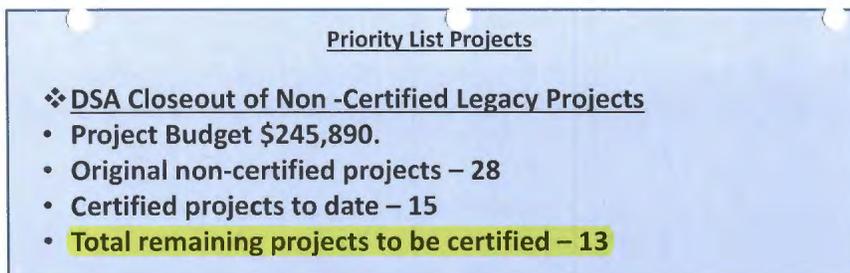
Article 1.6 of the 2015 agreement states, "Manager shall not separately invoice fees for services rendered by Subconsultants." However, there is no documentation showing that Del Terra let the district know that the scope of INK Architects' contract was to perform the closeout services for which Del Terra was already charging \$23,265. Below is the district's governing board agenda item for hiring INK Architects.



Appendix 30: Board Agenda item from July 29, 2019 approving INK Architects. Highlighting added by FCMAT.

The district is paying for the same services at least twice if not multiple times – the first time through Del Terra’s 2019 agreement and the second time directly to INK Architects. Additionally, Del Terra received a combined 9.9% fee of \$23,265 ($\$235,000 \times 9.9\%$) on the work to be done through the 2019 agreement. However, because INK received a separate purchase order from the district it was paid separately by the district, and Del Terra still received its 9.9% fee for work not performed by them. INK should have been paid under the Del Terra contract and not through a separate purchase order by the district.

As of 2019, the closeout work was still incomplete. On August 26, 2019, Del Terra presented a Measure V update, which noted that 13 closeout projects remained outstanding. FCMAT’s count of remaining projects is eight. Rather than use Del Terra’s count of 13, the lower number of eight is used by FCMAT.



Appendix 31: Del Terra August 26, 2019, Measure V Update, slide 13, (8/26/19). Highlighting added by FCMAT.

As of the end of February 2022, six projects remained that were not closed out and certified by the DSA.⁴⁰ The district has retained yet another consultant to respond to DSA stop work orders and was working on closing out the Flanner Project.

This means that under DSA IRA-20, the district cannot open a DSA project because Del Terra has failed to close out projects throughout the district since their original 2009 agreement and the four others as well as various amendments that followed including the 2015 agreement. Planned DSA projects can therefore not proceed. Del Terra’s failure to close out projects also renders the district unable to seek state funding, which requires a DSA-approved set of plans or a basis for funding pursuant to Education Code Section 17072.30 for eligible projects.

⁴⁰ Based on official DSA records, FCMAT cannot determine where or how Del Terra came up with the number of 13 uncertified projects. The number of projects not closed changes based on when the review of projects takes place.

Recital C of the 2015 agreement required Del Terra to undertake “planning, programming and construction of existing projects, and new construction projects related to the District’s bond program, known as Measure V, and any match funding.” [Emphasis added.] Because Bassett High School had modernization eligibility, it was Del Terra’s responsibility as a program manager to guide the district through the state funding process as a district fiduciary, as stated in Article 1.3.2.

As of the end of February 2022, Del Terra had not completed closeout despite contracting to do so on seven occasions:

1. The 2009 agreement (paid \$401,595, a portion of which was intended for project closeout services).
2. The 2013 amendment (paid \$300,000).
3. The 2014 amendment (paid \$460,000).
4. The 2015 agreement for the Flanner Project 03-118482.
5. Additional Services Invoice 362240-01 for \$64,500.
6. The \$230,000 paid under Invoice 36382 of the 2015 agreement.
7. The 2019 agreement (paid \$3,760 paid on Invoice 36511-01).

9. DSA’s Actions Against the District Were Consequence of Del Terra’s Failure to Close Out Projects

As discussed earlier, DSA IR-20 mandates that any open DSA projects be properly closed out and certified; otherwise, the DSA will prohibit further work on any site that has uncertified projects. The goal in paying Del Terra over a million dollars through the years under various contracts and amendments was to prevent the lack of closeout from stopping any future work at school sites with uncertified projects.

On February 24, 2021, the district received orders from the DSA to stop work at Bassett High School, Edgewood Academy, Sunkist Elementary School, and J. E. Van Wig Elementary School. Portions of these documents are included in Appendix 32 of this report.

One of the stop work orders for Bassett High School is shown below.



STATE OF CALIFORNIA
GOVERNOR EDUARDO G. BROWER JR.

DSA File #: 19-H46
Application #: NA

February 24, 2021

Sent by e-mail

Superintendent Alejandro Alvarez
Bassett Unified School District
904 N. Willow Avenue
La Puente, CA 91746

RE: REQUEST FOR DISTRICT TO STOP WORK for BASSETT HIGH SCHOOL

Dear Superintendent Alvarez:

The Division of the State Architect (DSA) has determined that construction of the above referenced project contains a non-compliant condition, as described below, which, if not corrected, may compromise the structural integrity of the building and endanger public safety. The purpose of this Request is to ensure that the construction on the project is stopped to correct the non-compliant condition and prevent the non-compliant construction from being concealed by subsequent work.

Appendix 32: DSA stop work letter (2/24/21).

The stop work order required the district to document all work performed without DSA approvals during the time projects were uncertified. The DSA orders constituted a demand to document all work that was begun and overseen by Del Terra from the time of the 2015 agreement until Del Terra's services were terminated in 2021.

As a result of a site visit in February 2021, the DSA noted in an e-mail dated March 2, 2021 that work had been performed without DSA approvals and that all work must be documented to the DSA:

In addition of drinking fountains, DSE Jay Chen found some works were done as follows:

- 1.) In Basset H.S. -- Boy's and Girl's Locker Rooms appear partially renovated with new flooring, lockers replaced, seating removed, some shower removed and reconfiguration of office and storage space and the remaining work is not done yet. Based on DSA e-tracker, the last DSA project occurring on Bassett High School was completed in January 2016.
- 2.) In Sunkist E.S.-- All classrooms were renovated with new flooring and finishes and addition of large mounted TVs. Based on DSA e-tracker, the last DSA project occurring on Sunkist E.S. was completed in August 2011.

We have to find out if the similar alteration works or other works not listed above had been completed without DSA approval and request district's corporation. All works shall be submitted with drawings, specs. and back-up calculations. If the work already completed, it shall be treated as retrofit work and indicate on drawings the required post material testing and inspection requirements.

Per our conversation yesterday, DSA recommended District to hire A/E team and a certified inspector to investigate all works and submit plans to DSA plan check department for review and approval. In other words, if the construction cost exceeds the threshold amount per IR A-22, new projects with DSA application numbers shall be submitted for DSA review and approval.

Appendix 68: DSA stop work e-mail, (3/2/21).

The DSA's records show that no district projects other than Flanner Project had been submitted to the DSA since 2015.⁴¹ Thus the DSA considered all projects under Del Terra's management and oversight between 2015 and March 2021 (except for the Flanner Project) to be undocumented. This DSA order was a direct result of Del Terra's failure to engage in the DSA process for projects, the process that Del Terra represented as its expertise.

In addition to affecting current and future projects, Del Terra's failure to properly close out and certify projects as required under various agreements exposes the district's governing board members to potential personal liability. Without proper DSA certification, the district may not be able to avail itself of the design immunity defense under Government Code Section 830.6. As a result, governing board members may be held personally liable for projects that did not receive DSA approvals pursuant to Government Code Sections 830 and following, 835 and following, and 840 and following.

10. Del Terra's Failure to Close Out Projects Likely Led to Undocumented Projects

The lack of DSA project certification had significant consequences for the district beyond overpaying for an unknown or incomplete level of work to close out district projects and exposing members of the governing board to possible liability. As discussed earlier, DSA policy IRA-20 rendered the district unable to proceed with any modernization districtwide. The only projects that could potentially proceed were those that could be performed outside of DSA oversight, such as paint, carpet and furniture. Thus, it was possible that the only projects that Del Terra perceived could proceed under the 2015 agreement were the two 21st century classrooms projects (comprised mainly of furniture, paint, and flat screen TVs) that were not submitted to

⁴¹ The Child Development Center Modernization project at Florence E. Flanner Elementary School is the only project that went through the DSA process under the 2015 agreement; however, Del Terra never obtained final DSA certification of the Flanner Project, which created another uncertified project for the district.

the DSA and did not receive any DSA oversight or approval.⁴² Evidence of this is shown as part of the additional services Invoice 36382 for \$230,000. The entire invoice with its supporting documentation is shown in Appendix 33. Del Terra's invoice states the following:

All Classrooms for the 21 St. Century classroom projects were redesigned without the use of an Architect, which provided additional Project savings for the project. Each school year of 2015 & 2016 where 21st Century Projects were implemented, all projects were completed ON TIME and schools were opened WITHOUT DELAY for the start of the school year in the months of August of both years.

Appendix 33: Invoice 36382, Page 3 (9/15/16). Highlighting added by FCMAT.

The above commentary about working without architects shows that Del Terra believed the nearly \$9.4 million in 21st century classrooms projects did not require technical or industry expertise or oversight by the DSA. Typically, either an architect or a structural engineer is required for a DSA project submission, and there are no DSA project submissions between 2015 and 2021 other than one for the Flanner Project (see Education Code Sections 17302 and 17307).

Of the \$30 million approved through Measure V, \$9,401,388 had been allocated to 21st century classrooms projects and at least \$2,184,275⁴³, according to district records, had been spent on Del Terra. Thus, a little more than one year after the district entered into the 2015 agreement with Del Terra, \$11,585,663, or approximately 39% of the bond funds, had already been spent on projects that did not improve the underlying infrastructure or facilities.

The DSA's policies articulated in IR A-10 and applicable in 2015 required all projects costing more than \$100,000 (adjusted annually) to be submitted to the DSA. Projects up to \$225,000 (adjusted annually) for alteration or reconstruction could be exempt if a structural engineer certified to the DSA regional office that no structural work was involved and if the architect of record submitted a certification that no ADA upgrades or fire or life safety requirements were triggered (see IR A-10 Section 1.2 in Appendix 81). No certifications from structural engineers or architects were located in the district's files, and the DSA never received any drawings or certifications for the \$9.4 million in 21st century classrooms projects.

11. Failure to Address Safety and Infrastructure Causes Policy Problem

A fundamental policy-related problem with Del Terra's presumed decision to avoid DSA review from 2015 through 2019 was that Del Terra avoided critical evaluation of safety, infrastructure, ADA upgrades, fire and life safety, and other critical components of the district's facilities (see discussion on IR A-10 above).

As noted previously in Section A.7, all the Bassett High School structures identified on the AB 300 list may be vulnerable to seismic forces. Del Terra stated in the 2016 Master Plan that the first priority project was to "Evaluate and address any potential safety issues. (Bassett High School and Torch Middle School are

⁴² While the work looks simple, projects cannot avoid DSA except when they comply with IR-22 requirements and a structural engineer certifies the work does not have structural components. In this case, the TV mounts were structural and required DSA review as evidenced in the DSA stop work letter dated February 24, 2021 (Appendix 32) and addressed in Section C.9 of this report.

⁴³ See Appendix 71. Transactions from July 2015 through September 2016 consist of all invoices paid to Del Terra for a cumulative total of \$2,184,275.

currently on the State's AB 300 list and may need seismic updates.)" It follows that rather than purchasing furniture, replacing carpet, painting, and installing flat screen TVs at \$12,000 per unit, Del Terra's fiduciary responsibility was to investigate and review the safety and infrastructure projects that it identified as in the district's best interests. Instead, Del Terra rapidly spent \$9.4 million on 21st century classrooms projects but ignored their 2016 Master Plan's top priority of investigating structures and seeking state funding for buildings identified on the AB 300 list.

As Del Terra implicitly acknowledged in its list of priorities, safety should be given priority over cosmetic improvements, especially when the safety of district students and staff is at stake.

The district's maintenance staff likely could have easily selected and replaced furniture, and contracted for painting and floor coverings. It does not appear that Del Terra used any special expertise or construction knowledge to perform the 21st century classrooms projects. More importantly, Del Terra had the district rapidly spend funds that could have been used to protect the district's students and staff from exposure to injuries that could occur at buildings identified as having seismic vulnerabilities, the very buildings Del Terra identified as its first priority. Instead, based on the available billing records of the district, Del Terra billed and was paid \$9.4 million for less urgent projects over two years between September 2015 and September 2017. Del Terra also had an opportunity to seek state seismic mitigation funding to increase bond funds but did not do so.

D. Alex Rojas Approved Questionable Additional Expenditures Where Del Terra May Have Started Work Without Verification or Board Approval

1. Contracts Require Board Authorization

By law, contracts are valid only if they are approved by a district's board of education (see *Santa Monica Unified School District v. Persh* (1970) 5 Cal.App.3d 946). Those who contract with school districts are legally presumed to know the limitations of contracting that require compliance with legal procedures. *Miller v. McKinnon* (1942) 20 Cal.2d 83, 87-88 states that a school construction contract was void for failure to follow contracting formalities and that the contractor who fails to follow legal procedures is required to return all payments. Education Code Section 17604 allows a district's governing board to delegate to the superintendent the authority to enter into contracts, but a contract for services requires board authorization or subsequent ratification; otherwise the services are void. The language of Education Code Section 17604 is specific and states, in part, the following:

. . . the power [to contract] . . . may by a majority vote of the board be delegated to its district superintendent, or to any persons that he or she may designate...However, no contract made pursuant to the delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until the same shall have been approved or ratified by the governing board, the approval or ratification to be evidenced by a motion of the board duly passed and adopted . . .

Education Code Section 17604 also addresses the situation in which a superintendent or superintendent's designee oversteps his or her authority:

In the event of malfeasance in office, the school district official invested by the governing board with the power of contract shall be personally liable to the school district employing

him or her for any and all moneys of the district paid out as a result of the malfeasance [emphasis added].

2. Alex Rojas Authorized Additional Services Without Board Authorization

From April 2015 through September 2016, Del Terra billed the district \$952,750.00 for “Additional Services” under the 2015 agreement, as set forth below:

Facility Report, HVAC Assessment (Invoice 36270-01 on 6/1/16)	\$115,750.00
Facility Report, Torch Environmental (Invoice 362230-01 on 6/1/16)	\$68,000.00
DSA Closeout (Invoice 362240-01 on 6/1/16)	\$64,500.00
District Roofing Assessment (Invoice 36201-01 on 6/1/16)	\$74,500.00
PM and CM Services District-Wide Projects (Invoice 36370-01 on 4/29/15)	\$400,000.00
Reprogramming & Replanning/Tech. (Invoice 36382 on 9/15/16)	\$230,000.00
TOTAL:	\$ 952,750.00

For the additional services noted above, FCMAT was not presented with, nor was it able to locate, any record of a board agenda item or evidence of direction from the board to Del Terra to perform the services as an addition to the 2015 agreement under Article 4.3.1. These additional services were all approved within a very short time by Alex Rojas. A review conducted by FCMAT of board agendas from 2014 through 2019 does not show any board agendas where any of the six above noted additional services were approved. Additionally, except for a lone purchase order included in the July 14, 2015 agenda under a report of purchase orders for “District wide facility projects \$400,000,” district records do not show that the governing board or superintendent directed any of the additional services listed above, and Del Terra has yet to produce evidence to support such direction, request or approval by the district.

The \$400,000 in project management (PM) and construction management (CM) services (District-Wide Projects) billed by Del Terra under Invoice 36370-01 not only fails to conform to the requirements of Article 4.3.1 of the 2015 agreement but was considered by the board of education in an agenda item to reflect direction by the district or ratification of superintendent direction as required under Education Code Section 17604. Placement of this \$400,000 additional services on a purchase order report does not meet the requirement of an additional service approved by the board since a purchase order does not identify the extra services that were performed, the scope of work, or the increase that would be added to the 2015 agreement.

Court cases regarding approval of services are very clear that the lack of a board agenda item and board approval invalidates the extra service. For example, in *Uhlmann v. Alhambra City High School District* (1963) 221 Cal.App.2d 228, the school board president asked a real estate broker to find a purchaser for a property being sold. The broker then advertised and helped locate a purchaser who ultimately purchased the property being sold. The court held that a contract entered on the authority of a single board member is not valid without prior authorization or ratification by the full board. In this case, the fact that members of the board asked for services did not constitute a contract that bound the board to pay for services.

On September 6, 2018, David Alvarez of Leal & Trejo, the district’s legal counsel, asked Alex Rojas, the superintendent who had authorized the \$952,750 in additional services invoices, about his authorization (see Appendix 34). In a September 28, 2018, response, Alex Rojas wrote the following:

Your letter lists projects as being approved by me; however, that is a false representation of the documentation and attempts to recontextualize the bond and construction work as being approved by me when in reality what you are referring to in your letter is the fact that I may have initialed the purchase order, which was a function of my job but it does NOT make me the initiator/authorizer of the work (the work was initiated/authorized by the Board).

Appendix 35: Alex Rojas response letter (9/28/18).

Consistent with the statement in Alex Rojas' September 28, 2018, response, Alex Rojas signed or initialed each of the purchase orders using the 2015 agreement approval date of April 21, 2015. However, a FCMAT review of board agendas, board purchase order approvals, and board meeting minutes did not produce any documentation that a purchase order had been entered to indicate consideration or approval of any of the \$952,750 in additional services, and there is no record of board action provided to FCMAT or that could be found to increase the 2015 agreement by \$552,750 (\$952,750 - \$400,000). Alex Rojas' statement that it was his job to initial invoices is inconsistent with the superintendent's responsibilities and authority to contract as outlined in Education Code Section 17604. Lastly, only the Invoice 36370-01 on 4/29/15 for \$400,000.00 was taken to the board on a monthly purchase order list. The routine board approval of purchase orders was not considered an approval of an additional service in this instance, but the remaining \$552,750 in additional services related purchase orders – initialed by Alex Rojas – was not placed on the monthly purchase order report to the board.

An example of one of the additional services purchase orders that is signed by Alex Rojas is shown below.

Purchase Order				THIS PURCHASE ORDER NO. MUST APPEAR ON ALL SHIPPED MATERIAL AND CORRESPONDENCE : P.O. #		Page: 1
Form No. 502-083	ACCT PAYABLE PHONE NO. 626-931-3015	BID/QUOTE/CONTRACT NO	QUOTE BY	DELIVERY HOURS 7:30 AM - 3:00 PM (Mon.-Fri.)	DUE DATE 06/09/2016	
DATE ISSUED 06/14/2016	EXT.	VENDOR NO 0000007339	VENDOR PHONE NO 839-9300	VENDOR FAX NO 839-9307	SHIP VIA CHEAPEST WAY	
BUYER Hall,Olivia M. - Bassett USD	BUYER FAX NO 626-931-3055	PO TERMS Due Immediately	WAREHOUSE INSTRUCTIONS (DELIVER TO) DO-Attn: Admin Services		FOB DEST	
BUYER PHONE NUMBER 626-931-3069	REQUESTOR NAME 64295 - Business Services	SHIP TO		DISTRICT NO 64295		
FROM	TO	SHIP TO		FISCAL YEAR 15-16		
BASSETT USD 904 North Willow Avenue La Puente CA 91746-1696		DEL TERRA GROUP 13181 CROSSROADS PARKWAY NORTH SUITE # 540 CITY OF INDUSTRY CA 91746		District Office 904 North Willow Avenue La Puente CA 91746-1696		
LINE/SCHD	ITEM DESCRIPTION	QTY	UNIT	COST	EXTENSION	
1 - 1	TO PAY INVOICE # 362240-01, DATED JUNE 1, 2016 TO PROVIDE DSA CLOSE OUT ASSESSMENT AND REPORT, PHASE I (EVALUATION AND CLOSE OUT ANALYSIS) AS REQUESTED BY DISTRICT ADMINISTRATION.	1.00	EA	64,500.0000	64,500.00	
PER PROGRAM AND CONSTRUCTION MANAGEMENT AGREEMENT - BOARD APPROVED 4/21/15 APPROVED BY: ALEX ROJAS						
INVOICE WILL BE FORWARDED TO PURCHASING AND ACCOUNTING				Sub Total 64,500.00 Total Tax Amount 0.00 Total Frt Amount 0.00 Total PO Amount 64,500.00		
21.1 -00000.0-00000-85000-5810-7007000 -RQ:0000009946 \$ 64,500.00						
						_____ AUTHORIZED/APPROVAL SIGNATURE

Appendix 36: Purchase order 82492 for \$64,500 (6/14/16). Highlighting added by FCMAT.

This is an example of a purchase order for DSA closeout that is addressed in Section C of this report. This purchase order was initiated on June 14, 2016, two weeks after the invoice was issued to the district on June 1, 2016. The timing within this transaction is inconsistent with standard business practice wherein a purchase order is issued and then followed by a request for payment for the goods or services. The timing of issuance of the purchase order indicates that the work had been initiated and invoiced prior to the initiation of a purchase order. The underlying invoice in this example was never taken to the board as an additional service and is not on any purchase order report to the board from 2014 through 2019. The wording on the purchase order “PER PROGRAM AND CONSTRUCTION MANAGEMENT AGREEMENT – BOARD APPROVED 4/21/15” is a reference to the original 2015 agreement approval, not an additional services approval. Thus, the funds for the \$64,500 in the example above authorized under this purchase order were purportedly based on the original contract authorization but were not identified, addressed, or approved by the board as an additional service. In other words, no additional funds could be authorized with this purchase order because the additional fund request was never taken to the board for approval or ratification. This is assuming that a purchase order for \$64,500 was taken to the board. However, since there is no purchase order, there is no basis for making this payment as an additional service.

The original April 21, 2015 agenda item for the 2015 agreement is only for the original services and only includes language that provides for future requests for additional services upon direction from the district or district administration under Article 4.3.1. The 2015 agreement does not budget for or provide authorization for additional services, nor does it add costs that would be incurred under any of the additional

services invoices. The agenda for the 2015 agreement is shown below. This agenda only authorizes a 4% program management fee and construction management services fee of 9.9% for actual construction costs. Although change orders and increases are noted in Exhibit C, the exact amount of increases or change orders are not addressed in this April 21, 2015 agenda.

Superintendent's Office
Bassett Unified School District
 904 N. Willow Avenue
 La Puente, CA 91746
 (626) 931-3000
 www.bassett.k12.ca.us



Alex J. Rojas
 Educate, Engage, Empower

BOARD OF EDUCATION
Regular Board Meeting

April 21, 2015
5:30 p.m.

AGENDA ITEM CERTIFICATION

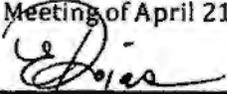
Consent Calendar Item VI Tab #1

Approved Agreement between Bassett Unified School District and Del Terra Real Estate Services, Inc., dba Del Terra Group to provide professional services consisting of comprehensive program and construction management services under the supervision of the District's Superintendent or designee in the planning, programming and construction of existing projects and new construction projects related to the District's Bond Program, known as Measure V and any match funding (Campus Projects). Effective April 22, 2015 at a cost of 4% of the full Bond Program for Program Management Services and 9.9% of actual construction costs for Construction Management Services including change order increases and consultant costs, as well as any additional costs as indicated on Exhibit C.

Motion Made By: Paul Solano

Motion Seconded By: Dolores Rivera

I certify that this is a true and correct copy of the action taken on the above Agenda Item for the Board Meeting of April 21, 2015.



Elizabeth Rojas
 Sr. Administrative Assistant to the Superintendent
 (626) 931-3085 erojas@bassett.k12.ca.us

Paul Solano	-Yes
Dolores Rivera	-Yes
Javier Romo	-Yes
Patrice Stanzione	-Absent
Joe Medina	-Absent

Appendix 37: Board Agenda item (4/21/15).

A separate governing board action to approve or ratify the superintendent's action was needed to increase the authorization for more than the April 21, 2015 board-approved amount of 4% of the bond program and 9.9% of the construction cost, despite the language about change order increase of additional costs. In each instance below, there is no separate additional service agenda item taken before the board. Instead, funds for each of the purchase orders issued for additional services were taken from the approval of the

original contract authorization amount, because no additional funds or board approval of funds appear to have ever been requested.⁴⁴

3. HVAC Assessment – \$115,750

Del Terra invoiced the district for \$115,750 in an additional service increase to the 2015 agreement for preparing an HVAC assessment. A copy of the HVAC Assessment is shown at Appendix 82. This invoice, No. 36270-01, is shown below.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE #36270-01

Date: June 1, 2016
To: Bassett Unified School District
 Attn: Dr. Alex J. Rojas
 Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746
Ref.: HVAC System Assessment
 Contract Board Approval 04/21/15

 Per Program and Construction Management Agreement, Board Approved 4/21/15
 As requested by District Administration : Facility Repofis, Assessments and Updates
 Conduct District Wide HVAC System Assessment

Fee Earned	\$ 115,750
Less: Amounts Previously Invoiced	\$ -
Current Total Amount Due	\$ 115,750

Billings to Date	Current	Prior	Total
	\$ 115,750	\$ -	\$ 115,750

All Items Received/Services Rendered
 Approved for Payment

Appendix 38: Additional Services Invoice 36270-01 for Districtwide HVAC Assessment (6/1/16). Highlighting added by FCMAT.

Additional services are defined under Article 1.1.3 of the 2015 agreement as follows:

⁴⁴ This lack of proper authorization resulted in a budgetary problem, because the available documentation indicates Del Terra billed more than previously authorized under the 2015 agreement, but there was no board-approved authorization for additional services to allow for an increase to the original 2015 agreement amount.

1.1.3 Additional Services. Services requested and approved by District in writing that do not arise, in whole or in part, from the fault, negligence or breach of this Agreement by Manager and which: (i) are not included within the scope of Basic Services described in Article 2; or (ii) except as otherwise provided in Paragraph 4.4.2 of this Agreement, are performed after the expiration of the Basic Term. Such Additional Services shall be compensated on an Hourly Rate Basis, see Exhibit B.

Appendix 1: 2015 agreement, Page 2 (4/21/15).

Del Terra's HVAC assessment request does not meet any of the elements addressed in Article 1.1.3 of the 2015 agreement. FCMAT found no written request from the board or district for the HVAC assessment, nor are there records indicating the assessment was approved by the district in any district records. There is no discussion of why the HVAC assessment is not included in basic services, and this request was made at the start of the 2015 agreement and not at the "expiration of the Basic Term." No district records show how the Exhibit B hourly rates were expended by Del Terra.

Article 4.3.3 further addresses additional services and how the district is to be notified:

4.3.3 Notice. Manager shall notify District Administration in writing within seven (7) days after it receives any direction or request that Manager believes constitutes a request for the performance of Additional Services. The District Administration shall promptly respond to Manager's request for performance of Additional Services. Manager shall not perform any services it believes to be Additional Services until either it has received confirmation from the District Administration that such services are Additional Services, or until the District Administration has directed it to perform such services.

Appendix 1: 2015 agreement, Page 20 (4/21/15).

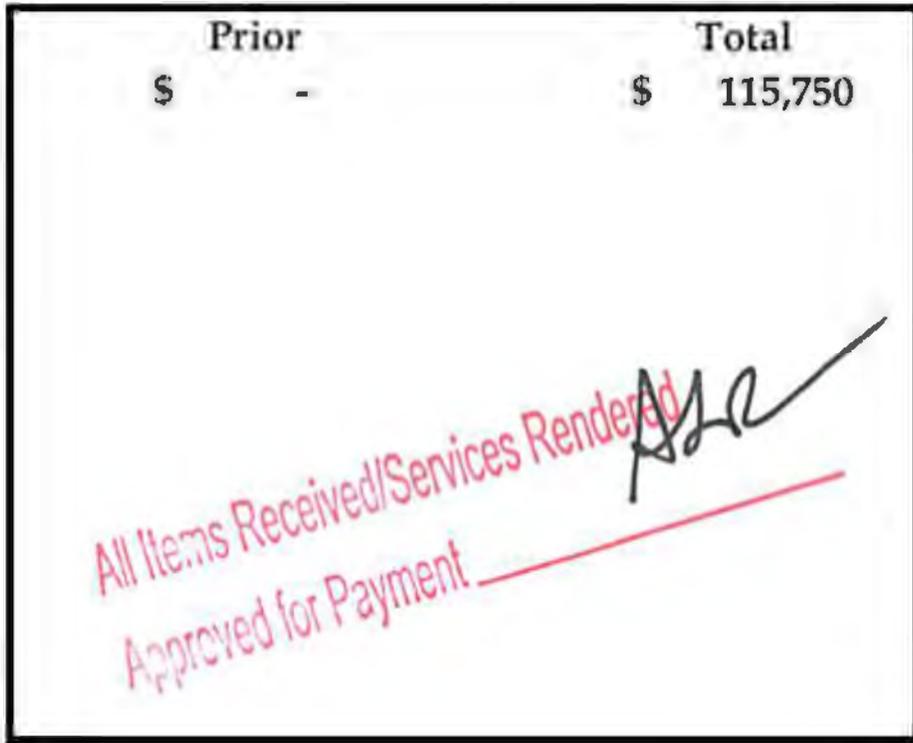
The invoice for the HVAC assessment does not reference any explicit written direction or confirmation of direction in conformance with Article 4.3.3 of the 2015 agreement. No district records could be found confirming written direction from the district's administration or board for preparing an HVAC assessment as an additional service, and no board meeting records confirm that either the district's administration or board requested the HVAC assessment as an additional service. Even if the district's representative had verbally directed Del Terra to perform the work described on the invoice, Del Terra was required to inform the district in writing (per paragraph 4.3.3) that Del Terra considered the request as additional services. It should not be overlooked that Del Terra is a fiduciary for the district per its own contract terms.

No records were found of a written directive from the district requesting a separate evaluation of HVAC that would be in addition to Del Terra's program management responsibilities. If this written directive was not issued, then at a minimum Del Terra should have attached some backup documentation such as an email, proof of the deliverables provided to the district, or a time sheet to show hours spent in performing the services. For example, if Del Terra principals had performed the labor for documenting the HVAC status for the district at \$210 per hour, a total of 551 hours of services should have been documented as expended. There is no record of this level of hours expended for this HVAC assessment.

A FCMAT review of board agendas determined that no board agendas reflected this item as an additional service. No purchase order reflecting this item was included in any purchase order report to the board.

See the above September 28, 2018, email response from Alex Rojas to David Alvarez of Leal & Trejo about this issue.

Invoice 36270-01 for HVAC assessment contains a signature stamp stating that all items are received or services rendered, as shown below.



Appendix 38: Additional Services Invoice 36270-01 for districtwide HVAC assessment (6/1/16).

Based on this stamp, Alex Rojas is verifying that at least 551 hours of services (assuming a \$210 per hour rate) were provided by Del Terra between April 21, 2015 and June 1, 2016. The purchase order issued is based on the original 2015 agreement, so the lack of board approval or ratification means funds for this additional service request were never authorized and any related payments were made without board authorization. Also, this purchase order was not taken to the board under the district’s monthly list of purchase orders, which means the purchase order below was never properly authorized.

Purchase Order				THIS PURCHASE ORDER NO. MUST APPEAR ON ALL SHIPPED MATERIAL AND CORRESPONDENCE : P.O. # 0000082490			Page: 1
Form No. 502-083	ACCT PAYABLE PHONE NO. 626-931-3015 EXT.	BID/QUOTE/CONTRACT NO	QUOTE BY	DELIVERY HOURS 7:30 AM - 3:00 PM (Mon.-Fri.)	DUE DATE 06/09/2016		
DATE ISSUED 06/14/2016	BUYER FAX NO 626-931-3055	VENDOR NO 000007339	VENDOR PHONE NO 839-9300	VENDOR FAX NO 839-9307	SHIP VIA CHEPST WAY	FOB DEST	
BUYER Hall,Olivia M. - Bassett USD	REQUESTOR NAME 64295 - Business Services	PO TERMS Due Immediately	WAREHOUSE INSTRUCTIONS (DELIVER TO) DO-Attn.: Admin Services				
BUYER PHONE NUMBER 626-931-3069 EXT.	FROM BASSETT USD 904 North Willow Avenue La Puente CA 91746-1696	TO DEL TERRA GROUP 13181 CROSSROADS PARKWAY NORTH SUITE # 540 CITY OF INDUSTRY CA 91746	SHIP TO District Office 904 North Willow Avenue La Puente CA 91746-1696		DISTRICT NO 64295	FISCAL YEAR 15-16	
LINE/SCHD	ITEM DESCRIPTION	QTY	UNIT	COST	EXTENSION		
1 - 1	TO PAY INVOICE # 36270-01 DATED JUNE 1, 2016 TO CONDUCT DISTRICT WIDE HVAC SYSTEM ASSESSMENT AS REQUESTED BY DISTRICT ADMINISTRATION. PER PROGRAM AND CONSTRUCTION MANAGEMENT AGREEMENT - BOARD APPROVED 4/21/15 APPROVED BY: ALEX ROJAS	1.00	EA	115,750.0000	115,750.00		
INVOICE WILL BE FORWARDED TO PURCHASING AND ACCOUNTING				Sub Total 115,750.00 Total Tax Amount 0.00 Total Frt Amount 0.00 Total PO Amount <u>115,750.00</u>			
21.1 -00000.0-00000-85000-5810-7007000 -RQ:0000009944 \$ 115,750.00							
						 AUTHORIZED/APPROVAL SIGNATURE	

Appendix 39: Purchase Order 82490, HVAC additional services (6/14/16). Highlighting added by FCMAT.

The assessment of HVAC should reflect an intent to perform HVAC projects, but very little HVAC work was performed during the 2015 agreement. Most of the HVAC work referenced in the 2015 HVAC assessment was performed after the 2015 agreement was declared complete by Del Terra on April 21, 2018.⁴⁵ Because the district was paying Del Terra a fixed sum amount for program management services based on 4% of the entire program of \$30 million, without proof of the number of actual hours worked by Del Terra for program management related items during any given month, these services should have been deemed basic services under the 2015 agreement and should not have been billed by Del Terra or approved as additional services by the superintendent.

4. Environmental Facility Report — Torch Middle School — \$68,000

On June 1, 2016, Del Terra issued an additional services invoice, No. 362230-01, for \$68,000 for environmental assessment of Torch Middle School. This invoice states the service is “Per Board request: Torch Middle School Environmental Assessment” and is shown below:

⁴⁵ Some HVAC work was initiated under the 2019 agreement.



