

(ENDORSED)  
**FILED**  
SEP 04 2018

Clerk of the Court  
Superior Court of CA County of Santa Clara  
BY ~~Janice Jones~~ DEPUTY

September 1, 2018

Honorable Patricia M Lucas  
Superior Court of California

Subject: Response to Civil Grand Jury Report of Alum Rock School District

Dear Honorable Patricia M Lucas:

I had read and reviewed the Civil Grand Jury report. As an elected member of the Public and Trustee, I am participating in an important Civic Duty. I do not get pay for my position. I do this willingly and since 1998, I had involved myself one way or another helping to drive better for the public. I ran for State Assembly District 23, U.S. Congress District 17. My message has always been about creating jobs, providing energy and water for growths. I was elected to the Alum Rock School Board in 2014. I ran my campaign with less than \$1000. I took no donations and I am not and never had been affiliated with Del Terra or their companies. In fact, if you watch our our board meetings recorded on tapes since 2015, I had been asking for audits, accurate bookkeeping and records, and even look into contracts and deals within the District.

Per my review of the Civil Grand Jury report, I found many errors in their reporting that is not fair and balanced. First, they cited FCMAT original claim Del Terra wrongfully invoiced the District for amount \$329,000 when in fact FCMAT had corrected that and stated it was permissible under the contract. I concur that the District accounting and bookkeeping are non-standard and out of compliance. I had said this from day one as a Trustee, but had been ridiculed by my Trustee peers and this administration. I have no love for Del Terra nor any other vendor including Harbro who had been paid by this administration without any Board approval or oversight over 2.8 million dollars for a Mathson fire emergency cited by DSA to cost only \$400-450 thousand dollars. By my surprise, the civil grand jury also missed this as well as the accounting irregularities within the District. The fact is our cash balance and bookkeeping are off for 3-4 years under this administration. We reported our numbers to State, Federal, etc with solid accounting reports positive over the last couple of years, whence our books as you know are not accurately reporting and reflecting the records. Basically the District fudged our numbers to the authorities and somewhere we may also violated security laws.

The court also appointed a civil grand jury who members do not reflect the minorities living in the District. This negatively caused unnecessary challenges to the civil grand jury report to be bias and somewhat potentially discriminatory. I always believe justice is blind and weigh on facts. I believe in due process and upholding the law even when it is tough. We cannot afford to lose our Democracy because we based our decision on emotion or public pressure. I believe every individual has rights and every business has the same rights for equal opportunities. If Del Terra did wrong, I would already had voted to terminate their contracts. In fact, I was the swing vote to terminate their program management contracts for both Measure J and I. However, I did this with mindset that the appearance of the same company managing itself would raise unnecessary challenges even though Del Terra has not done anything wrong based on the facts

I had reviewed and observed. I am not an expert in school district contracts, but I had heard this is normal practice having both program and construction management contracts for California schools is a norm.

I was not elected when Del Terra contracts were approved in 2013 by the same Trustees (Karen Martinez and Andres Quintero) now wanting to terminate Del Terra contracts due to public pressure. I was not present for the vote when Del Terra contracts were corrected and renewed in November 2016 due to clerical errors. Karen, Esau, and Delores were the Trustees voted to approve Del Terra contracts.

If you ask me why I defend Del Terra, my answer is I do not defend Del Terra, but I am defending and upholding the law when I believe innocent until proven guilty and every business especially minority owned business, needs equal opportunities and protection. I did wat FCMAT asked by terminating Del Terra program management contract. But killing the livelihood of a company whence no fact or evidence that lead to them having done anything wrong, I will not stand for it. I will also not subject myself to the internal clash between the administration and some Trustees wanting to give contracts to their friends. i.e. the Superintendent awarded over \$2.8 million dollars to Harbro without seeking board approval for the funds. Every public contract laws were broken and violated. The FPPC had taken action and investigating the administration. Public trust has been lost.

----- start responses to findings -----

**Finding 1 Alum Rock Union Elementary School District Board Trustees Herrera, Marquez and Tran, by action and/or inaction, have subjected the District to financial peril, public scorn and distrust.**

Response to Finding 1: Disagree.

**Recommendation 1 Trustees Herrera, Marquez and Tran should immediately resign their positions on the Board.**

Response to Recommendation 1::  
Trustee Khanh Tran is an elected by the voters and only the voters can remove Trustee from office. Trustee is not related to any other Trustee mentioned. There is a clear separation of powers within our constitution. Also the Civil Grand Jury report is biased and incorrect on facts and on the law.

-----

**Finding 2 District's legal counsel concluded that Measure I and Measure J Construction Management contracts between the District and Del Terra likely violate Government Code Section 1090.**

Response to Finding 2: Disagree.

Explanation: The same attorney Ruiz working as District's legal counsel originally written and constructed the Measure J contracts between District and Del Terra when the troubled contracts were awarded back in 2013. He being "Attorney Rogelio M Ruiz employed by Rehon & Roberts, APC" later **countered his own work and claimed that Measure I and Measure J Construction Management contracts between the District and Del Terra likely violate Government Code Section 1090. Attorney Ruiz was writing the legal opinion on is own directive for Section 1090 when he was compelled to protect himself and his job. His self-conflicting legal views and self-benefits lead to his termination as counsel at the District. He is being the Superintendent's ally, forgot who his fiduciary duties and responsibilities belong to, overlook the violations of government code, and soften the legal opinion and to help the administration (see Exhibit E - Ruiz Section 1090 legal opinion). This is the reason why we asked new counsel to provide legal opinion on Section 1090. Second legal opinion found section 1090 has not been violated. FPPC sworn complaints by critics about section 1090 was raised to FPPC, the agency that has jurisdiction over Section 1090. With the facts presented to FPPC, the state agency being the FPPC, responded that it will not open investigation at this time. (See Exhibit A).**

Response to Recommendation 2a: **The Board did already terminated the Measure I and J program management contracts between the District and Del Tera leaving only the construction management contracts whence FCMAT suggested to terminate the program management or the construction management to ensure the fox does not guard the hen house.**

Response to Recommendation 2b: **The district has hired a former County Office of Education's legal counsel and attorney who is legally licensed to practice law in California. There is no need to waste tax dollars when the money needs to go into education and the classrooms.**

-----

**Finding 3 The District does not consistently use best practices in awarding contracts.**

Response to Finding 3: Disagree.

Explanation: The District has to follow the California Ed Codes amd public contract codes. The Board has raised possible public code violations by the administration when it illegally awarded more than 2.8 million dollars in contracts and payments to Harbro. Trustee has not seen the same for Del Terra. The court should look into the complaints the District has filed with the FPPC on the Harbro matter. (See Exhibit B).

Response to Recommendation 3: This District is required to follow the Ed Code and the California public contract codes. When administration does not follow the public contract code, This Board is required to direct legal counsel to investigate and refer to the state to prosecute. (See Exhibit C)

-----  
**Finding 4 Using the same contractor for both Construction Management and Program Management is not an accepted best practice and, according to the District's legal consultant, can put the District in financial and legal jeopardy.15**

Response to Finding 4: Disagree.

Explanation: The District has already terminated the program manager contracts for Measure I and J between the District and Del Terra. Finding 4 no longer applies. The District should follow California public contract codes. The issues here is administration violated the public contract codes with another favorite vendor Harbro and doing so violating California public contract codes.

**Recommendation 4a The District should enact a Board policy prohibiting the award of future Construction Management and Program Management contracts to the same company, by Dec. 1, 2018.**

Response to Recommendation 4a: The Board will follow California public contract codes. This Board member and this District believe in equal opportunities employment as well as equal business opportunity without any discrimination. If the Civil Grand Jury can show hard artifacts that this Del Terra vendor broke public contract codes or involve in any self dealing, please provide the hard evidence and this Trustee will vote to terminate the contract between the District and Del Terra. Also note the **Civil Grand Jury commended Trustee Martinez in its Finding 9 whence Trustee Martinez was the Trustee voted for the Del Terra Measure I contract renewal in November 2016** whereas Civil Grand Jury cited the renewal did not go through the RFC/RFQ process. .only Trustee Tran and Quintero were not participant in the votes.

**Recommendation 4b The District should award all future Construction Management and Program Management contracts to unrelated contractors.**

Response to Recommendation 4b: The Board will follow California public contract codes Selecting potential vendor is within the authority of the elected governing body in all future dates and not up to this current Board or the Civil Grand Jury..

-----

**Finding 5 The Board has repeatedly not followed the Brown Act requirements.**

Response to Finding 5: Disagree.

Explanation: As a Trustee, we follow the Brown Act. The District also hires an attorney as our general counsel to ensure Brown Act is followed. Violation of the Brown Act is a misdemeanor. Any legal questions please refer to District counsel.

**Recommendation 5 The Board should obtain comprehensive Brown Act training from a qualified third party, by Dec. 31, 2018, and within 30 days of the swearing in of new Trustees.**

Response to Recommendation 5: The Board should pass resolution to provide Brown Act training as a reminder for new Trustee(s) elected to the Board as well as current Trustees.

-----

**Finding 6 The Board failed to follow their own Board By-Laws on numerous occasions.**

Response to Finding 6: Agree.

Explanation: It is not a surprise Alum Rock School District is highly political and from this Trustee point of view, the Bylaws are not known nor follow by staff or the Board or board members. It depends who or which legal counsel interpret it for political convenience; and for whom the attorney loyal to. This is why this Trustee had voted to waive all attorney client privileged so these types of practice are disclosed and need to stop.

**Recommendation 6 All current Board members should sign a declaration saying they have read, understood and will comply with the Board's By-Laws, and any subsequent revisions, by Sept. 30, 2018. Future Trustees should sign the same declaration within 30 days of their swearing in.**

Response to Recommendation 6: The Board and staff (executive employees including Superintendent and assistant/deputy Superintendent) all should sign a declaration saying they have read, understood and will comply with the Board's By-Laws, and any subsequent revisions, by Sept. 30, 2018. Future Trustees should sign the same declaration within 30 days of their swearing in.

-----

**Finding 7 The Board did not adequately vet all applicants in the selection of the current General Counsel.**

Response to Finding 7: Disagree.

Explanation: It took more than 4 months to vet for the current District's general counsel. The District took ample time to vet our legal counsel that meet the needs and requirements of the District and this Board. No one hire someone else attorney who has no fiduciary duties and responsibilities to the Board. This recommendation 7, your Honorable Patricia Lucas should find how uninformed the Civil Grand Jury is and how they acting more political activists than a Civil Grand Jury who should based findings on facts not political views and fiction.

**Recommendation 7 The Board should terminate the contract with its General Counsel and use a competitive process (RFP/RFQ) that includes a proper vetting mechanism to hire new General Counsel, by Dec. 31, 2018.**

Response to Recommendation 7: I find this recommendation 7 troublesome and discriminatory as our legal counsel is a women and a minority. Is the Civil Grand Jury stating that a woman who is also a Latino woman and a minority, is not fit to practice law and per Civil Grand Jury, should no be hired and should be fired as a legal counsel of a School District? Also California Law does not require professional services including Doctor, Legal Counsel, to go to bid or RFP/FQ.

-----  
**Finding 8 The Grand Jury commends District Superintendent Bauer for persevering during her four years while staying committed to improving student education and parental involvement.**

Response to Finding 8: Disagree.

Explanation: The Superintendent whom the Civil Grand Jury commended, is under investigation by FPPC. Per sworn oath and reported by district counsel to various government agencies, the Superintendent has been alleged for violation of public contract codes and misappropriation of funds. The civil grand jury did not based their reports on facts and their report appears to be political driven. (See Exhibit B,C, D)

-----  
**Finding 9 The Grand Jury commends Trustees Quintero and Martinez for their continuing efforts to steer the Board in a positive direction.**

Response to Finding 9: Disagree.

Explanation: Trustee Quintero is an ally of the Superintendent and had overlook the violations of public contract codes (see Exhibit B,C,D). Karen Martinez voted for Del Terra Measure I

program management as well as construction management back in November 2016, but she is commended by the Civil Grand Jury wence only Trustee Quintero and Trustee did not participate. However, Civil Grand Jury, without referencing any facts, recommended Trustee Khanh Tran and other Trustees to resign. Regardless, there is a clear separation of powers in our Constitution. The District is a subdivision of the State of California for which the California State Legislature has passed laws to delegate its governing powers to the School Board. Only the voters can decide who to elect or not elect. The Civil Grand Jury has engaged in a smear campaign hurting Trustee Khan hTran for re-election at the same time endorsing two other Trustee Martinez and Trustee Quintero. The Civil Grand Jury by endorsing the two Trustees placed themselves and this court in a political position making of bias and unfairness.

----- end responses to findings -----

As a Trustee, I do not run the day-to-day business nor do I have the authority to review any books without administration cooperation or a majority of the Board directive. When you hear our books are out of balanced, I would assume you know it is staff job to balance the books and not any Trustee or Judge. It is simply not our job. When staff keeps us uninformed and later we found out for ourselves through the news our books are off, we would want to audit and investigate. It is our responsibilities and duties as custodians of the taxpayers to ensure integrity from top to bottom. I pray the court to be more objective and uphold the laws passed by the legislature and interpret by the court. It is the court that holds our Democracy together and not the public pressure and outcry because they do not understand the internal issues and facts. If you read the civil grand jury report, it lacks the facts and unbalance views as I described above.

All exhibits provided have been waived by the Board for any attorney client privileged status. Same were also provided to the D.A, SEC, and FPPC.

Respectfully,

A handwritten signature in black ink, appearing to be 'Khanh Tran', written in a cursive style.