Please Remit Payment To:
13181 Crossroads Pkwy North, Suite 340
City of Industry, CA 91746
Tel (626) 839-9300
Fax (626) 839-9307

INVOICE #362230-01

Date: June 1, 2016
To: Bassett Unified School District
Attn: Dr. Alex J. Rojas
Superintendent of Schools
904 North Willow Avenue
La Puente, CA 91746
Ref.: Board Request: Torch MS Environmental Assessment
Contract Board Approval 04/21/15

Per Program and Construction Management Agreement, Board Approved 4/21/15
As requested by District Administration : Facility Repofbs, Assessments and Updates
Per Board request: Torch Middle School Environmental Assessment
On-going Environmental Assessment, Phase 1

Fee Earned	\$ 68,000
Less: Amounts Previously Invoiced	\$ -
Current Total Amount Due	<u>\$ 68,000</u>

Billings to Date	Current	Prior	Total
	\$ 68,000	\$ -	\$ 68,000

All Items Received/Services Rendered
Approved for Payment

Appendix 40: Additional Services Invoice 362230 for facilities report and assessments (6/1/16). Highlighting added by FCMAT.

There is no record of a board request as written in the invoice or record of this request from district administration. If such direction was provided, it should have been given in writing as required in Article 4.3 of the 2015 agreement. Even if someone from district administration had verbally directed Del Terra to perform the work described in the invoice, Del Terra was required to inform the district in writing (per Article 4.3.3) that Del Terra was considering the request as additional services. A written directive from the district would have established the scope of services to be rendered, the expected deliverables, and the agreed upon compensation.

This additional service invoice is for "Environmental Assessment, Phase 1," which is defined under Education Code Section 17210(g) as follows:

(g) "Phase I environmental assessment" means a preliminary assessment of a property to determine whether there has been or may have been a release of a hazardous material, or whether a naturally occurring hazardous material is present, based on reasonably available information about the property and the area in its vicinity. A phase I environmental assessment shall meet the most current requirements adopted by the American Society for Testing and Materials (ASTM) for Standard Practice for Environmental Site Assessments: Phase I Envi-

ronmental Site Assessment Process or meet the requirements of Part 312 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations. That ASTM Standard Practice for Environmental Site Assessments or the requirements of Part 312 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations shall satisfy the requirements of this article for conducting a phase I environmental assessment unless and until the Department of Toxic Substances Control adopts final regulations that establish guidelines for a phase I environmental assessment for purposes of schoolsites that impose different requirements.

Education Code Section 17210(b) provides the qualifications required for an environmental assessor as follows:

(b) "Environmental assessor" means an environmental professional as defined in Section 312.10 of Title 40 of the Code of Federal Regulations.

The Department of Toxic Substances Control (DTSC), the agency that oversees Phase I environmental assessments, (see <https://dtsc.ca.gov>) requires in Fact Sheet #10, October 2006, Update on Phase I Environmental Site Assessments for School Sites; All Appropriate Inquiries; ASTM E-1527-05, the following:

Definition of Environmental Professional: ASTM E1527-05 requires that all Phase Is be prepared by a qualified environmental assessor with at least three years' experience in preparation of Phase Is, with documentation of education and college degrees. Environmental professionals must sign declarations verifying that they meet required qualifications, that is, that they possess specific education, training and experience for conducting AAI (All Appropriate Inquiry) [emphasis added].

A Phase I assessment requires DTSC concurrence and must ensure that the "environmental assessor meets the qualifications specified in subdivision (b) of Section 17210" (see Education Code Section 17213(a)(2)). However, no evidence can be found of a Phase 1 report prepared by Del Terra or information showing how Del Terra met the requirements of Education Code Section 17210, and following, as outlined above.

Based on the requirements of Education Code Section 17210, it does not appear that Del Terra was a qualified environmental assessor or provided adequate documentation to justify the services rendered. Finally, there is no documentation of either a Phase 1 report or DTSC approvals for Alex Rojas to stamp the invoice for \$68,000 for performance of an environmental assessment Phase 1 as "All Items Received/Services Rendered."

Despite Alex Rojas's signature verifying that the hours were expended and the services rendered, it is unclear how Alex Rojas verified that Del Terra qualified as an environmental assessor, how the services were performed, the hours expended by Del Terra performing the environmental assessment, or that DTSC was involved in the assessment as required under Education Code Section 17210. District records of board agendas that FCMAT reviewed do not show this item was taken to the board for approval as an additional service for \$68,000.

5. Roofing Assessment - \$74,500

On June 1, 2016, Del Terra requested \$74,500 for additional services for preparing a roofing assessment, as shown below.



Please Remit Payment To:
13181 Crossroads Pkwy North, Suite 540
City of Industry, CA 91746
Tel (626) 839-9300
Fax (626) 839-9307

INVOICE #36201-01

Date: June 1, 2016
To: Bassett Unified School District
Attn: Dr. Alex J. Rojas
Superintendent of Schools
904 North Willow Avenue
La Puente, CA 91746
Ref.: Roofing Assessment
Contract Board Approval 04/21/15

Per Program and Construction Management Agreement, Board Approved 4/21/15
As requested by District Administration : Facility Repofts, Assessments and Updates
Provide District Wide Roofing Assessment

Fee Earned	\$ 74,500
Less: Amounts Previously Invoiced	<u>\$ -</u>
Current Total Amount Due	<u><u>\$ 74,500</u></u>

Billings to Date	-----	-----	-----
	Current	Prior	Total
	\$ 74,500	\$ -	\$ 74,500

All Items Received/Services Rendered
Approved for Payment *AR*

Appendix 41: Additional Services Invoice 36201-01, Roofing Assessments, \$74,500 (6/1/16). Highlighting added by FCMAT.

Similar to other invoices for additional services discussed earlier and bearing the same June 1, 2016 date, there are no district records of a written authorization, board approval, breakdown of hours, or that this roofing assessment qualified as an additional service beyond the original 2015 agreement's scope of services. No roofing work was performed during the 2015 agreement, which was from April 2015 through April of 2018, when Del Terra improperly declared the 2015 agreement complete. As addressed above, a purchase order was never taken to the board of education for consideration, so there is no board related authorization for the roofing conditions request for additional services.

Del Terra provided a roofing conditions update, Page 2 of which included the following chart:

		BASSETT UNIFIED SCHOOL DISTRICT DISTRICT WIDE ROOFING UPDATE REPORT				DEL TERRA				
School Name	Address	Square Footage	Inspection Mode	Overall Condition Change	Action to Take	Original Budget	Budget Decrease/ Increase	Revised Budget	Const. Duration	
Bassett Adult School	343 Sunkist Ave., La Puente	65,879	Visual	No Change/ Failed	Replace All	\$ 1,301,110	20% Increase	\$ 1,561,332	90 Days	
Bassett Child Care	943 Sunkist Ave., La Puente	6,388	Visual	No Change/ Poor	Replace All	\$ 60,000	10% Increase	\$ 66,000	60 Days	
Bassett High School (a)	755 Ardilla Ave., La Puente	96,000	Visual	No Change/ Poor	Restore/Replace	\$ 806,039	10% Increase	\$ 886,643	90 Days	
Bassett High School (b)	755 Ardilla Ave., La Puente	9,000	Visual	No Change/ Failed	Replace All	\$ 284,024	20% Increase	\$ 340,829	60 Days	
District Office	904 Willow Ave., La Puente	23,230	Visual	No Change/ Failed	Replace All	\$ 458,792	20% Increase	\$ 550,550	45 Days	
Don Julian Elementary	13855 Don Julian Rd., La Puente	Multiple Bldgs	Visual	No Change/ Good	No Work Required			\$ -	0 Days	
Edgewood Academy	14135 Fairgrove Ave., La Puente	Multiple Bldgs	Visual	No Change/ Good	No Work Required			\$ -	0 Days	
Nueva Vista High School	904 Willow Ave., La Puente	Multiple Bldgs	Visual	No Change/ Good	No Work Required			\$ -	0 Days	
Sunkist Elementary	935 Mayland Ave., La Puente	Multiple Bldgs	Visual	No Change/ Good	No Work Required			\$ -	0 Days	
Torch Middle School (a)	751 Vineland Ave., City of Industry	Bldg M5	Visual	No Change/ Minimal Repairs	Replace	\$ 25,000	10% Increase	\$ 27,500	30 Days	
Torch Middle School (b)	751 Vineland Ave., City of Industry	@ HVAC Locations	Visual	No Change/ Minimal Repairs	Repair	\$ 90,000	10% Increase	\$ 99,000	30 Days	
Vanwig Elementary	1151 Van Wig Ave., Bassett	9,076	Visual	No Change/ Poor	Replace All	\$ 93,029	10% Increase	\$ 102,332	45 Days	
Total						\$ 3,117,994		\$ 3,634,186		

Appendix 42: Del Terra roofing conditions update (undated; believed to be May 2016). Highlighting added by FCMAAT.

Del Terra also gave the district a report from a roofing manufacturer, Garland Company Inc., as the basis for the \$74,500 additional services invoice. The cover sheet of the report is shown below.



Appendix 43: Garland Roofing Report (undated but believed to be from 2008).

This report provided an assessment and dollar values for replacing roofing throughout the district. For example, Page 8 of the report included a summary of the square footage and budget for repair. In the example shown below, the Bassett Adult School has 65,879 square feet of roofing and the budget for replacement would be \$1,301,110.



Solution Options

Client: Bassett USD Master Plan
 Facility: Bassett Adult School
 Roof Section: All

Replace Options

Solution Option:	Replace <input checked="" type="checkbox"/>	Action Year:	
Square Footage:	65,879	Expected Life Years:	30
Budget:	\$1,301,110.00		
Scope of Work:	This campus has failed roofs that were not re-roofed during the last bond measure.		

Appendix 43: Garland Roofing Report, Page 8 (undated but believed to be from 2008). Highlighting added by FCMAT.

The budget figures from the Garland report match the budget figures for the Del Terra roofing conditions update except for Bassett High School, where the figures were updated to \$806,039 for 96,000 square feet and \$284,024 for 9,000 square feet, for a total of 105,000 square feet and \$1,090,063. Page 18 of the Garland report shows Bassett High School having 104,934 square feet of roof with a replacement cost of \$1,090,063.



Solution Options

Client: Bassett USD Master Plan
 Facility: Bassett High School
 Roof Section: All

Inspection Options

Solution Option:	Inspection <input checked="" type="checkbox"/>	Action Year:	
Square Footage:	104,934	Expected Life Years:	30
Budget:	\$1,090,063.00		
Scope of Work:	There were several portables and the two lunch canopy roof sections that are failed and were not re-roofed during the last bond. Budget is \$284,024. Optional restoration budget for the other roof sections are \$806,039.		

Appendix 43: Garland Roofing Report, Page 18 (undated but believed to be from 2008). Highlighting added by FCMAT.

The Del Terra total cost of \$1,090,063 and square footage of 105,000 for roofing replacement is the same as in the Garland report except for the number is broken down into an “a” figure and a “b” figure, and the square footage differs by 66 (105,000 – 104,934).

Counsel for the district, David Alvarez, contacted Garland representative Sean Magee on January 11, 2019 to inquire as to the cost of preparing the roofing assessment and was told the roofing assessment was prepared in 2008 and had been provided at no charge to Del Terra as part of a Williams Act assessment.

David Alvarez

From: Sean Magee <smagee@garlandind.com>
Sent: Friday, January 11, 2019 3:46 PM
To: David Alvarez
Cc: iguajardo@bassettusd.org
Subject: Re: Bassett Unified School District

David, we provide a host of services to our customers. Typically these Ramp reports on facility assessments are requested from multiple sources. Some are requested from consultants that are paid representative of the school district. Sometimes these request will come directly from an Architect or CM that is conducting master planning for a school district. Most often the request will come directly from the AssSup or Director of M&O. If I recall correctly I did this report back in 2008 with the main purpose of complying with Williams Assesment with the intent on receiving Williams Grant money to mitigate any water intrusion issue that resulted in health and safety issues. This assessment happened to coincide with Del Terra managing the bond and as a result, the Ramp report served both purposes. The short answer to your question is we do not charge our customers for these roof evaluation assessments. Thank you. S/F Magee

Appendix 44: E-mail from Sean Magee of Garland (1/11/19). Highlighting and green underline added by FCMAT.

Thus, it is not clear what the basis was for the \$74,500 additional services invoice from Del Terra for a roofing assessment that was prepared eight years earlier at no cost. If the Garland representative was incorrect in his recollection of the 2008 roofing report, Del Terra should have been able to submit a Garland invoice as a pass-through cost but did not do so.

The summary provided by Del Terra, which does not have a date, appears to be a summary of the Garland report from 2008, and there is no information on any time spent performing new or additional roofing assessments that could be considered an additional service under Article 4.3 of the 2015 agreement discussed above. The only new information on the Del Terra chart is budget figures increased by 20% for some locations and 10% for others.

District records do not reflect that this additional service of \$74,500 was taken to board for approval. Thus, this does not appear to be a valid additional service.

6. Program and Construction Management Additional Services Charges – \$400,000

On April 29, 2015, Del Terra presented an additional services invoice, No. 36370-01 for \$400,000 for planning and scheduling work at the district office, Bassett High School, Erwin Elementary School, and Florence E. Flanner Elementary School, as shown below.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE #36370-01

Date: April 29, 2015
To: Bassett Unified School District
 904 North Willow Avenue
 La Puente, CA 91746
Ref.: Program and Construction Management Services
 Multiple District-wide Facility Projects located at:
 * District Office
 * Bassett High School
 * Erwin Elementary
 * Flanner Elementary

Description of Services Provided

Del Terra Program & Construction Management Services

- Plan, schedule Budget and Manage various trade contractors, e.g. Demolition & Installation Contractors
- Coordinate and manage purchase of all material supply and equipment
- Coordinate and manage the installation of all special materials and equipment

District Office:

- Assess and abate hazardous material; e.g. lead, asbestos materials; • Abatement of existing flooring in corridors; • Installation of new VCT flooring in corridors; • Demolition of existing store front at main entrance to lobby; • Installation of new reception counter at main lobby; • Removal of interior doors; • Installation of new interior office doors throughout District Office; • Removal of existing exterior doors; • Installation of 10 new exterior doors; • Remove existing carpet and reinstall new carpet in all the offices; • Remodeling of existing computer lab to create new IT Dept. offices

Bassett High School

- Assess and abate hazardous material; e.g. lead, asbestos materials
- Modernize existing Little Theatre

Mommy & Me at Erwin Elementary

- Assess and abate hazardous material; e.g. lead, asbestos; • Renovation for two (2) existing kindergarten classrooms. New ADA access improvements; • Renovation of two (2) restrooms (removal of existing plumbing fixtures, installation of new tile and new plumbing fixtures); • Removal of existing drinking fountain cabinets to meet ADA requirements; • Removal of existing exterior doors and reinstall new doors and hardware; • Repaint (2) classrooms and restrooms; • Removal of existing playground equipment and reinstall new playground equipment; • Install new access gates to playground area and classrooms; • Removal and installation of new asphalt for playground area

Flanner Elementary

- Assess and abate hazardous material; e.g. lead, asbestos materials
- Renovation of administration office extension of the building

Current Invoice Amount	\$ 400,000
Previous Amount Invoiced	\$ -
Total Current Invoice Amount Due to Del Terra	\$ 400,000

Appendix 45: Additional Services Invoice 36370-01, Districtwide Facilities Projects, \$400,000, Page 1 (4/29/15).

This invoice listed four sites at which program and construction management services were to be provided. Other than the Flanner Project, which was constructed in 2018, the district does not have records of these purchase orders or contracts, or records of payment(s) to any contractors for these services. Under the 2015 agreement, Del Terra was entitled to charge a program management fee and a construction management fee for any work performed. However, Del Terra did not invoice based on a percentage of costs incurred. Instead, there is a list of services with no information about hours, efforts or costs. The first example is Page 2 of the invoice, shown below, which contains the backup information submitted for the district office project.

Invoice #36370-01 Multiple District Wide Facility Projects

Description of Services Provided

Del Terra Program & Construction Management Services

- Plan, Schedule Budget and Manage various trade contractors, e.g. Demolition & Installation Contractors
- Coordinate and manage purchase of all material supply and equipment
- Coordinate and manage the installation of all special materials and equipment

District Office:

At the request of the Superintendent and CBO of the district, Del Terra was requested to manage and implement the removal of existing flooring, the hazardous material abatement of the existing mastic, and the new installation of new VCT flooring throughout the district office corridors. The CBO also requested to have a new reception counter designed and built in the main lobby. Superintendent requested that all the interior doors and the exterior doors be replaced, the main entrance store front was replaced with a new modernized glass window and glass door system. All the interior doors throughout the District office were also replaced with solid wood finished doors and new hardware.

An additional request was requested by the Superintendent to refresh the IT dept., which included offices and an open computer space area. The scope of work consisted of the removal of existing carpet, removal of the hazmat mastic material, and the installation of new carpet tile. New furniture was also procured and coordinated and installed in all the newly refreshed IT dept. office and computer spaced area.

- Assess and abate hazardous material; e.g. lead, asbestos materials
- Abatement of existing flooring in corridors
- Installation of new VCT flooring in corridors
- Demolition of existing store front at main entrance to lobby
- Installation of new reception counter at main lobby
- Removal of interior doors
- Installation of new interior office doors throughout District Office
- Removal of existing exterior doors
- Installation of 10 new exterior doors
- Remove existing carpet and reinstall new carpet in all the offices
- Remodeling of existing computer lab to create new IT Dept. offices

Appendix 45: Additional Services Invoice 36370-01, Districtwide Facilities Projects, \$400,000, Page 2 (4/29/15).

District records do not have any backup documentation of the request from the superintendent or the CBO and no documentation on costs for hazardous material removal or the cost for any of the work performed. There should have been a cost that could be used to calculate the management fees. Instead, a lump sum with no relationship to the actual construction work performed was requested as an additional service.

California Financial Services (CFS) while not a municipal advisor as defined under the Securities Exchange Commission, was the district's bond facilities financial advisor that prepared a "Priority School Project Status Report" dated August 26, 2015, on bond expenditures. However, none of the projects listed on Invoice 36370-01 are listed in the report. Because the report of August 26, 2015, is dated several months after the invoice date of April 29, 2015, it should have listed these projects.

The expenditures listed are shown on the CFS bond expenditures charts below:



Combined Summary of Measure E Project Budgets, Encumbrances & Expenses

District Priority School Projects	Project Budget Estimate	Project Encumbrances to Date	Project Expenditures to Date	Remaining Project Budget (Budget - Encumb)
1 1010000-8 - DJES Field Renovation (101/57-013)	\$603,832.00	\$573,794.46	(\$573,794.46)	\$30,037.54
2 1010700-1 - Don Julian Modernization (101/57-003)	2,236,490.75	2,236,490.75	(2,236,490.75)	0.00
3 1010700-2 - Don Julian Elementary HVAC (101/61-024)	2,422,372.51	2,422,372.51	(2,422,372.51)	0.00
4 1010700-4 - DJ Path of Travel & Kind. Playgrnd. (101/57-013)	1,073,721.62	1,073,721.62	(1,073,721.62)	0.00
5 1010700-5 - Don Julian Parking Lot (101/57-013)	490,995.91	490,995.91	(490,995.91)	0.00
6 1010700-6 - Don Julian Playground (101/57-003)	199,473.65	199,473.65	(199,473.65)	0.00
7 1010700-7 - Don Julian Child Development shade Structure	2,400.00	2,400.00	(2,400.00)	0.00
8 1010700-8 - Don Julian Demonstration Classroom	58,891.08	58,891.08	(58,891.08)	0.00
9 1010700-9 - Don Julian 21st Century Classroom	1,273.12	1,273.12	(1,273.12)	0.00
10 1020700-1 - Erwin Modernization (102/57-000)	181,220.64	181,220.64	(181,220.64)	0.00
11 1020700-2 - Erwin Adult School Marquee (non-Bond)	942.70	942.70	(942.70)	0.00
12 1020700-3 - Erwin ES Parking (non-Bond)	3,114.45	3,114.45	(3,114.45)	0.00
13 1030700-1 - Sunmist Modernization (103/57-001)	2,293,837.51	2,293,837.51	(2,293,837.51)	0.00
14 1030700-2 - Sunmist Elementary HVAC (103/61-025)	2,396,972.23	2,396,972.23	(2,396,972.23)	0.00
15 1030700-4 - Sunmist ES Playground	324,677.97	324,677.97	(324,677.97)	0.00
16 1040700-1 - Van Wig Modernization (104/57-005)	2,262,523.56	2,262,523.56	(2,262,523.56)	0.00
17 1040700-3 - Van Wig Courtyard - (104/57-012)	907,984.00	907,984.00	(907,984.00)	0.00
18 1040700-4 - Van Wig Playground (104/57-012)	330,496.20	330,496.20	(330,496.20)	0.00
19 2010700-1 - Edgewood Modernization (201/57-010)	3,594,853.71	3,594,853.71	(3,594,853.71)	0.00
20 2010700-2 - Edgewood Emergency Repair Project	3,150.00	3,150.00	(3,150.00)	0.00

3 KeyAnalytics – CFS InternetAccess

Appendix 46: CFS Bond Expenditure Report, Page 3 (8/26/15).



Combined Summary of Measure E Project Budgets, Encumbrances & Expenses (Continued)

District Priority School Projects	Project Budget Estimate	Project Encumbrances to Date	Project Expenditures to Date	Remaining Project Budget (Budget - Encumb)
21 2010700-4 - Edgewood Courtyard	630,823.90	630,823.90	(630,823.90)	0.00
22 2010700-5 - Edgewood Library (non-bond)	6,751.53	6,751.53	(6,751.53)	0.00
23 2010700-6 - Edgewood Playground	302,725.81	302,725.81	(302,725.81)	0.00
24 2010700-7 - Edgewood Multipurpose	10,320.00	10,320.00	(10,320.00)	0.00
25 2010700-8 - Edgewood DSA Closeout	500.00	500.00	(500.00)	0.00
26 2010700-9 - Edgewood Demonstration Classroom	34,069.42	34,069.42	(34,069.42)	0.00
27 3010700-1 - Torch Modernization (301/57-002)	2,387,733.17	2,385,623.17	(2,385,623.17)	2,110.00
28 3010700-3 - Torch Ceiling & Abatement Project (301/57-011)	825,092.25	825,092.25	(825,092.25)	0.00
29 3010700-4 - Torch Gym (301/52-001)	8,825.80	8,825.80	(8,825.80)	0.00
30 3010700-5 - Torch Exterior Painting (301/57-011)	179,669.00	179,669.00	(179,669.00)	0.00
31 3010700-6 - Torch Fire Sprinkler Project	2,400.00	2,400.00	(2,400.00)	0.00
32 3010700-7 - Torch Expansion/Multi-Purpose Room (301/52-001)	8,709,042.08	8,709,042.08	(8,709,042.08)	0.00
33 4010700-1 - BHS Modernization (401/57-007)	6,334,637.95	6,334,637.95	(6,334,637.95)	0.00
34 4010700-10 - Bassett High School Demonstration Classroom	22,394.44	22,394.44	(22,394.44)	0.00
35 4010700-11 - Bassett High School - Measure V	662.26	662.26	(662.26)	0.00
36 4010700-4 - Bassett High School - HVAC Project	3,700,000.00	2,749,307.89	(2,749,307.89)	950,692.11
37 4010700-5 - Bassett High School Gym	1,345,969.67	1,345,969.67	(1,345,969.67)	0.00
38 4010700-7 - Bassett High School Roof Replacement	660,286.48	660,286.48	(660,286.48)	0.00
39 4010700-8 - BHS - Science Labs	1,250,001.00	115,173.11	(115,173.11)	1,134,827.89
40 4010700-9 - BHS Library	549,107.35	549,107.35	(549,107.35)	0.00
41 5020700-1 - Nueva Vista Continuation School - Mod (502/57-008)	810,436.57	810,436.57	(810,436.57)	0.00
COMBINED PROJECT TOTALS:	\$47,160,672.29	\$45,043,004.75	(\$45,043,004.75)	\$2,117,667.54

District Financial Reports as of 6/30/2015

4 KeyAnalytics – CFS InternetAccess

Appendix 46: CFS Bond Expenditure Report, Page 4 (8/26/15).

The next CFS bond expenditure report, dated February 18, 2016, listed one project that matches the project descriptions listed on Invoice 36370-01: “Modernize Existing Little Theater at Bassett High School.” Page 21 of the February 18, 2016, report, shown below, lists a project under the category “Potential Measure V – 2017 Series B Projects.” This project is titled Bassett High School Little Theater and shows a projected expenditure of \$220,000 for 2017.



District Estimated School Funding Program Multi-Year Cash Flow

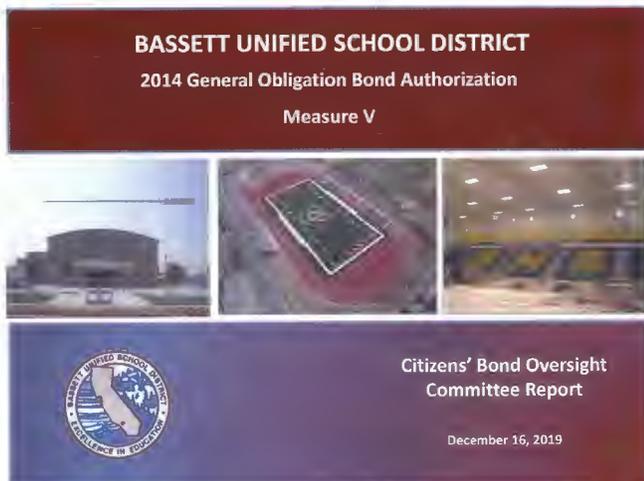
FUNDING SOURCES	2016 YEAR	2017 YEAR	2018 YEAR	2019 YEAR	Remaining Authorization
Beginning Fund Balance as of 1/31/2016:	\$4,990,250.87	\$6,990,250.87	\$19,590,250.87	\$19,590,250.87	\$19,590,250.87
Potential Measure V - 2017 Series B Proceeds: [*]		12,000,000.00			
Potential Measure V - 2019 Series C Proceeds: [*]				6,000,000.00	
Remaining Measure V Authorization: [*]					2,100,000.00
Funds 25 & 40 Contribution to G.O. Bond Program	1,400,000.00				
LACOE Flanner Lease	600,000.00	600,000.00			
Potential State Grants ^{**}					
Total Projected Revenue:	\$6,990,250.87	\$19,590,250.87	\$19,590,250.87	\$25,590,250.87	\$21,690,250.87
Cumulative Expenditure balance:		\$6,984,860.74	\$11,796,860.74	\$22,427,396.74	
Outstanding Encumbrances as of 1/31/2016:	1,884,860.74				
2016 21st Century Classrooms Estimated Cost:	5,100,000.00				
Potential Measure V - 2017 Series B Projects:					
Estimated 2017 Series B Closing Costs		1,092,000.00			
Bassett High School Little Theater		220,000.00			
Bassett High School Snack Bar/Stadium		2,100,000.00			
Bassett High School Courtyard		1,400,000.00			
Potential Measure V - 2019 Series C Closing Costs:					
Estimated 2019 Series C Closing Costs				546,000.00	
Bassett High School Swimming Pool			2,800,000.00		
District-Wide Facilities Upgrade			5,000,000.00		
Escalation/Contingency			2,830,536.00		
ESTIMATED PROJECT BUDGETS:	\$6,984,860.74	\$11,796,860.74	\$22,427,396.74	\$22,973,396.74	
PROJECT REVENUE SHORTFALL/CONTINGENCY:	\$5,390.13	\$7,793,390.13	(\$2,837,145.87)	\$2,616,854.13	

^{*} The actual amount of future G.O. Bond series issued will depend on the growth in District's assessed value and interest rates realized at the time of issuance.
^{**} The receipt of future State grants are predicated on: 1) the State placing a State School bond Measure on the ballot in 2016; 2) successful passage of a State School Bond Measure by the voters; 3) the District's ability to meet the State's eligibility requirements; and 4) the State matching grants remaining at the current levels.

Appendix 47: CFS Bond Expenditure Report, Page 21 (2/8/16). Highlighting added by FCMAT.

A December 16, 2019, report was prepared by CFS on bond expenditures, after Del Terra declared on April 21, 2018 that it had completed its contractual responsibilities under the 2015 agreement. The December 16, 2019, CFS report provided cumulative summaries of all expenditures under the 2015 agreement and of some expenditures on prior Del Terra agreements.

The December 16, 2019 Citizens' Bond Oversight Committee Report cover page and report on bond expenditures summaries are shown below to provide additional context as to what was being presented as bond expenditures.



Appendix 48: COC Bond Expenditure Report (12/16/19).

This report on bond expenditures includes no mention of the district office project. A review of the first page of expenditures, which starts on Page 3 of the report, found only one expenditure at Erwin Elementary School, of \$1,588.00, so it does not appear that the Erwin Elementary School Mommy and Me project was performed as listed on Invoice 36370-01 shown above.

MEASURE V EXPENDITURE SUMMARY BY SCHOOL CAMPUS

No.	District Project Name	Project Purchase Orders Issued to Date	Project Expenditures By Campus	Remaining Purchase Order Balances	Project Status
A	B	C	D (B + C)	E	
1010700 - Don Julian Elementary School Campus Improvements:					
1	1010700-1 - Don Julian Modernization (101/57-003)	\$7,278.14	(\$7,278.14)	\$0.00	Completed
2	1010700-5 - Don Julian Parking Lot (101/57-013)	7,850.00	(7,850.00)	0.00	Completed
3	1010700-9 - Don Julian 21st Century Classroom	1,583,767.60	(1,583,767.60)	0.00	Completed
4	1010700 - Don Julian Elementary - Miscellaneous	980.00	0.00	980.00	Ongoing
Campus Total:		\$1,599,875.74	(\$1,598,895.74)	\$980.00	
1020700 - Erwin Elementary School Campus Improvements:					
5	1020700-1 - Erwin Modernization (102/57-000)	\$1,588.00	(\$1,588.00)	\$0.00	Completed
Campus Total:		\$1,588.00	(\$1,588.00)	\$0.00	
1030700 - Sunkist Elementary School Campus Improvements:					
6	1030700-1 - Sunkist Modernization (103/57-001)	\$1,166.65	(\$1,166.65)	\$0.00	Completed
7	1030700-5 - Sunkist 21st Century Classroom	1,424,330.58	(1,424,330.58)	0.00	Completed
8	1030700-6 - Sunkist Film Class Equipment	9,270.65	(9,270.65)	0.00	Completed
9	1030700-7 - Sunkist - Parking Lot	4,250.00	(4,250.00)	0.00	Completed
Campus Total:		\$1,439,017.88	(\$1,439,017.88)	\$0.00	
1040800 - Van Wig Elementary School Campus Improvements:					
10	1040700-1 - Van Wig Modernization (104/57-005)	\$500.00	(\$500.00)	\$0.00	Completed
11	1040700-5 - Van Wig - 21st Century Classrooms	1,387,038.36	(1,387,038.36)	0.00	Completed
Campus Total:		\$1,387,538.36	(\$1,387,538.36)	\$0.00	

Appendix 48: COC Bond Expenditure Report, Page 3, (12/16/19). Highlighting added by FCMAT.

Page 4 of the report also lacks any expenditures related to the \$400,000 additional services request.

MEASURE V EXPENDITURE SUMMARY BY SCHOOL CAMPUS

No.	District Project Name	Project Purchase Orders Issued to Date	Project Expenditures By Campus	Remaining Purchase Order Balances	Project Status
A	B	C	D (B + C)	E	
5020010 - Nueva Vista High School Campus Improvements:					
12	5020010-1 - Nueva Vista H.S. - Lighting Project	\$3,000.00	(\$3,000.00)	\$0.00	Completed
13	5020010-2 - Nueva Vista H.S. - Painting Project	4,600.00	(4,600.00)	0.00	Completed
14	5020010-3 - Nueva Vista H.S. - Carpeting Project	1,659.00	(1,659.00)	0.00	Completed
Campus Total:		\$9,259.00	(\$9,259.00)	\$0.00	
2010700 - Edgewood Academy Campus Improvements:					
15	2010700-1 - Edgewood Modernization (201/57-010)	\$857.08	(\$857.08)	\$0.00	Completed
16	2010700-11 - Edgewood Interior Painting	85,000.00	(85,000.00)	0.00	Completed
17	2010700-12 - Edgewood - Security Fencing	14,985.00	(14,985.00)	0.00	Completed
18	2010700-9 - Edgewood 21st Century Classrooms	1,792,164.61	(1,792,164.61)	0.00	Completed
Campus Total:		\$1,892,806.69	(\$1,892,806.69)	\$0.00	
3010700 - Torch Middle School Campus Improvements:					
19	3010700-1 - Torch Modernization (301/57-002)	\$14,082.81	(\$14,082.81)	\$0.00	Completed
20	3010700-10 - Torch MS Environmental Assessment Phase 1	68,000.00	(68,000.00)	0.00	Completed
21	3010700-11 - Torch Film Class Equipment	1,360.77	(1,360.77)	0.00	Completed
22	3010700-12 - Torch Bleacher Modification	9,500.00	(9,500.00)	0.00	Completed
23	3010700-8 - Torch - 21st Century Classrooms	1,631,836.70	(1,631,836.70)	0.00	Completed
24	3010700-9 - Torch Interior Painting	270,460.73	(270,460.73)	0.00	Completed
25	3010700 - Torch Middle School - Miscellaneous	720.00	0.00	720.00	Ongoing
Campus Total:		\$1,995,961.01	(\$1,995,241.01)	\$720.00	

Appendix 48: COC Bond Expenditure Report, Page 4, (12/16/19).

The Bassett High School Little Theater project that was previously shown as a 2017 anticipated expenditure is no longer listed.

MEASURE V EXPENDITURE SUMMARY BY SCHOOL CAMPUS

No.	District Project Name	Project Purchase Orders Issued to Date	Project Expenditures By Campus	Remaining Purchase Order Balances	Project Status
A	B	C	D (B + C)	E	
4010700 - Bassett High School Campus Improvements:					
26	4010700-1 - BHS Modernization (401/57-007)	\$8,306.71	(\$8,306.71)	\$0.00	Completed
27	4010700-10 - Bassett High School 21st Century Classrooms	2,254,903.86	(2,254,903.86)	0.00	Completed
28	4010700-12 - Bassett High School Interior Painting	245,000.00	(245,000.00)	0.00	Completed
29	4010700-13 - Bassett High School Stadium Snack Bar & Courtyard	143,564.07	(143,564.07)	0.00	Completed
30	4010700-16 - Bassett High School Film Class Equipment	4,867.93	(4,867.93)	0.00	Completed
31	4010700-17 - Bassett H.S. - Refurb of 2 Classrooms (16/17)	118,380.48	(118,380.48)	0.00	Completed
32	4010700-18 - Bassett H.S. - Cabling Project	98,551.23	(98,551.23)	0.00	Completed
33	4010700-20 - Bassett High School - Parking Lot	1,700.00	(1,700.00)	0.00	Completed
34	4010700-21 - Bassett High School - Furniture	20,438.08	(20,438.08)	0.00	Completed
35	4010700-22 - Bassett H.S. - Track and Field CMAS Agreement	801,397.25	0.00	801,397.25	In Progress
36	4010700-23 - Bassett High School - Pool (Design & Closeout)	393,490.00	0.00	393,490.00	In Progress
37	4010700-4 - Bassett High School - HVAC Project	206,962.73	(206,962.73)	0.00	Completed
38	4010700-8 - BHS - Science Labs/Classrooms	914,021.59	(914,021.59)	0.00	Completed
39	4010700-9 - BHS Library	11,786.89	(11,786.89)	0.00	Completed
40	4010800 - Bassett H.S. - Refurb of 2 Classrooms (17/18)	255,495.98	(255,495.98)	0.00	Completed
Campus Total:		\$5,478,866.80	(\$4,283,979.55)	\$1,194,887.25	

Appendix 48: COC Bond Expenditure Report, Page 5, (12/16/19).