Khanh Tran, Alum Rock School Trustee  
385 Linkhorne Ct, San Jose, CA 95133 ~ (408) 380-9001



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street, Suite 3000, Sacramento, CA 95811  
(916) 322-5660 • Fax (916) 322-0886

June 13, 2018

Jeffrey Markham  
Complainant

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Flor DeLeon Jacobo  
Complainant

[REDACTED]  
[REDACTED]

Re: FPPC No. COM-05252018-00798: Rojas, Del Terra, Herrera, Tran, Marquez, and Alum Rock Elementary School District

Dear Messrs. Markham and Jacobo:

This letter is in response to the sworn complaint you filed against the above-named persons that alleged violations concerning:

*Conflict of Interest in Public Contracts (GC 1090)*

1. Government Code Section 1090 (Alum Rock School District) 5 Counts
2. Government Code Section 1090 (b) (Alum Rock School Board Members and Del Terra) 5 Counts per Board Member
3. Government Code Section 87100 (Del Terra Contractors, Louie Moran (former Del Terra and current Alum Rock employee)) 5 Counts for Del Terra contractors and 5 counts for Louie Moran (former Del Terra and current Alum Rock employee).
4. Government Code Section 83116.5 (Alum Rock School Board Members) 5 Counts per Alum Rock School Board Member
5. Government Code Section 87300 (former Del Terra and current Alum Rock employee) One Count for Louie Moran (former Del Terra and current Alum Rock employee).
6. Elections Code Section 7054 (a) (Alum Rock School District)

Please accept this letter as an attachment to our sworn complaint, under Government Code Section 83115. This complaint details numerous violations of Government Code Section 1090 and the Political Reform Act (the Act) by the Alum Rock Elementary School District (Alum Rock) and its Board Members, and Del Terra Real Estate Services Inc. (Del Terra) and several of its employees.

Based on a review of the documents received and obtained during our initial review of the allegations, the Enforcement Division will not open an enforcement case in this matter at this time.



If you have any further questions, please contact us at [complaint@fppc.ca.gov](mailto:complaint@fppc.ca.gov).

Sincerely,



Galena West

Chief, Enforcement Division

GW/tr

cc: Luis Rojas, and Alum Rock Elementary School District Board Members Esau Ruiz Herrera,  
Khanh Tran, Dolores Marquez

H. FRANCISCO LEAL  
WILLIAM J. TREJO  
MARIBEL S. MEDINA  
DAVID J. ALVAREZ  
MICHAEL E.  
WOLFSOHN  
DENISE A. MARTINEZ  
JENNIFER  
CHAMBERLAIN  
  
3767 WORSHAM  
AVENUE  
LONG BEACH,  
CALIFORNIA 90808  
(213) 628-0808  
FAX (213) 628-0818  
MMEDINA@LEAL-  
LAW.COM  
WWW.LEAL-LAW.COM


MEMORANDUM

\*\*\*CONFIDENTIAL\*\*\*

THIS MATERIAL IS SUBJECT TO THE  
ATTORNEY-CLIENT AND/OR THE ATTORNEY  
WORK PRODUCT PRIVILEGES. DO NOT DISCLOSE  
THE CONTENTS HEREOF. DO NOT FILE WITH  
PUBLICLY ACCESSIBLE RECORDS.

To: Honorable President Herrera and Members of the Board

From: H. Francisco Leal

Maribel S. Medina 

Date: April 11, 2018

RE: Review Superintendent Bauer's Authorization of Over Two Million Dollars in Payments to Har-Bro Northern California, Inc.

---

**Question Presented**

The Alum Rock Union Elementary School District ("Alum Rock" or "District") Board of Education ("Board") requested an analysis of whether awarding of a contract to Har-Bro Northern California, Inc., in violation of the Education Code, public procurement laws, and Board Policies, and authorization of payments, totaling more than Two Million Dollars (\$2,000,000.00) to Har-Bro without Board approval or ratification constitutes a breach of fiduciary obligations to the District and misappropriation of public funds.

**Brief Answer**

The California Supreme Court in *People v. Hubbard* (2016) 63 Cal. 4<sup>th</sup> 378, held, "where a superintendent [has] explicit contractual responsibilities to oversee the 'budget and business affairs' of the district, superintendent owed a duty to safeguard school district funds, and superintendent had a responsibility to ensure such public funds were spent in accordance with the law." Superintendent

Bauer's employment agreement explicitly designates her as Chief Executive Officer of the District and gives her "primary responsibility for managing and conducting the business of the District." As such, Superintendent Bauer has a duty to safeguard the District's funds and ensure public funds are spent in accordance with the law. She breached that duty, by authorizing payments to Har-Bro of over Two Million Dollars.

### Summary of Facts

On February 27, 2016, a fire at Mathson Middle School ("Mathson") damaged classroom C1, the Resource Room and the Custodial Room. Daniel Flores, Director of Maintenance, Operations and Transportation, called his previous employer Har-Bro Northern California, Inc. ("Har-Bro") and asked Har-Bro to perform the repairs related to the Mathson fire. The Har-Bro contract has never been approved or ratified by the Board. Har-Bro performed work for the District from February 27, 2016 through June 2017.

In early 2017, the Board received information by a District employee about the work being performed by Har-Bro. The Board directed its legal counsel, Rogelio Ruiz of Rehon & Roberts to conduct a review and investigation into the contracts and payments for the repairs at Mathson. The scope of the investigation, by its own terms, was limited to the legality of the contracts. The Rehon & Roberts Report concluded that the awarding of the Har-Bro contract, terms of the Har-Bro contract and 24 change orders were in violation of the Education Code, public procurement laws, and the District's Administrative Regulations.

On February 29, 2016, legal counsel Ruiz sent an e-mail, including Superintendent Bauer outlining the process to address the Mathson fire repairs. The e-mail outlined the requirements of Public Contracting Code 20113, which provides that a contract could be awarded without advertising for bids, only if the "board, by unanimous vote, with the approval of the county superintendent of schools" declare an emergency. (Exhibit 1).

On March 3, 2016, the Board held a special meeting. Superintendent Bauer signed the Staff Report accompanying Resolution 34-15/16 declaring that an emergency existed and authorizing the execution of contracts for remediation. The Board approved the Resolution. The minutes of the meeting do not reflect that Superintendent Bauer or any District staff member informed the Board the Har-Bro Agreement had already been approved by Mr. Flores. On March 10, 2016, the Board held its regular meeting. Consent Item 12.02 included approval of Professional Services Agreements, but did not include ratification or approval of the Har-Bro Agreement. Item 12.14 of the same agenda was approval of a Resolution Delegating the contracting authority related to emergency work to Superintendent Bauer. Although Superintendent Bauer had the opportunity to disclose to the Board that the Har-Bro agreement had been awarded, she did not.

Beginning on February 27, 2016, the same day the contract was awarded to Har-Bro, until May 18, 2017, Har-Bro submitted change orders every month. Most months Har-Bro submitted up to 6 change orders. On July 12, 2017, Jacalyn Stromquist, Executive Assistant for Human Resources Department/Risk Management sent an e-mail to Counsel Ruiz, stating the following:

"You had asked who was signing off on the Har-Bro change orders; I did find some copies of the change orders that were signed by Dr. Bauer." (Exhibit 2)

Superintendent Bauer signed off on the following change orders:

Date	Change Order #	Change Order Amount	New Contract Sum
6/21/2016	#11	\$476,866.74	\$1,025,144.23
7/29/2016	#12	\$ 71,245.32	\$1,096,389.55
8/19/2016	#13	\$136,932.00	\$1,232,546.04
10/7/2016	#14	\$345,432.83	\$1,577,978.87
12/16/2016	#18	\$ 6,267.12	\$2,125,961.73
Total=\$1,036,744.01			

Without Board approval or ratification, Superintendent Bauer signed change orders in the amount of \$1,036,744.01. (Exhibit 3).

From February 27, 2016 to May 18, 2017, the Board of Education met 23 times. Every regular agenda included approval of contracts. Superintendent Bauer prepared the Board agendas. Yet not once did Superintendent Bauer include approval or ratification of the Har-Bro agreement on the Board agenda. The Board agendas are also devoid of any disclosure related to the District's invoicing and receipt of \$2.5 million dollars of insurance proceeds.

### Legal Analysis

#### A. Misappropriation of Public Funds for the Benefit of Another is a Violation of Penal Code Section 424(a)

The California Supreme Court in *People v. Hubbard* (2016) 63 Cal.4<sup>th</sup> 378, found the Superintendent of Beverly Hills Unified in violation of Penal Code section 424 (a) when he approved a car allowance and stipend for an employee without Board approval. The Supreme Court found, the evidence showed that, during the relevant time period, Hubbard was the chief executive officer of the District. In his capacity as superintendent, Hubbard oversaw various departments related to the expenditure of public funds, including human resources, business, and accounting. His employment contract made clear that he was responsible for implementing policies in the realm of budgeting and business affairs. Hubbard's actual responsibilities mapped onto those prescribed by law. Those statutory duties included: preparing and submitting a budget for the school district, preparing a "local control and accountability plan," assigning and transferring teachers, entering into contracts for and on behalf of the school district, and submitting financial and budgetary reports to the school district's governing board. (Ed.Code, § 35035, subds. (a)-(i).) The Supreme Court also concluded that the evidence also showed Hubbard was entrusted with the responsibility of bringing expenditures to the Board for approval and then ensuring District funds were spent according to the Board's instructions. These duties entail a material degree of discretion and control over how public funds are allocated. [citation].

The findings of the Supreme Court related to Hubbard's duties as chief executive officer for the District, including overseeing the various department's expenditure of public funds, employment contract which incorporated a superintendent's responsibilities, and duty to inform the governing board, are the identical duties included in Superintendent Bauer's employment agreement. In the case of Superintendent Bauer, however, the facts are more egregious. The payments to Har-Bro were not a one-time directive. In addition to the Har-Bro contract, 24 Change Order were approved. Superintendent Bauer personally

signed and authorized over a million dollars in change order. The last change order she signed authorized included the entry, "the new sum will be \$2,125,961.73."

Penal Code Section 424 (a) provides in relevant part:

"Each officer of this state, or of any county, city, town, or district of this state, and every other person charged with the receipt, safekeeping, transfer, or disbursement of public moneys, who without authority of law, appropriates the same, or any portion thereof, to his or her own use, or **to the use of another** is guilty of a crime. (emphasis added).

For purpose of Penal Code section 424 (a) it is therefore, irrelevant that the monies were paid to Har-Bro. The Supreme Court reviewed Penal Code section 424 (a)'s legislative history and concluded the "purpose in enacting section 424: protecting the public fisc [sic] and holding accountable those in positions to place public funds at risk." *Hubbard*, supra at 387. As discussed below, the contract, change orders and payments were authorized without authority of law. In addition, the statute does not make liability conditional on a public officer's possessing exclusive control over public funds, or unfettered discretion to decide on their disposition. Instead, it requires that the public officer have the sort of actual authority that confers some degree of material control over the funds' disposition.

### **1. The Awarding of the Har-Bro Contract and Contract Itself Did Not Meet the Legal Requirements of the Education Code, Public Procurement Laws, and Board Policies**

Board Policy 3312 provides, "to be valid or constitute an enforceable obligation against the district, all contracts must be approved and/or ratified by the Board." As discussed above, to date, neither the agreement nor the 24 change orders have ever been approved or ratified by the Board. In addition, Section 17604 of the Education Code provides in relevant part:

"... 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 further provides,

"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 malfeasance."

Superintendent Bauer was not interviewed as part of the Rehon & Roberts Report. It would be necessary to determine if either Superintendent Bauer or Mr. Flores had conflicts related to Har-Bro. Although Mr. Flores disclosed he had been employed with Har-Bro immediately prior to beginning his employment with the District, his Form 700 for 2015 fails to disclose his income from Har-Bro. (Exhibit 4). Contentions have also been made that Superintendent Bauer's spouse had a business relationship with Har-Bro. Superintendent Bauer does not disclose any information in her Form 700 related to her spouse in her Form 700 for 2015, 2016, 2017 or 2018 (Exhibit 5).

### **2. Ignorance of the Facts and Law is No Excuse**

Superintendent Bauer knew or should have known that the Har-Bro contract, change orders and over \$2 million in payments required Board approval. She failed to obtain the Board's approval or ratification. Although based on the information that is available, Superintendent Bauer did not sign change orders 1-10. Change Order 11, for \$476,866.74 included the total amount of the previous change orders. Similarly, even though Superintendent Bauer did not personally sign change orders 15-17, she personally signed Change Order 18, which included the total new contract amount of \$2,125,961.73. Even if she claims she thought the initial Emergency Resolution gave her complete authority to award a contract, with no dollar limit and continue to expand the scope of work, ignorance of the law would not relieve her of liability.

The California Supreme Court in *People v. Stark* (2011) 52 Cal.4<sup>th</sup> 368, held that public officials are expected to "be aware of and indeed embrace the duties the law imposes on them" and "cannot remain recklessly ignorant of the non-penal laws regulating their conduct." *Stark*, supra at 400. The *Stark* court further held that public officials "are expected to take reasonable steps to determine the appropriateness of their actions." *Id.* at 402. The California Supreme Court reasoned that it would be contrary to the legislative intent if public officials could evade prosecution by failing to conduct the research that would inform them of their duties, or by failing to seek the advice of persons who could provide that information. *Id.* at 400. Superintendent Bauer received e-mails from the District's legal counsel informing her that remediation work was subject to legal requirements. Supreme Court held that individuals could be convicted under section 424 (a) if they were criminally negligent in failing to know that their actions were not legally authorized. *Id.*

### **3. The Safeguards Outlined in the Resolution Purporting to Delegate to the Superintendent the Emergency Contracting Authority Were Ignored**

On March 10, 2016, the Board adopted Resolution 35-15/16 titled, "Delegation of Authority in Regard to Awarding of Emergency Contracts."<sup>1</sup> Section 2 of the Resolution delegated the authority to award emergency contracts without competitive bidding to Superintendent Bauer. Section 3 provided that if such a contract was awarded, the governing board was to be notified at its next regular meeting and provided information "justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why action [was] necessary to respond to the emergency." Section 4 specified that the emergency action had to be reported to the Board no later than 14 days after the action and at least at every regular board meeting." Not only did Superintendent Bauer fail to disclose to the Board that the Har-Bro contract had already been awarded before the Board adopted the Resolution declaring an emergency and before the Board adopted the Resolution delegating the authority, but as outlined above, Superintendent Bauer authorized "action" as described in this Resolution 25 times without once, to date, reporting the action to the Board, let alone seeking ratification of approval from the Board.