There are no expenditure reports for architecture or construction services in the district's files related to modernizing the Little Theater. Also, based on interviews of district employees, the Little Theater was never renovated.

MEASURE V EXPENDITURE SUMMARY BY SCHOOL CAMPUS

No.	District Project Name	Project Purchase Orders Issued to Date	Project Expenditures By Campus	Remaining Purchase Order Balances	Project Status
A		B	C	D (B + C)	E
District-Wide Expenditures:					
41	5010700 - Mommy & Me Adult School	\$1,513.47	(\$1,513.47)	\$0.00	Completed
42	5012300 - Planner Office	1,987,793.11	(1,987,793.11)	0.00	Completed
43	6000600 - Child Development	55,294.26	(55,294.26)	0.00	Completed
44	7001000 - Community Outreach	165,697.48	(165,697.48)	0.00	Completed
45	7007000 - Miscellaneous District-Wide Projects	1,949,828.52	(1,065,438.52)	884,390.00	Ongoing
46	7007800 - Technology	415,096.97	(415,096.97)	0.00	Completed
47	Mgmt - Program Management	1,182,200.03	(1,182,200.03)	0.00	Completed
48	0 - Misc. Capital Facility Projects	3,839.99	(3,839.99)	0.00	Completed
Campus Total:		\$5,761,263.83	(\$4,876,873.83)	\$884,390.00	
COMBINED TOTALS FOR PROJECTS COMPLETED & UNDERWAY:		\$19,566,177.31	(\$17,485,200.06)	\$2,080,977.25	

Appendix 48: COC Bond Expenditure Report, Page 6, (12/16/19). Highlighting added by FCMAT.

The 2015 agreement was approved on April 21, 2015. This \$400,000 additional services invoice is dated April 29, 2015, just eight days after the 2015 agreement was approved. A purchase order was opened for this item by Alex Rojas on May 5, 2015, then revised May 12, 2015, but it appears to be based on the original contract approval, and no board authority for extra services was ever approved or ratified. The purchase order was issued six days after the Del Terra invoice was submitted. Purchase Order No. 71791 for \$400,000 is shown below.

Purchase Order CHANGE ORDER - REPRINT # 1

THIS PURCHASE ORDER NO. MUST APPEAR ON ALL SHIPPED MATERIAL AND CORRESPONDENCE: P.O. # **0000071791**

Form No. 502-083
 DATE ISSUED: 05/05/2015
 REVISION DATE: 05/12/2015

ACCT PAYABLE PHONE NO. 626-931-3015 EXT.	BID/QUOTE/CONTRACT NO.	QUOTE BY	DELIVERY HOURS 7:30 AM - 3:30 PM (Mon-Fri.)	DUE DATE 05/01/2015
BUYER Hall Olivia M. - Bassett USD	VENDOR NO 0000007339	VENDOR PHONE NO 839-9300	VENDOR FAX NO 839-9307	SHIP VIA CHEPST WAY
BUYER PHONE NUMBER 626-931-3069 EXT.	REQUESTOR NAME 64295 - Business Services	PO TERMS Due Immediately	WAREHOUSE INSTRUCTIONS (DELIVER TO) 00 - Attn: Admin Services	FOB DEST

FROM: **BASSETT USD**
 904 North Willow Avenue
 La Puente CA 91746-1696

TO: **DEL TERRA GROUP**
 13181 CROSSROADS PARKWAY NORTH
 SUITE # 540
 CITY OF INDUSTRY CA 91746

SHIP TO: District Office
 904 North Willow Avenue
 La Puente CA 91746-1696

DISTRICT NO 64295
 FISCAL YEAR 14-15

LINE/SCHD	ITEM DESCRIPTION	QTY	UNIT	COST	EXTENSION
1 - 1	MULTIPLE DISTRICT-WIDE FACILITY PROJECTS	1.00	EA	400,000.00	400,000.00
2 - 1	MULTIPLE DISTRICT-WIDE FACILITY PROJECTS	1.00	EA	400,000.00	400,000.00

PROJECTS LOCATED AT:
 DISTRICT OFFICE
 BASSETT HIGH SCHOOL
 ERWIN ELEMENTARY
 FLANNER ELEMENTARY

Sub Total: ~~800,000.00~~
 Total Tax Amount: 0.00
 Total Frt Amount: 0.00
 Total PO Amount: ~~800,000.00~~

21.0-00000.0-00000-85000-5810-7007000 -RC:0000007241 \$ 400,000.00

21.0-00000.0-00000-85000-6200-7007000 -RC: \$ 400,000.00

Handwritten notes: "NO will be release", "New P.O.", "Section 4.3.1 in contract Additional Services", "Vacher Jasm Y", "OK", "K [Signature]"

AUTHORIZED/APPROVAL SIGNATURE

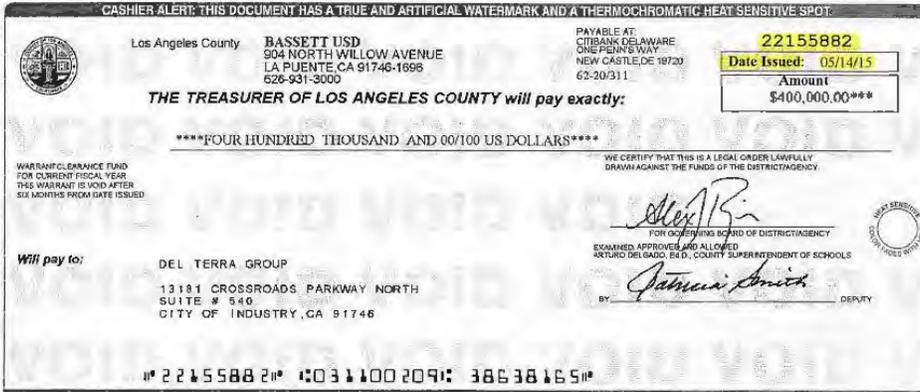
Appendix 50 and 77: Purchase Order 71791 for \$400,000 (5/12/15). Highlighting and red circle added by FCMAT.

This May 5, 2015 purchase order is revised to May 12, 2015, then paid two days later, on May 14, 2015, with Check/Warrant No. 22155882 as shown below.

64295		BASSETT USD		Check No. 22155882	
Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Available	Paid Amount
36370-01	05/05/15	JASM4	400,000.00	0.00	400,000.00

Vendor Number	Name	Total Discounts	TIN
000007339	DEL TERRA GROUP	\$0.00	

Check Number	Date	Total Amount	Late Interest	Discount Taken	Total Paid Amount
22155882	05/14/15	\$400,000.00	0.00		\$400,000.00



Appendix 50: Check No. 22155882 for \$400,000 (5/14/15). Highlighting added by FCMAT.

District records do not reflect \$400,000 in additional services ever being properly preapproved on a board agenda. After the fact, on July 14, 2015, two months following the date of payment, a purchase order was placed within a monthly purchase order report. This is not the proper way to approve services. Services should be preapproved by the board. See copy of the agenda for July 14, 2015 reproduced below:

BASSETT UNIFIED SCHOOL DISTRICT			07-14-2015
BUSINESS SERVICES			Page 5 of 7
PURCHASING DEPARTMENT			
0000071859	CAMBRIDGE UNIVERSITY	CLASSROOM MATERIALS	\$8,829.49
		TOTAL ADULT EDUCATION	\$40,173.66
<u>1.4 CHILD DEVELOPMENT: (fund 12.0)</u>			
0000071753	ROBERTSON INDUSTRIES	REPAIRS	\$3,575.00
0000071800	HATCH TECHNOLOGY & TOYS	WHITEBOARD SOLUTION	\$8,681.05
0000071806	HIGHTECH FLOOR COVERING, INC.	VINYL COMPOSITION TILE	\$3,615.00
0000071862	DAVE BANG ASSOCIATES	PLAYWORLD FUNCENTER	\$1,219.98
0000071863	HATCH TECHNOLOGY &	WHITEBOARD RELOCATION	\$1,200.00
0000071869	LAKESHORE LEARNING	ACTIVITY KITS AND BOOKS	\$2,576.38
0000071871	ISTVAN "STEVEN" ORI, JR. Q PRESS	POSTCARDS AND MAILING OF POSTCARDS	\$7,496.44
		TOTAL CHILD DEVELOPMENT FUND	\$28,363.85
<u>1.5 CAFETERIA FUND: (fund 13.0)</u>			
C15-007	HARALAMBOS BEVERAGE COMPANY	FOOD PRODUCTS	\$4,000.00
C15-012	LEABO FOOD DISTRIBUTION	FOOD PRODUCTS	\$100,000.00
C15-016	DRIFTWOOD DAIRY	DAIRY PRODUCTS	\$50,000.00
		TOTAL CAFETERIA FUND	\$154,000.00
<u>1.6 DEFERRED MAINTENANCE: (fund 14.0)</u>			
NONE			
<u>1.7 BUILDING FUND: (fund 21.0)</u>			
0000071397	AP CONSTRUCTION GROUP INC.	HEATING, VENTILATION, AND AIR CONDITIONING REPLACEMENT/ INSTALLATION PROJECT BASSETT HIGH SCHOOL	\$1,000,000.00
0000071791	DEL TERRA GROUP	DISTRICT WIDE FACILITY PROJECTS	\$400,000.00
0000071845	OFFICE DEPOT	BOXES	\$1,635.00
0000071866	OFFICE DEPOT	BOXES	\$1,089.73

Appendix 83, board agenda monthly purchase order listing, Page 5 (7/14/2015).

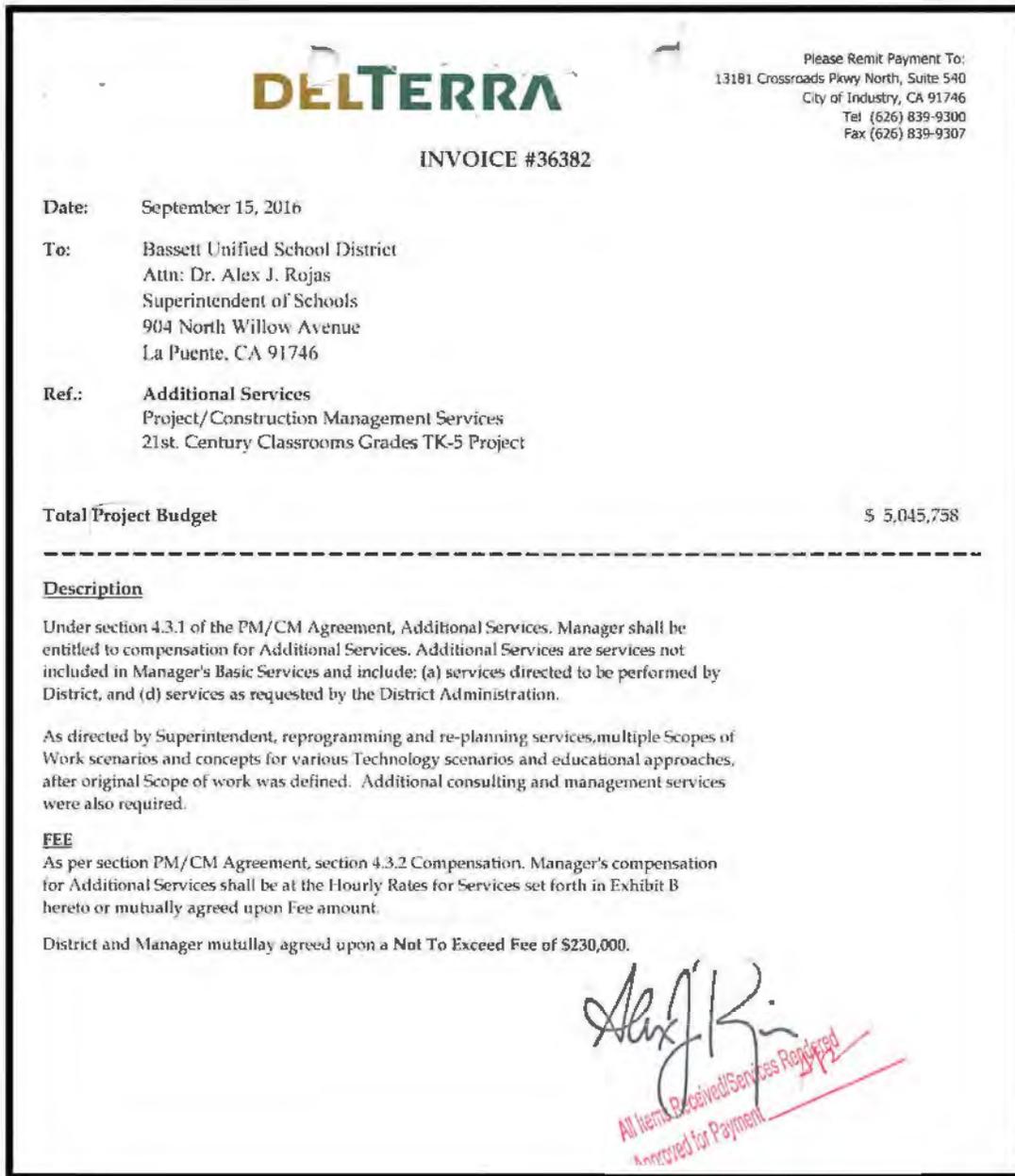
The timing of how Del Terra authorized work is inconsistent with standard protocols where the district enters into a contract which authorizes the work, the executed and board approved contract initiates a purchase order, the work is performed consistent with that included in the contract and then an invoice is submitted for payment. In this case:

1. The invoice is initiated on April 29, 2015
2. A purchase order is issued on May 5, 2015 (this is the only purchase order for an additional service request that is taken to the board)
3. Payment for the entire additional service is made on May 14, 2015
4. The board approves the purchase order 2 months later on July 14, 2015; and
5. Then the work is performed.

Based on the August 26, 2015 and February 18, 2016 bond expenditure reports, no work was performed on any of the projects listed for this \$400,000 additional services invoice until sometime between 2016 and December 16, 2019, when an expenditure was shown for the Flanner Project (see further discussion in Section E.8.). Thus there was no basis for approving or making this \$400,000 payment and no basis for the \$400,000 amount requested by Del Terra.

7. Reprogramming and Replanning – \$230,000

The reprogramming and replanning invoice is discussed more fully in Section B.1 of this report, and it is unclear why reprogramming or replanning was needed at the outset after the 2015 agreement was executed. As discussed above, this \$230,000 additional service invoice deviates from the requirements for written direction under Article 4.3.1 of the 2015 agreement and does not provide information on the number of hours of work spent on the project, or who provided the labor for this request. This invoice, No. 36382 shown below, was for reprogramming the TK-5 21st Century Schools project, but it is unclear what was being reprogrammed.



Appendix 51: Additional Services Invoice 36382, 21st Century Schools TK-5 Project, \$230,000 (9/15/16).

Because the services are marked as “All Items Received/Services Rendered,” Alex Rojas should have received information on the number of hours spent or other details on which to base his finding that the services had been rendered, and that information should have been preserved at the district, but it was not. As noted in Section B of this report, this invoice was paid before the TK-5 21st Century Schools project work had been performed, so it is not clear what work was undertaken by Del Terra.

As with all the additional services request for \$952,750 addressed above, there is no governing board approval or ratifications, and no written authorization from either the board or the district’s administration for this \$230,000 additional services request. There also does not appear to be a basis on which Alex Rojas could confirm that all items and/or services were rendered.

E. All Projects Paid for; Few Delivered

Article 4.4.1 of the 2015 agreement states the following:

4.4.1 **Basic Term.** When this agreement has been fully executed by the Parties, the Term shall commence on the date first set forth above and shall end when the District has issued notices of completion for all Campus Projects and all punchlist items (sic) for the Campus Projects have been completed or waived by the District, or upon the termination of this Agreement as set forth in Article 7, whichever occurs earlier. [emphasis added].

Under Article 4.1 and Exhibit C of the 2015 agreement, compensation to Del Terra was 4% of the full bond program value for program management services and 9.9% of the actual construction costs, including all change order increases and consultant costs for construction management services. Compensation was “[i]n exchange for the full, timely and complete performance of all of the requirements of this Agreement” [emphasis added].

The critical language under Article 4.4.1 of the 2015 agreement states that the term began April 21, 2015 and:

. . . shall end when the District has issued notices of completion for all Campus Projects and all punchlist items for the Campus Projects have been completed or waived by the District, or upon the termination of this Agreement as set forth in Article 7, whichever occurs earlier.

On February 18, 2016, at a special meeting of the district’s governing board, Del Terra presented a master plan that addressed Del Terra’s goals, objectives and priorities. Page 4 of that plan states that the first and most important objective was to “Ensure Safety of all District students and staff,” with priorities that included significant infrastructure priorities such as AB 300 structural safety, ADA compliance, and upgrading fire alarms.

The 2016 master plan priorities outlined by Del Terra included structural engineering preliminary review documents that recommended a full structural evaluation and application for state funding under the SSMP (see Appendix 72e). Similarly, ADA-related items and fire alarms are important infrastructure-related upgrades for the long-term use of district facilities and for the safety of students and staff.

The district’s records do not show any contract or expenditures associated with evaluation of any of the outlined priorities of structural evaluation of seismic issues, fire alarm design, or ADA upgrades. There are no records of further structural review and no application for SSMP funding. There are no detailed ADA evaluations of the district’s schools, mechanical/electrical evaluations, or work performed to upgrade fire alarms.

Based on the available information obtained by FCMAT, the only time Del Terra addressed critical infrastructure that formed the foundation of the Measure V Bond program was at the district’s February 18, 2016 special board meeting. Based on the information available to FCMAT, and because Del Terra refused to cooperate with the audit, as best as can be determined, after February 18, 2016, there is no evidence that the subject of infrastructure and safety was pursued.

1. The 36-Month Schedule and Projects under the 2015 Agreement

Contractually, the 2016 master plan should have formed the basis for the “comprehensive program” utilizing the “full bond program value.” Instead of following Del Terra’s 2016 master plan, Del Terra created a

new program document which Del Terra provided superintendent Alex Rojas.⁴⁶ This document provided a 36-month schedule for the following projects:

1. 21st Century Classrooms 6-12
2. 21st Century Classrooms K-5
3. BHS: New Snack Bar
4. BHS: New Courtyard
5. BHS: Little Theatre
6. BHS: Main Entrance
7. BHS: Swimming Pool Remodel

Del Terra's proposed schedule as previously shown above and at Appendix 2 showed that all projects would be completed by mid-2018. Pursuant to this 36-month schedule, Alex Rojas and Del Terra agreed that Del Terra would be compensated for program manager fees equal to 4% of the entire amount of the \$30 million Measure V Bond, which was \$1.2 million. This \$1.2 million for program management fees was then divided into 36 payments of \$33,333. For retention, 5% was withheld from the \$33,333 each month, and Del Terra received \$31,666 each month for program management services for the seven initial program projects. See Section E.5 of this report for discussion of why this 36-month schedule of equal payments was improper.

FCMAT's understanding is that the listed Bassett High School projects were included as a result of discussions with the district's school facilities funding consultant, Betty Hanson of CFS, who notified Del Terra in the email below that certain projects at Bassett High School were eligible for state funding.⁴⁷

⁴⁶ Under the 2015 agreement, Del Terra was asked to provide, as an additional service of \$85,000 to "Develop [an] Initial Program Plan" to create the list of seven projects to satisfy Article 1.2.1 responsibilities under the 2015 agreement.

⁴⁷ The state funding consultant at California Financial Services, Betty Hanson, also sent an email dated November 9, 2016, stating that Del Terra's failure to follow state funding prequalification requirements on an earlier Bassett High School HVAC project resulted in the loss of state funding eligibility for the Bassett High School site. In this email Hanson expressed hope that Del Terra could meet requirements for state funding on Bassett High School projects, including the five listed. In an interview with FCMAT, Betty Hanson explained that Del Terra did not want to undertake a competitive process since it could eliminate Del Terra's preferred contractor.

From: Betty Hanson
Sent: Wednesday, November 09, 2016 12:04 PM
To: Tarana Alam <talam@calschools.com>
Subject: Maximizing State Funding for Bassett HS Mod Project

Tarana,

I have tried to reach Del Terra thru 3 phone calls to Del Terra's office to go over the procedures for getting in line for State funding. Just to reiterate, we were all ready to file the funding application for the HVAC project at BHS, but discovered the project did not pre-qualify bidders, thus disqualifying that project for \$3.9M in Modernization Funds.

There may be a chance at some or all of the \$3.9M of Mod funding for the current project being planned. It is my understanding that the snack bar and stadium project may qualify for modernization funding if Labor Compliance is followed correctly, the bidders are prequalified, and we get CDE and DSA plan approval.

Appendix 52: E-mail from Betty Hanson on state funding (11/9/16), Pages 2-3. Highlighting added by FCMAT.

This email from Betty Hanson was forwarded as an email string as shown below to former superintendent Alex Rojas on November 9, 2016 by a CFS employee due to concerns over Del Terra's failure to meet state funding requirements.

On Nov 9, 2016, at 12:38 PM, Tarana Alam <talam@calschools.com> wrote:

Hello Alex,

I hope you are doing well.

As you know, Dr. Betty Hason has been successful in obtaining over \$17.9 million in modernization and new construction funding for the Bassett Unified School District over the past several years. After the receipt of the initial State funding amount of \$15,568,865, Betty was able to identify additional modernization eligibility for Troch, Don Julion and Van Wig and the District subsequently received \$2,412,966 in modernization funding in March of 2013.

The Bassett High School project is currently eligible for additional modernization funding in the amount of \$3,856,755. The HVAC project would have been one of the projects that could be eligible for this funding. However, upon further checking by Betty, it was determined that that project **did not met the State protocol for funding and as such is currently disqualified**. The District can use this eligibility for any future modernization projects it completes at Bassett High School, including the snack bar and stadium project should all **State funding requirements be met**. I have attached a breakdown of estimated State funding eligibility for all District projects at this time for your reference.

Please see Betty's email below and let us know if we can help answer any additional questions you may have.

However, according to Betty Hanson, Del Terra did not respond to her emails or return her calls even though she had explained to Del Terra that she could help them obtain more funding.

Although the recommendation in 2016 by the school facilities funding consultant was to include a stadium project for Bassett High School, Del Terra did not include this project in its initial program plan list.

Based on a review of district records and interviews with district personnel, FCMAT found that the only construction work performed on the Bassett High School projects was painting the snack bar and installation of new lockers, which was performed in 2019.⁴⁸ The DSA records do not show any applications for a Bassett High School pool project, little theater, courtyard, or main entrance project.

When Leal and Trejo questioned the district's completion of certain projects in a letter to Alex Rojas, he provided a document dated September 28, 2018, shown below. Alex Rojas indicated it was a document kept by himself and the board on projects. This list of project expenditures appears to be documenting completed work and expenditures after the date when Del Terra declared that all work under the 2015 agreement was complete.⁴⁹ It incorrectly shows expenditures of \$995,000 on the Little Theater, \$2,800,000 on the swimming pool, and \$500,000 on the snack bar/stadium projects in the summer of 2017, with the courtyard project being planned for the summer of 2017 (see excerpt from the September 28, 2018 report below).

48 Del Terra had declared that the 2015 agreement was complete on April 21, 2018. The snack bar painting work was done in 2019 under the terms of a new 2019 agreement. No work was performed during the 2015 agreement on the Bassett High School snack bar.

49 Despite the language of Article 4.4.1 of the 2015 agreement, that all projects were to be completed, on April 21, 2018, three years after the 2015 agreement, which is dated April 21, 2015, Del Terra declared that the 2015 agreement had expired. Del Terra improperly asserted that all services were completed, contrary to the actual status of the projects. Nevertheless, a new bond program agreement was presented to the district, which is referred to in this report as the 2019 agreement.

Project: 21st Century Classrooms [Secondary] (Summer 2015) (completed)	\$ (5,511,464)
Project: 21st Century Classrooms [Elementary] (Summer 2016) (completed)	\$ (5,918,508)
Project: Flanner [Headstart Program] (Fall 2017)	\$ (3,000,000)
Project: Prop 39 Climate/Energy Efficiency D.O. (Spring 2017)	\$ (900,000)
Project: BUSD AB1266 Compliance (Spring 2017)	\$ (340,000)
Project: BUSD IT Infrastructure (Spring 2017)	\$ (600,000)
Project: BHS Little Theater (Summer 2017)	\$ (995,000)
Project: BHS Swimming Pool (Summer 2017)	\$ (2,800,000)
Project: BHS OI Program (Summer 2017)	\$ (300,000)
Project: BHS Snack Bar/Stadium (Summer 2017)	\$ (500,000)
Project: BUSD School Sites General Upgrade (Summer 2018)	\$ (400,000)
BAN	\$ (4,700,000)
EST. PROGRAM COSTS (inc. design/soft costs/assessments/etc.)	\$ (26,964,972)
<i>*any state matching funds would reimburse program and be allocated for future projects</i>	
	\$ 3,547,033
FUTURE PLANNING	
Project: BHS CTE Building	\$ (4,250,000)
Project: K-8 Configuration/Dual Immersion	\$ (3,000,000)
Project: BHS Courtyard (Summer 2017)	\$ (1,250,000)

Appendix 35: Alex Rojas response letter, Page 5 (9/28/18). Highlighting added by FCMAT.

The district's records do not include the expenditures shown in the document provided by Alex Rojas. Under the 2015 agreement none of the projects on the superintendent's list above occurred during the 2015 agreement term (see 2016 California Financial Services' expenditure report in Appendix 47 of this report).

2. Additional Service Fees Charged for Little Theater

Even though the Bassett High School Little Theater project was included in the 2015 agreement as a scheduled base contract project, Del Terra included the Little Theater project as part of a \$400,000 additional services amendment dated April 29, 2015. The additional services invoice, No. 36370-01, is shown below.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE #36370-01

Date: April 29, 2015
To: Bassett Unified School District
 904 North Willow Avenue
 La Puente, CA 91746
Ref.: Program and Construction Management Services
 Multiple District-wide Facility Projects located at:
 * District Office
 * Bassett High School
 * Erwin Elementary
 * Flanner Elementary

Description of Services Provided

Del Terra Program & Construction Management Services

- Plan, Schedule Budget and Manage various trade contractors, e.g. Demolition & Installation Contractors
- Coordinate and manage purchase of all material supply and equipment
- Coordinate and manage the installation of all special materials and equipment

District Office:

- Assess and abate hazardous material; e.g. lead, asbestos materials; • Abatement of existing flooring in corridors; • Installation of new VCI flooring in corridors; • Demolition of existing store front at main entrance to lobby; • Installation of new reception counter at main lobby; • Removal of Interior doors; • Installation of new interior office doors throughout District Office; • Removal of existing exterior doors; • Installation of 10 new exterior doors; • Remove existing carpet and reinstall new carpet in all the offices; • Remodeling of existing computer lab to create new IT Dept. offices

Bassett High School

- Assess and abate hazardous material; e.g. lead, asbestos materials
- Modernize existing Little Theatre

Mommy & Me at Erwin Elementary

- Assess and abate hazardous material; e.g. lead, asbestos; • Renovation for two (2) existing kindergarten classrooms. New ADA access improvements; • Renovation of two (2) restrooms (removal of existing plumbing fixtures, installation of new tile and new plumbing fixtures); • Removal of existing drinking fountain cabinets to meet ADA requirements; • Removal of existing exterior doors and reinstall new doors and hardware; • Repaint (2) classrooms and restrooms; • Removal of existing playground equipment and reinstall new playground equipment; • Install new access gates to playground area and classrooms; • Removal and installation of new asphalt for playground area

Flanner Elementary

- Assess and abate hazardous material; e.g. lead, asbestos materials
- Renovation of administration office extension of the building

Current Invoice Amount	\$ 400,000
Previous Amount Invoiced	\$ -
Total Current Invoice Amount Due to Del Terra	\$ 400,000

Appendix 45: Additional Services Invoice 36370-01, Districtwide Facilities Projects, \$400,000 (4/29/15). Highlighting added by FCMAT.

The description that accompanied this invoice stated the following:

Bassett High School

During the construction of the 21st. century classrooms, the Superintendent requested that the Band room in the Little Theatre building to be refreshed, which consisted of the removal of the existing carpet, removal of the hazmat mastic material, and the installation of new carpet tile, the procurement of new audio visual equipment and installation repainting of the entire room and offices.

- Assess and abate hazardous material; e.g. lead, asbestos materials
- Modernize existing Little Theatre

Appendix 45: Additional Services Invoice 36370-01, Districtwide Facilities Projects, \$400,000 (4/29/15). Highlighting added by FCMAT.

Based on interviews with district personnel and a review of the district's records for Bassett High School, it does not appear that any work was done on the Little Theater project during the 2015 agreement. After the 2019 agreement was entered into, the Little Theater received paint.

Under the 2015 agreement, the Little Theater renovation project was to comply with requirements to receive state funding, which means that the project would be modernized, receive DSA approvals, and then the project would be bid. There are no records of any DSA approvals for the Little Theater project. A DSA renovation project of the Little Theater would have included ADA, electrical, and code-related upgrades to the theater and potentially adjoining areas.

There is also no record of bids for a modernization of the Little Theater. The notation in the CFS email that the Bassett High School projects needed to meet labor compliance requirements was also not followed. Thus the Little Theater project could not be included as a state funded project.

Because Del Terra had already charged for the modernization scope of work of the Little Theater project, which never happened, there was no basis on which to justify payment for the same services again under the 2019 agreement.

3. Expenditure Reports Lack Evidence of Approvals, Timely Completion

In addition to district records of expenditures that show little expended on the 2015 listed projects at Bassett High School, cumulative bond-related expenditures were logged by CFS and provided in annual reports to the district and to its citizens' bond oversight committee. The CFS bond expenditure report dated December 2019, shown below, shows that the swimming pool remodel had \$393,490 allocated to it, but there are no expenditures in December 2019.⁵⁰ The 2019 bond expenditure report also shows the snack bar and courtyard projects as having \$143,564.07 in expenditures.

⁵⁰ After the 2015 agreement was completed, Del Terra had the district enter into a new agreement, which is referred to in this report as the 2019 agreement. As discussed in Section F.1 of this report, an architect did begin work in late 2019, and design work continued through 2020. However, it appears that no work was performed on the Bassett swimming pool project under the 2015 agreement.

MEASURE V EXPENDITURE SUMMARY BY SCHOOL CAMPUS

No.	District Project Name	Project Purchase Orders Issued to Date	Project Expenditures By Campus	Remaining Purchase Order Balances	Project Status
A		B	C	D (B + C)	E
4010700 - Bassett High School Campus Improvements:					
26	4010700-1 - BHS Modernization (401/57-007)	\$8,306.71	(\$8,306.71)	\$0.00	Completed
27	4010700-10 - Bassett High School 21st Century Classrooms	2,254,903.86	(2,254,903.86)	0.00	Completed
28	4010700-12 - Bassett High School Interior Painting	245,000.00	(245,000.00)	0.00	Completed
29	4010700-13 - Bassett High School Stadium Snack Bar & Courtyard	143,564.07	(143,564.07)	0.00	Completed
30	4010700-16 - Bassett High School Film Class Equipment	4,867.93	(4,867.93)	0.00	Completed
31	4010700-17 - Bassett H.S. - Refurb of 2 Classrooms (16/17)	118,380.48	(118,380.48)	0.00	Completed
32	4010700-18 - Bassett H.S. - Cabling Project	98,551.23	(98,551.23)	0.00	Completed
33	4010700-20 - Bassett High School - Parking Lot	1,700.00	(1,700.00)	0.00	Completed
34	4010700-21 - Bassett High School - Furniture	20,438.08	(20,438.08)	0.00	Completed
35	4010700-22 - Bassett H.S. - Track and Field CMAS Agreement	801,397.25	0.00	801,397.25	In Progress
36	4010700-23 - Bassett High School - Pool (Design & Closeout)	393,490.00	0.00	393,490.00	In Progress
37	4010700-4 - Bassett High School - HVAC Project	206,962.73	(206,962.73)	0.00	Completed
38	4010700-8 - BHS - Science Labs/Classrooms	914,021.59	(914,021.59)	0.00	Completed
39	4010700-9 - BHS Library	11,786.89	(11,786.89)	0.00	Completed
40	4010800 - Bassett H.S. - Refurb of 2 Classrooms (17/18)	255,495.98	(255,495.98)	0.00	Completed
Campus Total:		\$5,478,866.80	(\$4,283,979.55)	\$1,194,887.25	

Appendix 48: COC Bond Expenditure Report, Page 5 (12/16/19). Highlighting added by FCMAT.

Based on the 36-month schedule that Del Terra submitted and Alex Rojas approved at the start of the 2015 agreement, in addition to the two 21st century classroom projects, Del Terra was to complete the following five projects within the 36-month period:

1. BHS: New Snack Bar
2. BHS: New Courtyard
3. BHS: Little Theatre
4. BHS: Main Entrance
5. BHS: Swimming Pool Remodel Project

Under the schedule, all the above listed projects were to be DSA approved, and construction was to be completed by April 2018. However, a review of DSA records shows no projects submitted for Bassett High School from 2015 through 2019, and there is no record of any DSA approvals for any of the five projects listed above.⁵¹ Based on the 2019 CFS bond expenditure report, the only BHS projects that had expenditures were the snack bar and courtyard, on which a total of \$143,564 was expended.

4. Update to Del Terra 2019 Agreement

Del Terra provided a September 24, 2019 update shown below indicating that the snack bar repainting was included in a July 8, 2019, football field restoration project.

⁵¹ For a more thorough discussion of the activity at Bassett Unified School District that failed to secure DSA approval during the Del Terra 2015 agreement and 2019 agreement, see Section G of this report.

Priority Bond List Projects

1. Bassett High School Football Field Restoration: Project budget \$1,143,120

- ✓ Removal of existing artificial turf
- ✓ Installation of new artificial turf
- ✓ Resurfacing of the existing running track

Update:

- Construction started on 7/8/19
- Project was completed on 9/10/19
- Del Terra negotiated cost from original proposals of over \$900K to \$772K @ 128K Saving
- with additional warranty duration and heavier used material
- Additional savings has allowed for the following additional work to be done:
 - New slurry coat of existing asphalt surrounding football field
 - Repaint restroom & snack bar buildings, press box, goal posts, & existing marquee
 - Repairs to existing electrical for the stadium lighting and field electrical
- Anticipated Ribbon Cutting Ceremony on 10/18/19

Appendix 53: Del Terra September 24, 2019 update, Page 3. Highlighting added by FCMAT.

Based on the timing of the statements in the September 24, 2019, Del Terra update, this July 8, 2019 project was performed after Del Terra declared the 2015 agreement complete on April 21, 2018. The work occurred under the 2019 agreement.⁵² Also, as addressed earlier in Section E.1 of this report, the Bassett High School snack bar renovation was potentially eligible for state funding but required a DSA submission and approval. It also required compliance with Office of Public School Construction (OPSC) submission requirements. This meant that the project was intended to be a modernization project, not just a repaint of the snack bar.

Regarding the Bassett High School swimming pool project, Del Terra also indicated in its September 24, 2019 update that an architectural firm was awarded a contract on July 25, 2019, nearly 15 months after Del Terra notified the district that it had completed the 2015 agreement. Del Terra had been paid to complete this project under the 2015 agreement.

⁵² As addressed more fully in section E.1 of this report, Del Terra had been paid program management fees, which included the promised snack bar renovation project.

3. Bassett High School Swimming Pool Renovation: Project Budget \$4,154,920

- Single pool option
- 10 lane competition / 25yd.
- Water polo course
- New scoreboard

Update:

- Architectural firm awarded contract on 7/25/19
- Pre- kick off meeting took place 8/16/19

Appendix 53: Del Terra September 24, 2019 update, Page 8. Highlighting added by FCMAT.

Based on the December 2019 expenditure report and the September 24, 2019 Del Terra update, other than completing the two 21st century school projects, Del Terra did not complete any of the other five projects included in the 36-month plan approved by Alex Rojas, nor did it receive DSA approvals. In addition, Del Terra charged a fee of \$154,000 under the 2019 agreement for project management services that were already paid for the Bassett High School swimming pool project under the 2015 agreement.

5. Lack of Any Basis for 36 Month Duration of 2015 Agreement

The 2015 agreement states the following under Article 4.4.1:

4.4 TERM

4.4.1 Basic Term. When this Agreement has been fully executed by the Parties, the Term shall commence on the date first set forth above and shall end when the District has issued notices of completion for all Campus Projects and all punchlist items for the Campus Projects have been completed or waived by District, or upon the termination of this Agreement as set forth in Article 7, whichever occurs earlier. Manager's obligations under this Agreement shall survive and continue uninterrupted after expiration of the Basic Term to the extent necessary to achieve complete and satisfactory performance of its obligations

under this Agreement, as requested by the District, and subject to Manager's right to payment for Additional Services.

Appendix 1: 2015 agreement, Page 20 (4/21/15). Highlighting added by FCMAT.

Thus, Del Terra's contractual responsibilities were not completed until the 2016 master plan was complete. Unfortunately, the most important items — seismic, fire alarm, and ADA upgrades — were not completed. Alternatively, using the 2015 project list, Del Terra's work was not complete until at least all five open Bassett High School projects had notices of completion issued or had them waived by the district.

As part of their report, the district's legal counsel, Leal and Trejo, asked Alex Rojas the basis for the 36-month payment schedule. Leal and Trejo's September 6, 2018 inquiry is shown below.

LEAL TREJO
ATTORNEYS AT LAW
A PROFESSIONAL CORPORATION

H. FRANCISCO LEAL
WILLIAM J. TREJO
MARIBEL S. MEDINA
DAVID J. ALVAREZ
MICHAEL E. WOLFBORN
DENISE A. MARTINEZ
JENNIFER A. CHAMBERLAIN
ARTURO N. FIERRO
ANA MARIA QUINTANA

September 6, 2018

3767 WORSHAM AVENUE
LONG BEACH, CALIFORNIA 90808
(213) 628-0808
FAX (213) 628-0818
WWW.LEAL-LAW.COM

Alex Rojas

Address Removed

Re: Bassett Unified School District / Del Terra

Dear Alex:

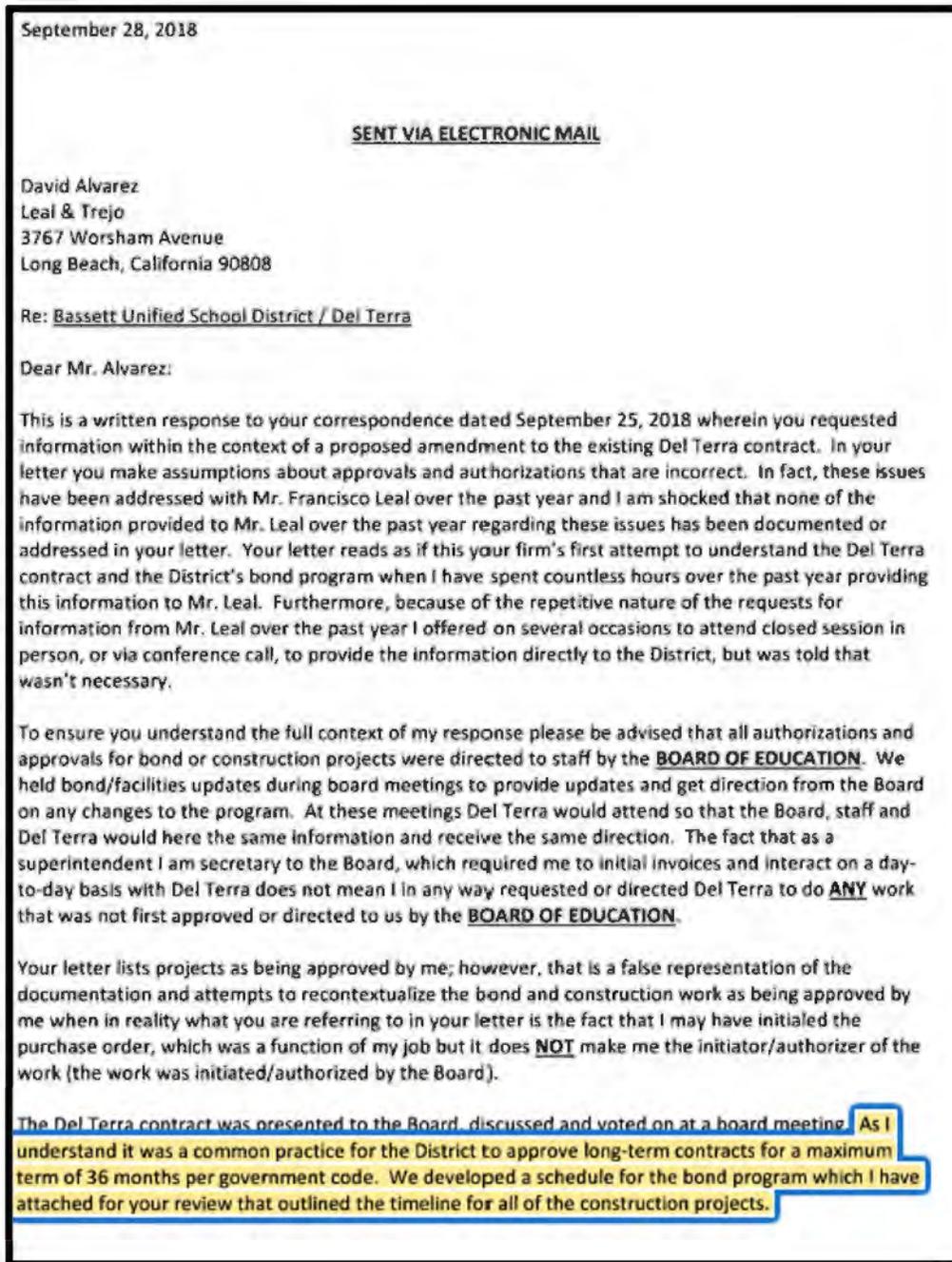
As you may be aware we are looking at issues raised by the proposed Del Terra amendment to their existing agreement with the Bassett Unified School District ("BUSD").

Central to the proposed amendment are justifications raised by Del Terra regarding delays, changes in the District programs and projects and a timeline established for PM services that is incongruent with the terms of the contract between Del Terra and BUSD.

It has been represented by Del Terra that you approved the PM service timeline of 36 months. Please note this timeline for PM services conflicts with the language of the contract between Del Terra and Bassett USD. We would like to obtain your understanding and position on this issue and any relevant documentation you may have in relation to the issues raised by Del Terra.

Appendix 54: Letter from Leal and Trejo to Alex Rojas on 36-month schedule (9/6/18). Highlighting and blue border added by FCMAT.

Alex Rojas responded on September 28, 2018, in the email below stating that 36 months was pursuant to Government Code and referring to a schedule that was not attached to the correspondence but that is included above at the beginning of this section.



Appendix 35: Alex Rojas response letter (9/25/18). Highlighting and blue border added by FCMAT.

The only statute that potentially provides for a 36-month period is Education Code Section 17596, which states the following:

Continuing contracts for work to be done, services to be performed, or for apparatus or equipment to be furnished, sold, built, installed, or repaired for the district, or for materials or supplies to be furnished or sold to the district may be made with an accepted vendor as follows: for work or services, or for apparatus or equipment, not to exceed five years; for materials or supplies, not to exceed three years. [Emphasis added.]

The 36-month reference from Alex Rojas is misapplied, and the duration of the agreement does not affect the obligation to complete projects.

First, no such provisions in the 2015 agreement discusses compensation based on equal payments over a 36-month or any other time period. And no evidence was provided to FCMAT or could be found that the district's governing board delegated its authority under Education Code Section 17604 to Superintendent Rojas to modify the terms of the 2015 agreement or make any other decisions related to the payment provisions in the 2015 agreement.⁵³

Even if Del Terra could provide documents showing that Superintendent Rojas expressly agreed to any modification or clarification of the terms and requirements of the agreement, any such agreement would be void and unenforceable absent a formal delegation of authority by the district's governing board as required under Education Code Section 17604 (see *Santa Monica Unified School District v. Persh* (1970) 5 Cal.App.3d 946). Furthermore, Article 10.9 of the 2015 agreement contains an integration clause and states, "[t]his Agreement may be amended only by written instrument signed by authorized representatives of both District and Manager, which has no force or effect until it has been formally approved or ratified by the Board of Education."

Rather than follow the express provisions of the agreement and prepare invoices based on contract language, Del Terra presented the superintendent with a schedule of projects to be performed during a 36-month period.

The project timeline schedule in Appendix 2 provided for the completion of the following projects:

1. 21st Century Classrooms 6-12
2. 21st Century Classrooms K-5
3. BHS: New Snack Bar
4. BHS: New Courtyard
5. BHS: Little Theatre
6. BHS: Main Entrance
7. BHS: Swimming Pool Remodel Project

During the 36-month period, only projects 1 and 2 above were completed. Items 4 through 7 were not undertaken at all. After Del Terra declared the 2015 agreement complete, item 3 for the new snack bar only received paint.

Based on the lack of records showing the 36-month schedule was ever placed on a governing board meeting agenda or discussed with the board, there was no basis for the 36-month payment schedule and there is no evidence that Del Terra completed any of the promised Bassett High School projects during the 36-month period.

6. 2019 Agreement Included Items Not Completed Under 2015 Agreement

Even though the 2015 agreement had not been completed as required under Article 4.4.1, Del Terra notified the district that the 2015 agreement ended on April 21, 2018, three years after it was entered into, and

⁵³ This is likely an act that exceeds Alex Rojas' authority as superintendent under Education Code Section 17604 and for which Alex Rojas may have personal liability.

requested an amendment to the 2015 agreement. Del Terra's proposed amendment was provided to the district on or about June 2018. The cover page of Del Terra's 2018 amendment is shown below.

AMENDMENT TO PROGRAM and CONSTRUCTION MANAGEMENT AGREEMENT

THIS AMENDMENT TO PROGRAM and CONSTRUCTION MANAGEMENT AGREEMENT ("Amendment"), is entered into by and between the BASSETT UNIFIED SCHOOL DISTRICT (hereinafter referred to as "District"), and DEL TERRA REAL ESTATE SERVICES, INC., dba DEL TERRA GROUP (hereinafter referred to as "Manager"). District and Manager may at times herein be referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

- A. District selected Manager as its' Measure 'V' Bond Program and Construction Manager and entered into a Program and Construction Management Agreement dated April 21st, 2015 (the "Agreement").
- B. The Parties desire to continue with the scope of services, confirm timeline of management services and amend the payment provisions contained therein. All terms of the Agreement, except those amended herein, shall remain unchanged and in full force and effect.
- C. The original Program Plan established in 2015 the commencement of design and construction of various Bond Projects and to be completed by June 2018.
- D. Due to various District decisions and actions, the Program Timeline was exceeded and the original Program Management Fee was exhausted. Such decisions and action were the District's decision to re-prioritize the Bond Projects several times and directed Manager to work on re-developing and re-programming the Bond Program and to assist the District in developing a revised list of Bond Projects to be recommended to the Board of Education for Implementation.
- E. The delays in District decisions, and the time and effort to re-prioritize and re-program the Bond Program was not originally contemplated by the District Administration or Manager when the original Agreement for Program and Construction Management Services was negotiated. As such, the original Program timeline and management fee, did not take into consideration the additional effort required by Manager. Thus, the original program timeline was impacted and exceeded. Accordingly, the program management fee was also impacted and exhausted due to the District's sole actions.

NOW THEREFORE, the Parties hereto agree as follows:

1. Due to the original Program Management timeline and fee being impacted due to District's sole actions, Program Management timeline and Manager's fee are required to be extended to December 2019 and Fee increased by \$389,906, accordingly. See attached list of approved Bond Projects.
2. Effective Date. The effective date of this Amendment is June 1, 2018.
3. No Other Modification. Except as amended hereby, the Agreement shall remain unchanged and in full force and effect.

Appendix 55: Proposed amendment to 2015 agreement, June 2018. Highlighting added by FCMAT.

This proposed amendment was not signed, and it incorrectly asserts that the 2015 agreement had been completed, seeks an additional \$389,906 as of June 2018, and alleges that the need to pursue the additional fee was because of reprioritization and reprogramming of the bond program. However, there are no documents that show a reprioritization or reprogramming.

When Del Terra requested the 2018 amendment to extend the 2015 agreement, the district had already fully paid all program management fees of \$1.2 million related to the bond (4% of the \$30 million Measure

V bond), even though Del Terra had not completed its program management services, the 2016 master plan, or the 2015 project list.⁵⁴ The 2018 amendment proposed an extension until December 2019 and a fee increase of \$389,906 to continue providing program management services. As shown above, the 2018 amendment makes several incorrect assertions as justification, including the following:

1. Due to various district decisions and actions, the 2015 agreement program timeline was exceeded and the original program management fee was exhausted.
2. The “District’s decision to re-prioritize the Bond Projects several times and directed Manager to work on re-developing and re-programming the Bond Program and to assist the District in developing a revised list of Bond Project to be recommended to the Board of Education for Implementation.”
3. “. . . delays in District decisions, and the time and effort to re-prioritize and re-program the Bond Program was not originally contemplated by the District Administration or Manager” when the original Agreement was negotiated.”

Although the 2018 amendment alleged reasons for the additional time and costs, the district has no written record to support Del Terra’s contention of delays and reprioritization of projects. Del Terra did not provide evidence to support its position that the terms and conditions of the 2015 agreement had been satisfied, that all projects had been completed, that projects were closed out, and that notices of completion had been recorded.

When Leal and Trejo questioned Del Terra about the payments and proposed amendment, Del Terra stated that prior superintendent Alex Rojas agreed to a 36-month term.⁵⁵ As noted in correspondence dated September 28, 2018 and discussed above, it appears that Alex Rojas had received a 36-month schedule of projects and agreed to it.

7. 36-Month Schedule Did Not Cover All District Projects

The 2015 agreement was for program management and construction management services for the entire \$30 million Measure V bond. The language of the 2015 agreement refers to “full Bond Program value,” as shown in Exhibit C below.

EXHIBIT C	
<u>FEE MANAGEMENT SERVICES AND REPORTS</u>	
Task	Fee
Program Management Services	4% of the full Bond Program value

Appendix 1: 2015 agreement, Page 39 (4/21/15). Highlighting added by FCMAT.

54 According to Del Terra’s September 24, 2019 bond report (see Appendix 53), there was \$11,347,554 in bond funds remaining. In the same bond fund availability chart, Del Terra also listed the Bassett High School swimming pool project, and DSA closeout – two of the projects included in the original 2015 agreement bond program project list and schedule.

55 36 equal payments of \$31,660 were paid based on a charge of 4% on the entire bond amount of \$30 million.

Del Terra's scope of services included the Measure V bond funds but also included all state matching funds.⁵⁶

C. The District and Manager desire to enter into an agreement for the Manager to provide the District with professional services consisting of program and construction management services in connection with the planning, programming and construction of existing projects, and new construction projects related to the District's Bond Program, known as Measure V, and any match funding (Campus Projects).

Appendix 1: 2015 agreement, Page 1 (4/21/15). Highlighting added by FCMAT.

The scope of work for Del Terra's 2015 agreement covered all district schools.

D. It is the intention of the parties that the Manager provide comprehensive program, project and construction management services under the supervision of the District's Superintendent or designee that will enable the Campus Projects to be completed and constructed in accordance with the program and project schedule to be agreed to by the parties,

Appendix 1: 2015 agreement, Page 1 (4/21/15). Highlighting added by FCMAT.

Under the 2015 agreement, Del Terra was to work "under the supervision of the District's Superintendent or designee." Throughout the Measure V bond project, Del Terra worked under the direction of the superintendent. When the 2015 agreement was executed on April 21, 2015, Alex Rojas was the superintendent until his resignation on May 23, 2017, at which point Debra French took over. Soon after Debra French became superintendent, Del Terra announced that the 2015 agreement had ended and requested a new agreement.

The 36-month schedule (see Appendix 2) lacked a comprehensive bond program plan that included how the \$30 million would be spent across the entire district at its eight schools. The projects shown on the 36-month timeline schedule concentrated on Bassett High School. Under the language of Article 1.3, a program manager would oversee all projects under the bond, including contingency amounts, and plan for the timely completion of projects. The seven projects shown on the 36-month schedule do not appear to be a complete bond program; this is inconsistent with the purpose stated under Recital C of the 2015 agreement. More significantly, Del Terra's responsibility as a fiduciary under the agreement raises the level of responsibility to act in the best interests of the district when planning projects for the district.

It is troubling that Alex Rojas agreed that this schedule represented a comprehensive bond program when he agreed to pay Del Terra the entire program management fee of 4% of \$30 million.

Although it seems questionable that the seven listed projects in the timeline would be acceptable as the entire district Measure V program under the 2015 agreement in light of the 2016 master plan, if both the governing board and Alex Rojas did agree that this schedule was the bond program, under the 2015 agreement it was Del Terra's responsibility to document why the five Bassett High School projects depicted with red x's shown below could not move forward before expiration of the 36-month period and to show which projects were substituted for those five projects. FCMAT's review of district documents does not show that projects from other schools were added to the program.

⁵⁶ As far as district records show, the district was eligible for state funding, but the projects Del Terra undertook under the 2015 agreement were not submitted to DSA, a condition required for state funding. See Education Code Sections 17070.50 and 17072.30.



Project	Planning			
	Jan	Feb	Mar	Apr
✓ 21st Century Cllsrms 6-12				
✓ 21st Century Cllsrms K-5				
✗ BHS: New Snack Bar				
✗ BHS: New Courtyard				
✗ BHS: Little Theatre				
✗ BHS: Main Entrance				
✗ BHS: Swimming Pool Remodel				

Appendix 2: Del Terra proposed program projected construction timeline of seven projects. Red x's and blue check marks added by FCMAT.

8. Projects from April 21, 2015 through April 21, 2018

The district’s accounting records show that the main costs incurred during the 2015 agreement arose from the two 21st century schools projects. Del Terra’s 2018 proposed amendment indicated that the district’s priorities changed during the 2015 agreement, leaving the five Bassett High School projects uncompleted. The district’s accounting records indicate that from April 21, 2015 through June 1, 2018, three projects (listed below) were worked on in addition to the 21st century schools projects. While there is no record revealing that these projects were substituted for the five Bassett High School projects under the 2015 agreement, these are the only three projects that took place during Del Terra’s alleged 36-month period and are likely the projects Del Terra claims were the result of reprioritization. The projects were:

- Development of the Flanner Project, for which a cumulative \$380,782 was paid to Del Terra on a \$3,591,965 project.
- Bassett High School Cabling and refurbishment of two classrooms from July 1, 2017 through January 31, 2018, for which the total project cost was \$413,365 and for which Del Terra was paid \$32,161 (two classrooms) and an additional \$8,763 (cabling) for construction management services.

None of the other three projects were undertaken or completed by Del Terra under the 2015 agreement.

a. Child Development Center Modernization

The Flanner Project was done in 2018, just before Del Terra declared the 2015 agreement services complete. Del Terra billed and was paid \$380,782 on a budget of \$3,591,965. Del Terra’s Invoice 36500-01 for construction management services for this project is shown below.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE #36500-04 03

Date: February 5, 2019
 To: Bassett Unified School District
 Attn: Debra French
 Interim Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746

*All Items Provided Services Rendered
 Approved for Payment*

Ref.: Construction Management Services
 Child Development Center Modernization Project at Florence Flanner School

Billing Period: May 1 - November 30, 2018

11/4/2018

Original Project Budget \$ 3,591,965
 Adjusted Budget Amount \$ 254,318
 Total Project Budget Amount \$ 3,846,283

Construction Management Fee: 9.9% of \$ 3,846,283 is \$ 380,782

Construction Phase	Gross Fee	Percent Complete	Total Billed To Date	Total Previously Billed	Current Amount Due
CM Services	380,782	100.0%	380,782	337,825	42,957

Total Fees Earned \$ 380,782
 Less: Amounts Previously Invoiced \$ 337,825
 Current Total Amount Due \$ 42,957

Appendix 56: Invoice 36500-03 for \$380,782, CM Services, Flanner Project Child Development (2/5/19). Highlighting added by FCMAT.

An accounting showing \$380,782 of all invoices on the Flanner Project was prepared by FCMAT based on district records.⁵⁷ See Appendix 57 for an accounting of district expenditures. Based on district records, this was the only project submitted to the DSA in the six years Del Terra was under district contracts (April 21, 2015 through April 17, 2021).

b. Bassett High School Cabling Project and Refurbishment of Two Classrooms

The other projects worked on at Bassett High School were a cabling project for \$88,511 and refurbishment of two classrooms for \$324,854. From July 1, 2017 through January 31, 2018 Del Terra was paid \$32,161 for the Bassett High School two classroom project and an additional \$8,763 for the Bassett High School cabling project. The October 12, 2017 Invoice 36351-01 associated with the cabling project is shown below.

57 Between Del Terra invoice number 36500-02 and 36500-03, Del Terra increased their budget from \$3,591,965 to \$3,846,283, an increase of \$254,318. This increased Del Terra's compensation from \$355,605 to \$380,782 or \$25,177.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE #36351-01

Date: October 12, 2017
To: Bassett Unified School District
 Attn: Dr. Alex J. Rojas
 Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746
Ref.: Construction Management Services
 Bassett High School **Cabling Project**
Billing Period: September 1 - 30, 2017

11236 A

Total Project Budget \$ **88,511**

Construction Management Fee: 9.9% of \$ 88,511 is \$ 8,763

Construction Phase	Gross Fee	Percent Complete	Total Billed To Date	Total Previously Billed	Current Amount Due
CM Services	8,763	90.0%	7,887	-	7,887

Total Fees Earned \$ **7,887**
Less: Amounts Previously Invoiced \$ **-**
Current Total Amount Due \$ **7,887**

Billings to Date

Current	Prior	Total	Remaining Balance
\$ 7,887	\$ -	\$ 7,887	876

*All Items Received/Services Rendered
 Approved for Payment*

Appendix 58: Invoice 36351-01, Bassett High School Cabling, CM Services of \$7,887 (10/12/17).

Completion of this cabling project was indicated in February 8, 2018 Invoice 36351-02 for \$876. (See Appendix 59, Page 5). The Bassett High School two classroom project Invoice 36353-01 for the first payment on the \$32,161 construction management fee is shown below. While this invoice shows the first payment, the full amount of \$32,161 was paid to Del Terra with four checks/warrants.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE #36353-01

Date: August 1, 2017
 To: Bassett Unified School District
 Attn: Dr. Alex J. Rojas
 Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746
 Ref.: Construction Management Services
 Refurbishment of (2) Classrooms at the OI Department
 Billing Period: July 1 - 31, 2017

APPROVED
 AUG 15 2017
 Bassett Unified School District
 Purchasing Department
 HHS&A

Total Project Budget \$ 324,854

Construction Management Fee: 9.9% of \$ 324,854 is \$ 32,161

Construction Phase	Gross Fee	Percent Complete	Total Billed To Date	Total Previously Billed	Current Amount Due
CM Services	32,161	70.0%	22,513	-	22,513

Total Fees Earned \$ 22,513

Less: Amounts Previously Invoiced \$ -

Current Total Amount Due \$ 22,513

Billings to Date

Current	Prior	Total	Remaining Balance
\$ 22,513	\$ -	\$ 22,513	9,648

All Items Received/Services Rendered
 Approved for Payment: *[Signature]*

Appendix 84: Invoice 36353-01, Bassett High School, two classrooms, \$32,161 (8/1/17). Highlighting added by FCMAT.

The Flanner Project and Bassett High School cabling and two classrooms are small projects that were added to the 2015 agreement, which is supposedly for the entire Measure V bond program. Del Terra was contractually obligated to complete the entire Measure V bond program, but based on what FCMAT can determine, all they did were these two small projects. Sections 10 and 12 below discuss these two projects in more detail.

9. Only Four Projects Were Completed Under the 2015 Agreement

It is not clear how Del Terra met its contractual obligation to provide a comprehensive program.

D. It is the intention of the parties that the Manager provide comprehensive program, project and construction management services under the supervision of the District's Superintendent or designee that will enable the Campus Projects to be completed and constructed in accordance with the program and project schedules to be agreed to by the parties,

Appendix 1: 2015 agreement, Page 1 of 39 (4/21/15). Highlighting added by FCMAT.

A program management fee of 4% for the entire \$30 million bond program was paid to Del Terra for the following four projects⁵⁸:

1. 21st Century Classrooms 6-12 at a total cost of \$4,355,630
2. 21st Century Classrooms K-5 at a total cost of \$5,045,758
3. Development of a Child Development Center at a total cost of \$3,591,965
4. BHS Two Classroom Project, \$324,854 and Cabling Project \$88,511, at a total submitted cost of \$413,365

The above total of \$13,406,718 was the total expended during the 36 months of the 2015 agreement; soft costs for Del Terra were \$4,687,993, which leaves a value of \$11,905,288 (\$30,000,000 - \$13,406,718 - \$4,687,993); however, Del Terra billed the district for program management fees on \$30 million. Thus, it appears that Del Terra billed for fees and was paid on a value of \$11,993,800 worth of services that were never provided. This means Del Terra improperly billed and was paid \$479,752 (\$11,993,800 x 4%) for program management fees.

10. 2019 Agreement Scope of Work

Even though there was significant incomplete work that had already been paid for under the 2015 agreement, on July 29, 2019, the district entered into an agreement with Del Terra that had almost the same scope of work as the 2015 agreement. The first page of the multipage agreement is shown below.

58 The following two construction projects were under other contracts with Del Terra before the 2015 agreement was entered into:

1. Bassett HVAC project, started in November 2013 and completed December 1, 2015
2. Bassett High School Labs Modernization, from August 2014 through February 20, 2016

These two projects predate the Del Terra 2015 agreement and while there was some overlap of work and payments with the contracted projects under the 2015 agreement, these were not projects under the 2015 agreement.

PROGRAM AND CONSTRUCTION MANAGEMENT AGREEMENT

This PROGRAM AND CONSTRUCTION MANAGEMENT AGREEMENT ("Agreement") is entered into on this 29 day of July, 2019, between the BASSETT UNIFIED SCHOOL DISTRICT ("District") and DEL TERRA REAL ESTATE SERVICES, Inc., dba DEL TERRA GROUP ("Manager"), collectively the ("Parties") for program, project and construction management services.

RECITALS

- A. The District is a K-12 school district that operates in the County of Los Angeles, California.
- B. The Manager is a corporation licensed to do business in California. The Manager represents it has the background, knowledge, experience, licenses and expertise necessary to provide the services set forth in this Agreement and agrees to ensure that any services that requires specific licensure is performed by appropriately licensed contractors.
- C. The District and Manager desire to enter into an agreement for the Manager to provide the District with professional services consisting of program and construction management services in connection with the planning, programming and construction of existing projects, and new construction projects related to the District's Bond Program, known as Measure V, and any match funding (Campus Projects).
- D. It is the intention of the parties that the Manager provide comprehensive program, project and construction management services under the supervision of the District's Superintendent or designee that will enable the Campus Projects to be completed and constructed in accordance with the program and project schedules to be agreed to by the Parties.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

ARTICLE I GENERAL PROVISIONS

1.1 DEFINITIONS

- 1.1.1 **Acceptance.** The point after Final Completion when Contractor has fully performed all the requirements of the Contract Documents and the Work of a Campus Project is certified as complete and accepted by the District in a signed writing approved by the Board and in compliance with all applicable regulations.
- 1.1.2 **Addendum, Addenda.** Written or graphic information (including, without limitation, Drawings or Specifications) prepared and issued prior to the receipt of the Contractor's Bid for a Campus Project, which modify or interpret the Bid Documents by additions, deletions, clarifications or corrections to said Bid Documents.

Page 38 of this 2019 agreement shows a schedule of projects and budgets attached as Exhibit B:

Bassett Unified School District
Del Terra Group: Program and Construction Management Contract
Fee Extension Forecast: June 2019 v.3 - CM Fee Reduction and Overall PM Fee Reduced

Project Name	Project Value	Start of PM/CM Effort	Est'd End of PM/CM Effort	PM Fee (4.0%)	CM Fee (5.9%)	Total Fee (100%)	PM Fee Allocation			CM Fee Allocation		
							Program Development (40%)	Pre Const., Planning, Design (50%)	Bid Award (10%)	Percent Complete of Constr. (90%)	Close Out (10%)	Total Fee (100%)
Bassett HS Swimming Pool Remodel: Option A	\$3,850,000			\$ 154,000	\$ 227,150	\$ 381,150	\$ 61,600	\$ 17,000	\$ 15,400	\$ 204,435	\$ 22,715	\$ 381,150
DSA Close Out: Outstanding 'A' #'s	\$235,000			\$ 9,400	\$ 13,865	\$ 23,265	\$ 3,760	\$ 4,700	\$ 940	\$ 12,479	\$ 1,387	\$ 23,265
BHS Gym: New HVAC	\$1,771,875			\$ 50,875	\$ 75,041	\$ 125,916	\$ 20,350	\$ 25,438	\$ 5,088	\$ 67,537	\$ 7,504	\$ 125,916
Locker Room Renovations: Various Sites	\$1,320,000			\$ 52,800	\$ 77,800	\$ 130,600	\$ 21,120	\$ 26,400	\$ 5,200	\$ 70,092	\$ 7,708	\$ 130,600
AB1266 Compliance	\$310,000			\$ 12,400	\$ 18,290	\$ 30,690	\$ 4,960	\$ 6,200	\$ 1,240	\$ 16,461	\$ 1,829	\$ 30,690
BHS Football Field Renovation	\$1,056,000			\$ 42,240	\$ 62,304	\$ 104,544	\$ 16,896	\$ 21,120	\$ 4,224	\$ 56,074	\$ 6,230	\$ 104,544
				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL PROGRAM	\$8,042,875			\$ 321,715	\$ 474,530	\$ 796,245	\$ 128,686	\$ 160,858	\$ 32,172	\$ 427,077	\$ 47,453	\$ 796,245
						Total Previously Invoiced	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
						Total Amount Remaining	\$ 128,686	\$ 160,858	\$ 32,172	\$ 427,077	\$ 47,453	\$ 796,245

Appendix 28: 2019 agreement, Exhibit B, Page 38 (7/29/19). Highlighting added by FCMAT.

The first project listed in Exhibit B is the Bassett High School swimming pool project, one of the seven projects in the 2015 agreement. The listed budget for this project is \$3,850,000. Because this project was the basis for the original program management fee of \$1.2 million charged under the 2015 agreement, the \$154,000 in program management fees shown for this project duplicates charges for program management fees already paid under the 2015 agreement.

The next line item on Exhibit B is closeout projects that were carried over from the 2014 agreement and additional services of \$68,000 dated June 1, 2016 on the 2015 agreement. All projects that required close-out should have already been closed out under the 2014 and 2015 agreements. The additional services for a total of \$23,265 (\$9,400 in program management fees and \$13,865 in construction management fees) duplicate previously contracted amounts that were fully paid for still incomplete contracted closeout services. A more complete discussion of closeout-related issues is found in Section C of this report above.

Del Terra did not close out the only DSA project undertaken during the 2015 agreement, the Flanner Project. The DSA record, shown below, indicates that a DSA 301-P notification of requirement for certification was sent regarding Florence E. Flanner Elementary School.

Project Certification Status

Office ID: 03 Application #: 118482 File #: 19-10

Project Name: Florence Flanner School

Project Scope: Alterations to 2-Buildings 5 & 6 (A# 17813), and Associated Site Work

Field Engineer: Chen, Jay-Bie

Engineer Recomm. Date: 4/24/2020 Void/Canceled Date:

90 Day Letter Date: 90 Day Exp. Date:

90 Day Ext. Date: Ext. 90 Day Exp. Date:

60 Day Letter Date: 9/28/2020 60 Day Exp. Date: 11/27/2020

60 Day Ext. Date: Ext. 60 Day Exp. Date:

Last Certification Date: 3/16/2021 Last Certification Letter: DSA 301P Notification of Requirement for Type: Certification

DGS Links

- DGS Home
- DSA Home
- DSA News

Tracker Links

Project Status

- Home
- Application Summary
- Project Fee
- Project Schedule
- Service Review Status
- Field Review Status
- Addenda
- Construction Change Documents
- Deferred Submittals
- Revision
- Project Professional
- Project Certification
- Documents Required List

Appendix 60: Florence E. Flanner Elementary School DSA Certification Status Notes dated 3/16/21. Highlighting added by FCMAT.

The Flanner Project was closed out on March 7, 2022, by a consultant hired by the district to respond to the DSA stop work orders. To review any DSA project status, use the following link: <https://www.apps2.dgs.ca.gov/dsa/tracker/Default.aspx>.

The DSA website at <https://www.dgs.ca.gov/DSA/Resources/Page-Content/Resources-List-Folder/Project-Certification-for-School-Essential-Services-Construction-Projects?search=301%20P> states that a DSA 301-P form is a list of deficiencies for a project and the parties responsible for the deficiencies. The relevant portion of the website is shown below.

Even after being placed in the Certification Box, a project may be certified after all deficiencies have been resolved. The parties have an additional 60 days to resolve deficiencies identified on form DSA 301-N in order to certify the project. At the end of the second 60-day period (day 120 following the construction/occupation/use of the project), if the project is not certified, DSA issues form DSA 301-P: Notification of Requirement for Certification - SAMPLE (PDF) to all parties associated with the project. Like form DSA 301-N, form DSA 301-P is a list of deficiencies for the project and the parties responsible for those deficiencies.