Superintendent Bauer lacked the authority, even under the Emergency Resolution, to unilaterally approve 24 increases to the Har-Bro contract without seeking Board approval or ratification. Superintendent Bauer lacked the authority under the Emergency Resolution to waive all state law

---

<sup>1</sup> Resolution 25-15/16 purporting to delegate to Superintendent and/or Assistant Superintendent the authority to award emergency contract without competitive bidding was in valid since it was not passed by the requisite vote. (Public Contract Code section 22050).

requirements, including paying prevailing wage and securing payment and performance bonds to protect the District's interest.<sup>2</sup>

The fact that the source of funds was insurance proceeds does not excuse Superintendent Bauer's failure to follow the law. Executive officials are not free to spend public funds for any purpose they may choose, but must utilize appropriated funds in accordance with the legislative purpose. *Stanson v. Mott* (1976) 17 Cal.3d 213. The California Supreme Court in *Stanson* held, "We start out with the principle that expenditures by an administrative official are proper only insofar as they are authorized." Although it is advisable to review the actual claims or invoices submitted to the Zurich Insurance, the Rehon & Roberts Report did find that the District received 8 payments from the Zurich. Presumably the checks were deposited into a District account. (Exhibit 6).

The amounts identified in various documents related to the Mathson fire are inconsistent. The Rehon & Roberts Report found that Har-Bro had been paid \$2,024,105.70, and the District had received \$2,509,085.11 from the Zurich. However, Change Order 24 identifies a total contract amount as \$2,179,678.48—a difference of \$155,573. In addition, an e-mail from Ms. Stromquist to Mr. Ruiz, dated July 11, 2017, Ms. Stromquist informed Mr. Ruiz that the District had received \$2,861,248.82 from Zurich Insurance, a difference of \$352,163.71. (Exhibit 7). These discrepancies warrant an audit. Finally, the work performed at the Mathson site is subject to oversight from the Department of State Architect ("DSA"). This project has not received final approval (close out) from DSA. As part of the audit, it is strongly recommended that the District direct a review the DSA documents to determine the cost represented to DSA.

## **B. General Concerns Related to Superintendent Bauer's Compliance with Fiduciary Obligations and Disclosures to the Governing Board**

At the last closed session, the Board was advised that Superintendent Bauer had failed to attend or have a District representative attend a meeting called by the rating agency, S & P. Superintendent Bauer indicated that she had not attended the meeting at the direction of the District's bond disclosure counsel. At the last closed session, the Board voted to direct Superintendent Bauer to provide legal counsel all information necessary to prepare the bond disclosure statement and address the SEC matters. Superintendent Bauer has refused to provide the information or meet with the District's legal counsel. She stated in the attached e-mail,

"My interview with the SEC was confidential. My attorney never prepared any memo for the board. There are no e-mails nor any other correspondence." (Exhibit 8).

The correspondence from the SEC, however, referencing "In the Matter of Alum rock Union Elementary School District (SF-4170), address correspondence as follows, "Alum Rock Union Elementary School District, c/o Dr. Hilaria Bauer, Superintendent." (Exhibit 9). In the Frequently Asked Questions, it is worth noting that under "may I have a lawyer to respond", the answer is "Yes. Alum Rock has the right to consult with and be represented by legal counsel." (emphasis added). The entity.

The District retained reputable bond disclosure counsel to provide the District legal guidance on compliance with relevant laws. As the attached e-mail which Superintendent Bauer provided by Superintendent Bauer as evidence that she was directed by bond counsel not to participate in the S & P

---

<sup>2</sup> As directed by the Board, we are working with the Department of Industrial Relations to determine what actions, if any, will follow as a result of Har-Bro's failure to pay prevailing wage.

meeting, provides, Superintendent Bauer was not going to following the District's legal counsel's directive. Disclosure Counsel on September 26, 2017 asked that Superintendent Bauer's personal attorney write a memo to the District's governing Board regarding her meeting with the SEC. (Exhibit 8).

Securities laws require that the District disclose information that a perspective investor would consider material. In order to comply with this information, it is critical that Superintendent Bauer disclose what information she has provided the SEC. It is critical that this Board direct Superintendent Bauer, consistent with her fiduciary obligations to the District, and in compliance with securities laws, that she meet with the General Counsel and bond disclosure counsel and provide truthful and complete information.

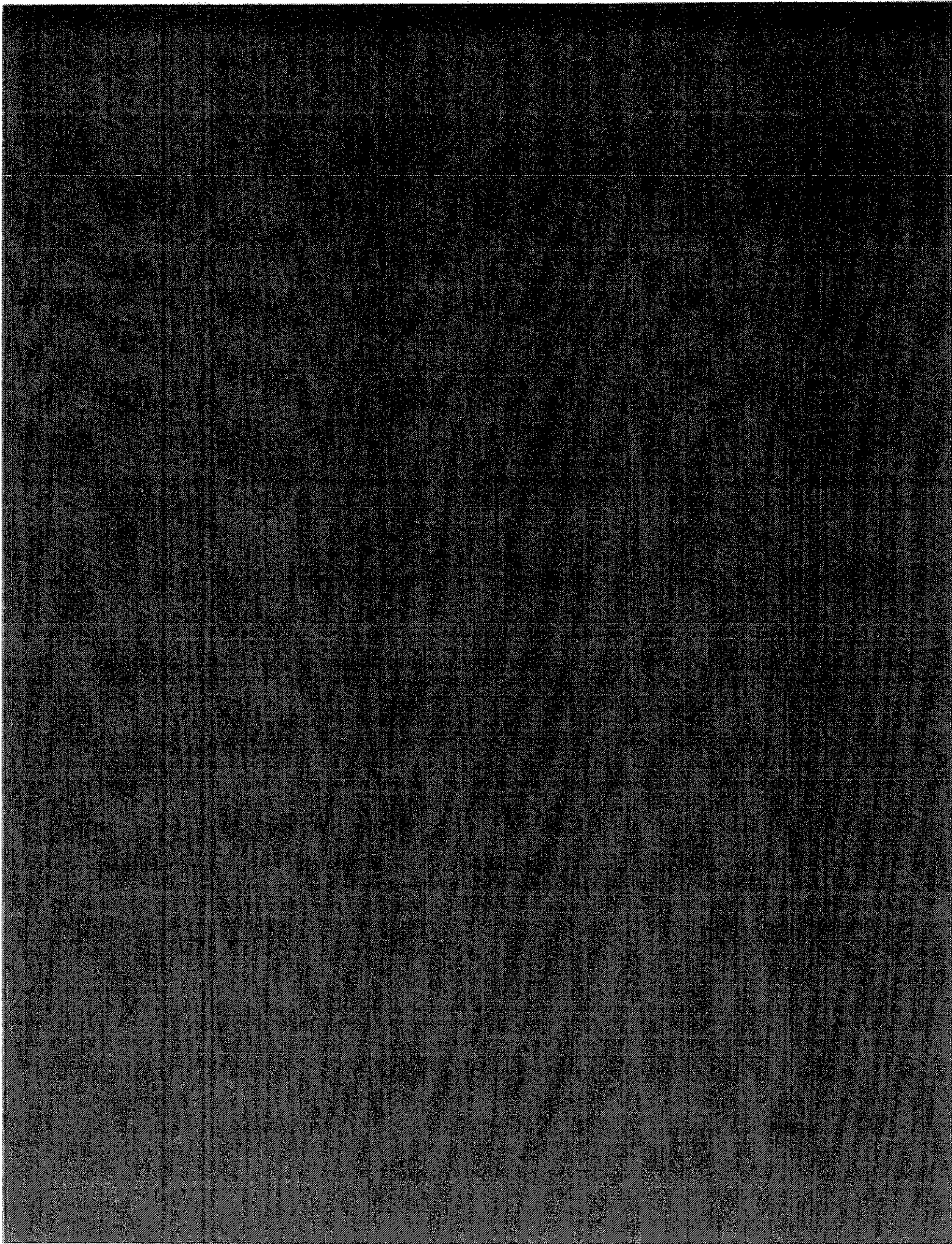
Finally, the Fiscal Experts and auditors identified approximately Twelve Million dollars that had not properly been accounted for. Mr. Chheng confirmed the District maintains accounts in private banks but indicated there is no master list of accounts or amounts maintained in each account. (Exhibit 10). The discrepancies in the Mathson insurance, are an examples of the reasons this Board should request an complete and thorough list of existing accounts. For any account in a private bank, the Board should request account numbers, balance and the names of authorized signatories.

### CONCLUSION

The approval of the Har-Bro contract, change orders and payments were made in violation of the law. The change orders were approved by Superintendent Bauer without ratification or approval from the Board. Neither the Rehon & Roberts Report, nor any files reviewed by this office have identified how the scope of the project was defined, or the costs confirmed. We recommend a forensic audit of all invoices, payments, and insurance claims and payments related to the Har-Bro contract. We also recommend authorization to interview Superintendent Bauer, Kolvira Chheng and a follow up interview with Daniel Flores.

It is also critical that this Board direct Superintendent Bauer, consistent with her fiduciary obligations to the District, and in compliance with securities laws, that she meet with the General Counsel and bond disclosure counsel and provide truthful and complete information.





## Rogelio Ruiz

---

**From:** efrain.robles@arUSD.org  
**Sent:** Wednesday, July 12, 2017 4:02 PM  
**To:** Rogelio Ruiz; kolvira.chheng@arUSD.org  
**Subject:** Fwd: FW: Mathson (ARUSD/Business Services)  
**Attachments:** Emergency Resolution.pdf; Emergency Resolution.pdf

---Forwarded using Multi-Forward Chrome Extension---

From: "Sandra J. Harrington"  
Date: Tue Mar 01 2016 10:35:04 GMT+1100 (AEDT)  
Subject: FW: Mathson (ARUSD/Business Services)  
To: "Maria J. Martinez", Efrain Robles

Sandra J. Harrington  
Assistant Superintendent Business Services  
Alum Rock School District  
2930 Gay Avenue  
San Jose, CA 95127  
(408) 928-6847

**From:** Rogelio Ruiz [mailto:[r Ruiz@rehonroberts.com](mailto:r Ruiz@rehonroberts.com)]  
**Sent:** Monday, February 29, 2016 2:38 PM  
**To:** Sandra J. Harrington  
**Cc:** Hilaria Bauer; E. Luis Saenz; Erica Valdovinos  
**Subject:** RE: Mathson (ARUSD/Business Services)

Hi Sandy,  
One other follow-up. The other emergency provisions in the PCC are in 20113:

- (a) In an emergency when any repairs, alterations, work, or improvement is necessary to any facility of public schools to permit the continuance of existing school classes, or to avoid danger to life or property, the board may, by unanimous vote, with the approval of the county superintendent of schools, do either of the following:
- (1) Make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.
  - (2) Notwithstanding Section 20114, authorize the use of day labor or force account for the purpose.
- (b) Nothing in this section shall eliminate the need for any bonds or security otherwise required by law.

Attached is a resolution we used at East Side. But again, this may not be necessary for the demo and remediation work, and only necessary for the rebuilding work.

Finally, has the district's insurance carrier been put on notice of the loss?

Thanks,

rogelio

---

Rogelio M. Ruiz  
REHON & ROBERTS, APC  
830 The Alameda, San José, CA 95126

(2) Before a governing body takes any action pursuant to paragraph (1), it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

If the cost of rebuilding and/or repairing the damage is expected to exceed the CUPCCAA limits, then we may want to use this approach. If you and the staff believe you will be in a position to let a contract to rebuild within the next few days then we should consider calling a special or emergency board meeting. Otherwise, we can include it on next week's regular board meeting agenda.

Thanks,

rogelio

---

Rogelio M. Ruiz  
REHON & ROBERTS, APC  
830 The Alameda, San José, CA 95126  
408-494-0900 Main | 408-387-6239 Dir | 408-494-0909 Fax  
[ruiz@rehonroberts.com](mailto:ruiz@rehonroberts.com) | [www.rehonroberts.com](http://www.rehonroberts.com)

The information contained in this email message is confidential and may be subject to the attorney-client or work product privileges. If you are not the intended recipient or the person named above as the recipient, any disclosure, re-transmission, or other distribution is strictly prohibited. If you received this email transmission in error, please immediately notify the sender at [ruiz@rehonroberts.com](mailto:ruiz@rehonroberts.com) and delete this message from your system.

**From:** Sandra J. Harrington [<mailto:sandra.harrington@arUSD.org>]  
**Sent:** Monday, February 29, 2016 1:58 PM  
**To:** Rogelio Ruiz  
**Subject:** Mathson  
**Importance:** High

Is there any reason that we need to notify the county of the fire/emergency?

Sandra J. Harrington  
Assistant Superintendent Business Services  
Alum Rock School District  
2930 Gay Avenue  
San Jose, CA 95127  
(408) 928-6847

The information contained in this email message is confidential and may be subject to the attorney-client or work product privileges. If you are not the intended recipient or the person named above as the recipient, any disclosure, re-transmission, or other distribution is strictly prohibited. If you received this email transmission in error, please immediately notify the sender at [ruiiz@rehonroberts.com](mailto:ruiiz@rehonroberts.com) and delete this message from your system.