Appendix 61: Printout from DSA website on project certification. Highlighting added by FCMAT.

The Flanner Project was the only DSA project during Del Terra's tenure at the district under the 2015 agreement. Del Terra's failure to obtain closeout of that project violates articles 2.4.19 and 2.4.20 of the 2015 agreement, which are shown below.

- 2.4.19 Closeout Documentation.** Coordinate completion, issuance and Contractor's submission of all closeout documents to District including, such as As-Builts, lien waivers and releases, operations and maintenance manuals and warranties, permit inspections, and certificates and notices of completion, occupancy and Acceptance.
- 2.4.20 Final Project Report and Payment.** Recommend and prepare the final payment for Contractor(s). Provide a final report to District that includes a financial summary of Construction Costs, Change Orders, costs of construction management and other services, and direct purchase items; a construction summary with schedule review; and a final acceptance summary of signed receipts from District staff of all closeout documents, furnishings, fixtures and equipment.

Appendix 1: 2015 agreement, Page 16 (4/21/15). Highlighting added by FCMAT.

As discussed above, the Bassett High School snack bar project was not performed as required under the 2015 agreement and was included in the 2019 agreement as part of the Bassett High School football field renovation/restoration project. This was discussed in Del Terra's September 24, 2019 update, which indicated the snack bar repaint was included in a July 8, 2019 football field renovation/restoration project. The update is reproduced again below.

Priority Bond List Projects

1. Bassett High School Football Field Restoration: Project budget \$1,143,120

- ✓ Removal of existing artificial turf
- ✓ Installation of new artificial turf
- ✓ Resurfacing of the existing running track

Update:

- Construction started on 7/8/19
- Project was completed on 9/10/19
- Del Terra negotiated cost from original proposals of over \$900K to \$772K @ 128K Savings with additional warranty duration and heavier used material
- Additional savings has allowed for the following additional work to be done:
 - New slurry coat of existing asphalt surrounding football field
 - Repaint restroom & snack bar buildings, press box, goal posts, & existing marquee
 - Repairs to existing electrical for the stadium lighting and field electrical
- Anticipated Ribbon Cutting Ceremony on 10/18/19

Appendix 53: Del Terra September 24, 2019 update, Page 3. Highlighting added by FCMAT.

The cost of the painting project for the snack bar is unknown, but it was covered under the 2015 agreement. Based on what FCMAT can determine, it is clear that Del Terra did not perform modernization work, seek DSA approval, or seek state funding for the snack bar project under the 2015 agreement. It appears Del Terra was paid the full program management fee under the 2015 agreement for these projects and re-included these projects in the 2019 agreement, resulting in a duplicate charge.

F. Failure to Obtain DSA Approvals

Construction on all school buildings is required to comply with Education Code Section 17280 and following, which is known as the Field Act (see Section A.4 of this report for more information regarding the Field Act).

Under the Field Act, plans are to be prepared by a licensed architect or structural engineer (see Education Code Section 17302). All projects are to be overseen by a DSA-approved inspector, who is required to continually inspect the project (see Education Code Section 17311). The architect, structural engineer, inspector and contractor are each required to submit verified reports acknowledging that construction met the requirements of DSA-approved plans (see Education Code Sections 17309 and 17315).

1. Locker Room Renovation Project

On July 29, 2019, Del Terra entered a contract with the district to continue unfinished bond work. This 2019 agreement included a locker room renovation project at multiple sites, as listed in at Exhibit B of the agreement, which is shown below.

EXHIBIT B

Bassett Unified School District
Del Terra Group: Program and Construction Management Contract
Fee Extension Forecast: June 2019 v.3 - CM Fee Reduction and Overall PM Fee Reduced

Project Name	Project Value	Start of PM/CM Effort	Est'd End of PM/CM Effort	PM Fee (4.0%)	CM Fee (5.9%)	Total Fee (100%)	PM Fee Allocation			CM Fee Allocation			
							Program Development (40%)	Pre Constr., Planning, Design (50%)	Bid Award (10%)	Percent Complete of Constr. (90%)	Close Out (10%)	Total Fee (100%)	
Bossett HS Swimming Pool Renodol: Option A	\$3,850,000			\$ 154,000	\$ 227,150	\$ 381,150	\$ 61,600	\$ 77,000	\$ 15,400	\$ 204,435	\$ 22,715	\$ 381,150	
DSA Close Out: Outstanding 'A' #s	\$235,000			\$ 9,400	\$ 13,865	\$ 23,265	\$ 3,760	\$ 4,700	\$ 940	\$ 12,479	\$ 1,387	\$ 23,265	
BHS Gym: New HVAC	\$1,271,875			\$ 50,875	\$ 75,041	\$ 125,916	\$ 20,350	\$ 25,438	\$ 5,088	\$ 67,537	\$ 7,504	\$ 125,916	
Locker Room Renovations: Various Sites	\$1,320,000			\$ 52,800	\$ 77,800	\$ 130,680	\$ 21,120	\$ 26,400	\$ 5,280	\$ 70,092	\$ 7,788	\$ 130,680	
AB1266 Compliance	\$310,000			\$ 12,400	\$ 18,290	\$ 30,690	\$ 4,960	\$ 6,200	\$ 1,340	\$ 16,161	\$ 1,829	\$ 30,690	
DIHS Football Field Renovation	\$1,056,000			\$ 42,240	\$ 62,304	\$ 104,544	\$ 16,896	\$ 21,120	\$ 4,224	\$ 56,674	\$ 6,230	\$ 104,544	
				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
TOTAL PROGRAM	\$8,942,875			\$ 321,715	\$ 474,530	\$ 796,245	\$ 128,686	\$ 160,858	\$ 32,172	\$ 427,077	\$ 47,453	\$ 796,245	
							Total Previously Invoiced	\$ -	\$ -	\$ -	\$ -	\$ -	
							Total Amount Remaining	\$ 128,686	\$ 160,858	\$ 32,172	\$ 427,077	\$ 47,453	\$ 796,245

Appendix 28: 2019 agreement, Exhibit B, Page 38 (7/29/19). Highlighting added by FCMAT.

The budget for the locker room renovation project was \$1,320,000. On Del Terra's Invoice 36532-02 of May 21, 2020, Del Terra sought 90% of its construction management fees on the locker room project totaling \$13,841.12.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

Bassett Unified School District
 Attn: Debra French
 Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746

Date: 5/21/2020
 Invoice No.: 36532-02

Construction Management Services:
Locker Room Renovations at Various Sites
 Measure V: Board Approved 07/29/19

PO# 77038B

Billing Period: March 1-31, 2020

Total Est. Project Budget: \$ 1,320,000
 Total Committed Cost to Date \$ 868,871
 Project Budget Remaining Balance \$ 451,129

Total Construction Management Fee (5.9%) of Committed Cost: \$ 51,263

Construction Management	Fee %	Fee Per Phase	Percent Complete	Total Billed To Date	Total Previously Billed	Current Amount Due
Construction	90.00%	\$ 46,137.05	90%	41,523.35	27,682.23	13,841.12
Close Out	10.00%	5,126.34	0%	-	-	-
Total	100.00%	51,263.39	81%	41,523.35	27,682.23	13,841.12

Billings to Date

Current	Prior	Total	Remaining Balance
13,841.12	27,682.23	41,523.35	9,740.04

Appendix 67: Invoice 36532-02 for locker room renovation (5/21/20). Highlighting and red oval added by FCMAT.

Del Terra’s Invoice 36532-02 included a general description, shown below, stating that the locker room was renovated starting on December 21, 2019, and mostly completed on March 24, 2020.



Please Remit Payment To
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

Bassett Unified School District
 Attn: Debra French
 Superintendent of Schools
 904 North Willow Avenue
 La Puente, CA 91746

Date: 5/21/2020
 Invoice No.: 36532-02

Construction Management Services:
Locker Room Renovations at Various Sites
 Measure V: Board Approved 07/29/19

PO# 77038B

Billing Period: March 1-31, 2020

Total Est. Project Budget:	\$	1,320,000
<u>Total Committed Cost to Date</u>	\$	<u>868,871</u>
<u>Project Budget Remaining Balance</u>	\$	<u>451,129</u>

Total Construction Management Fee (5.9%) of Committed Cost: \$ 51,263

Project Narrative

Summary of Activities:

General Construction started on 12/21/19. General Construction started the demolition of existing showers and existing Chain link fencing at Bassett HS boys locker room. Demolition of existing walls, and doors, shower stall partitions and the demolition and capping of existing shower fixtures in the Bassett HS girls locker room. Demolition of the existing shower stalls and removal of existing shower fixtures at Torch Middle School boys and girls locker rooms. Demolition of existing shower towers, shower stall walls and shower flooring at Edgewood Academy . Confirmed all paint colors for the accent walls in every locker room with all principals. Painting contractor started the preparations prior to painting on 12/26/19 at Bassett HS boys locker room, Bassett HS girls locker room, Torch MS boys and girls locker rooms, and Edgewood Academy locker rooms. Epoxy flooring contractor started on 1/9/20 at Torch Middle school Boys & Girls locker rooms, Bassett Hs. Boys & Girls locker room, and Edgewood Academy locker rooms. Locker installation contractor started on 1/22/2020 to remove existing lockers from Bassett HS girl's locker room and Torch MS boys locker room previous team room lockers.

"Notice of Completion's" for the following Trades were provided for Board approval on 3/24/20; General Construction F02a - GDL Best Contractors, F02b Epoxy Flooring - Sumbelt Flooring, F02c Painting- Paramount Painting. The current trade in progress is the removal

Appendix 67: Invoice 36532-02 for locker room renovation, Page 4 (5/21/20). Highlighting added by FCMAT.

Since it does not appear that an architect worked on this project, it was not possible to obtain a DSA approval for the locker room project. This explains why the description on Invoice 36532-02 does not include architectural services, plans, or DSA approvals for that project. A locker room project requires ADA-related upgrades to comply with the applicable building codes. ADA accessible lockers, ADA path of travel, and bathroom upgrades for ADA were required. An architect is required to prepare plans that are submitted to DSA addressing ADA requirements.

The total cost of \$868,871 billed for the project far exceeds the small projects threshold of \$245,636 for exempt projects for 2019 through 2020 under IR A-22, Section 1.3.2.2. Even if Del Terra asserts that the project is exempt, there was no statement from a structural engineer that there was no work of a structural

nature (see IR A-22, Section 1.3.2.2.1). Neither the district files nor DSA files reflect a written statement from an architect that the project contained any ADA requirements and did not require upgrades as required under IR A-22, Section 1.3.2.2.2. IR A-22 requires replacement of plumbing fixtures and replacement of flooring to be reviewed by the DSA for accessibility. IR A-22 Appendix Page 12 applies and this IR specifies these requirements and is shown below:

Project Description	Is SS Review Required?	Is AC Review Required?	Is FLS Review Required?	IR Section Reference
12. Open-mesh fences less than 35 ft. in height or ornamental and security fencing with spaced rails and pickets less than eight feet in height not affecting egress.	No ⁷	Yes ⁴	No ^{7, 18}	1.2.1
13. New or replacement of exterior walking surfaces.	No	Yes ¹²	No ¹⁸	1.2.1
14. Landscaping consisting of vegetation, irrigation, and ground cover.	No	No ²³	No	1.2.1
15. Replacement in-kind of mechanical (including, but not limited to, heating, ventilation, air-conditioning) and electrical units.	No ⁹	No ^{a, 13}	No ^{9, b, c}	1.3.1
16. Replacement of plumbing fixtures.	No ⁹	Yes ¹²	No ⁹	1.3.1
17. Cosmetic maintenance work such as painting, wallpapering, etc., as defined in Title 24, Part 1, Section 4-314.	No	No	No	1.3.1
18a. Replacement of interior floor coverings of like material.	No	No ³²	No	1.3.1
18b. Replacement of interior floor coverings: change of floor material	No	Yes ³³	No	1.3.1

Appendix 65: DSA IR A-22, Page 12 (4/6/20). Highlighting added by FCMAT.

As a result of Del Terra's decision to perform the work without DSA approvals, a stop work order was issued by the DSA on February 24, 2021 for Bassett High School for the non-DSA-complaint locker room work, as shown below.



STATE OF CALIFORNIA
GOVERNOR EDUARDO G. BROWN JR.

DSA File #: 19-H46
Application #: NA

February 24, 2021

Sent by e-mail

Superintendent Alejandro Alvarez
Bassett Unified School District
904 N. Willow Avenue
La Puente, CA 91746

RE: REQUEST FOR DISTRICT TO STOP WORK for BASSETT HIGH SCHOOL

Dear Superintendent Alvarez:

The Division of the State Architect (DSA) has determined that construction of the above referenced project contains a non-compliant condition, as described below, which, if not corrected, may compromise the structural integrity of the building and endanger public safety. The purpose of this Request is to ensure that the construction on the project is stopped to correct the non-compliant condition and prevent the non-compliant construction from being concealed by subsequent work.

The following constitutes the non-compliant condition that is the basis for this notice: Past and on-going construction activities which do not comply with requirements of the California Administrative Code, including requirement for employment of an architect or a registered engineer to prepare plans and specifications, requirement for provision of inspections, and requirement for submittal of documents to DSA. These past and on-going construction activities, include but are not limited to alterations in the Boys Shower / Locker Building, alterations in the Girls Shower / Locker Building, and addition of water bottle fill stations / replacement of drinking fountains throughout the campus.

The non-compliant condition affects the entire remaining scope of the project.

If work continues in the affected areas, it may compromise the structural integrity of the building and endanger public safety.

Appendix 32: DSA stop work letter (2/24/21). Highlighting added by FCMAT.

The DSA also issued stop work orders for Edgewood Academy, Sunkist Elementary School, J.E. Van Wig Elementary School and Bassett High School because of past work performed from the 21st century schools projects under Del Terra's management and oversight. Correspondence from the DSA dated March 2, 2021 states that the DSA issued the stop work orders because of failure to obtain DSA approvals for the Bassett High School locker rooms, but also noted that classrooms at Sunkist Elementary School had been renovat-

ed with new flooring and large mounted TVs. An e-mail from the DSA, shown below, ordered the district to undergo a districtwide investigation of undocumented projects.

From: Liu, Wei-Tsu@DGS <WeiTsu.Liu@dgs.ca.gov>
Sent: Tuesday, March 2, 2021 7:44 AM
To: Alejandro Alvarez
Cc: Elizabeth Rojas; spedroza@tritoncogroup.com; Humphrey, Douglas@DGS; Chen, Jay-bie@DGS; Salgado, Minerva@DGS; Terry Tao; Araujo, Carlos@DGS
Subject: RE: Request to District to Stop Work Letters for Bassett High School, Edgewood Academy. Sunkist Elementary School & Van Wig Elem. School

Dear Dr. Alvarez,

Thank you for letting us know the drinking fountain works were stopped and District will comply with all Orders.

District Structural Engineer (DSE) Jay Chen had visited District last month for non-DSA approved districtwide drinking fountain projects and other works. He visited Basset H.S., Sunkist E.S., Van Wig E.S. and Edgewood Academy and were not able to visit the balance of schools in the district and plan to have follow-up meeting with district personnel in familiar with the district constriction in recent years without DSA approval.

In addition of drinking fountains, DSE Jay Chen found some works were done as follows:

- 1.) In Basset H.S. -- Boy's and Girl's Locker Rooms appear partially renovated with new flooring, lockers replaced, seating removed, some shower removed and reconfiguration of office and storage space and the remaining work is not done yet. Based on DSA e-tracker, the last DSA project occurring on Bassett High School was completed in January 2016.
- 2.) In Sunkist E.S.-- All classrooms were renovated with new flooring and finishes and addition of large mounted TVs. Based on DSA e-tracker, the last DSA project occurring on Sunkist E.S. was completed in August 2011.

We have to find out if the similar alteration works or other works not listed above had been completed without DSA approval and request district's corporation. All works shall be submitted with drawings, specs. and back-up calculations. If the work already completed, it shall be treated as retrofit work and indicate on drawings the required post material testing and inspection requirements.

Appendix 68: DSA e-mail on stop work visits. (3/2/21). Highlighting added by FCMAT.

In FCMAT's conversations with the DSA, the head of the DSA's Los Angeles office, Doug Humphrey, stated that there had been only one DSA submission for the district since 2015 and specifically noted that the changed flooring and the flat screen TVs were structural in nature and required DSA approvals. Thus all of the 21st century classrooms projects were called into question by the DSA.

As noted earlier in this report, Betty Hanson with CFS let the district and Del Terra know that the Bassett High School campus was eligible for state funding, but Del Terra did not comply with all of the OPSC's rules, including prequalifying contractors and subcontractors as required under Public Contract Code Section 20111.6 and proceeding only with DSA-approved plans. Del Terra's failure to meet these prerequisites for state funding means that the district forfeited state funding on the project.

2. Football Field Project Required DSA Submittals

The football field renovation project was started on July 8, 2019 and completed on October 18, 2019.

Del Terra charged \$47,996 for construction management fees on November 25, 2019, as shown in Invoice 36505-01 below, and was paid on December 30, 2019 with Check/Warrant No. 25668667. However, as the responsible manager and fiduciary, it does not appear that Del Terra had the district hire the necessary professionals to take the football field project through the DSA approval process.

DEL TERRA

Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

Bassett Unified School District
 Attn: Linda Bermudez
 Executive Director of Business Services
 904 North Willow Avenue
 La Puente, CA 91746

Date: 11/25/2019
Invoice No. : 36505-01

Construction Management Services:
 Bassett High School Football Field Renovations, Phase I
 Measure V: Board Approved 07/29/19

PO# 77038B

Billing Period: August 1, 2019 - October 31, 2019

Total Est. Project Budget: \$ 1,056,000
Total Committed Cost to Date \$ 813,497
Project Budget Remaining Balance \$ 242,503

Total Construction Management Fee (5.9%) of Committed Cost: \$ 47,996

Project Narrative

Summary activities;

- Construction started on 7/8/19
- Demolition of existing field was completed on 7/13/19
- Re-grading of sections were done 7/22- 7/25/19
- Installation of the new artificial turf was installed 8/13 -8/30
- Resurfacing of the track started on 9/5/19 - 9/10
- Repainting of the restroom & snack bar buildings, marquee, goal posts, & press box was
- Ribbon Cutting took place 10/18/19
- Daily site visits, to review activities and progress of work

Appendix 64: Invoice 36505-01 for Construction Management Services, Page 3 (11/25/19). Highlighting added by FCMAT.

DSA IR A-22 requires artificial turf projects to be submitted to the DSA, as shown below.

Project Description	Is SS Review Required?	Is AC Review Required?	Is FLS Review Required?	IR Section Reference
19. Installation or replacement of synthetic (artificial turf) play fields or running tracks.	No	Yes ¹²	No	1.2.1

Appendix 65: DSA IR A-22, Page 6. Highlighting added by FCMAT.

Del Terra does not appear to have provided the expertise necessary to guide projects through the state funding and building approval processes. In this case, it appears that Del Terra did not provide guidance on the hiring of professionals like architects so that DSA plans could be prepared as required under IR A-22 when they submitted their invoice for 4% program management services as shown below in Invoice 36551-01.



Please Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

Bassett Unified School District
 Attn: Linda Bermudez
 Executive Director of Business Services
 904 North Willow Avenue
 La Puente, CA 91746

Date: 11/25/2019
Invoice No. : 36551-01 ✓

Program Management Services: **PO#** 77038B D
Bassett High School Football Field Renovations, Phase I
Measure V: Board Approved 07/29/19

Billing Period: August 1, 2019 - October 31, 2019

Total Est. Project Budget:	\$ 1,056,000
Total Committed Cost to Date:	\$ 813,497
Project Budget Remaining Balance:	\$ 242,503
Total Program Management Fee (4%) of Committed Cost:	\$ 32,540

Program Phase	Fee %	Fee Per Phase	Percent Complete	Total Billed To Date	Total Previously Billed	Current Amount Due
Program Development	40.00%	\$ 13,015.95	100%	13,015.95	-	13,015.95
Pre-Construction, Planning & Design	50.00%	16,269.94	100%	16,269.94	-	16,269.94
Bid Award	10.00%	3,253.99	100%	3,253.99	-	3,253.99
Total	100.00%	32,539.88	100%	32,539.88	-	32,539.88

Billings to Date			
	Current	Prior	Total
	32,539.88	0.00	32,539.88
			Remaining Balance
			0.00

Page 1 of 3

All Items Received/Services Rendered
 Approved for Payment 

3. 21st Century Projects Lacked DSA Approvals

The DSA's February 24, 2021, stop work order (Appendix 32, Pages 1-2) specifically notes that the 21st century schools projects deviated from DSA requirements. In followup correspondence from the DSA regarding the stop work order (see Appendix 68), DSA representative Wei-Tsu Liu lists large, mounted TVs along with other items that required DSA approvals for drawings, specifications, and backup calculations. All available information provided to FCMAT indicates that Del Terra failed to obtain DSA approvals, including structural approvals for the mounting of flat screen TVs, or to hire an architect or structural engineer as required under Education Code Sections 17302 and 17307. In addition, there was no infrastructure evaluation, improvement of the district, or improvement of safety in these projects. As discussed in Section A.7 and C.11. of this report, many of the district's school buildings, including almost every building at Bassett High School, are listed on the AB 300 list as requiring evaluation for earthquake vulnerability. If a district building is determined to be unsafe, the district is entitled to SSMP funds to repair or replace those buildings. Unfortunately, based on the documentation available, Del Terra failed to follow their February 2016 master plan on evaluating and upgrading AB 300 seismic vulnerabilities.

G. Value for the Services Provided

1. District Master Plan Prioritizes Safety

The basis of the 2015 agreement was the district's desire to effectively administer its Measure V bond funds. The district needed expertise and knowledge that its employees did not have. Hiring program management and construction management expertise was viewed as the most cost-effective way to spend bond funds that the district's voters had entrusted to the district, and to access state facility funds to leverage the local bond funds to meet even more needs. The 2015 agreement placed complete trust in Del Terra to act as a fiduciary and agent to represent its interests (see Article 1.3.2). The district's hiring of Del Terra meant the district believed Del Terra would plan effectively to make the best use of the district's money (recital paragraph B), seek state matching funds (recital paragraph C), make sure the schools were safe, and address the complicated construction requirements of the California Department of Education, the DSA, the California Environmental Quality Act, and the Department of Toxic Substances Control (Article 1.1.4).

The district's infrastructure was decades old and needed important upgrades for structures to withstand earthquakes, electrical upgrades to address new fire life safety requirements, infrastructure for air conditioning, and upgrades for ADA compliance that would also provide an improved learning environment. Del Terra promised the following in Appendix 1, Article D of the 2015 Agreement Recitals, Page 1:

"It is the intention of the parties that the Manager provide comprehensive program, project and construction management services . . ." [emphasis added].

On February 18, 2016, Del Terra presented a master plan to the district's governing board that focused on safety, one page of which is shown below.

Preliminary Goals and Objectives

- **Ensure Safety of all Districts Students and Staff**
 - Bring our facilities into 21st Century Learning Environment Standards.
 - Prioritization of projects
 - Identifying and obtaining supplemental funding sources for the district.
 - Reduce the Number of Portable Classrooms
 - Increase Outdoor Learning Environments
 - Evaluate possible reconfiguration of the District given the declining enrollment
 - Continue work on Measure “E” projects



DELTERRA

B C A

architecture
engineering
planning

Bassett Unified School District
Facilities Master Plan

4

Appendix 72b: Del Terra Facilities Master Plan, Page 4 (2/18/16). Highlighting added by FCMAT.

The first priority listed on the master plan below was to evaluate the structural safety of schools on the AB 300 list.⁵⁹

⁵⁹ While Appendix 72b only lists Bassett High School and Torch Middle School, Del Terra’s master plan included AB 300 surveys not only for Bassett High School and Torch Middle School, it also included surveys for Edgewood Academy, Nueva Vista High School, Sunkist Elementary School, and J.E. Van Wig Elementary School. The AB 300 report lists nearly every district school and the relevant portion of the AB 300 report is included at Appendix 73.

District Priorities

Priority 1: 21st Century Learning Environments, Safety and Security

- Evaluate and address any potential structural safety items (Bassett HS and Torch are currently on the State's AB300 list and need seismic upgrades).
- Technology Upgrades and Flexible Environments
- Abate any remaining hazardous materials on campuses
- Ensure compliance with the Americans with Disabilities Act (ADA)
- Increase safety and security on all campuses including lighting, locks, and fencing
- Improve surfacing under play structures
- Intrusion Detection System
- Upgrade existing Fire Alarm systems
- Campus Wide Wi-Fi, New Phone Systems and Clock Systems
- Improved Site Circulation for safe student Drop-Off/Pick-Up as required by code
- Security Vestibule and Fencing
- Upgrade Classroom Finishes
- Photovoltaic Solar Panels

Priority 2: Infrastructure, Modernization

- Repair/Replace Roofing
- Reprogramming of School Site Administration Spaces
- Improve Administration buildings that were not previously modernized or replaced

Priority 3: Infrastructure, Miscellaneous Modernizations

- Site Utilities/Drainage Improvements
- Replace single pane windows with new high performance energy efficient windows
- New energy efficient lighting systems (Lights, Sensors, and Automatic Controls)
- New energy efficient Heating, Ventilating and Energy Management Systems
- Portable to Permanent Classroom Replacement
- Reconfigure Drop-Off and Pick-Up Areas
- Outdoor Learning Environments



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Bassett Unified School District
Facilities Master Plan

5

Appendix 72b: Del Terra Facilities Master Plan, Page 5 (2/18/16). Highlighting added by FCMAT.

In addition, the master plan included making needed upgrades to major utilities, mechanical systems, electrical systems, ADA items, and multiple other infrastructure items throughout the district.

Del Terra promised to complete all services as follows:

... the Term shall commence on the date first set forth above and shall end when the District has issued notices of completion for all Campus Projects and all punchlist items (sic) for the Campus Projects have been completed or waived by the District....” Article 4.4.1 of the 2015 agreement, Page 20 [emphasis added].

However, as discussed in Section E above, Del Terra did not complete the promised projects under the 2015 agreement and declared all services complete at the end of 36 months (April 21, 2018). Under the 2015 agreement, the district did not receive the comprehensive program promised.

No infrastructure was upgraded.

No earthquake safety upgrades were undertaken.

No fire life safety upgrades were undertaken.

By the time Del Terra declared the 2015 agreement complete, Del Terra had been paid \$4,687,993.69⁶⁰ and just over \$9.4 million had been spent on furniture, paint, and other cosmetic upgrades for the 21st century schools projects (which were later determined to be noncompliant by DSA). A list of projects that was planned under the 36-month schedule (the 2015 Project List) included:

1. 21st Century Classrooms 6-12
2. 21st Century Classrooms K-5
3. BHS: New Snack Bar
4. BHS: New Courtyard
5. BHS: Little Theatre
6. BHS: Main Entrance
7. BHS: Swimming Pool Remodel

Of the seven projects listed above, based on the information available to FCMAT, items four through seven were never undertaken. Item three, New Snack Bar, only received paint under the 2019 agreement.

The only projects that records show were undertaken during the 36-month period of the 2015 agreement were:

1. 21st Century Classrooms 6-12
2. 21st Century Classrooms K-5
3. Flanner Project, \$3,591,965
4. BHS Two Classroom Project, \$324,854 and Cabling Project \$88,511, at a total submitted cost of \$413,365

(A more complete discussion of the work done during the 2015 agreement is found in Section E.8 of this report.)

When Del Terra's services were terminated in 2021, Del Terra had not completed DSA closeout of projects, which effectively prevented the district from performing infrastructure upgrades or obtaining state funding since 2014 under DSA IRA-20, which states the following:

"DSA may begin review of other projects not identified in Section 1 [DSA exempt projects which do not require DSA approvals] above, associated with uncertified projects. However, DSA approval (stamp out) of the plans and specifications shall be withheld until the issue of certification is resolved." [Brackets added by FCMAT and emphasis added].

According to the district's records in the February 18, 2016 special board meeting, Del Terra presented a bond program master plan to the district that discussed structural deficiencies at Bassett High School, Edgewood Academy, Nueva Vista Continuation High School, Sunkist Elementary School, Torch Middle School, and J. E. Van Wig Elementary School. Each of the reports identified structural deficiencies, including diaphragm, anchorage, wall panel and foundation vulnerabilities, and recommended further investigation. Below is the first page of an example for Bassett High School of one of the recommendations from a July 2, 2014 structural engineering report representative of similar reports for the schools listed above.

60 From the 2015 agreement through the 2019 agreement, Del Terra charged and was paid \$4,687,993.69 out of the Measure V bond according to district expenditure reports. See Appendix 71 prepared by district administrative staff.


WELSH STRUCTURES, INC.

Via email: MichaelH@bcaarchitects.com

July 2, 2014

Michael Henning
 BCA ARCHITECTS
 505 South Market Street
 San Jose, CA 95113

RE: Bassett High School, Bassett USD, School Structural Condition Assessment Report;
 WSI Project No.: 14-054

Dear Michael,

WSI was retained to provide a structural condition assessment review for Bassett High School in La Puente, California. This evaluation identifies the condition and structural system for each permanent building and serves as a structural and seismic safety overview for the campus master plan. The surveyed buildings are: Classrooms (Units A and B); Administration, Art and Classrooms Building (Units C and D); Library and Classroom Buildings (Units E1, E2 and E3), Gymnasium Building (Unit F), Girls Locker Room Building (Unit G), Food Services Building (Unit I), Industrial Arts and Band Building (Unit L), Drama and Music Classroom Building and Covered Patios (Units J and P), Boys Locker Room Building (Unit K) and Classrooms Building (Unit L). See Exhibits "A, A1 and A2" and "B" for site plan drawings. FEMA 154 was utilized as a rapid visual guideline for the evaluation of the buildings. This document categorizes building types and vulnerability in line with FEMA 310 and AB300 guidelines.

A site visit was performed on June 18, 2014. As-built drawings were not available for any of the buildings. We did use the AB 300 list that DSA last updated August 26, 2013 (Exhibit "C") to gather information such as original permit date, building type and square footage. Descriptions of the existing condition at each of the buildings mentioned above are as follows:

- **Classrooms (Units A and B)** are tall one story precast concrete structures and have roughly 7140 square foot of floor area each. They were built as part of the original campus in 1963. These buildings house various classrooms. The walls are Concrete Tilt up panels and the roof is either metal deck or concrete with built up roofing. Recommendations include: 1) to verify wall anchorage to the roof diaphragm for out of plane forces and cross ties between the exterior walls. 2) Verify the panel to panel connections and chord ties. 3) Verify that there is positive anchorage between the wall panels and the foundations which is necessary to achieve Life Safety levels. Overall, the building condition and maintenance was very good. Based on the FEMA-154 Data Collection Form (Exhibit "D"), a detailed evaluation is recommended due to items 1 to 3, above.
- **Administration, Art and Classrooms Building (Units C and D)** is a large two story L shaped structure with a seismic separation joint near the corner of the L. The AB 300 list has a mixed designation on the building lateral system. During our site visited we did observe masonry shear walls on the lower level, metal floor deck and roof with concrete floor fill at the second level and steel beams. It was not apparent what the upper lateral wall system was during our visit; they were possibly concrete walls. The building was added to the original campus in 1969 and has approximately 38000 square feet of floor area. Recommendations include: 1) Further reviewing the lateral system on the original structural drawings. 2) Verifying CMU wall anchors and cross ties and adding more as necessary. Based on the FEMA-154 Data Collection Form (Exhibit "E"), a detailed evaluation is required due to recommendation items 1 and 2, above.

12722 Barrett Lane • Santa Ana, CA 92705 • Phone: 714-352-6297 • Fax: 714 352-6947

Appendix 72e, Page 1: Bassett High School AB 300 Survey (7/2/14), from the February 18, 2016 master plan. Highlighting added by FCMAT.

The 2016 master plan recommends "a detailed evaluation" of the following buildings:

1. Classroom (Units A and B)

2. Administration, art and classroom (Units C and D)
3. Library and classroom buildings (Units E1, E2, and E3)
4. Gymnasium building (Unit F)
5. Girls' locker room building (Unit G)
6. Food services building (Unit H)
7. Industrial arts and band building (Unit I)
8. Drama and music classroom building and covered patios (Units J and P)
9. Boys' locker room building (Unit K)
10. Classroom building (Unit L).

Similar recommendations were made in the 2016 master plan with respect to:

1. Edgewood Academy
2. Nueva Vista Continuation High School
3. Sunkist Elementary School
4. Torch Middle School
5. J. E. Van Wig Elementary School

Copies of these reports are included in Appendix 72e, as are records of the entire February 18, 2016 special board meeting on master plan documents. Based on the recommendations in these documents, Del Terra presented to the board and district leadership that multiple schools had potential structural vulnerabilities and were on the DSA AB 300 list. One page of the five-page AB 300 list addresses Bassett High School and is shown below.

AB 300 Inventory Information for													
19-H46 Bassett Unified School District													
904 North Willow Ave. La Puente CA 91748-1615 (626) 931-3000													
appid	Fileid	School Name Building Use	bldg #	AppDate	Struct Sys	Stories	SqFt	Seismic Region	Building Reviewed? Upgraded?	Building Is WOOD or NOT In Use	Building Has Been SOLD - DEMO'D - NOT BUILT		
33019	19-H46	Bassett Adult High	1	1/1/1970	S1A	1	3900	ZONE 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24269	19-H46	Bassett HS	1	1/1/1983	PC1A	1	10944	ZONE 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24269	19-H46	Bassett HS	2	1/1/1983	PC1A	1	10882	ZONE 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24269	19-H46	Bassett HS	3	1/1/1983	PC1A	1	14250	ZONE 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24269	19-H46	Bassett HS	4	1/1/1983	PC1A	1	11000	ZONE 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24269	19-H46	Bassett HS	5	1/1/1983	PC1A	1	7140	ZONE 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24269	19-H46	Bassett HS	6	1/1/1983	PC1A	1	7140	ZONE 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24269	19-H46	Bassett HS Unit II - classrm	7	1/1/1983	PC2	1	7400	4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24269	19-H46	Bassett HS Unit III - classrm	8	1/1/1983	PC1A	1	8000	4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24269	19-H46	Bassett HS Unit IV - classrm	9	1/1/1983	PC1A	1	5400	4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24269	19-H46	Bassett HS	10	1/1/1983	PC2	1	14700	ZONE 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24269	19-H46	Bassett HS Unit I - classrm	11	1/1/1983	PC1A	1	5900	4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appendix 73: AB 300 Report for Bassett USD, Page 3.

After presenting these reports (which are not mentioned in the Del Terra conditions assessment included at Appendix 72c), there was no further investigation or mention of structural concerns at district schools despite the schools being listed in the statewide AB 300 list of vulnerable schools.

Instead of further investigating safety concerns, the available evidence indicates Del Terra proposed cosmetic projects at the schools identified as potentially vulnerable to earthquake-related collapse.

Other sections of the master plan presented on February 18, 2016 showed mechanical systems upgrades. Instead, Del Terra chose to use bond funds for cosmetic improvements, ignoring structural, mechanical and other important infrastructure updates rather than undertaking the mechanical systems upgrades suggested on February 18, 2016 in the master plan, which is essential infrastructure that was critical for the long-term well-being of the district’s students, staff and others who use its facilities.

2. State Funds Availability

In 2006, the state’s voters passed Proposition 1D, which provided approximately \$7.329 billion in state funds for new construction and modernization projects for kindergarten through twelfth grades. Proposition 1D specifically included funds for repair, reconstruction, or replacement of school facilities that are the most vulnerable to seismic damage. In conjunction with the passage of Proposition 1D, Section 17075.10(b)(2) was added to the Education Code; it states the following:

Funds for the purpose of seismic mitigation work or facility replacement pursuant to this section shall be allocated by the [State Allocation B]oard on a 50-percent state share basis from

funds reserved for that purpose in any bond approved by the voters after January 1, 2006. If the [State Allocation B]oard determines that the seismic mitigation work of a school building would require funding that is greater than 50 percent of the funds required to construct a new facility, the school district shall be eligible for funding to construct a new facility under this chapter. [Brackets added by FCMAT]

By 2014, the SSMP was fully operational, and many applications were being submitted under the program. Between 2006 and 2012, the SSMP program added ground shaking criteria, which made many school districts ineligible to receive SSMP funds. However, between 2012 and 2014 the SSMP program was reworked and provided funds for investigation, design and reconstruction of buildings determined to be seismically vulnerable. By November 2016, when Proposition 51 passed making \$7 billion in funding available for K-12 schools, the SSMP program was fully operational, and it continued to provide funding for seismically vulnerable buildings throughout the state until Proposition 51 funds started to dwindle around 2020.

The district's general obligation bond, Measure V, passed in November 2014. The timing of the passage of Measure V, in conjunction with the AB 300 status of many of the district's buildings, made the district a perfect candidate to maximize the effectiveness of Measure V with state funds from the SSMP program to upgrade the safety of eligible school buildings. Because nearly every building at Bassett High School was listed, it should have been the first school reviewed for seismic safety so SSMP funds could be used for seismic upgrades or even new buildings.

As a fiduciary responsible for the district's best interests, Del Terra's comprehensive program should have considered AB 300-related infrastructure upgrades and the safety of the students and staff in district buildings. FCMAT interviewed Betty Hanson with CFS, the state facilities funding consultant hired by the district. Betty Hanson was a consultant for the district from 2015 – 2020. Hanson explained that while state funding was available for seismic improvements, Del Terra never sought her assistance to seek this funding.

No records provided to FCMAT indicated that state funding was sought for seismic repairs.

No records provided to FCMAT indicated that seismic upgrades were considered.

Instead, Del Terra was paid 13.9% of available bond funds for mostly managing furniture, paint and carpet projects.

3. Del Terra Staffing

Based on interviews with district staff, Jerry Quemada of Del Terra was provided on a mostly full-time basis to the district during Del Terra's 2015 agreement. Other administrative personnel and individuals from Del Terra were occasionally assigned to district projects from its main office, but the main individuals seen at the district were Jerry Quemada and Luis Rojas.

FCMAT found no time records or other information on the individuals who worked on district projects. However, some information was extrapolated from expense reports.

Based on the work that was accomplished, and because Del Terra would not cooperate with the FCMAT audit or meet with FCMAT, it appears that the personnel assigned to the district's projects did not have the expertise needed to complete project closeout and that this prevented Del Terra from performing the infrastructure projects needed to remedy safety issues. The lack of DSA approvals also meant that Del Terra failed to obtain any available matching state funds.

Reimbursable expense records show only one person, Jerry Quemada, working for the district.



Remit Payment To:
 13181 Crossroads Pkwy North, Suite 540
 City of Industry, CA 91746
 Tel (626) 839-9300
 Fax (626) 839-9307

INVOICE 36100-34

Date: March 7, 2016
 To: Bassett Unified School District
 Attn: Dr. Alex J. Rojas
 Superintendent of Business Services
 904 North Willow Avenue
 LA Puente, CA 91746
 Ref.: Reimbursable Expenses
 Billing Period Through: January 1 - December 31, 2015

COB 7/6/2016

Category and Vendor	Invoice Date	Invoice Number	Project Name	Total Cost	Share of Total Cost
Outside Printing & Reproduction					
ARC	01/09/15	7870994	14-01 BHS HVAC	504.39	504.39
ARC	02/18/15	7929844	Science Labs	315.45	315.45
ARC	02/27/15	7948684	BHS Courtyard	30.15	30.15
ARC	02/27/15	7948692	BHS Stadium Snack Bar	45.71	45.71
ARC	10/07/15	8301381	Flanner Modernization	188.23	188.23
ARC	12/11/15	8401156	Master Plan	128.43	128.43
			Subtotal	\$ 1,212.36	
Postage & Delivery					
OnTrac	02/21/2015	8150627	HVAC Pay Application	18.88	\$ 18.88
OnTrac	07/18/2015	8250067	14-02 Library, Cert. Payroll	14.88	\$ 14.88
OnTrac	07/25/2015	8259921	Rejected: Bid Proposal Interior Painting	22.25	\$ 22.25
OnTrac	08/01/2015	8259015	Bid Proposal	14.88	\$ 14.88
			Subtotal	\$ 70.89	
TeleComm					
Verizon Wireless	01/22-02/21	9739276335		50.91	\$ 50.91
Verizon Wireless	02/22-03/21	9740971347		59.59	\$ 59.59
Verizon Wireless	03/22-04/21	9742666496		48.78	\$ 48.78
Verizon Wireless	04/22-05/21	9744356301		46.65	\$ 46.65
Verizon Wireless	05/22-06/21	9746039713		61.78	\$ 61.78
Verizon Wireless	06/22-07/21	9747711700		44.50	\$ 44.50
Verizon Wireless	07/22-08/21	9749379433		48.82	\$ 48.82
Verizon Wireless	08/22-09/21	9751035111		44.18	\$ 44.18
Verizon Wireless	09/22-10/21	9752680128		43.53	\$ 43.53
Verizon Wireless	10/22-11/21	9754325159		43.07	\$ 43.07
Verizon Wireless	11/22-12/21	9755965065		37.72	\$ 37.72
			Subtotal	\$ 529.53	
Mark-Up 5%				\$	90.54
			TOTAL REIMBURSABLE AMOUNT	\$	1,903.32

See Verizon invoice below as a summary for Jerry Quemada

ASR

Appendix 75: Invoice 36100-34, Reimbursable Expenses, Page 1 (3/7/16). Highlighting, red oval and comment box added by FCMAT.



Invoice Number: 9744356301
 Account Number: [Account number removed]
 Date Due: 04/22 - 05/21
 Page: 21 of 31

Summary for Jerry Quemada:

[Cell phone number removed]

Your Plan

More Evr SMB UNL Talk&TXT 30GB
 (see pg 3)

Have more questions about your charges?
 Get details for usage charges at
www.vzw.com/mybusinessaccount.

Monthly Charges

Smartphone Line Access 04/22 - 05/21 40.00
\$40.00

Usage and Purchase Charges

Voice	Allowance	Used	Billable	Cost
SharePlan	minutes unlimited	2033	--	--
Mobile to Mobile	minutes unlimited	1370	--	--
Night/Weekend	minutes unlimited	393	--	--
411 Search	calls	2	2	9.98
Total Voice				\$3.98

Messaging

Text, Picture & Video	messages unlimited	1447	--	--
Total Messaging				\$.00

Data

Unbilled Usage from Previous Months
(Data usage is applied against any remaining allowance for the month in which the usage occurred.)

Gigabyte Usage	gigabytes	.024	--	--
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Current Data Usage

Gigabyte Usage	gigabytes	30,000 (shared)	.534	--
Total Data				\$.00

Total Usage and Purchase Charges \$3.98

Verizon Wireless⁺ Surcharges+

Fed Universal Service Charge	.77
Regulatory Charge	.18
Administrative Charge	.95
CA State PUC Fee	.03
Total	\$1.93

Taxes, Governmental Surcharges and Fees+

CA State 911 Fee	.14
CA Teleconnect Fund Surchg	.13
CA State High Cost Fund (A)	.04
Lifeline Surcharge - CA	.31
CA Advanced Svcs Fund (CASF)	.05
CA Relay Svcs/Comm Device Fund	.07
Total	\$.74

Total Current Charges for 626-278-8731 \$46.65

+ Percentage-based taxes, fees, and surcharges apply to charges for this line, including coverage charges, plus this line's share of account charges.

Appendix 75: Invoice 36100-34, Reimbursable Expenses, Page 19 (3/7/16). Yellow highlights, red oval and comment boxes added by FCMAT.

Staff indicated that other individuals, including Luis Rojas, would occasionally be present on various projects. Under the 2015 agreement, Del Terra was being paid \$31,666 each month⁶¹ for program management services. All Del Terra construction management was billed at a 9.9% fee, which was in addition to the \$31,666 paid each month for program management services. Because one person was responsible for both program management and construction management services, it is difficult to understand how the program management services were distinguished from construction management services. It appears that Del Terra was paid a generous amount for the services of one person, Jerry Quemada.

This level of personnel is also inconsistent with the 2015 agreement commitment to provide a comprehensive program under which all projects under the bond program would be completed and notices of completion and punch lists completed (see Article 4.4 of the 2015 agreement).

⁶¹ The actual charge was \$33,333.33; however, 5% retention was withheld which results in the \$31,666 payment.

Indeed, as discussed earlier, Del Terra did not complete the promised program under the 2015 agreement. Only \$13,406,718⁶² was expended on projects under that agreement, yet Del Terra was paid as if the full \$30 million had been spent. This means that instead of being paid 4% for program management fees under the 2015 agreement, based on the information available to FCMAT, Del Terra was actually paid 26.77% of the cost of projects delivered for program management. The 26.77% actually paid to Del Terra is calculated as \$3,588,585 (presuming all fees paid to Del Terra under the 2015 agreement) / \$13,406,718 (all construction expenditures 2015 agreement).⁶³

4. Contractual Responsibilities to Maintain Documents

This report was difficult to prepare because Del Terra would not cooperate with the audit and even though they are contractually obligated to retain documents, because they would not cooperate, they did not produce documents as required under Article 2.1.5 and 2.4.10 of the 2015 agreement. Article 2.4.10 of the agreement states the following:

2.4.10 Document Control and Recordkeeping. Maintain files for Campus Projects utilizing Manager's filing structure and recommended document control system. All recordkeeping shall include all files on Construction Contracts, submittals, design, engineering, construction, Change orders, test reports, inspection reports, regulations, and other records....

62 \$13,406,718 (see below invoiced items 1-4= \$4,355,630 +\$5,045,758 + \$3,591,965 + \$413,365) is calculated from the projects that were actually undertaken during the 2015 agreement term, which included:

1. 21st Century Classrooms 6-12, total cost of \$4,355,630. Del Terra was paid \$431,207 on Invoice 36380-01 (lump-sum)
2. 21st Century Classrooms K-5, total cost of \$5,045,758. Del Terra was paid \$499,530 on Invoice 36381
3. Development of a child development center, total cost of \$3,591,965. Del Terra was paid \$380,782 on Invoice 36500 series
4. BHS Cabling and Two Classrooms Project, total Del Terra submitted cost of \$413,365. Del Terra was paid (Cabling \$8,763 on Invoice 36351 series) and (Two Classrooms Project \$30,553 on Invoice 36353 series) totaling \$39,316

Del Terra was paid CM fees on the invoices for these projects, \$1,350,835 (see above paid items 1-4 = \$431,207+\$499,530+\$380,782+\$413,365+\$39,316). Del Terra was also paid Additional Services and CM fees as follows:

Additional Services and Fees:

1.	Facility Report, HVAC Assessment (Invoice 36270-01 on 6/1/16)	\$115,750
2.	Facility Report, Torch Environmental (Invoice 362230-01 on 6/1/16)	\$68,000
3.	DSA Closeout (Invoice 362240-01 on 6/1/16)	\$64,500
4.	District Roofing Assessment (Invoice 36201-01 on 6/1/16)	\$74,500
5.	PM and CM Services District-Wide Projects (Invoice 36370-01 on 4/29/15)	\$400,000
6.	Reprogramming & Replanning/Tech. (Invoice 36382 on 9/15/16)	\$230,000
7.	Add program plan Inv 36255-01	\$85,000
8.	Total Additional Services	\$1,037,750
9.	Add in 4% PM fee on \$30,000,000 (Invoices 36250 series)	\$1,200,000
10.	Add in CM fees on projects from above	\$1,350,835
11.	Grand Total Del Terra was paid (see Appendix 71)	\$3,588,585

63 Even if retention of \$60,000 on the 2015 agreement was not paid to Del Terra, the percent actually paid to Del Terra instead of the 4% under the 2015 agreement would be 26.32% (\$3,588,585 - \$60,000 = \$3,528,585 / 13,406,718).

FCMAT could not locate any construction files; this report used available financial records. As described in the Leal Report (Appendix 86, Page 9), in a February 26, 2019 meeting with former superintendent, Debra French, district legal counsel, and Luis Rojas of Del Terra, Luis Rojas stated that the district's request was under review by his legal counsel. The meeting did not result in the release of any documents by Del Terra despite its contractual responsibility to maintain program-related documents. As with FCMAT's request for cooperation and production of documents from Del Terra, no documents or access to records have been provided by Del Terra as of the date of this report. Maintenance and retention of school facility project files is a routine activity for any qualified program manager or construction manager working on a public school project. Even in today's highly technological environment, it is unusual to have 100% of all program and construction documents on a computer with no hard copies.

H. Conflict of Interest

1. Government Code Section 1090

Government Code Section 1090 states:

(a) Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.

Section 1090 is concerned with financial interests, other than remote or minimal interests, that prevent public officials from exercising absolute loyalty and undivided allegiance in furthering the best interests of their agencies (*Stigall v. Taft* (1962) 58 Cal.2d 565, 569). Under Section 1090, "the prohibited act is the making of a contract in which the official has a financial interest" (*People v. Honig* (1996) 48 Cal.App.4th 289, 333). A contract that violates Section 1090 is void (*Thomson v. Call* (1985) 38 Cal.3d 633, 646). Contracts subject to Section 1090 are void, not voidable, and the public agency may retain the benefit of an interested party's performance without providing anything in return (*Marin Healthcare Dist. v. Sutter Health* (2002) 103 Cal.4th 861, 871 [quoting *Thomson v. Call* (1985) 38 Cal.3d 633, 646]; see also *Cnty. of San Bernardino v. Walsh* (2007) 158 Cal.4th 533, 549–552, 69 [defendants in a bribery scheme were required to pay to the county profits they realized from selling contracts they received through bribing county official]).

The California Supreme Court recently clarified the standard used to determine whether an independent contractor is subject to Section 1090 in the first instance (*People v. Superior Court (Sahlolbei)* (2017) 3 Cal.5th 230, 237). There, it held that the Section 1090 reference to "officers" applies to "outside advisors (independent contractors, including corporate consultants) with responsibilities for public contracting similar to those belonging to formal officers."

With respect to the district, the Kirchman court held that an outside consultant is considered to have a financial interest in a governmental decision within the meaning of Government Code Section 87100 if "it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official" (*Kirchman v. Lake Elsinore USD* (1997) 57 Cal.App. 4th 595). Therefore, in its role as an "official," Del Terra cannot have a material financial interest in additional work that is recommended and added to Del Terra's contract.

In this case, Del Terra entered into both a 2015 agreement and a 2019 agreement for program and construction management services with the district that oversees and determines projects in which Del Terra

was also working on as construction manager. Under Article 1.3.2, Del Terra agreed to act as a fiduciary and as an agent for the district.

“1.3.2 Relationship. Manager serves as District’s agent and fiduciary in performing services under this Agreement. Managers shall (sic), in this capacity, maintain confidences and provide professional services in a manner consistent with District’s economic, educational and governmental best interests.” [Emphasis added.]

As a fiduciary, Del Terra had a duty to put aside its personal interests and never use its position to better its own financial interests.

In addition, in May of 2021 the FPPC issued an advisory opinion to a contractor in a situation similar to that of Del Terra (FPPC *Bettenhausen* Advice Letter (2021) No. A-21-021.) In *Bettenhausen*, the FPPC sought to answer whether Section 1090 prohibited a contractor from analyzing and making recommendations related to a city project’s scope pursuant to a contract for project management between the city and the contractor. Under the terms of the contract, the contractor would serve as the project manager of a project that had both public and private components. The advisory opinion concluded that the contractor was subject to Section 1090 because the contractor had duties to engage in or advise on public contracting with respect to the project and to be involved in the design and development of plans and specifications for the project under its contract with the city (see Page 7 of FPPC *Bettenhausen* Advice Letter). Therefore, because Del Terra had a similar contract agreement with the district, Del Terra would most likely be found to be subject to Section 1090 as well.

Section 1090 prohibits Del Terra from advising and enlarging the scope of the projects covered under its contract with the district. Like the contractor in the *Bettenhausen* opinion, Del Terra’s compensation was a percentage of the bond issued and the total construction cost. Furthermore, unlike the contractor in *Bettenhausen*, there are no facts to suggest that Del Terra had any type of compensation cap or that it was required to acquire formal approval from the district before any additions to the contract. Therefore, Del Terra, which was subject to Section 1090 (see section above), was impermissibly participating in the making of district contracts by increasing compensation through recommendations of added services (see Section D) and adding projects beyond the scope of its initial contract with the district.

As previously mentioned, under the 2015 agreement, the Del Terra scope of service was seven projects. They were:

1. 21st Century Classrooms 6-12
2. 21st Century Classrooms K-5
3. BHS: New Snack Bar
4. BHS: New Courtyard
5. BHS: Little Theatre
6. BHS: Main Entrance
7. BHS: Swimming Pool Remodel

However, under the 2015 agreement, none of the Bassett High School projects listed as items 3 through 7 above were performed. Instead, Del Terra submitted a request for reprogramming and constructed the following four projects:

8. 21st Century Classrooms 6-12 total cost of \$4,355,630
9. 21st Century Classrooms K-5 total cost of \$5,045,758

10. Development of a Child Development Center total cost of \$3,591,965
11. BHS Two Classroom Project, \$324,854 and Cabling Project \$88,511, at a total submitted cost of \$413,365

During the 2015 agreement, Del Terra requested \$952,750 in extra services, which included the following six projects:

Facility Report, HVAC Assessment (Invoice 36270-01 on 6/1/16)	\$115,750.00
Facility Report, Torch Environmental (Invoice 362230-01 on 6/1/16)	\$68,000.00
DSA Closeout (Invoice 362240-01 on 6/1/16)	\$64,500.00
District Roofing Assessment (Invoice 36201-01 on 6/1/16)	\$74,500.00
PM and CM Services District-Wide Projects (Invoice 36370-01 on 4/29/15)	\$400,000.00
Reprogramming & Replanning/ Tech. (Invoice 36382 on 9/15/16)	\$230,000.00
TOTAL:	\$952,750.00

The issue with these additional services invoices – beyond questions concerning authorization and necessity as addressed in Section D of this report – is whether Del Terra in its position as a fiduciary and as program manager for the district was in a position to influence its own compensation, creating a conflict of interest, especially when Del Terra had contracted to manage and oversee the entire program, which arguably included the \$952,750 as base contract services rather than as additional services. Del Terra's position of trust gave them the ability to recommend and get paid for the requested \$952,750, which arguably was not for additional services at all.

I. Summary of Potential Del Terra Irregularities

Based on the information above, numerous possible overbillings and other financial irregularities are attributable to Del Terra's management of district bond funds. The table below quantifies the potential irregularities, which total \$3,031,703.

Report Section	Del Terra Potential Irregularities Description	Totals (rounded)
B-6	21st Century classroom construction management services-furniture, fixtures, or equipment	\$ 758,923
B-10	Digital network vendor construction management fees	76,518
C-1	Updating DSA Closeout Assessment and Report	64,500
C-8	Incomplete DSA closeout services over two contracts (2013 & 2014 Amendments)	760,000
C-8	DSA closeout services invoice 36511-01 (2019 Agreement)	3,760
	(Note: Value of Close out under 2009 & 2015 Agreement not quantified)	
E-9	Program management fees on projects that did not materialize	479,752
H-1	Original program services paid as additional services total of \$952,750 less \$64,500 from C-1 above	888,250
	Total Del Terra Potential Irregularities	\$ 3,031,703

Other Findings

The primary scope of work of this audit is specific to the actions and inactions of Del Terra. However, the original allegations included concerns that board members and executive management were not fulfilling their fiduciary duties, thus providing an opportunity for Del Terra and others to act in ways harmful to the district. To determine if there were other breaches of fiduciary duty and integrity, FCMAT reviewed some concerns brought forth by the Bassett community and identified additional findings that may have contributed to, or are evidence of, poor internal controls, an inadequate tone at the top, lack of fulfilling fiduciary duties, or overall transparency issues. The findings below describe a few of those examples.

Board Member Paul Solano

Paul Solano has been a district governing board member since 2001 and is its longest serving member. FCMAT interviewed Solano via a Zoom meeting on Tuesday, September 7, 2021. One of the issues discussed was that Solano may have falsified a travel expense reimbursement claim of \$753.28. But this is more than just about an expense claim. Because of the intricacies and lengths that Solano went through to create what appears to be a falsified expense claim, and because he is a board member, a fiduciary, and has responsibilities for setting a good example or tone at the top for ethics of the district, FCMAT spent considerable time unraveling the transaction.

Based on FCMAT's review of Solano's expense claim, his actions and behavior are not consistent with the district's board members' protocols, professional and fiduciary duties, tone at the top, and board policies. And because of the lengths Solano went to dispute the expense claim issues with the district staff responsible for reviewing the claim, his actions do not represent proper conduct by a board member.

The district has established board policies and protocols that govern how board members should conduct themselves. Board policies, board bylaws, and administrative regulations are written local laws that the district and its board members must follow (for information on conflicts of interest, fiduciary duties and gifts of public funds, refer to those sections earlier in this report). Procedures or protocols the board adopts must also be followed by the board, management and staff, and students of the district. The district's board protocols are shown on the district website as adopted December 9, 2015, and indicate they are "Board and Superintendent Operating Procedures."

The district's board protocols, and board policy manual are available on the district's website at https://www.bassettusd.org/apps/pages/index.jsp?uREC_ID=1184491&type=d&pREC_ID=1429115 and <http://www.gamutonline.net/district/bassettusd/>, respectively. The board policy manual is a link to the district's board policies. The board bylaws are found in Section 9000 of the board policy manual. The link to the board policies contained in the board protocols goes to a set of board policies that is out of date. Board policies are found in the Board Policy Manual listed from Section 0000 through 9000. Section 9000 is titled as "9000 Board Bylaws." Within Section 9000 Board Bylaws are numerous sections starting with "BB 9000 Role of the Board," further down there is Section "9270 BB Conflict of Interest," and at the end is Section "9400 BB Board Self-Evaluation." The "BB" stands for Board Bylaws. Numerous protocols are in place for board members and the superintendent; however, several stand out and state that the board "will" follow them, which makes them requirements as they are adopted by the board. The district's board protocols are as follows:

District Board Protocols

The board and superintendent will:

- Operate openly with trust and integrity.
- Govern in a dignified and professional manner, treating everyone with civility, dignity, and respect, while honoring the right to disagree with each other.
- Define and respect the difference between administration and policy-making and respect the roles of each.

Board members will:

- Understand the distinctions between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent and staff.

- Understand the Board as a collective body must provide clear signals to its professional staff through its Superintendent.
- Act with dignity, and understand the implication of demeanor and behavior. [emphasis added]

The district's board policies and bylaws are even more important and add further clarity about how board members should govern. For purposes of this report, board policies means board bylaws. Board policies are local laws of the district that have relevance to this report and are as follows:

District Board Policies

Role of the Board, BB 9000: *The Board shall ensure that the district is responsive to the values, beliefs, and priorities of the community.*

Governance Standards, BB 9005 states:

Each individual Board member shall: ...3. Recognize and respect differences of perspective and style on the Board and among staff, students, parents, and the community. 4. Act with dignity and understand the implications of demeanor and behavior.

To operate effectively, the Board shall have a unity of purpose and: ...3. *Operate openly, with trust and integrity.* 4. Govern in a dignified and professional manner, treating everyone with civility and respect.

Conflict of Interest, BB 9270:

The governing board desires to maintain the *highest ethical standards* and help ensure that *decisions are made in the best interest of the district and public*. In accordance with law, Board members and designated employees *shall disclose any conflict of interest* and, as necessary, shall abstain from participating in the decision.

A Board member *shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.*

[emphasis added]

There are many more board protocols and specific policies that are important to promoting a positive district culture. The tone at the top is an important characteristic of internal controls that creates trust or distrust and credibility or lack of credibility for any organization, depending on how that tone is perceived. Community members, district management and staff who view board members as trustworthy are more likely to create a stronger organizational culture. When some board members are perceived as trustworthy and others are not, those who are not draw most of the attention, and the district can become mired in negative news cycles, low staff morale, and management turnover, which detracts from promoting the education of students.

Solano's Travel Expenses

FCMAT's disbursement sampling identified expenditures Solano charged to the district's American Express credit card and his attempted request for reimbursement of expenses. Out of the sample of reimbursement expenditures, only the California Latino School Boards Association (CLSBA) summit in Oakland, CA on June 2, 2018 was found to be irregular. The approved travel request was for June 1 through June 3. The costs of the travel were for airfare, hotel and out-of-pocket expenses such as meals, taxis and parking. Solano

Mr. Solano stated he was aware of the District investigating the issue and said he was notified nothing was wrong. He informed Ms. French and legal counsel Bill Trejo (Mr. Trejo) that he was willing to pay back the money that was needed...told by Ms. French and Mr. Trejo that Ms. Molina had whistleblower rights...Mr. Solano did not know if Ms. Molina had direction to look into his Expedia account...neither Ms. Molina nor the District had his permission to access his

Solano, School Board Member/Witness interview, on September 26, 2019, read as follows:
 Based on the documents FCMAT reviewed, Molina's actions were appropriate and she was authorized to question Solano's transactions. Excerpts from pages 27-29 of the Titan Group report in a section titled Paul Solano, School Board Member/Witness interview, on September 26, 2019, read as follows:
 It took an external investigation to get people to listen to her on this and other issues. The investigation was performed by the Titan Group Professional Investigations, which issued a report dated March 16, 2020.

- She was reassigned to a position away from the district business office location.
- Her findings and documentation were not taken seriously by management or the district's law firm, Leal and Trejo.
- She was ridiculed by Solano.
- She continued to research and audit the reimbursement.
- She stood her ground in following procedure.
- She took her concerns to management.
- She withheld reimbursement for Solano's out-of-pocket expenses.
- Molina followed up with vendors by attempting to obtain authentic documents.

travel expenses the following happened:
 Molina provided documents that she had written to district human resources explaining that it is her job to review and question reimbursement transactions. According to Molina, because she questioned Solano's travel expenses the following happened:
 When FCMAT selected the CLSBA transactions for testing, the documents Solano submitted to Molina for verification and reimbursement did not look authentic. The team had never seen a Homewood Suites hotel receipt that looked like what Solano submitted as proof of where he stayed. To gain a better understanding of this transaction, FCMAT interviewed Molina on January 21, 2020 and discussed the CLSBA transaction. At that time, she provided the team with additional documentation about the transaction and what happened to her when she questioned board member Solano's reimbursement.
 Solano submitted the details of the travel costs to the district for review and payment. Reconciliation of travel costs was performed at that time by Barbara Molina, accounting technician II, who has worked for the district approximately 25 years.

Date	Description	Amount	Payment Method	Status
5/27/2018	Airfare	\$ 189.95	District Amex Card	Paid
5/29/2018	Hotel	446.59	District Amex Card	Paid
6/8/2018	Out-of-Pocket	116.74	-	Denied

charged the airfare and hotel costs to the district's American Express card, and submitted the out-of-pocket costs by using the district substitute receipt form. The CLSBA travel costs are summarized in the following table.

personal Expedia accounts or any of his accounts at all...was not given any options of discipline for Ms. Molina...Molina should not have been protected by the Whistleblower Act...did not offer to pay anything back because he felt he did something wrong. Instead, he offered to pay the money back because he did not want his reputation ruined over false allegations... *it was not* Ms. Molina's job description to do what she did, and further, he had never heard of Ms. Molina doing it to anyone else...has never referred to Ms. Molina as a problem. [emphasis added]

Molina did not need approval or supervision or management's direction to verify Solano's expense claim by detecting, tracing and resolving discrepancies. Molina's fiduciary duty was to protect the assets of the district, and how she was to carry out her duties is defined in the job description for the accounting technician II position (see Appendix 88 for the complete accounting technician II job description).

This job description states the following:

Distinguishing Characteristics:

This is the advanced level in the series, and incumbents perform the most complex technical accounting or District payroll functions.

Examples of Duties:

Perform a variety of complex technical accounting duties...research, compile and analyze financial information in order to answer questions, facilitate comparisons with historical data and procedures and summarize account information and trends...ensure accuracy, completeness and compliance with a variety of State and federal laws and regulations as well as established District policies and procedures. *Monitor and verify expense claims, reconcile receipts...detect, trace and resolve discrepancies...control and monitor budgets and expenditures; calculate, prepare and verify accuracy of reimbursement claims...Inspect and verify accuracy of personnel payroll and financial documents and related materials; detect, trace and resolve discrepancies, errors and questions regarding invoices...Perform accounts receivable/payable duties by matching and verifying necessary documents...interpret and apply rule and regulations.*" [emphasis added].

Included in the job description is an array of items for which Molina must have the knowledge, ability and experience to carry out the duties assigned, including the ability to do the following:

Maintain accurate financial and statistical records.

Read, interpret, apply and explain policies, procedures, rules and regulations related to the assignment.

Work independently with little direction.

Analyze situations accurately and adopt an effective course of action.

[emphasis added]

The documents provided by Solano were questionable, and his interview with the Titan Group leads to even more uncertainties, including about the invoice for \$446.59 for two nights at the Homewood Suites by Hilton Oakland-Waterfront.

Shown below are copies of Solano's receipts as provided by Molina. Any red color notations, arrows, comment boxes or yellow highlights are added by FCMAT and so noted below each example. Because Solano submitted a receipt for a Hilton Homewood Suites that is not characteristic of an authentic Homewood

invoice, FCMAT obtained and compared an authentic example of a Homewood invoice with Solano's receipt. The invoice FCMAT obtained is also shown below. FCMAT obtained example invoices from a variety of Homewood Suites locations, and all are similar to the example from Los Angeles International Airport Homewood Suites by Hilton invoice shown below.

Typical Authentic Homewood Suites Invoice

Name and Address



HOMWOOD SUITES BY HILTON LOS ANGELES INTERNATIONAL AIRPORT

Room 209/NKJ
 Arrival Date 12/02/19
 Departure Date 12/04/19
 Adult/Child 2/0
 Room Rate \$180.55
 Rate Plan S-AAA
 Honors # 972665608
 Airline:

Hotel Address

6151 W. CENTURY BLVD
 LOS ANGELES, CA 90045

Reservations
 www.homewood-suites.com or
 1-800-CALL-HOME

Confirmation # 90019579 ← Reservation Confirmation Number

12/04/19 PAGE 1

DATE	REFERENCE	DESCRIPTION	AMOUNT
12/02/19	320211	GUEST ROOM	\$160.55
12/02/19	320211	TRANSIENT OCCUPANCY TAX	\$22.48
12/02/19	320211	L.A. TOURISM ASSESSMENT TAX	\$2.41
12/02/19	320211	CA TOURISM ASSESSMENT TAX	\$0.32
12/03/19	320535	GUEST ROOM	\$160.55
12/03/19	320535	TRANSIENT OCCUPANCY TAX	\$22.48
12/03/19	320535	L.A. TOURISM ASSESSMENT TAX	\$2.41
12/03/19	320535	CA TOURISM ASSESSMENT TAX	\$0.32
12/04/19	320715	*****4856	(\$371.52)
		** BALANCE **	\$0.00

The on-line eFolio is a courtesy informational service, subject to [Privacy Policy](#) and [Site Usage](#); actual folio kept in hotel records.



Red comment boxes and red arrows added by FCMAT.

The receipt shown above contrasts with the receipt shown below, which is what Solano provided as authentic proof of his stay at Homewood in Oakland. This receipt is what Solano used to justify his hotel lodging for the hotel cost charged to the district's American Express credit card bill. This receipt looks nothing like FCMAT would expect for a Hilton or Expedia provided reservation or receipt at Homewood Suites.

Homewood Suites Invoice Submitted by Solano

EXHIBIT A

Solano submitted hotel receipt/invoice

Receipt for Hotel in Oakland

Jun 1, 2018 - Jun 3, 2018

Possible cut and paste line

Booked Items

- Hotel: Homewood Suites by Hilton Oakland-Waterfront

1103 Embarcadero, Oakland, California, 94606, USA

Check-in: 6/1/2018 | Check-out: 6/3/2018, 1 room | 2 nights

Traveler Information

- Paul Solano

Room 1: 1 KG BED TRADITIONAL ROOM-CITYVIEW NONSMOKING

Cost Summary

Booked Date: May 28, 2018

- Room Price \$446.59
- 2 nights \$194.56 avg./night
 - Fri, Jun 1 \$204.16
 - Sat, Jun 2 \$184.96

Taxes & Fees

What are Taxes & Service Fees?

The taxes are tax recovery charges Expedia pays to its vendors (e.g. hotels); for details, please see our Terms of Use. We retain our service fees and compensation in servicing your travel reservation.

×
\$57.47

Total

\$446.59

Paid: \$446.59

[American Express 1085]

All prices quoted in USD.

No Hilton or Expedia Confirmation number

Unless a pre-paid stay, the term Paid is used after the stay is completed. Otherwise, Hilton typically uses the terms Total price for Stay or Total for Stay when the reservation is created.

never charged to American Express

Molina handwritten notes

Called Hotel
Never Registered
At this Hotel
Different Hotel charged
to American Express
Silverado Resort in
Nappa

(Received from
Liz Rojas
who received from
Paul Solano)

Red comment boxes, highlights, and red arrows added by FCMAT.

On Page 21 of the Titan Group report, Solano stated in an interview regarding receipts and credit cards that the "district executive assistant fills out reimbursement forms for all five board members after receiving receipts they turn in and he overlooked what the executive assistant did and signed the document once he approved it."