**From:** Rogelio Ruiz  
**Sent:** Monday, February 29, 2016 2:24 PM  
**To:** 'Sandra J. Harrington'  
**Cc:** Hilaria Bauer ([hilaria.bauer@arUSD.org](mailto:hilaria.bauer@arUSD.org)); E. Luis Saenz; Erica Valdovinos  
**Subject:** RE: Mathson (ARUSD/Business Services)

Hi Sandy,

Not necessarily, but maybe as a simple courtesy to let them know what happened, the extent of the damage, and that the District has secured the area and will be taking appropriate actions to clear all damage and restore the school facilities.

Also, with regard to CUPCCAA, Section 22002(c) defines a "public project" as follows:

**(c) "Public project" means any of the following:**

- (1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
- (2) Painting or repainting of any publicly owned, leased, or operated facility.
- (3) In the case of a publicly owned utility system, "public project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

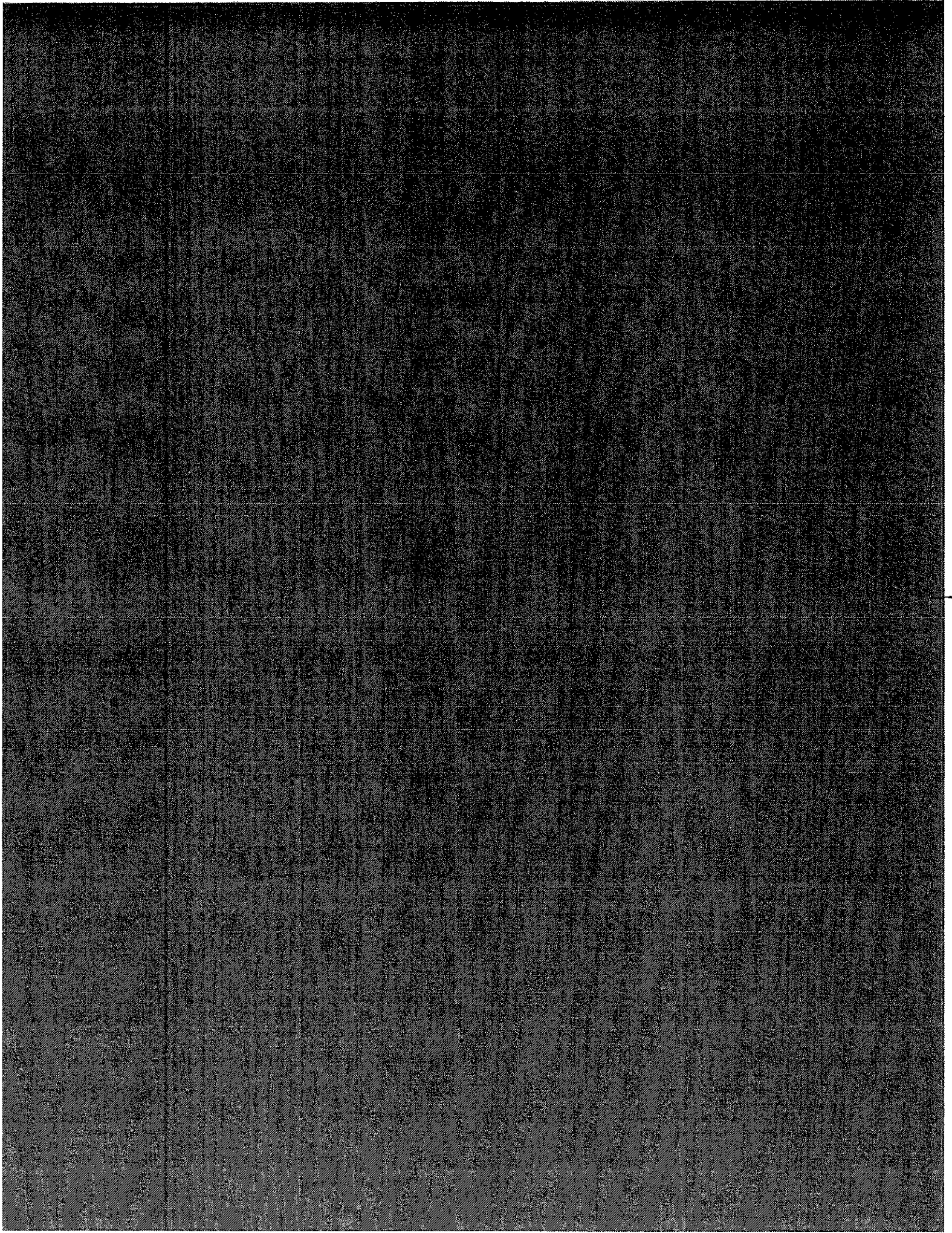
CUPCCAA (PCC section 22032) provides:

- (a) Public projects of forty-five thousand dollars (\$45,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.
- (b) Public projects of one hundred seventy-five thousand dollars (\$175,000) or less may be let to contract by informal procedures as set forth in this article.
- (c) Public projects of more than one hundred seventy-five thousand dollars (\$175,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

As I mentioned, depending on the anticipated cost of the remediation of the site (eg, removal of debris and damaged improvements), you may be able to let the remediation contract pursuant to the CUPCCAA negotiated contract or informal bidding procedures, which will save you considerable time and not require an emergency meeting.

Depending on the urgency of the district's need for the classroom facilities to be restored, the district may have to consider passing a declaration of emergency under the PCC to allow for the letting of necessary contracts for reconstruction without giving notice for bids to let contracts (ie, without complying with public bidding requirements). The Public Contract Code also provides for emergency contracting procedures. PCC section 22050(a) provides in pertinent part:

- (a) (1) In the case of an emergency, a public agency, pursuant to a four-fifths vote of its governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.



Uyenchi Ho

---

**From:** Rogelio Ruiz  
**Sent:** Wednesday, July 12, 2017 9:44 AM  
**To:** Uyenchi Ho  
**Subject:** More for Stromquist binder  
**Attachments:** 3512\_001.pdf

**From:** Jacalyn Stromquist [mailto:[jacalyn.stromquist@arUSD.org](mailto:jacalyn.stromquist@arUSD.org)]  
**Sent:** Wednesday, July 12, 2017 9:22 AM  
**To:** Rogelio Ruiz  
**Subject:** Fwd: Attached Image

Rogelio:

Here are a few more emails. You may have them already in one of the lengthy email strings.

You had asked who was signing off on the Har-Bro change orders; I did find some copies of the change orders in the file that were signed by Dr. Bauer. Business should have all the originals.

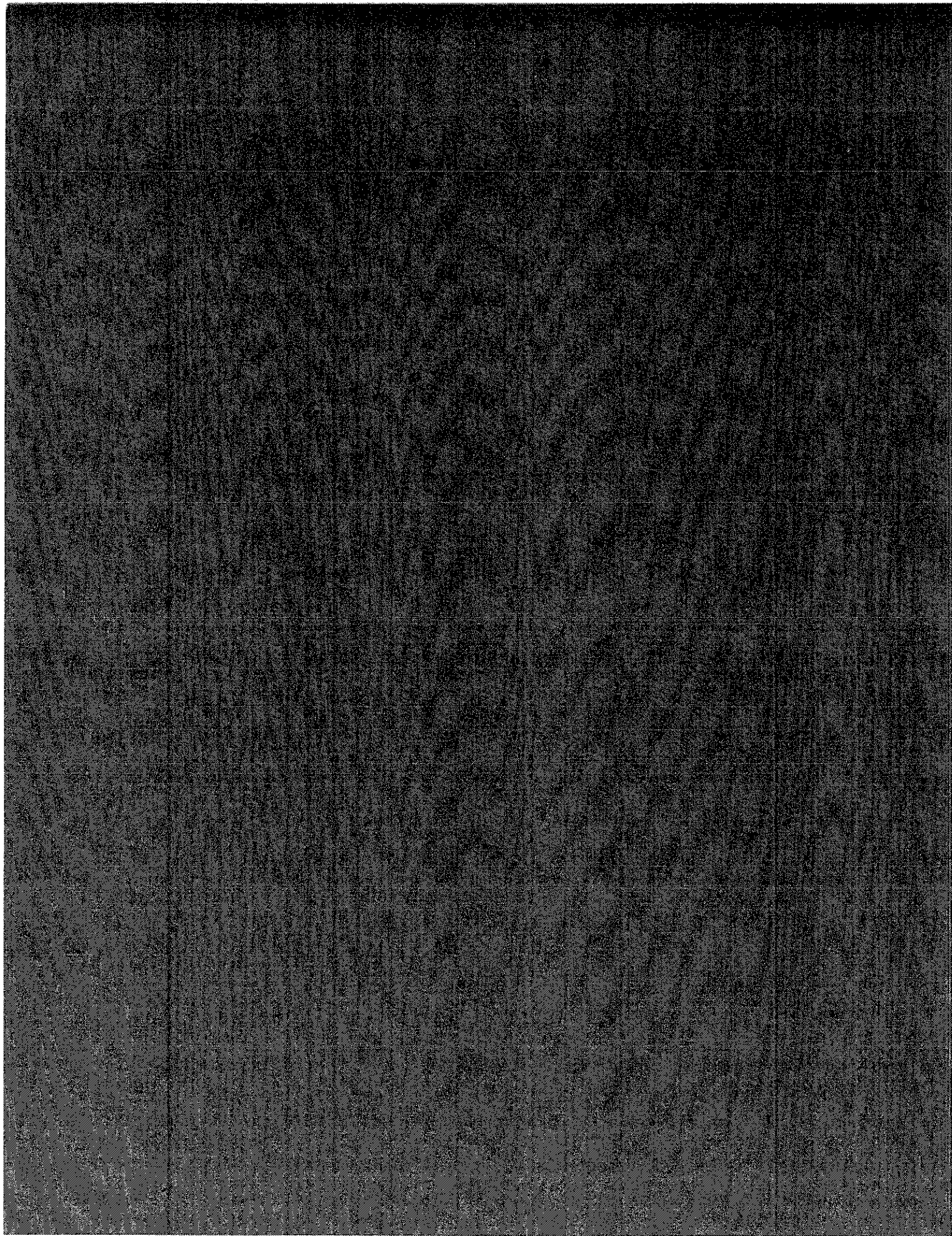
Let me know if there is anything else I may be able to assist you with.

Jackie

----- Forwarded message -----

**From:** <[hr.mfp@arUSD.org](mailto:hr.mfp@arUSD.org)>  
**Date:** 2017-07-12 9:15 GMT-07:00  
**Subject:** Attached Image  
**To:** Jacalyn Stromquist <[jacalyn.stromquist@arUSD.org](mailto:jacalyn.stromquist@arUSD.org)>

Jacalyn Stromquist-Executive Assistant  
Human Resources Department/Risk Management  
Alum Rock Union Elementary School District  
408-928-6504  
408-928-6435  
[jacalyn.stromquist@arUSD.org](mailto:jacalyn.stromquist@arUSD.org)





**Har-Bro of Northern California, Inc.**

# CHANGE ORDER

Page 1 of 1

Har-Bro, Inc.  
 Har-Bro Construction & Consulting, Inc.  
 Har-Bro of Northern California, Inc.  
 Har-Bro West, Inc.  
 Har-Bro of Washington, Inc.

Number	11	Date	6/21/2016
Job Name / Location		2050KAMMERER	
2050 Kammerer Ave.			
San Jose, CA 95116			
Number of Existing Contract:		Date of Existing Contract:	
8692-		3/7/2016	

TO : ALUM ROCK UNION ELEMENTRY SCHOOL DIST  
 2050 Kammerer Ave.  
 San Jose, CA 95116

### DESCRIPTION

### AMOUNT

We hereby agree to make the change(s) specified below:

11	Work to be performed per attached estimate named "ALUMROCK2-2" dated 6/27/2016	\$476,866.74
----	--	--------------

Total For This Change Order:	\$476,866.74
------------------------------	--------------

Not valid until signed by the Owner. Signature of the Contractor indicates the Contractor's agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The original Contract Sum was .....	\$548,277.49
The net change by previously authorized Change Orders was .....	\$0.00
The Contract Sum prior to this Change Order was .....	\$548,277.49
The Contract Sum will be increased by this Change Order .....	\$476,866.74
The new Contract Sum will be .....	\$1,025,144.23
The Original Contract Completion Date will be changed by 90 days	

ACCEPTED – The above prices and specifications of this Change Order are satisfactory and are hereby accepted. All Work to be performed under the same terms and conditions as specified in Original Contract unless otherwise specified.

Authorized By Owner:  
 ALUM ROCK UNION ELEMENTRY SCHO

Accepted By Contractor:  
 Har-Bro of Northern California, Inc.

By: \_\_\_\_\_ Date: \_\_\_\_\_

By: Tony Everett Date: 6/27/16

Signature:

Signature:

**CORPORATE OFFICE:**  
 2750 Signal Parkway  
 Signal Hill, CA 90755-2207  
 Tel: (562) 528-8000  
 Fax: (562) 528-8050  
<http://www.harbro.com>

#### Contractors Licenses:

California: B258441, B735982, B725529, B878735  
 Washington: HARBRW944KA, HARBRW925LR  
 Arizona: KB-01 ROC204777  
 Nevada: B2-0042160  
 Oregon: 1S9883

**1-800-266-5677**

#### REGIONAL OFFICES:

Riverside Region (951) 680-8900	Fax (951) 782-8286
San Diego Region: (619) 398-0200	Fax (619) 398-0201
San Francisco Region: (510) 887-8500	Fax (510) 887-8530
Santa Clara Valley Region: (661) 705-0100	Fax (661) 705-0105
Portland Region: (503) 482-8720	Fax (503) 482-8721
Las Vegas Region: (702) 891-8900	Fax (702) 891-9100
Phoenix Region: (480) 449-3900	Fax (480) 449-3905
Seattle Region: (425) 656-0500	Fax (425) 656-0501





**Har-Bro of Northern  
California, Inc.**

# CHANGE ORDER

Page 1 of 1

Har-Bro, Inc.  
Har-Bro Construction & Consulting, Inc.  
Har-Bro of Northern California, Inc.  
Har-Bro West, Inc.  
Har-Bro of Washington, Inc.