On pages 23-25, the Titan Group report states the following:

. . . he booked his own hotel arrangements for the trip . . . he originally intended to stay in Oakland, CA, he then canceled the arrangements for Oakland, CA and made arrangements to stay in Napa, CA...he booked the Homewood Suites hotel for a two (2) night stay before cancelling...the receipt for the Homewood Suites in Oakland, CA was printed to be turned in before cancelling, and he did not recall receiving a cancellation notice from Expedia when he cancelled the reservation online...he had stayed in the Silverado Hotel in Napa, CA for a past conference and wanted to stay there again for personal interest for things to do outside of the scheduled training...*he did not change his travel dates for the training.* He said he flew in on the morning of the conference, the 2nd, *to save the District money* and did not want to fly in the night before...*he took a cab service from the hotel to the conference on the 2nd... he did not charge the District for travel from his hotel in Napa to the airport to return* which he estimated to be at least sixty to eighty (60-80) miles...the dollar amount for the Napa hotel was not the same dollar amount for the Oakland hotel. He copies and pastes the screen in terms of his receipts, and believed he left the dollar amount from the hotel twice. Mr. Solano explained he uses a form of a spreadsheet/template to compile his receipts. He said he must have submitted the wrong receipt and did not change the name of the hotel which was where he said the discrepancy must have come about...the Expedia account used to make the reservations is his own personal account, not the District's account [emphasis added].

There are inconsistencies in Solano's explanation of how he stayed in a hotel in Napa at least 60 miles away rather than Oakland, where the conference was held. The differences between Solano's explanations and the documents reviewed by Molina and FCMAT are as follows:

The hotel receipt submitted is neither an authentic Homewood receipt nor an Expedia receipt.

In Solano's interview with FCMAT on September 7, 2021, he stated that the Homewood receipt was from his original Expedia Homewood reservation and was a mistake, and that the Silverado Resort and Spa, Napa Valley stay may have been a little more expensive but not significantly so. However, if the Silverado cost a little more, it would not have saved money as Solano told the Titan Group he was trying to do.

If Solano used Expedia or Hilton to make his reservation, his receipt would have included a confirmation number, but there is none.

If Solano cancelled the reservation, he would have been issued a cancellation notice, also with a confirmation number. If Solano did not receive or failed to keep his cancellation notice, he could have requested a copy from Hilton or Expedia to document his travel. Below is the Expedia receipt for the Silverado, obtained directly from Expedia by Molina. If Molina could obtain a receipt, then Solano should also have been able to obtain a receipt to submit a complete and authentic set of travel documents.

Solano stated that he cuts and pastes screen prints to document his receipts.

If this were true, confirmation and itinerary numbers would be part of the receipt and presumably be visible and printed on all receipts.

Were it not for the auditing and research of the charges on the district credit card that showed the true location, Silverado in Napa Valley, where Solano and guest stayed, anyone would believe Solano stayed at Homewood in Oakland from June 1-3.

Based on what FCMAT examined, the evidence suggests almost all documents of the CLSBA trip submitted by Solano may have been altered, may not be authentic, and have incorrect dates. According to Molina, the

alterations shown in Solano's expenses are characteristic of concealing the true location of his stay, and the true dates of June 2-4, not June 1-3.

Shown below is the section of the district's American Express card statement that indicates that the charge for the Silverado was from Expedia.

This was one of the red flags that alerted Molina to potential irregularities in Solano's travel claim. Because the Expedia charge is purchased with the district credit card, which used public money to pay the Expedia charge, Molina was well within her assigned duties to contact Expedia and question the charge, and Expedia cooperated with Molina.

	TO OAKLAND CA	CARRIER B6	CLASS S		
	TO LONG BEACH CA	B6	S		
	TO UNAVAILABLE	YY	00		
	TO UNAVAILABLE	YY	00		
05/29/18	EXPEDIA 735545461770	EXPEDIA.COM	WA		
	URGH4W4Z5 0	94558	05/28/18		446.59
	PAUL SOLANO				
	SILVERADO RESORT AND SPA, NAPA				
	ROC NUMBER URGH4W4Z5				
Total for	DEBRA FRENCH			New Charges/Other Debits Payments/Other Credits	5,026.78

W. Solano ARRIVED 5:11 PM OAKLAND

What was turned in should flight from 1st to 3rd

Different receipt turned in by MR. SOLANO

SAID NOT REGISTERED AT HOTEL OAKLAND HI 170

TRAVEL REIMBURSEMENT PAID DUE TO ALL OF THE MISREPRESENTATIONS

Requested receipt from Expedia for Silverado Resort. MR. Solano's personal acct. MR. Solano using District credit card

Molina handwritten notes

Same itinerary number, 735545461770 as Expedia copy Molina obtained. The final ending 5 is truncated.

Red comment boxes, highlights, and red arrows added by FCMAT.

Review of Solano's Expedia issued Silverado receipt that Molina obtained clearly shows a confirmation number of 81435EC098670. Expedia was able to provide Molina a copy of the Silverado reservation after the stay had concluded. Therefore, if Molina were able to obtain a copy of the reservation, then Solano, the Expedia account holder, should have been more than capable of obtaining the Homewood receipt and cancellation document, or providing receipt from Silverado, where he actually stayed.

Also shown on the Expedia receipt below is an itinerary number. There is no itinerary number on the Homewood receipt, nor does that receipt look remotely like an Expedia receipt. The Expedia receipt obtained by Molina is shown below.

Exhibit 6

Barbara Molina

From: Expedia.com <Expedia@expediainmail.com>
 Sent: Friday, August 3, 2018 8:47 AM
 To: Barbara Molina
 Subject: Itinerary - Hotel in Napa, Jun 2 - Jun 4 (Itinerary #7355454617706)



This Expedia Itinerary was sent from Expedia Customer Care. If you have access to this account, you can view the most up-to-date version.

*I requested
 copy from Expedia
 this is what was
 charged to
 American
 Express*

Hotel in Napa
 Jun 2, 2018 - Jun 4, 2018

See live updates to your itinerary, anywhere and anytime.

See your itinerary Download to your Phone

Hotel overview



Silverado Resort and Spa
 1600 Atlas Peak Road, Napa, CA, 94558 United States of America
 View hotel Map and directions

Reservation dates
 Jun 2, 2018 - Jun 4, 2018

Itinerary #
 7355454617706
Confirmation
 81435EC098670

Molina handwritten notes

Expedia reservation details of dates, hotel address, itinerary and confirmation numbers.

*TRAVEL BOTH APPROVED FOR
 June 1st to 3rd
 NOT June 2nd-4th*

Red comment boxes, highlights, and red arrows added by FCMAT.

Solano stated to Titan he did not change his travel dates; however, the Homewood dates are for June 1-3 while the Silverado receipt is for June 2-4.

Solano stated he wanted to save the district money by flying in on the morning of June 2. He was scheduled to be at the conference June 1-3, or three days. If his intent was saving the district money, then he should not have arranged to fly up on June 1; He should have originally flown up on June 2 and back on June 3, which would have been only one hotel night and cost less in airport parking and other out-of-pocket costs. However, Solano actually returned on June 4, also after three days, which does not save the district money. Whether it is June 1-3 or 2-4, it is the same total of three days of travel.

Solano submitted a Jet Blue airline ticket as more documentation that he flew up on June 1 and returned June 3.

This is not your boarding pass.

DATE	DEPARTS/ARRIVES	ROUTE	FLIGHT/OPERATED BY	TRAVELERS	FREQUENT FLIER!	SEATS*	TERMINAL
Fri, Jun 01	08:22 PM / 09:35 PM	LONG BEACH, CA (LGB) to OAKLAND, CA (OAK)	448	Paul Solano		22F	Main
Sun, Jun 03	06:29 PM / 07:46 PM	OAKLAND, CA (OAK) to LONG BEACH, CA (LGB)	347	Paul Solano		22A	1

June 1 - 3.

Trip 1:

You've purchased a Blue Plus fare. This fare option includes one (1) checked bag per person. You may pay for additional bags online (within 24 hours of departure), or upon arrival at the airport via an airport kiosk or with an airport crewmember. Some restrictions apply. Please click here for additional information.

FORM OF PAYMENT	FARE TYPE	FARE	EXTRAS	TAXES & FEES	TOTAL
Credit Card: Amex XXXXXXXXXXXX1085	NONREF - FEE FOR CHG/CXL	USD150.28		USD39.67	USD189.95

District Amex credit card

Molina handwritten notes

Flight changed from 2nd - 4th

Red comment boxes, highlights, and red arrows added by FCMAT.

The information Solano provided to FCMAT differs from that provided in the Titan Group interview. Solano told FCMAT that CLSBA was not sure if they were going to have a meeting with Tony Thurmond and other important people the night of Saturday, June 2 or Sunday, June 3. Therefore, Solano said he would have returned Sunday but chose to stay until Monday, June 4. However, the reason Solano gave the Titan Group for changing his flight to June 2 was to save money; therefore, he still could have returned on June 3. It is possible that during the FCMAT interview Solano remembered more than what he told the Titan Group. Nevertheless, providing a Jet Blue receipt for the actual flight dates would have provided clarity about the dates of travel.

The Expedia Silverado receipt room criteria states, "Reserved for Paul Solano 2 adults."

Check-in and Check-out

Check-in time
4 PM

Check-out time
11 AM

Check-in policies

Check-in time starts at 4 PM
Your room/unit will be guaranteed for late arrival.

Special instructions

24-hour airport shuttle service is available at scheduled times. Contact the property in advance to make arrangements.

Room

Guests

Reserved for Paul Solano
2 adults

Confirmation

81435EC098670

Room

Junior Suite (Mahsion Estates)

Room requests

1 king bed
Non-smoking room

Highlighting added by FCMAT.

Molina was also able to obtain directly from the Silverado a copy of what the hotel charged Solano.

Price summary

Price breakdown

Room price: \$446.59
2 nights: \$194.56 avg./night
6/2/2018: \$204.16
6/3/2018: \$184.96
Taxes & fees: \$57.47

Expedia Rewards

2,054 points
for this trip

See all your rewards

Same as Hilton Homewood Suites invoice/receipt.

Hotel Fees (Paid at hotel) \$50.00

Estimated Total: \$496.59

Red comment boxes, highlights, and red arrows added by FCMAT.

FCMAT reviewed the district's American Express accounts. With the district's help, FCMAT determined the account number ending in 1592 on the Silverado receipt is not a district account. Account 1592 could be an error; nevertheless, the Silverado receipt indicates the stay for Solano was \$380.06.

This differs by \$66.53 from the \$446.59 that the district paid Expedia on its American Express bill. Solano told FCMAT that the American Express account number ending in 1592 was not his, and he cannot explain why the Silverado charge is less than Expedia charge that the district paid. FCMAT cannot determine if Solano or another party received a credit or refund of the \$66.53 while Solano's Expedia account processed the full charge of \$446.59 to the district's credit card.

It is also clear from the Silverado receipt that it looks authentic and similar in appearance to other hotel receipts that use a logo and confirmation number and is much more organized than the Homewood receipt Solano submitted.

Comparing the Homewood and Expedia receipts, it is also inconsistent that the two different hotels would have the same pricing for each night's stay. The two hotels are very different, yet both hotels, miles apart, one a spa and resort and the other close to an airport, were priced identically. The Homewood hotel was priced at \$204.16 for Friday, June 1 and \$184.96 for Saturday, June 2. The Silverado is also priced \$204.16 and \$184.96 but for Saturday, June 2 and Sunday, June 3. Both hotels also show an identical tax of \$57.47 for a total of \$446.59.

FCMAT cannot confirm what the true price of a stay at Homewood in Oakland would have cost on June 1-3 or 2-4, 2018, nor can the true Silverado cost in Napa be confirmed. FCMAT does not consider the Homewood pricing to be accurate. FCMAT's theory of what occurred is that the Silverado pricing was used on Solano's Homewood receipt. Doing so allowed Solano to match the pricing on his Homewood receipt from the Expedia Silverado receipt because that amount, \$446.59, is what is on the district's American Express bill.

If it is true that Solano entered the Homewood pricing from his computer screen when he made the reservation, then it is likely the pricing for Homewood in Oakland for June 1-3 would have differed from that for Silverado in Napa for June 2-4. If Solano entered the Silverado dollar amounts on the Homewood receipt after the stay was complete, then he would presumably know he was using Silverado numbers on a Homewood created receipt. Either way, it takes considerable effort to create alternative documents to establish a stay and costs at a different location on different dates.

These dates are significant because there are other documents, such as the district's substitute receipt form for meals, that Solano submitted using the same June 1-3 dates, as shown below.

BASSETT UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE SERVICES

Solano failed to submit receipts for parking, cab, and meals.

SUBSTITUTE RECEIPT FORM

Instructions: Per Board Regulations 4131.4, "In the event that a receipt is not obtained for a meal, the reimbursement claim must be accompanied by a Substitute Receipt Form." Whenever possible, actual receipts must accompany reimbursement requests, however when this is not possible, a Substitute Receipt Form must be completed and attached to the reimbursement claim. Claims which do not include receipts or a Substitute Receipt Form will not be reimbursed.

Name: Paul Solano

Conference: CLJBA Summit - Oakland Date: 6/2/2018

Vendor: <u>Long Beach Airport</u>	Purpose: <u>Parking Oakland Airport</u>	Date: <u>6/1-6/3/2018</u>	Amount: <u>57.00</u>
Vendor: <u>Veteran's Cab Company</u>	Purpose: <u>to hotel</u>	Date: <u>6/1/2018</u>	Amount: <u>15.00</u>
Vendor: <u>Friendly Cabs</u>	Purpose: <u>hotel to Oakland Airport</u>	Date: <u>6/3/2018</u>	Amount: <u>15.00</u>
Vendor: <u>Portia Restaurant</u>	Purpose: <u>dinner</u>	Date: <u>6/2/2018</u>	Amount: <u>22.99</u>
Vendor: <u>Terra Mia</u>	Purpose: <u>breakfast</u>	Date: <u>6/3/2018</u>	Amount: <u>6.75</u>
Vendor: <u>Long Beach Airport parking for 6/1 - 6/3</u>	Cab fare from the Oakland Airport to hotel on 6/1 when Solano did not fly to Oakland until 6/2	Date: _____	Amount: <u>\$57</u>
Vendor: _____		Cab fare on 6/3 from hotel to Oakland airport when Solano did not fly back to Long Beach until 6/4	Amount: <u>\$15</u>
Vendor: _____	Purpose: _____	Date: _____	Amount: <u>\$15</u>
Vendor: _____	Purpose: _____	Date: _____	Amount: <u>\$22.99</u>
Vendor: _____	Purpose: _____	Date: _____	Amount: <u>\$6.75</u>
Vendor: _____	Purpose: _____	Date: _____	Amount: <u>\$116.74</u>
Vendor: _____	Purpose: _____	Date: _____	Amount: _____
Vendor: _____	Purpose: _____	Date: _____	Amount: _____

Solano's signature

CERTIFICATION

I certify the listed expenses are actual and necessary and were incurred by me while on authorized business and that I am not being reimbursed from any other source for these expenses.

Signed: [Signature] Date: 6/8/2018

Approved (Superintendent or Designee): [Signature]

ORIGINATOR / ACCOUNTING

80-87300

2/87

Red comment boxes, highlights, and red arrows added by FCMAT.

Solano submitted a district substitute receipt form that he admitted to FCMAT is in his own handwriting and signed as actual and necessary expenses. As previously stated, Solano explained he uses a spreadsheet to compile his receipts. This means he is presumably organized, tracks his travel in a spreadsheet, and the data in the spreadsheet is compiled from the receipts he keeps. Yet in this case, when corroborating evidence in the form of receipts would provide precise information about costs and dates of travel, rather than submit receipts, Solano listed non-meal expenses in the substitute receipt form meant for meals only.

FCMAT asked Solano why the dates on the district receipt form were June 1-3. Solano explained he was using his original calendar dates of June 1-3 when he filled out the receipt form and did not correct these dates. He said this was also a mistake. The names, dates and amounts were handwritten and were recorded after the travel had concluded.

Solano explained to the Titan Group investigator that he did not charge the district for travel from his hotel in Napa to the airport; however, his substitute receipt form clearly has a charge for reimbursement of \$15 to Friendly Cabs, "hotel to Oakland Airport" on June 3. The purpose section of the receipt form clearly says, "hotel to Oakland Airport," which FCMAT takes at face value to mean Solano's travel from his hotel in Napa to the Oakland airport.

It is not clear how a cab ride from Napa to Oakland would cost only \$15. What also appears misleading or purposely designed to present his travel as legitimate on June 1-3 is that the receipt form is filled out in Solano's own handwriting, which would be based on receipts with actual dates after he returned from the trip. In other words, if he knew he was not in Oakland on June 1-3, but rather in Napa on June 2-4, then one plausible explanation of Solano hand writing the travel dates and signing the form on June 8 may be to continue the appearance of his travel being on June 1-3. His answer for almost everything associated with the CLSBA travel is that it was a mistake.

Solano had yet another chance to be open and truthful about the dates and costs of his stay in Napa. He also signed a district travel request form, shown below.

BASSETT UNIFIED SCHOOL DISTRICT - TRAVEL REQUEST EXPENDITURE

NAME Paul Solano		TITLE Board Member		DATE OF TRAVEL REQUEST 05/22/18	
SITE/SCHOOL District Office		DEPARTMENT Superintendent's Office		PROGRAM General	
DESTINATION (City & State) Oakland, CA		PURPOSE CLSBA Summit			
DEPARTURE TIME 9 pm DAY 1 MONTH June		RETURN TIME 6 pm DAY 3 MONTH June			
DUTIES ASSUMED BY:		SUBSTITUTE REQUIRED FOR NUMBER OF DAYS		SUBSTITUTE COSTS	
ESTIMATED EXPENSES					
LODGING \$ 200.00	TRANSPORTATION \$ 400.00	REGISTRATION \$ 0.00	OTHER \$ 100.00	TOTAL ESTIMATED EXPENSES \$ 700.00	
AMOUNT OF CASH ADVANCE REQUESTED (Max of \$50/day)		METHOD OF TRAVEL <input checked="" type="checkbox"/> AIR <input type="checkbox"/> PRIVATE AUTO <input type="checkbox"/> OTHER			
ACCOUNT NUMBER 01.1-00000.0-00000-71100-5220-7001500		DATE OF BOARD APPROVAL 6/24/18			
PROGRAM NAME		DATE		CONFIRMED BY <i>[Signature]</i>	
SIGNATURE OF EMPLOYEE <i>[Signature]</i>		DATE		DATE	
APPROVAL SIGNATURES					
IMMEDIATE SUPERVISOR	DATE	CLEARED FOR SUBSTITUTE	DATE		
DIVISION HEAD	DATE	CLEARED FOR ADVANCE	DATE		
SUPERINTENDENT <i>[Signature]</i>	DATE	ACCOUNTING CLEARANCE <i>[Signature]</i>	DATE 6/25/18		
CLAIM FOR REIMBURSEMENT - RECEIPTS MUST ACCOMPANY ALL CLAIMS (SEE REVERSE SIDE)					
(If missing receipts, use Substitute Receipt Form available from Business Services)					
1	DATE				SUBTOTAL
2	BREAKFAST - ACTUAL COST				6.75
3	LUNCH - ACTUAL COST				
4	DINNER - ACTUAL COST			22.44	
5	TOTAL MEALS (ADD LINES 2 THRU 4)				29.74
6	A. MAX MEAL ALLOWANCE: ___ DAYS x \$65 =				
B. IF LINE 5 IS GREATER THAN LINE 6A ENTER LINE 6A, IF LINE 5 IS SMALLER THAN LINE 6A ENTER LINE 5 HERE					
7	TAXICAB, PARKING	57.00	15 -	15 -	80. -
8	BAGGAGE TRANSFER				
9	TELEPHONE				
10	LODGING, HOTEL, MOTEL, ETC.				
11	CONVENTION REGISTRATION FEES				
12	TRANSPORTATION (OTHER THAN PERSONAL AUTO)				
13	OTHER EXPENSES - ITEMIZE				
14	TOTAL PERSONAL AUTO MILEAGE FOR TRIP MILES X \$5.45 PER MILE (as of January 2018)				
15	TOTAL CLAIM (LINES 6B THRU 14)				109.74
16	LESS CASH ADVANCES				
17	NET AMOUNT OF CLAIM (LINE 15 GREATER THAN 16)				
18	NET AMOUNT OF REFUND (LINE 16 GREATER THAN 15)				109.74

Red comment boxes, highlights, and red arrows added by FCMAI.

The district's travel request form is also required for preapproval of travel and for reimbursement of actual and necessary expenses after the travel. Whether Solano completed the form or someone else did, he is responsible for the form. Fortunately, Molina performed her duties responsibly and was able to deny payment of the substitute receipt form request for reimbursement of Solano's out-of-pocket costs.

The district had to spend an extraordinary amount of time and energy and incur significant costs to sort through a board member's travel for a potential total of \$753.28. All board members are fiduciaries of the district. They should always exercise good judgment and disclosure by being open, sincere and honest.

Regardless of when Solano may have become aware of his trip expenses and dates being questioned by Molina, he used a district credit card paid for with public money for his trip. Rather than producing the receipts needed to document his claims, time was spent condemning Molina's actions in performing her required duties of researching the expenses, including contacting Expedia, Homewood, and Silverado. As stated in her job description, Molina was responsible to "Monitor and verify expense claims, reconcile receipts . . . detect, trace and resolve discrepancies . . . and work independently with little direction." FCMAT neither found nor was provided any documents that informed Molina not to pursue the irregularities in Solano's expense claim.

Solano's statements to the investigator on September 26, 2019 in pages 19-29 of the Titan Group report indicate that he notified the superintendent and legal counsel that he was willing to pay back the money. He did not, in fact, repay the funds at that time.

Solano explained to FCMAT the following:

- He loves Napa and tries to go there any time he can.
- The receipts and events were his mistake, but that he did bring this to French's attention when he was in her office with attorney Bill Trejo, and wanted to pay the money back.
- French and Bill Trejo told him he did not have to pay the money back.

French explained to FCMAT that her original contact about this issue was with Francisco Leal and that Bill Trejo never told her that Solano did not have to pay the money back.

He talked about the travel issue with attorney Francisco Leal, who thought his travel was OK or not an issue. French explained to FCMAT that Francisco Leal told her that Solano did not have to pay the money back and that Francisco Leal would speak to Solano. As discussed below, Francisco Leal may not have been shown the true documents or heard the full and complete story from Solano, because some time later Francisco Leal stated in an email that he had reconsidered and that Solano should pay the money back.

As a board member, Solano stated that he can only go along with what his superintendent and district legal tell him.

He spoke several times with French and legal counsel, and he wishes he never made the mistake.

When FCMAT interviewed French, she stated she had reviewed the CLSBA travel documents and originally thought Solano stayed where his paperwork indicated, and took Solano at his word that he stayed at Homewood. Further, because of Solano's explanation and paperwork shown to her at that time, she did not think it was an issue. It did not cross her mind that the paperwork Solano was submitting was false. However, in a meeting with French, once the FCMAT team pointed out the date, dollar amount, location differences, missing receipts, altered receipts, and other items, French realized there was much more to this issue and that Solano was not forthcoming in his explanations about the true nature of the receipts he showed her.

This same misconception of the true nature of the receipts is evidenced in an email dated January 5, 2021, from Francisco Leal of the district's law firm to the new superintendent, Dr. Alejandro Alvarez, that in part states the following:

This issue has garnered more importance than it probably deserves, with accusations from Mr. Solano's political detractors that he mis-used District funds. Mr. Solano has repeatedly attempted to resolve this matter by using his personal funds to reimburse the District for the hotel stay. Regrettably, he has been given conflicting advice from me, my law partner Trejo, and the former Supt, Ms. French. As I recall, my advice was that he reimburse the District for the hotel stay, and the advice from Mr. Trejo and Ms. French was that reimbursement was not required. I have taken a more thorough review of the situation, and I believe it would be prudent for Mr. Solano to resolve this matter by reimbursing the District for the hotel stay. Please convey this message to Mr. Solano, along with a personal apology for delaying closure of this situation. Please make sure that the repayment is properly documented.

As a fiduciary of the district, a board member is supposed to have a legal and ethical relationship of trust with the district, its management, the public, and his fellow board members. Following board protocols, board policies, and being a good fiduciary are all components of how an ethical board member should act in fulfilling their responsibilities by setting the tone at the top with integrity and honesty. If a board member fails to adhere to the rules, others may follow their lead and also not do so.

Even years later, the red flag findings of a seasoned accounting technician II, Molina, were not given consideration. Attorney Leal wrote, "This issue has garnered more importance than it probably deserves," which seems to water down a possible concealment. Yet those involved with keeping the information concealed apparently were willing to cause Molina to be a complainant in an investigation because she stood her ground, questioned the expenses and protected public money. This diminishes the essential checks and balances.

Solano appears more concerned that Molina and the district looked into his personal Expedia account than about being transparent and a good fiduciary to the district. Page 28 of the Titan Group report states the following:

Mr. Solano was not given any options of discipline for Ms. Molina, but it was discussed that he can pursue criminal charges individually just not through the District...he felt he was lax on the issue and the District was as well. He felt something should have been done and Ms. Molina should not have been protected by the Whistleblower Act.

Nobody should have had to tell Solano he should pay back the money. He is a board member with more than 20 years of experience and should know what to do. The fact that Solano was seemingly discussing pursuing criminal charges against the person responsible for reviewing his travel expenses and did not believe Molina should be protected by the Whistleblower Act speaks volumes about his lack of integrity in exercising his fiduciary responsibilities as a board member. Molina explained that it was easy for Solano to bully his way around the district and do whatever he wanted because he was the senior board member, and most are afraid of him because of his close ties to the law firm and because he yells at anyone he does not like. Both Molina and others interviewed said that Solano is a bully, demeans women, will confront anyone, and goes after them relentlessly if he feels they don't do what he wants.

In the email above, the attorney writes he has conducted a more thorough review and believes Solano should reimburse the district. The attorney believes Solano should only reimburse for the hotel stay, but as shown in this report, a better approach would be reimbursement for the entire trip, including the Jet Blue cost of \$189.95, Expedia cost of \$446.59, and possibly the cost of the Titan Group investigation, to ensure full restitution of funds. Further, Solano cannot explain where the \$66.53 difference between his Silverado

and Expedia receipts went or who may have it. During FCMAT's interview with Solano, the team also recommended he repay the funds.

On January 10, 2022, approximately three and a half years later, Solano paid restitution to the district by personal check in the amount of \$447, the cost of the hotel, rounded up. Even if funds are later paid back, the original diversion of the funds for other than public purposes may be considered misappropriation of funds when it occurred. If the funds from an alleged irregular activity are paid back later, it can be considered restitution, meaning a restoration of something lost or stolen to its proper owner or making good or giving an equivalent for some injury.

The travel expenses issue also raises the possibility that a gift of public funds may have occurred. Based on the information available, the entire trip may be considered a vacation to Napa with a guest rather than a district-related educational activity to benefit students. Expenditures of public money that are driven more by personal motives are disallowed because the use of the funds does not have a substantial public purpose, even if all the funds are repaid. This means the entire cost of the trip paid by the district may be considered a gift of public funds because the facts and circumstances as shown above have the attributes of someone purposely concealing the true nature of the travel for what appears to be a personal vacation.

Measure V Campaign Funds

The community organized a campaign to support a bond measure, Measure V, to obtain financing to improve its schools. To fund the campaign costs of promoting Measure V, a Wells Fargo bank account was created in September 2014 and titled Citizens for Bassett Schools on Measure V. The bank account address was the alleged residence of former district board member Natalie Ybarra. Ybarra's LinkedIn profile discloses that she has been a member of the board of trustees of the district from "Dec 2015–present. 4 years 10 months," has a Bachelor of Arts degree from Columbia University in New York, is a policy specialist, community engagement coordinator, vice chair of the planning commission of the city of Baldwin Park, and assistant director of upward bound at Harvey Mudd College. Her board term ended December 2020, and she did not seek re-election.

The FPPC requires that campaigns such as the district's bond measure report their financial activities (money received and money spent) on Forms 497 and 460. FCMAT obtained the campaign's 497 and 460 reports from the Los Angeles County Registrar-Recorder County Clerk, Campaign Finance Section. Ana Morales, a community member, provided FCMAT with copies of bank statements, cancelled checks, and deposits.

Form 497 is a report that details the contributions received to support the campaign, which are also recorded in Form 460. Form 460 has several schedules and is shown in Appendix 87. Schedule A reports the contributions received, and Schedule E summarizes the expenses or actual payments made.

The first page of Form 460 is the cover page, which identifies the committee on behalf of which it is filed, in this case Citizens for Bassett Schools-Yes on Measure V. The cover page has several signature lines and titles, and the campaign used two of those lines. Ybarra signed the form as the controlling officeholder or responsible officer of sponsor, and Morales signed as the treasurer or assistant treasurer.

According to Morales, the campaign needed at least one additional person to sign forms and be part of the bank account. Morales, a Bassett community member, was asked by then district superintendent Alex Rojas to help with the campaign account as treasurer. In a written statement to FCMAT, Morales stated that she "...was reluctant to commit for many reasons..." and explained she "had never been or held position in treasure [sic] or financial...and...was not good with numbers or forms." Morales further explained that Ybarra promised to fill out all forms, kept all documents, had control of the Wells Fargo bank account, possessed the only active bank debit card, and would take care of all expenditures.

Form 460, Schedule E is important because this is where cash payments of less than \$100 are reported as unitemized; however, receipts remain required to substantiate the cash used. When an amount is reported on Schedule E as a payment of less than \$100, it means that cash was spent from the campaign funds. Form 460 is designed to reconcile with the campaign bank account, because cash withdrawals from the account should be used only for campaign related purchases.

**Schedule E
Payments Made**

Type or print in ink.
Amounts may be rounded
to whole dollars.

Statement covers period		CALIFORNIA FORM 460
from	10/1/14	
through	10/18/14	Page <u>5</u> of <u>7</u>
NAME OF FILER		I.D. NUMBER
Citizens for Bassett Schools - Yes on Measure V		1372203

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Citizens for Bassett Schools - Yes on Measure V

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

OMP campaign paraphernalia/misc.	MBR member communications	RAD radio airtime and production costs
CNS campaign consultants	MTG meetings and appearances	RFD returned contributions
CTB contribution (explain nonmonetary)*	OFC office expenses	SAL campaign workers' salaries
CVC civic donations	PET petition circulating	TEL t.v. or cable airtime and production costs
FIL candidate filing/ballot fees	PHO phone banks	TRC candidate travel, lodging, and meals
FND fundraising events	POL polling and survey research	TRS staff/spouse travel, lodging, and meals
IND independent expenditure supporting/opposing others (explain)*	POS postage, delivery and messenger services	TSF transfer between committees of the same candidate/endorser
LEG legal defense	PRO professional services (legal, accounting)	VOT voter registration
LIT campaign literature and mailings	PRT print ads	WEB information technology costs (internet, e-mail)

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID

* Payments that are contributions or independent expenditures must also be summarized on Schedule D. SUBTOTAL \$ 0

Schedule E Summary

1. Itemized payments made this period. (Include all Schedule E subtotals.)	\$ 0
2. Unitemized payments made this period of under \$100	\$ 177.13
3. Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).)	\$ 0
4. Total payments made this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.)	TOTAL \$ 177.13

FPPC Form 460 (January/05)
FPPC Toll-Free Helpline: 866/ASK-FPPC (866/275-3772)

Appendix 87: Campaign form 460, Schedule E, Page 5. Highlighting and red oval added by FCMAT.

Amounts from Schedule E are totaled and placed on Form 460's summary page. In this example, the summary page is page 3 of 7 for the statement period of October 1, 2014–October 18, 2014, and the Schedule E amount of \$177.13 is shown on the summary page in the line item titled Cash Payments.

**Campaign Disclosure Statement
Summary Page**

Type or print in ink.
Amounts may be rounded
to whole dollars.

SUMMARY PAGE

Statement covers period		CALIFORNIA FORM 460
from	10/1/14	
through	10/18/14	Page <u>3</u> of <u>7</u>
		I.D. NUMBER 1372203

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER
Citizens for Bassett Schools - Yes on Measure V

Contributions Received

	Column A TOTAL THIS PERIOD (FROM ATTACHED SCHEDULES)	Column B CALENDAR YEAR TOTAL TO DATE
1. Monetary Contributions Schedule A, Line 3	\$ 16,000	\$ 16,000
2. Loans Received Schedule B, Line 3	0	0
3. SUBTOTAL CASH CONTRIBUTIONS Add Lines 1 + 2	\$ 16,000	\$ 16,000
4. Nonmonetary Contributions Schedule C, Line 3	0	0
5. TOTAL CONTRIBUTIONS RECEIVED Add Lines 3 + 4	\$ 16,000	\$ 16,000

**Calendar Year Summary for Candidates
Running in Both the State Primary and
General Elections**

	1/1 through 6/30	7/1 to Date
20. Contributions Received \$	N/A	\$
21. Expenditures Made \$	N/A	\$

Expenditures Made

	Column A TOTAL THIS PERIOD (FROM ATTACHED SCHEDULES)	Column B CALENDAR YEAR TOTAL TO DATE
6. Payments Made Schedule E, Line 4	\$ 177.13	\$ 177.13
7. Loans Made Schedule H, Line 3	0	0
8. SUBTOTAL CASH PAYMENTS Add Lines 6 + 7	\$ 177.13	\$ 177.13
9. Accrued Expenses (Unpaid Bills) Schedule F, Line 3	\$18,924	\$18,924
10. Nonmonetary Adjustment Schedule C, Line 3	0	0
11. TOTAL EXPENDITURES MADE Add Lines 8 + 9 + 10	\$ 19,101.13	\$ 19,101.13

**Expenditure Limit Summary for State
Candidates**

22. Cumulative Expenditures Made* (If Subject to Voluntary Expenditure Limit)	
Date of Election (mm/dd/yy)	Total to Date
/ /	\$
/ /	\$

Current Cash Statement

12. Beginning Cash Balance Previous Summary Page, Line 16	\$ 0
13. Cash Receipts Column A, Line 3 above	\$16,000
14. Miscellaneous Increases to Cash Schedule I, Line 4	0
15. Cash Payments Column A, Line 8 above	\$177.13
16. ENDING CASH BALANCE Add Lines 12 + 13 + 14, then subtract Line 15 <i>If this is a termination statement, Line 16 must be zero.</i>	\$ 15,822.87

To calculate Column B, add amounts in Column A to the corresponding amounts from Column B of your last report. Some amounts in Column A may be negative figures that should be subtracted from previous period amounts. If this is the first report being filed for this calendar year, only carry over the amounts from Lines 2, 7, and 9 (if any).

*Amounts in this section may be different from amounts reported in Column B.

Cash Equivalents and Outstanding Debts

18. Cash Equivalents See instructions on reverse	\$ 0
19. Outstanding Debts Add Line 2 + Line 9 in Column B above	\$ 18,924

FPPC Form 460 (January/05)
FPPC Toll-Free Helpline: 866/ASK-FPPC (866/275-3772)

Appendix 87: Campaign Form 460, Summary, Page 3. Highlighting and red oval added by FCMAT.

All evidence and Ybarra's statements indicate that Ybarra had sole use of the only active campaign bank debit card, used the debit card for cash withdrawals and transactions, and was the sole signer of checks issued by the campaign. Morales stated that she only agreed to help with the campaign because another person could not be found, never signed any checks, and destroyed her debit card when she received it because she did not want the responsibility.