Number	12	Date	7/29/2016
Job Name / Location		2050 KAMMERER	
2050 Kammerer Ave.			
San Jose, CA 95116			
Number of Existing Contract:		Date of Existing Contract:	
8692-		3/7/2016	

TO : ALUM ROCK UNION ELEMENTRY SCHOOL DIS1  
2050 Kammerer Ave.  
San Jose, CA 95116

DESCRIPTION	AMOUNT
-------------	--------

We hereby agree to make the change(s) specified below:

12	Work performed per attached Construction Services Billing dated 7/28/2016.  Although the existing contract is based on time and materials, this change order represents a stipulated sum (fixed price).	\$71,245.32
<b>Total For This Change Order:</b>		<b>\$71,245.32</b>

Not valid until signed by the Owner. Signature of the Contractor indicates the Contractor's agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The original Contract Sum was .....	\$548,277.49
The net change by previously authorized Change Orders was .....	\$476,866.74
The Contract Sum prior to this Change Order was .....	\$1,025,144.23
The Contract Sum will be increased by this Change Order .....	\$71,245.32
The new Contract Sum will be .....	<b>\$1,096,389.55</b>
The Contract Time will be unchanged	

ACCEPTED -- The above prices and specifications of this Change Order are satisfactory and are hereby accepted. All Work to be performed under the same terms and conditions as specified in Original Contract unless otherwise specified.

Authorized By Owner:  
ALUM ROCK UNION ELEMENTRY SCHOOL

Accepted By Contractor:  
Har-Bro of Northern California, Inc.

By: Superintendent Date: 8/31/16

By: Tony Everett Date: 9/1/2016

Signature: [Signature]

Signature: [Signature]

**CORPORATE OFFICE:**  
2750 Signal Parkway  
Signal Hill, CA 90755-2207  
Tel: (562) 528-8000  
Fax: (562) 528-8050  
<http://www.harbro.com>

**Contractors Licenses:**  
California: B259441, B736992, B725529, B978735  
Washington: HARBRW044KA, HARBRW025LR  
Arizona: KB-01 ROC204777  
Nevada: B2-0042160  
Oregon: 163883  
**1-800-266-5677**

**REGIONAL OFFICES:**  
Riverside Region: (951) 890-8900 Fax (951) 782-8286  
San Diego Region: (619) 398-0200 Fax (619) 398-0201  
San Francisco Region: (510) 887-8500 Fax (510) 887-8530  
Santa Clara Valley Region: (661) 705-0100 Fax (661) 705-0105  
Portland Region: (503) 482-6720 Fax (503) 482-6721  
Las Vegas Region: (702) 891-8900 Fax (702) 891-9100  
Phoenix Region: (480) 449-3900 Fax (480) 449-3905  
Seattle Region: (425) 856-9500 Fax (425) 856-9501



**Har-Bro of Northern California, Inc.**

**CHANGE ORDER**

Page 1 of 1

Har-Bro, Inc.  
 Har-Bro Construction & Consulting, Inc.  
 Har-Bro of Northern California, Inc.  
 Har-Bro West, Inc.  
 Har-Bro of Washington, Inc.

Number	13	Date	8/19/2016
Job Name / Location		2050 KAMMERER	
2050 Kammerer Ave.			
San Jose, CA 95116			
Number of Existing Contract:		Date of Existing Contract:	
8692-		3/7/2016	

TO : ALUM ROCK UNION ELEMENTRY SCHOOL DIS1  
 2050 Kammerer Ave.  
 San Jose, CA 95116

DESCRIPTION	AMOUNT
We hereby agree to make the change(s) specified below:	
13 Work to be performed per attached estimate named "ALUMROCKROOF" dated 8/19/2016.	\$136,932.00
<b>Total For This Change Order:</b>	<b>\$136,932.00</b>

Not valid until signed by the Owner. Signature of the Contractor indicates the Contractor's agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The original Contract Sum was .....	\$547,501.98
The net change by previously authorized Change Orders was .....	\$548,112.06
The Contract Sum prior to this Change Order was .....	\$1,095,614.04
The Contract Sum will be increased by this Change Order .....	\$136,932.00
The new Contract Sum will be .....	<b>\$1,232,546.04</b>
The Contract Time will be unchanged	

ACCEPTED -- The above prices and specifications of this Change Order are satisfactory and are hereby accepted. All Work to be performed under the same terms and conditions as specified in Original Contract unless otherwise specified.

Authorized By Owner:  
 ALUM ROCK UNION ELEMENTRY SCHO

Accepted By Contractor:  
 Har-Bro of Northern California, Inc.

By: Superintendent Date: 8/31/16

By: Tony Everett Date: 9/1/2016

Signature: [Handwritten Signature]

Signature: [Handwritten Signature]

**CORPORATE OFFICE:**  
 2750 Signal Parkway  
 Signal Hill, CA 90755-2207  
 Tel: (562) 528-8000  
 Fax: (562) 528-8050  
<http://www.harbro.com>

**Contractors Licenses:**

California: B258441, B736992, B725529, B878735  
 Washington: HARBRW1944KA, HARBRW1925LR  
 Arizona: KB-01 ROC204777  
 Nevada: B2-0042160  
 Oregon: 169883

**1-800-266-5677**

**REGIONAL OFFICES:**

Riverside Region: (951) 680-8900 Fax (951) 782-8286  
 San Diego Region: (619) 398-0200 Fax (619) 398-0201  
 San Francisco Region: (510) 887-8500 Fax (510) 887-8530  
 Santa Clara Valley Region: (661) 705-0100 Fax (661) 705-0105  
 Portland Region: (503) 482-8720 Fax (503) 482-6721  
 Las Vegas Region: (702) 891-8900 Fax (702) 891-9100  
 Phoenix Region: (480) 449-3900 Fax (480) 449-3905  
 Seattle Region: (425) 358-0500 Fax (425) 658-0501

Har-Bro, Inc.  
 Har-Bro Construction & Consulting, Inc.  
 Har-Bro Environmental, Inc.  
 Har-Bro of Northern California, Inc.  
 Har-Bro of Washington, Inc.  
 Har-Bro West, Inc.

Number	14	Date	10/7/2016
Job Name / Location		2050KAMMERER	
2050 Kammerer Ave.			
San Jose, CA 95116			
Number of Existing Contract		Date of Existing Contract	
8692-		3/7/2016	

TO: Alum Rock Union S D  
 2050 Kammerer Ave.  
 San Jose, CA 95116

C1017150

**DESCRIPTION** **AMOUNT**

We hereby agree to make the change(s) specified below:

14	Work to be performed per attached estimate named "ALUMROCKREV" dated 10/7/2016.	\$345,432.83
<b>Total For This Change Order:</b>		<b>\$345,432.83</b>

Not valid until signed by the Owner. Signature of the Contractor indicates the Contractor's agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The original Contract Sum was .....	\$547,501.98
The net change by previously authorized Change Orders was .....	\$685,044.06
The Contract Sum prior to this Change Order was .....	\$1,232,546.04
The Contract Sum will be increased by this Change Order .....	\$345,432.83
The new Contract Sum will be .....	<b>\$1,577,978.87</b>
The Original Contract Completion Date will be changed by 270 days	

**ACCEPTED** – The above prices and specifications of this Change Order are satisfactory and are hereby accepted. All Work to be performed under the same terms and conditions as specified in Original Contract unless otherwise specified.

**Authorized By Owner:**  
 ALUM ROCK UNION ELEMENTARY SCHOOL

**Accepted By Contractor:**  
 Har-Bro of Northern California, Inc.

By: Dr. Alacia Bauer Date: 10/11/16  
 Signature: \_\_\_\_\_

By: Tony Everett Date: 10/11/16  
 Signature: \_\_\_\_\_

**CORPORATE OFFICE:**  
 2750 Signal Parkway  
 Signal Hill, CA 90755-2207  
 Tel: (562) 528-8000  
 Fax: (562) 528-8050  
<http://www.harbro.com>

**Contractors Licenses:**  
 California: B258441, B725529, B738982, B878407,  
 B878735, DOSH 1072  
 Washington: HARBRW825LR, HARBRW944KA  
 Arizona: KB-01 ROC204777  
 Nevada: B2-0042180  
 Oregon: 169883

**1-800-266-5677**

**REGIONAL OFFICES:**  
 Bay Area Region: (510) 887-8500 Fax (510) 887-8530  
 Las Vegas Region: (702) 891-8900 Fax (702) 891-9100  
 Orange County Region: (714) 827-8200 Fax (714) 827-8290  
 Long Beach Region: (562) 528-8000 Fax (562) 528-8050  
 Phoenix Region: (480) 449-3900 Fax (480) 449-3905  
 Portland Region: (503) 482-8720 Fax (503) 482-8721  
 Riverside Region: (951) 880-8900 Fax (951) 782-8286  
 San Diego Region: (619) 398-0200 Fax (619) 398-0201  
 San Jose Region: (408) 320-1421 Fax (408) 320-1427  
 Santa Clarita Valley Region: (661) 705-0100 Fax (661) 705-0105  
 Seattle Region: (425) 856-0500 Fax (425) 856-0501

Har-Bro, Inc.  
 Har-Bro Construction & Consulting, Inc.  
 Har-Bro Environmental, Inc.  
 Har-Bro of Northern California, Inc.  
 Har-Bro of Washington, Inc.  
 Har-Bro West, Inc.

Number	18	Date	12/16/2016
Job Name / Location		2050KAMMERER	
2050 Kammerer Ave.			
San Jose, CA 95116			
Number of Existing Contract		Date of Existing Contract	
8692-		3/7/2016	

**TO : Alum Rock Union S D**  
 2050 Kammerer Ave.  
 San Jose, CA 95116

**DESCRIPTION** **AMOUNT**

We hereby agree to make the change(s) specified below:

18 Per estimate named "ALUMROCK-CO18" dated 12/13/2016.

\$6,267.12

Total For This Change Order:

\$6,267.12

Not valid until signed by the Owner. Signature of the Contractor indicates the Contractor's agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The original Contract Sum was .....	\$547,501.98
The net change by previously authorized Change Orders was .....	\$1,572,192.63
The Contract Sum prior to this Change Order was .....	\$2,119,694.61
The Contract Sum will be increased by this Change Order .....	\$6,267.12
The new Contract Sum will be .....	
The Original Contract Completion Date will be changed by 364 days	<u>\$2,125,961.73</u>

**ACCEPTED** – The above prices and specifications of this Change Order are satisfactory and are hereby accepted. All Work to be performed under the same terms and conditions as specified in Original Contract unless otherwise specified.

Authorized By Owner:  
**ALUM ROCK UNION ELEMENTARY SCHOOL**

Accepted By Contractor:  
 Har-Bro of Northern California, Inc.

By: \_\_\_\_\_ Date: \_\_\_\_\_

By:  Date: 1/10/17

Signature: 

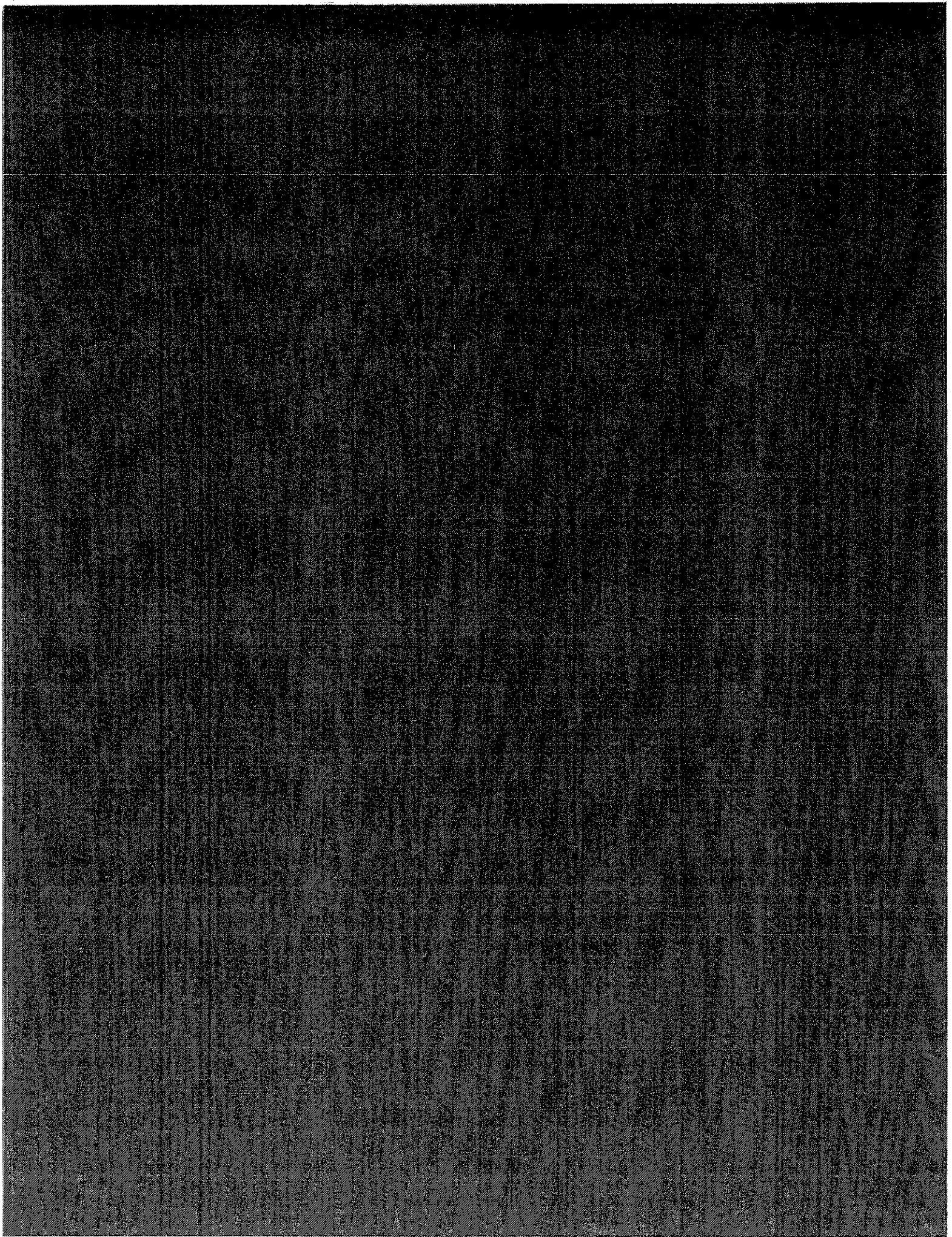
Signature: 