The FCMAT team met with and interviewed Ybarra about the campaign account on June 3, 2020. In the interview, Ybarra stated the following:

She wrote the checks and authorized transactions and also took direction from others.

She and Morales were responsible for making sure the transactions were reported on the proper campaign forms 460 and 497 (Morales strongly disputes that she was responsible for any reporting because the bank account statements, and information went to Ybarra's home; Ybarra said she promised to fill out the forms, and only needed Morales for her signature).

She was experienced in completing campaign forms.

It was her responsibility to manage the funds, complying with business rules, IRS rules such as issuing 1099s and other regulations, and the financial aspects of the bank account and forms reporting.

All receipts, invoices and purchase documents were in her possession. She stated that she had a binder of receipts that she would provide to the team (Ybarra never provided the binder of receipts to FCMAT).

She no longer has the debit card.

FCMAT compared the address on the campaign's bank statements with the address on Ybarra's personal Check No. 416 discussed further below, and the addresses matched. Based on Ybarra's answers during the interview and the fact that the bank statement and campaign forms had Ybarra's apparent home address, FCMAT concluded the campaign forms and bank statements were in her sole custody and that she was solely responsible for managing all campaign funds, proper documentation and administration of the funds, ensuring the safety and integrity of the funds, and reporting the use of the funds accurately. The campaign bank account statements, which are from the bank and campaign forms obtained from the county clerk and prepared by Ybarra, are sources that can be compared.

Having reviewed the available documents, FCMAT found that the campaign funds had characteristics of not being properly documented, reconciled or accounted for, and found irregularities in how campaign funds were spent and where the cash went. Following is the analysis of irregularities and Ybarra's explanations of those irregularities during the June 3, 2020 interview.

Form 460 Reporting Period: October 1, 2014 - October 18, 2014

Comparing the bank transactions to the campaign forms 460 further identified that the campaign's funds were not reconciled and did not clearly record how the cash and other purchases were spent under Ybarra's management. Form 460 was filed by Ybarra for the reporting period of October 1, 2014 through October 18, 2014. Form 460, Schedule E, Payments Made, Page 5 shown above indicates that \$177.13 in cash was spent during this reporting period.

A review of the September 2014 Wells Fargo bank statement when the account was opened and the October 2014 bank statement when the first banking activities began shows only one \$50 check written in the October 1, 2014, through October 18, 2014, reporting period that might qualify as an unitemized payment under \$100. Therefore, the difference of \$177.13 less \$50.00, or \$127.13, is unaccounted for. Schedule E, unitemized payments under \$100, becomes more important as the campaign irregularities continue.

Form 460 Reporting Period: October 19, 2014 – December 31, 2014

On October 20, 2014, Ybarra withdrew \$100 from the Wells Fargo campaign bank account as an in-branch withdrawal. Ybarra confirmed to FCMAT that she made the withdrawal and confirmed that her signature is on the withdrawal form.

Transaction history

Date	Check Number	Check Description	Deposits/ Credits	Withdrawals/ Debits	Ending daily balance
10/6		Deposit Made In A Branch/Store	10,000.00		10,000.00
10/15	1001	Check		50.00	9,950.00
10/20		Deposit Made In A Branch/Store	6,000.00		
10/20		Withdrawal Made In A Branch/Store		100.00	15,850.00
10/21		POS Purchase - 10/21 Mach ID 000000 The Home Depot 6663 Baldwin Park CA 6247 00464294728023837 ?McC=5200		16.97	15,833.03
10/30	1002	Check Paid to David Hernandez		276.00	15,557.03
10/31		Deposit Made In A Branch/Store	5,000.00		
10/31		Deposit Made In A Branch/Store	2,500.00		23,057.03
Ending balance on 10/31					23,057.03
Totals			\$23,500.00	\$442.97	

Wells Fargo campaign bank account, October 2014. Highlighting, red comment boxes, and red ovals added by FCMAT.

Withdrawal

3728



(Check One) Checking Savings Money Market Access Command

Account Number

* 3472454531

Date 10-20-2014

Please print: Name
 CITIZENS FOR BASSETT SCHOOLS: Yes on Measure V

Please print: Street Address, City, State, Zip Code
 Address removed

I authorize this withdrawal and acknowledge receipt of the amount indicated below. Please sign in teller's presence. Two forms of ID may be required.

x *[Signature]* Dollars \$ 100.00

one hundred dollars & 00/100

Ybarra's signature

Bank Use Only (When SVT is Not Available) TL22548 (05/11) WFO:18 40180703

Customer ID:	Exp. Date:	Token Verified (✓) <input type="checkbox"/>	Approval:
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⑆ 3728 ⑆ ⑆ 5000006941 ⑆

Wells Fargo Issues Use When Bank Wells Fargo Customers When Complete

Wells Fargo bank campaign account withdrawal slip. Red comment boxes and arrows added by FCMAT.

When the FCMAT team asked Ybarra what the \$100 cash withdrawal was for, she said she was not sure but thought it was for water. On October 21, 2014, Ybarra used the debit card for a purchase at Home Depot for \$16.97 with no explanation of what the purchase was for. Even though the campaign forms allow for rounding to whole dollars, there are more inconsistencies in the reporting of expenditures. On November 5, 2014, Ybarra withdrew \$300 using her campaign debit card, and on November 13, 2014 withdrew another \$300. These \$300 debit card cash withdrawals are discussed further below. The total possible Form 460, schedule E reportable “Unitemized payments made this period of under \$100” was \$656.97, or \$657 if rounded to the nearest dollar.

The October 19, 2014 – December 31, 2014 schedule E shows that \$440 was spent in payments, not \$657, which is an understatement of \$217. Ybarra stated that she had the receipts to explain the \$440 but did not mention explaining the additional \$217.

Schedule E
Payments Made

Type or print in ink.
Amounts may be rounded
to whole dollars.

Statement covers period from <u>10/19/2014</u> through <u>12/31/14</u>	CALIFORNIA FORM 460 Page <u>5</u> of <u>6</u> I.D. NUMBER 1372203
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SEE INSTRUCTIONS ON REVERSE
NAME OF FILER

Citizens for Bassett Schools - Yes on Measure V

CODES: if one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

CMP campaign paraphernalia/misc.	MBR member communications	RAD radio airtime and production costs
CNS campaign consultants	MTG meetings and appearances	RFD returned contributions
CTB contribution (explain nonmonetary)*	OFC office expenses	SAL campaign workers' salaries
CVC civic donations	PET petition circulating	TEL t.v. or cable airtime and production costs
FIL candidate filing/ballot fees	PHO phone banks	TRC candidate travel, lodging, and meals
FND fundraising events	POL polling and survey research	TRS staff/spouse travel, lodging, and meals
IND independent expenditure supporting/opposing others (explain)*	POS postage, delivery and messenger services	TSF transfer between committees of the same candidate/sponsor
LEG legal defense	PRO professional services (legal, accounting)	VOT voter registration
LIT campaign literature and mailings	PRT print ads	WEB information technology costs (internet, e-mail)

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
TBWB Strategies 400 Montgomery Street San Francisco CA 94104	CNS	Actual payment is \$276	\$18,924
David Hernandez Address Removed	SAL		\$576

* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

SUBTOTAL \$ \$19,500

Schedule E Summary

1. Itemized payments made this period. (Include all Schedule E subtotals.)	\$	\$19,500
2. Unitemized payments made this period of under \$100	\$	440
3. Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).)	\$	0
4. Total payments made this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.)	TOTAL \$	\$19,940

FPPC Form 460 (January/05)
FPPC Toll-Free Helpline: 866/ASK-FPPC (866/275-3772)

Appendix 87: Campaign Form Schedule E, Page 5. Highlighting, red comment boxes, arrows, and red ovals added by FCMAT.

Ybarra continued to insist she had all the receipts in a binder for all purchases and would provide the binder at FCMAT's next meeting with her. This binder was significant because it would have been the foundation for Ybarra's answers to the more difficult financial questions. FCMAT followed up in an email dated June 23, 2020, reminding Ybarra about the binder of receipts. On June 23, 2020, at 10:28 PM, Ybarra responded as follows:

Thank you for your reminder email. I do need more time to locate the binder to provide the receipts. I'll be in touch just as soon as I have them.

FCMAT gave Ybarra considerable additional time, but she would not meet with the team again and failed to produce the binder of receipts to corroborate the campaign expenditures and her explanations of what happened to the money.

Payment for \$276 Becomes \$576

On October 28, 2014, Ybarra wrote Check No. 1002 for \$276, payable to David Hernandez, for canvassing services. The check cleared the Wells Fargo campaign bank account two days later.

Site	Paid Date	Serial	Routing	Account	PC	Amount	Sequence #
VIEWPOINTE	20141030	1002	12104288	3472454531	000060	276.00	8717508287

WELLS FARGO BANK

BALDWIN PARK MARKETPLACE 14460 MERCED AVE BALDWIN PARK, CA 91708

1002
11-4288/1210

DATE 10-28-2014

PAY TO THE ORDER OF David Hernandez \$ 276.⁰⁰ / 100

Two hundred dollars and 76/100 DOLLARS

CITIZENS FOR BASSETT SCHOOLS
YES ON MEASURE V
14220 FRANCISQUITO AVE APT 518
BALDWIN PARK CA 91708-6128

MEASURE V - CAN VOUCHER / SPFF [Signature]

⑆ 1 2 104 288 2⑆ 3472454531 ⑆ 1002

Wells Fargo bank campaign account, Check No. 1002

As shown in the two exhibits above, Schedule E does not report the payment to Hernandez for \$276, but instead shows \$576. Ybarra was the preparer and documenter of all transactions on the campaign forms.

Ybarra explained that she thought she paid Hernandez an additional \$300 in cash, which is why she recorded \$576 in payments on Form 460. Because of the many discrepancies in Ybarra’s accounting of campaign funds that are associated with cash, FCMAT wrote to Hernandez on July 6, 2020 and July 13, 2020 to confirm how much money he was paid by Ybarra from the campaign funds. FCMAT included in its correspondence a form that he could complete. Hernandez replied and completed the form. Hernandez’s signed reply confirmed he had received the check for \$276 and indicates he received zero additional cash, meaning he had not received any cash as Ybarra said.

The district’s interim superintendent, Art Cunha, told FCMAT that the district’s law firm said Hernandez approached them about signing the confirmation letter. After their meeting, the financial amounts were filled in and the confirmation letter was signed confirming that no additional cash was received. The \$300 difference in cash is important because for the Form 460 statement period of October 19, 2014, through December 31, 2014, shown above, Ybarra asserted she has the receipts in her binder that substantiate that Hernandez was paid \$576. As described above, Ybarra withdrew \$300 in cash on two occasions.

One method used to skim funds from an account is to withdraw cash and apply that cash to an unsuspecting person’s balance as if that person were paid more than what they actually received. According to Hernandez, he did not receive the extra \$300 Ybarra applied to his account balance. Throughout the interview, any time Ybarra was not sure of an answer or did not want to answer, she insisted that she had the receipts in a binder and could explain everything when she met with FCMAT again.

Check for \$500 to Ybarra Dated May 5, 2015

On May 5, 2015, Ybarra wrote herself Check No. 1011, for \$500. No purpose for the \$500 was written in the check memo. The check is believed to have been deposited into Ybarra’s personal bank account the same day, and the campaign’s Wells Fargo bank statement shows it as clearing the bank the same day.

Site	Paid Date	Serial	Routing	Account	PC	Amount	Sequence #
VIEWPOINTE	20150505	1011	12104288	3472454531	000060	500.00	8313112954

To Ybarra

WELLS FARGO BANK 1011
BALDWIN PARK MARKETPLACE 14460 MERCED AVE BALDWIN PARK, CA 91706
DATE July 5, 2015 11-4268/1210

PAY TO THE ORDER OF Natalie Ybarra \$ 500⁰⁰/₁₀₀
five hundred dollars and 00/100 DOLLARS

CITIZENS FOR BASSETT SCHOOLS
YES ON MEASURE V
14220 FRANCISQUITO AVE APT 518
BALDWIN PARK CA 91708-6128

[Signature]
signed by Ybarra

⑆ 1 2 1 0 4 2 8 8 2 ⑆ 3 4 7 2 4 5 4 5 3 1 ⑆ 1 0 1 1

For Deposit Only - JPMC

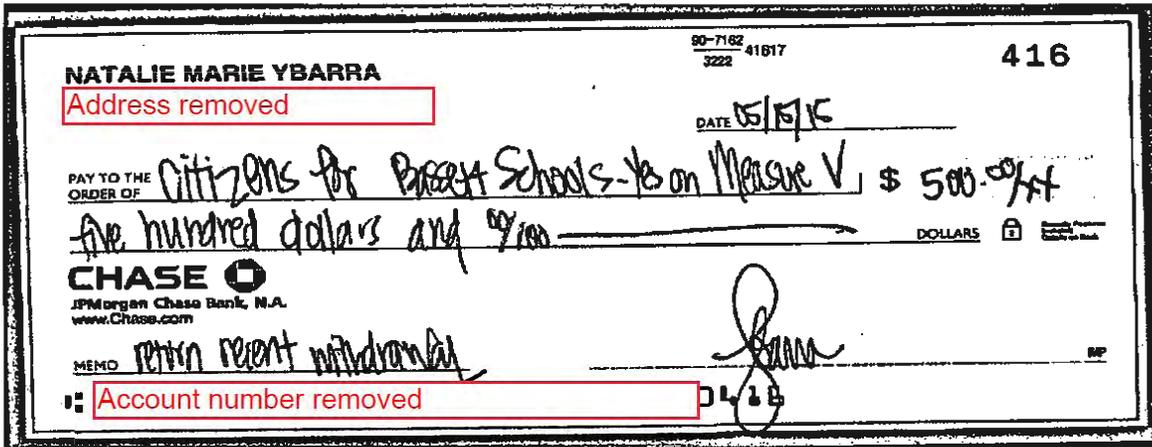
Endorsed for deposit by Ybarra

DO NOT SIGN, WRITE, STAMP BELOW THIS LINE

[Signature]

Wells Fargo bank campaign account, Check No. 1011. Red comment boxes and arrows added by FCMAT.

Ten days later, on May 15, 2015, Ybarra deposited \$500 into the campaign account and wrote in her personal check memo, "return recent withdrawal." The check shown below is presumed to be Ybarra's personal check for \$500, returning the money to the campaign's bank account.



Natalie Ybarra check payable to Wells Fargo bank campaign account. Red comment boxes added by FCMAT.

The May 2015 bank statement documents the \$500 withdrawal and the \$500 deposit back into the account.

Transaction history

Date	Check Number	Description	Deposits/ Credits	Withdrawals/ Debits	Ending daily balance
5/5	1011	Check		500.00	2,207.03
5/15		Edeposit IN Branch/Store 05/15/15 01:25:06 Pm 14460 Merced Ave Baldwin Park CA 4531	500.00		2,707.03
5/29		Monthly Service Fee		40.00	2,667.03
Ending balance on 5/31					2,667.03
Totals			\$500.00	\$540.00	

Wells Fargo bank campaign account, May 2015 bank statement. Highlighting added by FCMAT.

Writing a check to herself and then returning the funds 10 days later is typical of someone giving herself a short-term loan. Both transactions should have been but were not reported in the Form 460. This means there is no public record of the transactions in the Form 460, even though both transactions, regardless of how they are interpreted, were for more than \$100 and thus should have been disclosed. Ybarra would not provide a reason for the transactions or state why they were not reported. FCMAT searched all forms 460, from the statement period starting July 1, 2014 through the final closing statement period ending December 31, 2015, for any \$500 transactions. None were found.

During the interview, FCMAT asked Ybarra why she wrote herself the check for \$500; why there was no memo on the check describing what the funds were for; whether the money was for her own personal short-term loan; who gave her the money to pay it back; and why neither the check to herself nor the repayment of it were reported in Form 460. At this point Ybarra said she would have to look at the books, presumably meaning the alleged binder of receipts. Ybarra had no further comments about the two \$500 transactions.

Purchases at Hustler Hollywood-San Diego and Marriott Hotel-San Diego

Comparison of the forms 460 with the campaign bank account revealed two more transactions not reported in the forms 460. On Sunday, December 7, 2015 Ybarra used the campaign debit card for a purchase of \$96.10 at Hustler Hollywood, San Diego and on the same day used it for a purchase of \$38.85 at the Marriott hotel in San Diego. The December 2015 bank statement documents the two transactions.

Transaction history

Date	Check Number	Description	Deposits/ Credits	Withdrawals/ Debits	Ending daily balance
12/7		Purchase authorized on 12/04 Hustler Hollywood- San Diego CA S465339227763089 Card 0397		96.10	
12/7		Purchase authorized on 12/06 Marriott S Diego M San Diego CA S465336857781318 Card 0397		38.85	2,292.08
12/21	1009	Check		1,000.00	1,292.08
12/31		Monthly Service Fee		40.00	1,252.08
Ending balance on 12/31					1,252.08
Totals			\$0.00	\$1,174.95	

Wells Fargo bank campaign account, December 2015 bank statement Highlighting added by FCMAT.

FCMAT researched the types of items sold at Hustler and spoke to a Hustler representative, who could not find the transaction to help identify what might have been purchased at Hustler in San Diego that would be an appropriate campaign purchase. The clerk indicated that Hustler sells sex toys and related items in its store and that a \$96.10 purchase might be a toy or possibly a certain kind of apparel. FCMAT researched other Hustler locations and found that there is another Hustler location in West Covina, which is only three miles from the district office in Bassett; therefore, the need to purchase items from Hustler in San Diego was questioned. Ybarra provided no answer other than saying it was a mistake. FCMAT cannot find any item at Hustler that might remotely be considered an acceptable campaign purchase.

FCMAT also contacted the Marriott hotel in San Diego about the \$38.85 purchase. Marriott indicated the amount may be for parking combined with some other purchase but could not be sure. They also were not able to look up a receipt for that day to determine its purpose.

FCMAT asked Ybarra about the Hustler and Marriott purchases in San Diego. Ybarra stated she used her campaign debit card by mistake at Hustler and that the Marriott purchase was for attending a conference. The date of the Hustler and Marriott purchases was December 7, 2015, a Sunday. Ybarra could not explain which conference the purchase was for or how it might be related to the campaign.

Because the Hustler purchase was said to be a mistake, FCMAT asked if Ybarra had paid the money back to the campaign, and Ybarra stated that she had not. When asked why, she said that she had the receipts and would check the binder, which was not an answer to the question. When FCMAT asked which conference she attended at the Marriott that Sunday and how was the conference related to the campaign, her answer was that she would check her receipts.

The FCMAT team again searched all forms 460 from the statement period starting July 1, 2014 through the final statement period ending December 31, 2015 for Hustler and Marriott transactions but found none. The Hustler and Marriott transactions should have been but were not reported on Form 460. This means there is no public record of these transactions on the Form 460. If the purchases were not campaign related, those funds should have been paid back to the campaign, but there is no record of such repayment.

Ybarra stated that she knew she used campaign funds for the Hustler purchase and did not repay the campaign.

Receipt Binder and Attempts to Meet Again with Ybarra

The meeting with Ybarra about the campaign funds took place on June 3, 2020 at a conference room provided by the Los Angeles County Office of Education at its Head Start facility. At that meeting, as previously described, Ybarra's primary source of explanation for the transactions discussed was the campaign binder that Ybarra stated was full of receipts that explain and justify all campaign purchases. Ybarra told FCMAT

she might need a week to review the binder before she could meet again. FCMAT believed Ybarra and offered her two weeks if she needed it before meeting again.

On June 18, 2020, FCMAT emailed Ybarra reminding her of the promised binder and timeline but offering more time if needed. FCMAT followed up again on June 23, but Ybarra responded she needed more time. FCMAT also emailed Ybarra on July 1, 2020, July 6, 2020, September 9, 2020, and September 15, 2020.

The September 15 email repeated many of the issues such as the outstanding cash, \$500 check to herself, the Hernandez check, the cash amount of \$576, and the Hustler and Marriott purchases, and reminded Ybarra of her fiduciary responsibility to act in an honest and transparent manner.

On September 17, 2020 Ybarra responded, saying she could not meet and requested a new date but would not provide a date when she could meet. FCMAT offered to meet on Tuesday, September 22 or Wednesday, September 23 and gave her until 5 p.m. on September 17, 2020 to respond. No response was received. On September 19, 2020, FCMAT sent another email and set a meeting date of September 22 at 5 p.m.

On September 20, 2020, Ybarra replied that she could not make the September 22 meeting because of her work schedule but provided no alternative meeting date. FCMAT responded the same day with an offer to wait until 6 p.m., after Ybarra's work day. Ybarra replied the same day that she could not meet then because she had a board meeting. FCMAT replied the same day with a reminder that FCMAT had also offered to meet on September 23 at 6 p.m. and expected to meet then. On September 22, Ybarra replied that she was "not able to get out of work in time" but did not provide an alternate meeting time. FCMAT sent a final email stating that the FCMAT team would be at the meeting location at 6 p.m. The team arrived at the meeting location at 4:49 p.m. and waited for Ybarra until 8 p.m.; however, she did not arrive, and the alleged binder that Ybarra claimed explained everything was never provided.

Because of the lack of cooperation from Ybarra, FCMAT compiled all campaign checks, deposits and transactions as reported on the bank statements from the time the account was opened in October 2014 through its closure in January 2016. Because Ybarra did not provide receipts to support the campaign purchases and cash withdrawals she made and was responsible for, the evidence indicates that a total of \$1,334.95 in campaign purchases may be attributable to Ybarra for her personal use. These transactions are listed and summarized below.

Natalie Ybarra Withdrawals			
Description	Trans. Date	Check #	Amount
Cash Withdrawal Branch Store	10/20/2014		\$ 100.00
ATM Withdrawal-Baldwin Park	11/5/2014		300.00
AMT Withdrawal-Azusa	11/13/2014		300.00
Natalie Ybarra	5/5/2015	1011	500.00
Hustler Hollywood-San Diego	12/7/2015		96.10
Marriott San Diego	12/7/2015		38.85
Total Natalie Ybarra Withdrawals			\$ 1,334.95

Although these amounts may seem small or inconsequential, the campaign funds were raised to support a campaign for Measure V to improve school facilities. Ybarra, a community member and later a board member, was entrusted with a fiduciary responsibility to properly care for, maintain and document all campaign activities, including all purchases. Based on the information FCMAT obtained, and because Ybarra failed

to produce substantiation of the transactions and activities questioned, the available information indicates that Ybarra may be responsible for the following:

- Failure to report the \$500 check to herself or the return of the funds that she had use of for 10 days.
- Failure to pay back allegedly mistaken spending of campaign funds for a \$96.10 purchase at Hustler Hollywood-San Diego and a \$38.85 purchase at Marriott San Diego.
- Withdrew \$100 in cash directly from the campaign account with no explanation or receipts.
- Using the campaign debit card for two ATM cash withdrawals of \$300 each without any receipts or campaign purpose noted.
- May have diverted campaign funds for noncampaign uses.
- Failed to disclose cash and other transactions on the campaign forms 460.
- Overstated or falsified form 460 by \$300 for the check written to Hernandez, one check to herself for \$500, and one check from herself back to the campaign for \$500.
- Failure to produce the receipts for which she was responsible or failed to keep receipts and other records.

The FPPC is the state agency that enforces the California Political Reform Act to ensure campaign ethics laws are followed and to help agencies comply with its many rules and regulations. The FPPC assists with and enforces rules to ensure that the disclosure of political payments is accurate, timely and transparent. The FPPC issues a manual titled Ballot Measure Committees, Campaign Disclosure Manual 3. The most current version of the manual is dated June 2020.

The manual states the following at chapter 2, Section B, Records Retention:

Committees must keep all records, including original source documentation such as bank statements and other records reflecting account activity, and copies of completed campaign statements, for a period of four years from the date the campaign statement relating to the records was filed.

Although the Measure V campaign form filings were from 2014 and 2015, more than four years ago, at the June 3, 2020 meeting with FCMAT Ybarra referred many times to the alleged binder of receipts, which implied that the receipts remained available. Regardless of whether the receipts exist or are available, Ybarra was the campaign fiduciary and so remains responsible for the records, books, transactions and expenditures that the Bassett community entrusted to her to protect and administer.

Use of campaign funds is discussed in chapter five of the FPPC campaign disclosure manual. The general rule is that campaign fund expenditures must be reasonably related to a political, legislative or governmental purpose. The manual states:

A campaign expenditure that confers a substantial personal benefit on any individual authorized to approve campaign expenditures, a controlling candidate, or a state ballot measure proponent, *must be directly related to a political, legislative, or governmental purpose*. A substantial personal benefit means an expenditure of campaign funds which results in a direct personal benefit with a value of more than \$200.

Ballot measure committees should also consult Elections Code Section 18680, which provides that *ballot measure funds are held in trust for use on the measure and specifies permissible*

expenditures. Under Elections Code Section 18680, expenditures for food, clothing, shelter and other personal needs of the trustee are not permissible.

[Emphasis added]

The manual and California Government Code allow for reimbursement of expenditures but not for overstating, exaggerating or inflating a consultant's expenses, concealing cash transactions, or purchases at a sex toy and apparel store and a hotel.

Government Code Section 84307 states:

No contribution shall be commingled with the personal funds of the recipient or any other person.

Government Code Section 89512.5 states the following:

(a) Subject to the provisions of subdivision (b), any expenditure by a committee not subject to the trust imposed by subdivision (b) of Section 89510 shall be reasonably related to a political, legislative, or governmental purpose of the committee.

(b) Any expenditure by a committee that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure of campaign funds held by the committee, shall be directly related to a political, legislative, or governmental purpose of the committee. [Emphasis added]

Government Code Section 89518 states the following:

(b) Campaign funds shall not be used to compensate any individual or individuals with authority to approve the expenditure of campaign funds for the performance of political, legislative, or governmental activities, except as provided in subdivision (b) of Section 89513 and for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

In other words, campaign expenditures require receipts and must be for activities related to the campaign; they cannot be used for compensation. The evidence indicates that Ybarra's use of the funds may not have had a substantial campaign purpose and may have been driven by personal motives.

As an additional step, FCMAT searched for amended campaign forms that might correct the issues discussed above but found none.

Audit Firm Lack of Cooperation and Possible Audit Quality Issues

When FCMAT began this audit, community members came forward with concerns about how the bond funds were spent and audited. One such community member was citizens' bond oversight committee (CBOC) chair, Dena Florez. Florez was not pleased with the district's role in providing information to the CBOC. Florez explained that the CBOC was not holding meetings because the executive director of business services, Linda Bermudez, was canceling the meetings, and explained that Bermudez was also allowing few or no bond budgets to be provided or monthly status reports to be issued. Without budgets and other needed reports, the CBOC was not able to fulfil its duty to the community. Furthermore, without meeting, the CBOC was essentially disenfranchised and nonfunctioning, calling into question the legitimacy of any and all bond fund expenditures.

Florez explained that since February 18, 2017, as best as the CBOC could determine, there were no DSA closeouts and no details of how Measure V funds were being spent. No individual transactions were provided until December 16, 2019, and even then only vendor totals were provided, which would not show the details of what the vendors were paid. The CBOC members were not pleased with how little information they were provided by the district, and Florez suspected there may be irregularities with the bond funds.

The district's external, independent auditor during this time was Vasquez and Company, LLP. The successor auditor to Vasquez was Vicenti, Lloyd & Stutzman, LLP (VLS). VLS later merged with another public accounting firm and became part of CliftonLarsonAllen, LLP (CLA).

FCMAT reviewed building fund and districtwide audits of the district for fiscal years ending June 30, 2013 through June 30, 2018. In addition to a districtwide financial audit, school districts that issue bonds under Proposition 39 (2002) have a separate audit of the building fund, which is where bond proceeds are placed. Vasquez and Company was both the districtwide financial auditor and the bond funds auditor for the fiscal years ending June 30, 2013 through June 30, 2015. For the following fiscal year, ending June 30, 2016, the building fund audit and districtwide audit (audits) were performed by VLS. Then, after CLA and VLS merged, the audits for fiscal years ending June 30, 2017 through June 30, 2018 were performed by CLA.

The 2016 VLS audit report, the year VLS assumed responsibility as the district's auditor, contained \$455,602 in audit adjustments attributable to the prior year, 2015, when Vasquez and Company was the auditor. The VLS report also contained numerous findings attributable to the Vasquez and Company audit for the prior year, such that VLS issued disclaimed opinions on various aspects of the district's financial reporting.

To understand more about the differences in audit results between Vasquez and Company and VLS, FCMAT contacted both firms and requested access to their audit work papers and documents. When FCMAT contacted VLS/CLA, they were proactive and granted access to their work papers without hesitation. Vasquez and Company, however, refused to grant access to their work papers. Both public accounting firms perform audits of school districts and are listed on the State Controller's website as active and able to perform K-12 LEA audits. FCMAT was surprised at Vasquez and Company's refusal to provide access.

Vasquez and Company stated that they were never paid for their audit and claimed that the standards of the profession prohibit them from granting access to their work papers. The former superintendent, Alex Rojas, told FCMAT that Vasquez and Company was paid in full but remembered that the audit reports for Vasquez and Company may have been rejected by the State Controller's Office. Alex Rojas explained that, as best as he can remember, there were issues with Vasquez and Company's final year bond audit, including discrepancies, and the bill was not fully paid because Vasquez and Company would not provide

information the district was requesting. FCMAT reminded Vasquez that FCMAT's request was not from a successor auditor performing a financial audit of the district, but from a state agency conducting an AB 139 extraordinary audit, and thus nothing prohibited them from granting access to their work papers. Furthermore, the engagement letters or audit agreements between the auditor and the district state, "However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to a Cognizant or Oversight Agency for Audit or its designee, a federal agency...to carry out oversight responsibilities." Therefore, Vasquez and Company, whether paid or not, should have cooperated with the district's request to grant access to their work papers, the county-initiated AB 139 audit of the district, and FCMAT's request. FCMAT communicated numerous times with Vasquez and Company over several months but was not granted access to their audit work papers.

In speaking with VLS, FCMAT found that Vasquez and Company also did not provide VLS access to their work papers. FCMAT reviewed the differences between Vasquez and Company's June 30, 2015 final audit and VLS's audit for the subsequent fiscal year (2015-16), its first audit as the successor auditor, and found significant differences. There are numerous inconsistencies that indicate Vasquez and Company did not disclose or identify deficiencies that the successor audit firm VLS found in its audit. VLS's audit findings and adjustments may be attributable to transactions or internal control processes Vasquez and Company's audit missed, ignored, or may have considered immaterial.

The VLS 2015-16 audit identified that the district was unable to provide support for the opening balances and fiscal year activity related to capital assets and depreciation, compensated absences, postemployment healthcare benefits, and the early retirement incentive. Opening balances are the prior year's ending balances that become the new year opening balances. For example, if last year's cash ending balance on June 30, 2015 was \$500, then when the new fiscal year starts the next day on July 1, 2015, the opening balance should also be \$500. Because schedules were not available, the opening balance issue flows into the new year, thus causing the next year's ending balances to be incorrect. This means the district was unable to determine the proper amounts to capitalize, expense or record as liabilities as of June 30, 2016. These deficiencies affect the governmentwide assets, liabilities, expenses and ending net position. In other words, the district's financial statements were inaccurate.

Because of the significance of the matter described in the above paragraph, VLS was not able to obtain sufficient, appropriate audit evidence to provide a basis for an audit opinion on the governmentwide financial statements of the district. Accordingly, VLS did not express an opinion on these financial statements. A deficiency in internal control over financial reporting was also noted by VLS but not Vasquez. A deficiency in internal control exists 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.

During the evaluation of the district's internal controls, VLS noted numerous internal control and prior period audit deficiencies that related to the previous fiscal year, 2014-15, when Vasquez was the auditor. A prior period adjustment is typically associated with transactions or amounts that were found during an audit that should have been addressed or recorded in the prior reporting period or prior audit; in this case, when Vasquez was the auditor. The deficiencies and adjustments are described in detail in the district's 2015-2016 audit report, Financial Statement Findings section, pages 79-89, totaling 10 pages of findings.

When an audit firm refuses to grant FCMAT access to their audit work papers, it is a warning flag, and in FCMAT's experience, it means something may be materially deficient in that auditor's work papers. Auditors are an independent third-party source for FCMAT. When FCMAT can rely on an auditor's work papers and procedures performed, greater confidence can be achieved about the direction FCMAT chooses to go with the audit, or FCMAT can confirm with greater confidence that an audit area is less problematic. Vasquez should have cooperated and provided access but would not. FCMAT's prior experience with auditors who

would not grant work paper access is that the work papers and firm's system of work paper review and even external peer review may be deficient. This should be of concern to the State Controller, California State Board of Accountancy, California Society of Certified Public Accountants, American Institute of Certified Public Accountants, state of California Peer Review, and the Los Angeles County Office of Education.

Judgments Regarding Guilt or Innocence

The existence of fraud, misappropriation of funds and/or assets, or other illegal fiscal practices is solely the purview of the judicial process. FCMAT is not making a finding that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices have occurred. These terms are a broad legal concept, and auditors do not make legal determinations regarding whether illegal activity has occurred.

In accordance with Education Code Section 42638(b), action by the county superintendent of schools shall include the following:

If the county superintendent determines that there is evidence that fraud or misappropriation of funds has occurred, the county superintendent shall notify the governing board of the school district, the State Controller, the Superintendent of Public Instruction, and the local district attorney.

In accordance with Education Code Section 1241.5(b), the county superintendent is required to report the findings and recommendations to the district's governing board at a regularly scheduled board meeting within 45 days of completing the audit. Within 15 days of receipt of the report, the governing board is required to notify the county superintendent of its proposed actions regarding the county superintendent's recommendations.

Conclusion

Potential for Fraud, Misappropriation of Funds, or Other Illegal Fiscal Practices

Based on the findings in this report, there is sufficient evidence to demonstrate that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices may have occurred in the specific areas reviewed.

Deficiencies and exceptions noted during FCMAT's review of the district's financial records and internal control environment increase the probability of fraud, mismanagement and/or misappropriation of the district's assets. These findings should be of great concern to the Bassett Unified School District and the Los Angeles County Office of Education and require immediate intervention to limit the risk of fraud, mismanagement and/or misappropriation of assets, or other illegal fiscal practices in the future.

Recommendations

The county superintendent should:

1. Notify the governing board of the Bassett Unified School District, the State Controller, the Superintendent of Public Instruction, and the local district attorney, that sufficient evidence exists to indicate that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices may have occurred, and that the Los Angeles County Office of Education has concluded its review.
2. Report the findings and recommendations of the review to the governing board of the Bassett Unified School District at a regularly scheduled school district board meeting within 45 days of the completion of the review. The governing board of the school district shall, no later than 15 calendar days after receipt of the report, notify the county superintendent of its proposed actions on the county superintendent's recommendations.

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Appendix 88 Job Description – Accounting Technician II