**CORPORATE OFFICE:**  
 2750 Signal Parkway  
 San Jose, CA 95135-2207  
 Tel: (562) 528-8000  
 Fax: (562) 528-8050  
<http://www.harbro.com>

**Contractors Licenses:**  
 California: B298441, B729529, B736982, B878407, B878735, DOSH 1072  
 Washington: HARBRW1925LR, HARBRW1944KA  
 Arizona: KB-01 ROC204777  
 Nevada: B2-0042160  
 Oregon: 169883

**1-800-266-5677**

**REGIONAL OFFICES:**  
 Bay Area Region: (510) 867-8500 Fax (510) 867-8530  
 Las Vegas Region: (702) 891-8900 Fax (702) 891-9100  
 Orange County Region: (714) 827-8200 Fax (714) 827-8290  
 Long Beach Region: (562) 528-8000 Fax (562) 528-8050  
 Phoenix Region: (480) 449-3900 Fax (480) 449-3905  
 Portland Region: (503) 482-8720 Fax (503) 482-8721  
 Riverside Region: (951) 680-8900 Fax (951) 782-8286  
 San Diego Region: (619) 398-0200 Fax (619) 398-0201  
 San Jose Region: (408) 320-1421 Fax (408) 320-1427  
 Santa Clarita Valley Region: (881) 705-0100 Fax (661) 705-0105  
 Seattle Region: (425) 658-0500 Fax (425) 658-0501



**STATEMENT OF ECONOMIC INTERESTS**

Date Received  
 Official Use Only

**COVER PAGE**

BUSINESS OFFICE  
 RECEIVED

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) 2015 APR 6 PM 12:00  
**FLORES, DANIEL**

**1. Office, Agency, or Court**

APR 06 2015

Agency Name (Do not use acronyms)

Alum Rock Union Elementary School District

COUNTY OF SANTA CLARA  
 Clerk of the Board of Supervisors

Division, Board, Department, District, If applicable

Your Position

Director, Maintenance, Operations & Transportation

► If filing for multiple positions, list below or on an attachment. (Do not use acronyms)

Agency: \_\_\_\_\_ Position: \_\_\_\_\_

**2. Jurisdiction of Office (Check at least one box)**

- State
- Multi-County \_\_\_\_\_
- City of \_\_\_\_\_
- Judge or Court Commissioner (Statewide Jurisdiction)
- County of Santa Clara
- Other \_\_\_\_\_

**3. Type of Statement (Check at least one box)**

- Annual: The period covered is January 1, 2013, through December 31, 2013.  
 -or-  
 The period covered is \_\_\_\_\_ through December 31, 2013.
- Assuming Office: Date assumed 03 / 30 / 2015
- Candidate: Election year \_\_\_\_\_ and office sought, if different than Part 1: \_\_\_\_\_
- Leaving Office: Date Left \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 (Check one)
- The period covered is January 1, 2013, through the date of leaving office.
- The period covered is \_\_\_\_\_ through the date of leaving office.

**4. Schedule Summary**

Check applicable schedules or "None."

► Total number of pages including this cover page: 1

- Schedule A-1 - Investments - schedule attached
- Schedule A-2 - Investments - schedule attached
- Schedule B - Real Property - schedule attached
- Schedule C - Income, Loans, & Business Positions - schedule attached
- Schedule D - Income - Gifts - schedule attached
- Schedule E - Income - Gifts - Travel Payments - schedule attached

-or-

None - No reportable interests on any schedule

**5. Verification**

MAILING ADDRESS STREET CITY STATE ZIP CODE  
 (Business or Agency Address Recommended - Public Document)  
**33356 5th Street Union City, CA 94587**

DAYTIME TELEPHONE NUMBER E-MAIL ADDRESS (OPTIONAL)  
**( 510 ) 589-7039**

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 03/30/2015  
 (month, day, year)

Signature   
 (File the originally signed statement with your filing official)

**STATEMENT OF ECONOMIC INTERESTS**  
**COVER PAGE**

Date Initial Filing Received  
 Official Use Only

Please type or print in Ink.

NAME OF FILER (LAST) Flores (FIRST) DANIEL (MIDDLE) —

**1. Office, Agency, or Court**

Agency Name (Do not use acronyms) Alum Rock School District Director of M.O.F.  
 Division, Board, Department, District, if applicable Your Position

► If filing for multiple positions, list below or on an attachment. (Do not use acronyms)

Agency: N/A Position: N/A

**2. Jurisdiction of Office (Check at least one box)**

- State
- Multi-County \_\_\_\_\_
- City of \_\_\_\_\_
- Judge or Court Commissioner (Statewide Jurisdiction)
- County of SANTA CLARA
- Other \_\_\_\_\_

**3. Type of Statement (Check at least one box)**

- Annual: The period covered is January 1, 2017, through December 31, 2017.
- or-
- The period covered is \_\_\_\_\_, through December 31, 2017.
- Assuming Office: Date assumed \_\_\_\_\_
- Leaving Office: Date Left \_\_\_\_\_ (Check one)
- The period covered is January 1, 2017, through the date of leaving office.
- or-
- The period covered is \_\_\_\_\_, through the date of leaving office.
- Candidate: Date of Election \_\_\_\_\_ and office sought, if different than Part 1: \_\_\_\_\_

**4. Schedule Summary (must complete)**

► Total number of pages including this cover page: 1

**Schedules attached**

- Schedule A-1 - Investments - schedule attached
- Schedule A-2 - Investments - schedule attached
- Schedule B - Real Property - schedule attached
- Schedule C - Income, Loans, & Business Positions - schedule attached
- Schedule D - Income - Gifts - schedule attached
- Schedule E - Income - Gifts - Travel Payments - schedule attached

-or-

None - No reportable interests on any schedule

**5. Verification**

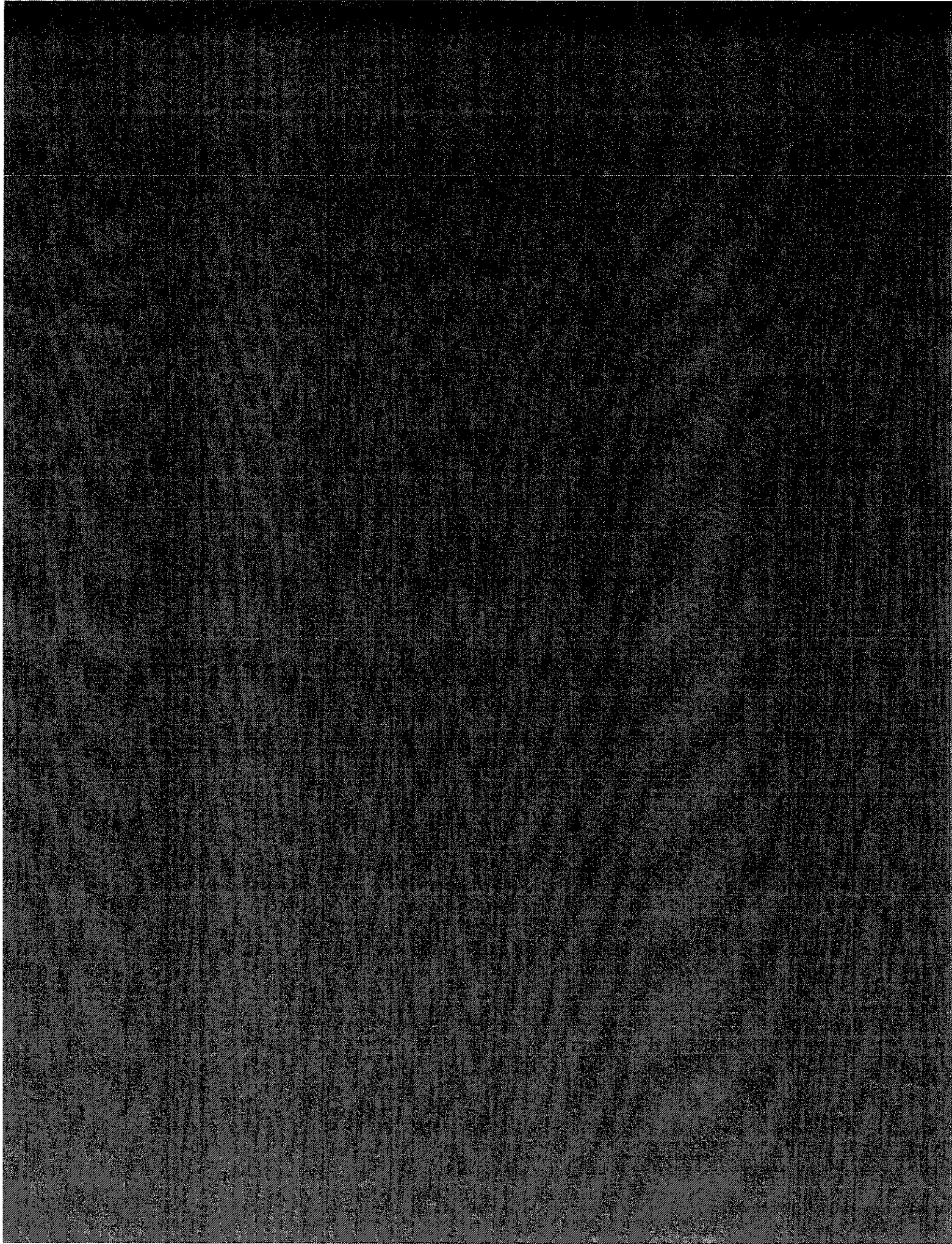
MAILING ADDRESS (Business or Agency Address Recommended - Public Document) STREET CITY STATE ZIP CODE  
347 S 18 ST SAN JOSE CA 95116  
 DAYTIME TELEPHONE NUMBER E-MAIL ADDRESS  
(408) 687-0475 daniel.flores@arusa.org

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 4/10/18  
(month, day, year)

Signature [Signature]  
(File the originally signed statement with your filing official)





STATEMENT OF ECONOMIC INTERESTS

Date Initial Filing Received  
Official Use Only

COVER PAGE

Filed Date: 02/15/2018 04:38 PM  
SAN: 021300015-STH-0015

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) (MIDDLE)  
Bauer Hilaria R

1. Office, Agency, or Court

Agency Name (Do not use acronyms)  
Alum Rock Union Elementary School District  
Division, Board, Department, District, if applicable Your Position  
Superintendent

► If filing for multiple positions, list below or on an attachment. (Do not use acronyms)

Agency: \_\_\_\_\_ Position: \_\_\_\_\_

2. Jurisdiction of Office (Check at least one box)

- State  Judge or Court Commissioner (Statewide Jurisdiction)
- Multi-County \_\_\_\_\_  County of \_\_\_\_\_
- City of \_\_\_\_\_  Other Santa Clara County

3. Type of Statement (Check at least one box)

- Annual: The period covered is January 1, 2017, through December 31, 2017.  Leaving Office: Date Left \_\_\_\_/\_\_\_\_/\_\_\_\_ (Check one)
- or- The period covered is \_\_\_\_/\_\_\_\_/\_\_\_\_, through December 31, 2017.  The period covered is January 1, 2017, through the date of leaving office.
- Assuming Office: Date assumed \_\_\_\_/\_\_\_\_/\_\_\_\_  -or- The period covered is \_\_\_\_/\_\_\_\_/\_\_\_\_, through the date of leaving office.
- Candidates: Date of Election \_\_\_\_\_ and office sought, if different than Part 1: \_\_\_\_\_

4. Schedule Summary (must complete) ► Total number of pages including this cover page: 2

Schedules attached

- Schedule A-1 - Investments - schedule attached  Schedule C - Income, Loans, & Business Positions - schedule attached
- Schedule A-2 - Investments - schedule attached  Schedule D - Income - Gifts - schedule attached
- Schedule B - Real Property - schedule attached  Schedule E - Income - Gifts - Travel Payments - schedule attached

-or-

None - No reportable interests on any schedule

5. Verification

MAILING ADDRESS STREET CITY STATE ZIP CODE  
(Business or Agency Address Recommended - Public Document)  
2930 Gay Ave. San Jose CA 95127  
DAYTIME TELEPHONE NUMBER E-MAIL ADDRESS  
( ) hilaria.bauer@arusd.org

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 02/15/2018 04:38 PM  
(month, day, year)

Signature Electronic Submission  
(File the originally signed statement with your filing official.)

**SCHEDULE E**  
**Income – Gifts**  
**Travel Payments, Advances,**  
**and Reimbursements**

<b>CALIFORNIA FORM 700</b> <small>FAIR POLITICAL PRACTICES COMMISSION</small> Name Hilaria Bauer
---

- Mark either the gift or income box.
- Mark the "501(c)(3)" box for a travel payment received from a nonprofit 501(c)(3) organization or the "Speech" box if you made a speech or participated in a panel. These payments are not subject to the gift limit, but may result in a disqualifying conflict of interest.
- For gifts of travel, provide the travel destination.

▶ NAME OF SOURCE (Not an Acronym)  
 Silicon Valley Education Foundation

ADDRESS (Business Address Acceptable)  
 1400 Parkmoor Ave., Suite 200

CITY AND STATE  
 San Jose, CA 95126

501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE  
 Advocating for AmeriCorps Volunteers in Washington DC

DATE(S): 11 / 08 / 17 - 11 / 08 / 17 AMT: \$ 75.00  
(if gift)

▶ MUST CHECK ONE:  Gift -or-  Income

Made a Speech/Participated in a Panel

Other - Provide Description  
 Participated in dinner

▶ If Gift, Provide Travel Destination  
 Fairmont Hotel, 170 S. Market St. San Jose, CA 95113

▶ NAME OF SOURCE (Not an Acronym)  
 Kidango

ADDRESS (Business Address Acceptable)  
 44000

CITY AND STATE  
 Fremont, CA 94538

501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE  
 Fundraiser

DATE(S): 09 / 28 / 17 - 09 / 28 / 17 AMT: \$ 87.00  
(if gift)

▶ MUST CHECK ONE:  Gift -or-  Income

Made a Speech/Participated in a Panel

Other - Provide Description  
 Attended luncheon

▶ If Gift, Provide Travel Destination  
 Rotary Summit Center, 88 4th St. San Jose CA

▶ NAME OF SOURCE (Not an Acronym)

ADDRESS (Business Address Acceptable)

CITY AND STATE

501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE(S): \_\_\_\_\_ AMT: \$ \_\_\_\_\_  
(if gift)

▶ MUST CHECK ONE:  Gift -or-  Income

Made a Speech/Participated in a Panel

Other - Provide Description \_\_\_\_\_

▶ If Gift, Provide Travel Destination \_\_\_\_\_

▶ NAME OF SOURCE (Not an Acronym)

ADDRESS (Business Address Acceptable)

CITY AND STATE

501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE(S): \_\_\_\_\_ AMT: \$ \_\_\_\_\_  
(if gift)

▶ MUST CHECK ONE:  Gift -or-  Income

Made a Speech/Participated in a Panel

Other - Provide Description \_\_\_\_\_

▶ If Gift, Provide Travel Destination \_\_\_\_\_

Comments: \_\_\_\_\_

**STATEMENT OF ECONOMIC INTERESTS**

Date Initial Filing Received  
Off. of Reg. Only

**COVER PAGE**

Please type or print in ink.

NAME OF FILER (LAST) Bauer (FIRST) Hilaria (MIDDLE)

**1. Office, Agency, or Court**

Agency Name (Do not use acronyms) Alum Rock Union Elementary School District Your Position Superintendent  
 Division, Board, Department, District, if applicable

► If filing for multiple positions, list below or on an attachment. (Do not use acronyms)

Agency: \_\_\_\_\_ Position: \_\_\_\_\_

**2. Jurisdiction of Office (Check at least one box)**

- State
- Multi-County \_\_\_\_\_
- City of \_\_\_\_\_
- Judge or Court Commissioner (Statewide Jurisdiction)
- County of Santa Clara
- Other School District

**3. Type of Statement (Check at least one box)**

- Annual: The period covered is January 1, 2016, through December 31, 2016.
- or-
- The period covered is \_\_\_\_\_ through December 31, 2016.
- Assuming Office: Date assumed 07/01/2014
- Leaving Office: Date Left \_\_\_\_\_ (Check one)
- The period covered is January 1, 2016, through the date of leaving office.
- or-
- The period covered is \_\_\_\_\_ through the date of leaving office.
- Candidate: Election year \_\_\_\_\_ and office sought, if different than Part 1: \_\_\_\_\_

**4. Schedule Summary (must complete) ► Total number of pages including this cover page: 1**

**Schedules attached**

- Schedule A-1 - Investments - schedule attached
- Schedule A-2 - Investments - schedule attached
- Schedule B - Real Property - schedule attached
- Schedule C - Income, Loans, & Business Positions - schedule attached
- Schedule D - Income - Gifts - schedule attached
- Schedule E - Income - Gifts - Travel Payments - schedule attached

-or-  
 None - No reportable interests on any schedule

**5. Verification**

MAILING ADDRESS 2430 Gay Ave San Jose CA 95128  
(Business or Agency Address Recommended - Public Document) STREET CITY STATE ZIP CODE

DAY TIME TELEPHONE NUMBER (408) 778-6822 E-MAIL ADDRESS hilaria.bauer@arUSD.org

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 3/21/17 Signature H. Bauer  
(month, day, year) (File document by signed statement with your filing official.)

**STATEMENT OF ECONOMIC INTERESTS**

Date Initial Filing Received  
 Official Use Only

**COVER PAGE**

Filed Date: 03/28/2016 01:37 PM  
 SAN: 021300015-STH-0015

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) (MIDDLE)  
 Bauer Hilaria R

**1. Office, Agency, or Court**

Agency Name (Do not use acronyms)  
 Alum Rock Union Elementary School District  
 Division, Board, Department, District, if applicable Your Position  
 Superintendent

► If filing for multiple positions, list below or on an attachment. (Do not use acronyms)

Agency: \_\_\_\_\_ Position: \_\_\_\_\_

**2. Jurisdiction of Office (Check at least one box)**

- State
- Judge or Court Commissioner (Statewide Jurisdiction)
- Multi-County \_\_\_\_\_
- County of \_\_\_\_\_
- City of \_\_\_\_\_
- Other Santa Clara County

**3. Type of Statement (Check at least one box)**

- Annual: The period covered is January 1, 2015, through December 31, 2015.
- Leaving Office: Date Left \_\_\_\_/\_\_\_\_/\_\_\_\_  
(Check one)
- or-
- The period covered is \_\_\_\_/\_\_\_\_/\_\_\_\_, through December 31, 2015.
- The period covered is January 1, 2015, through the date of leaving office.
- or-
- Assuming Office: Date assumed \_\_\_\_/\_\_\_\_/\_\_\_\_
- The period covered is \_\_\_\_/\_\_\_\_/\_\_\_\_, through the date of leaving office.
- Candidate: Election year \_\_\_\_\_ and office sought, if different than Part 1: \_\_\_\_\_

**4. Schedule Summary (must complete) ► Total number of pages including this cover page: 1**

**Schedules attached**

- Schedule A-1 - Investments - schedule attached
- Schedule C - Income, Loans, & Business Positions - schedule attached
- Schedule A-2 - Investments - schedule attached
- Schedule D - Income - Gifts - schedule attached
- Schedule B - Real Property - schedule attached
- Schedule E - Income - Gifts - Travel Payments - schedule attached

-or-

None - No reportable interests on any schedule

**5. Verification**

MAILING ADDRESS STREET CITY STATE ZIP CODE  
 (Business or Agency Address Recommended - Public Document)  
 2930 Gay Ave. San Jose CA 95127  
 DAYTIME TELEPHONE NUMBER E-MAIL ADDRESS  
 ( ) hilaria.bauer@arusd.org

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 03/28/2016 01:37 PM  
 (month, day, year)

Signature Electronic Submission  
 (File the originally signed statement with your filing official.)

**STATEMENT OF ECONOMIC INTERESTS**  
**COVER PAGE**

Date Initial Filing Received  
 2015 MAY 12 12:00  
 RECEIVED  
 (BUDDLE) R.

Please type or print in ink.

NAME OF FILER (LAST) Bauer (FIRST) Hilaria (MIDDLE) R.

**1. Office, Agency, or Court**

Agency Name (Do not use acronyms) Alum Rock Union School District Superintendent  
 Division, Board, Department, District, if applicable Superintendent's Office Your Position Superintendent

► If filing for multiple positions, list below or on an attachment. (Do not use acronyms)

Agency: \_\_\_\_\_ Position: \_\_\_\_\_

**2. Jurisdiction of Office (Check at least one box)**

- State
- Multi-County \_\_\_\_\_
- City of \_\_\_\_\_
- Judge or Court Commissioner (Statewide Jurisdiction)
- County of \_\_\_\_\_
- Other school dist. Santa Clara County

**3. Type of Statement (Check at least one box)**

- Annual: The period covered is January 1, 2014, through December 31, 2014.
- or-
- The period covered is \_\_\_\_\_ through December 31, 2014.
- Assuming Office: Date assumed \_\_\_\_\_
- Leaving Office: Date Left \_\_\_\_\_ (Check one)
- The period covered is January 1, 2014, through the date of leaving office.
- The period covered is \_\_\_\_\_ through the date of leaving office.
- Candidate: Election year \_\_\_\_\_ and office sought, if different than Part 1: \_\_\_\_\_

**4. Schedule Summary**

- Check applicable schedules or "None." ► Total number of pages including this cover page: 1
- Schedule A-1 - Investments - schedule attached
  - Schedule A-2 - Investments - schedule attached
  - Schedule B - Real Property - schedule attached
  - Schedule C - Income, Loans, & Business Positions - schedule attached
  - Schedule D - Income - Gifts - schedule attached
  - Schedule E - Income - Gifts - Travel Payments - schedule attached
  - None - No reportable interests on any schedule

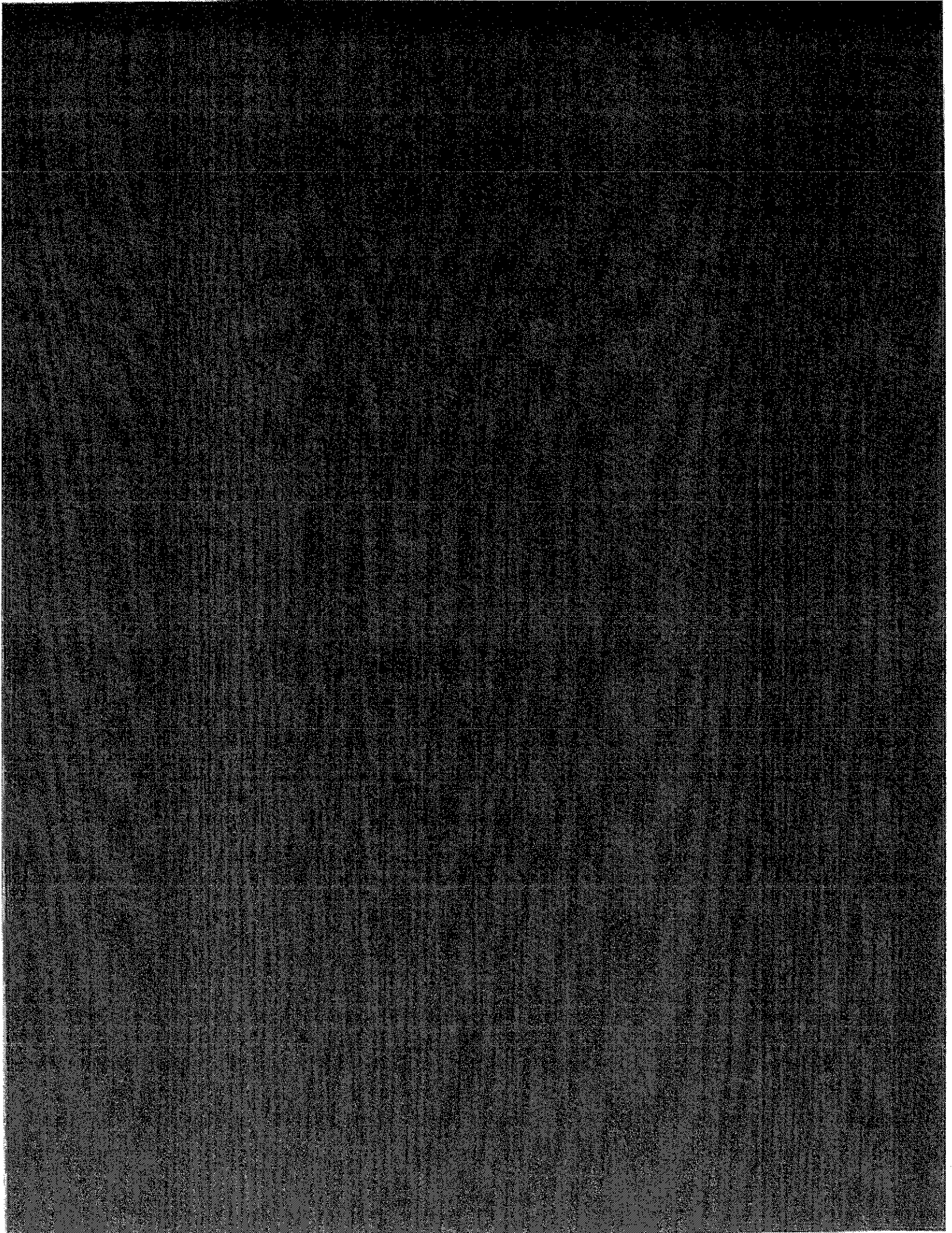
**5. Verification**

MAILING ADDRESS 895 Dorel Dr. San Jose CA 95132  
 STREET CITY STATE ZIP CODE  
 (Business or Agency Address Recommended - Public Document)

DAYTIME TELEPHONE NUMBER \_\_\_\_\_ E-MAIL ADDRESS hilaria.bauer@arusd.org  
 ( )

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.  
 I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 5-12-15 Signature [Handwritten Signature]  
 (month, day, year) (File the original of this statement with your filing official.)



**SCHEDULE OF HAR-BRO CONTRACTS AND CHANGE ORDERS, AND INSURANCE PROCEEDS RECEIVED**

\*The data and information contained in this report is a summary of information provided by the District's Business Services Department and has not been independently verified as accurate or complete.

A	B	C	D	E	F	G
Date	Description	HarBro Charges to District	Insurance proceeds from Zurich	Total Cumul. Ins. Proceeds Rec'd	Paid to Har-Bro	Total Cumul. Paid to Har-Bro
02/27/2016	Commercial Service Agreement (Schedule of Fees) between District and Har-Bro of Northern California, Inc.	T&M based on Jan. 2016 schedule of fees				
2/27/2016	Change Order #1	"TBD"				
3/1/2016	Change Order #2	\$7,425.00				
3/1/2016	Change Order #3	\$1,390.00				
3/2/2016	Change Order #4	\$10,440.00				
3/21/2016	Change Order #5	\$18,777.00				
3/21/2016	Change Order #6	\$25,968.00				
3/29/2016	Zurich In. Payment to District		\$300,000	\$300,000		
4/5/2016	Change Order #7	\$30,440.00				
4/5/2016	Change Order #8	\$12,520.00				
4/19/16	Change Order #9	\$40,894.96				
5/26/2016	Change Order #10	\$22,754.00				
5/26/2016	Payment to Har-Bro Check # 129805				\$185,965.54 \$64,000.00 \$190,927.48 \$83,854.96	\$524,747.98

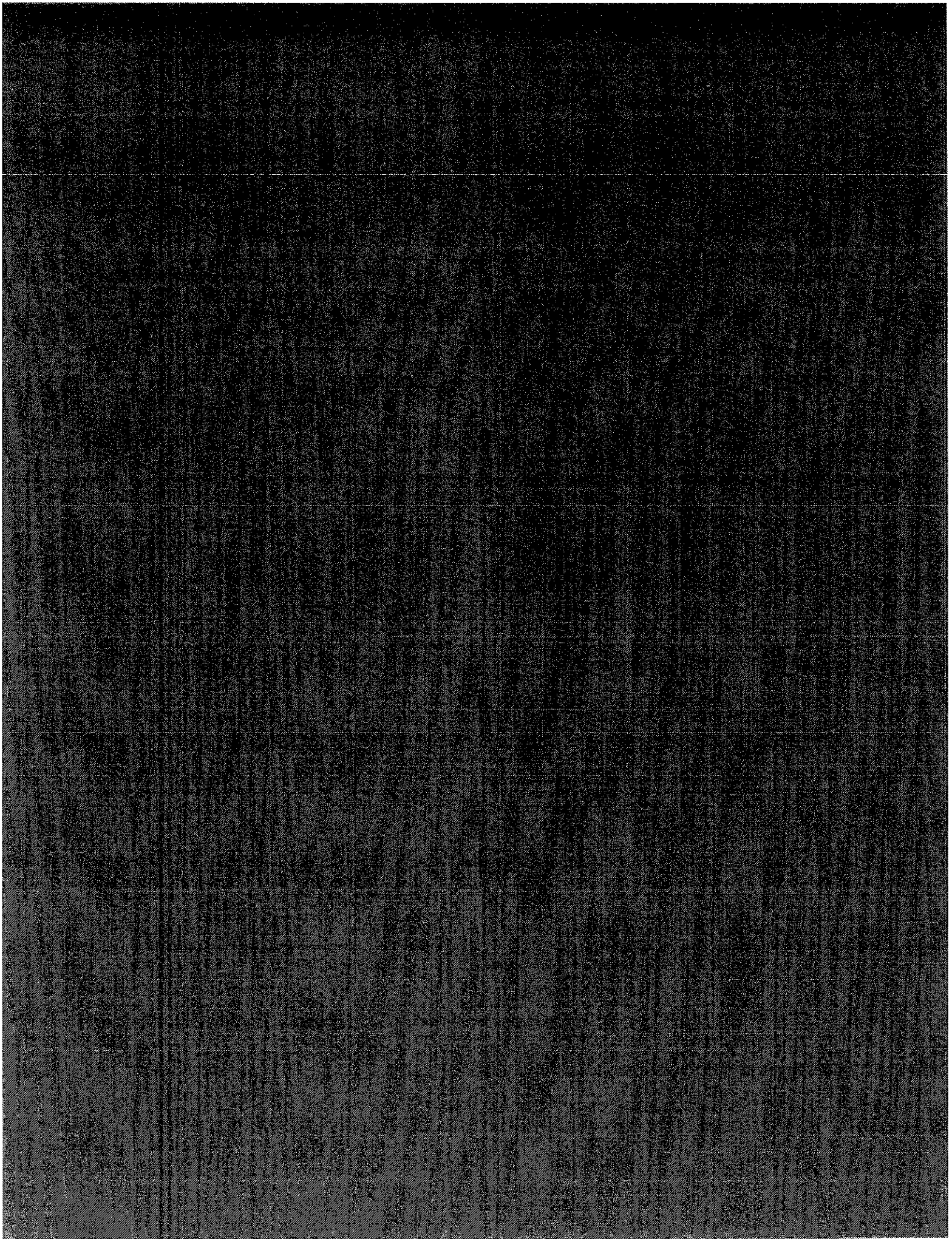
A	B	C	D	E	F	G
Date	Description	HarBro Charges to Dist.	Ins. Proceeds from Zurich	Total Cumul. Ins. Proceeds Received	Paid to HarBro by District	Total Cumul. Paid to HarBro By District.

6/21/2016	Change Order #11	\$476,866.74				
6/28/2016	Zurich In. Payment to District		\$249,965.52	\$ 549,965.52		
6/30/2016	Zurich In. Payment to District		\$477,363.82	\$1,027,329.34		
7/15/2016	Payment to Har-Bro Check #130917				\$22,754.00	\$547,501.98
7/29/2016	Change Order #12	\$71,245.32				
8/19/2016	Change Order #13	\$136,932.00				
9/16/2016	Payment to Har-Bro Check #131519				\$244,383.59	\$791,885.57
9/26/2016	Zurich In. Payment to District		\$136,932.00	\$1,164,261.34		
10/7/2016	Change Order #14	\$345,432.83				
10/20/2016	Payment to Har-Bro Check #131980				\$334,760.36 \$71,647.84	\$1,198,293.77
11/1/2016	Zurich In. Payment to District		\$43,513.14	\$1,207,774.48		
11/10/2016	Change Order #15	\$446,859.28				
11/30/2016	Payment to Har-Bro Check #132582				\$34,252.27 \$69,938.90	\$1,302,484.94
12/8/2016	Change Order #16	\$17,097.94				
12/12/2016	Change Order #17	\$77,758.52				
12/15/2016	Payment to Har-Bro Check #132958				\$250,921.77	\$1,553,406.71
12/16/2016	Change Order #18	\$6,267.12				
1/11/2017	Change Order #19	\$-15,295.98				
1/13/2017	Zurich In. Payment to District		\$388,480.32	\$1,596,254.80		
1/13/2017	Zurich In. Payment to		\$678,999.93	\$2,275,254.73		



A	B	C	D	E	F	G
Date	Description	HarBro Charges to Dist.	Ins. Proceeds from Zurich	Total Cumul. Ins. Proceeds Received	Paid to HarBro by District	Total Cumul. Paid to HarBro By District.

	District					
1/24/2017	Payment to Har-Bro Check #133311				\$284,662.94	\$1,838,069.65
2/2/2017	Change Order #20	\$21,697.21				
3/3/2017	Payment to Har-Bro Check #133919				\$53,064.76	\$1,891,134.41
3/22/2017	Change Order #21	\$40,612.37				
3/22/2017	Payment to Har-Bro Check #134264				\$24,572.16 \$16,609.75	\$1,932,316.32
4/12/2017	Change Order #22	\$2,016.00				
5/1/2017	Change Order #23	\$2,401.15				
5/4/2017	Payment to Har-Bro Check #134933				\$54,041.93	\$1,986,358.25
5/9/2017	Change Order #24	\$2,016.00				
5/18/2017	Change Order #25	-\$16,701.84				
6/1/2017	Payment to Har-Bro Check #135447				\$37,747.45	\$2,024,105.70
6/13/2017	Zurich In. Payment to District		\$233,830.38	\$2,509,084.84		
<b>Totals</b>				<b>\$2,509,085.11</b>		<b>\$2,024,105.70</b>



**Uyenchi Ho**

---

**From:** Rogelio Ruiz  
**Sent:** Tuesday, July 11, 2017 3:27 PM  
**To:** Uyenchi Ho  
**Subject:** Fwd: Money

Stronquist binder

Sent from my iPhone

Begin forwarded message:

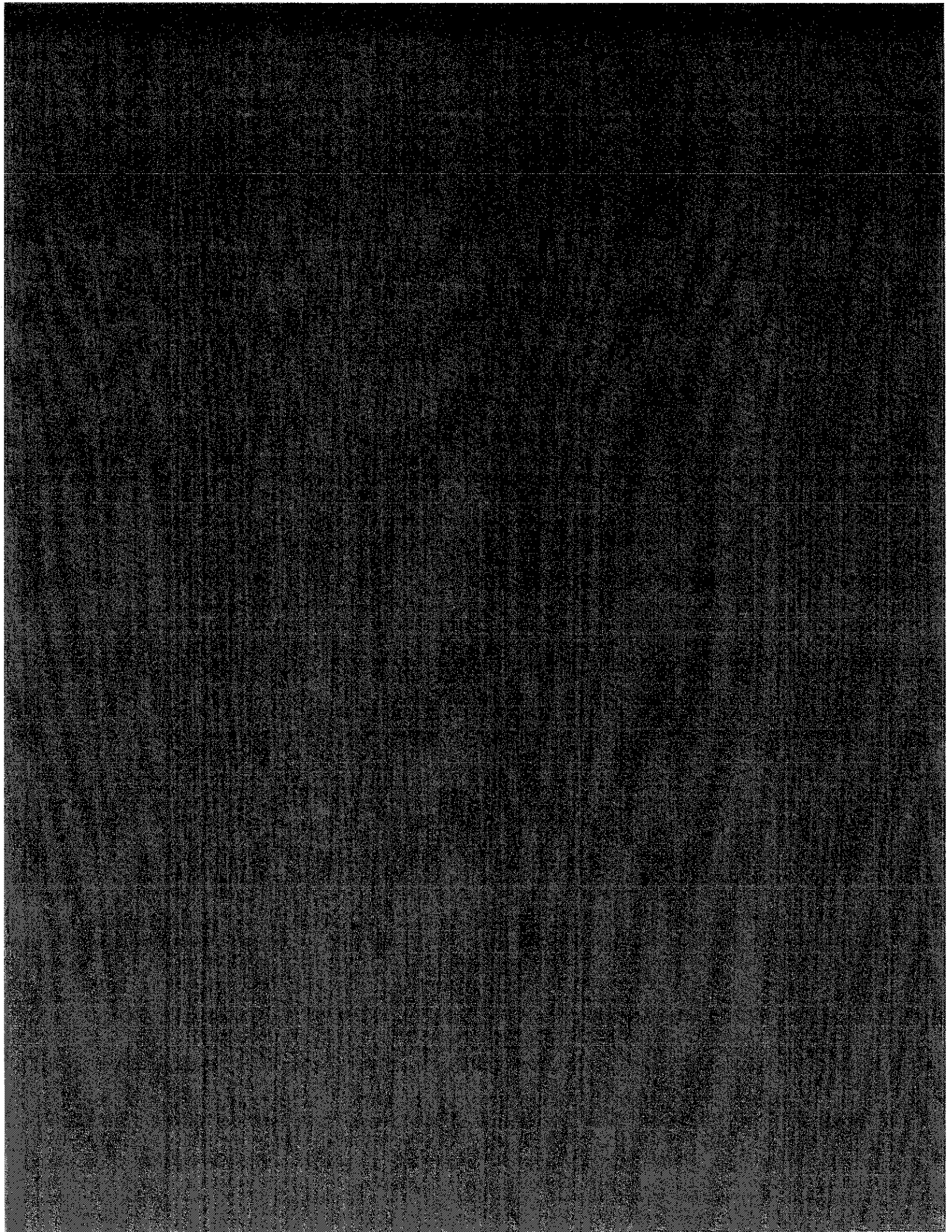
**From:** Jacalyn Stromquist <[jacalyn.stromquist@arUSD.org](mailto:jacalyn.stromquist@arUSD.org)>  
**Date:** July 11, 2017 at 3:13:50 PM PDT  
**To:** Rogelio Ruiz <[rRuiz@rehonroberts.com](mailto:rRuiz@rehonroberts.com)>  
**Subject:** Money

Rogelio:

The amount of money received from Zurich thus far is \$2,861,248.82 which includes the \$300,000.00 advance monies we discussed on the phone earlier this afternoon.

Jackie

--  
Jacalyn Stromquist-Executive Assistant  
Human Resources Department/Risk Management  
Alum Rock Union Elementary School District  
408-928-6504  
408-928-6435  
[Jacalyn.stromquist@arUSD.org](mailto:Jacalyn.stromquist@arUSD.org)



# Re: Confidential Attorney-Client Privilege RE: Alum Rock Union Elementary School District Credit Rating

Hilaria Bauer <hilaria.bauer@arud.org>

Tue 3/27/2018 9:37 AM

To: Maribel Medina <mmedina@leal-law.com>;

Cc: Esau Herrera <esaulawyer@gmail.com>; Francisco Leal <hfl@leal-law.com>;

Dear Maribel,

I can talk to you about the Mathson fire the week of April 9. My interview with the SEC was confidential. My attorney never prepared any memo for the board. There are no emails nor any other correspondence.

Thank you,

Sent from my iPhone

On Mar 27, 2018, at 9:07 AM, Maribel Medina <[mmedina@leal-law.com](mailto:mmedina@leal-law.com)> wrote:

Good morning Dr. Bauer:

I am following up on the e-mail below. It is critical that David Casnocha and I meet with you to discuss your meeting with the SEC. Please also let me know as soon as possible if your personal attorney prepared the memo for the Board as directed by the District's disclosure counsel.

The Board has requested an update on the Matheson fire matter at the next closed session.

If you recall, the Board took action to direct you to provide us the information necessary for these time sensitive, critical matters. Consistent with the Board directive, please let me know if either of the dates listed below work for you.

Thank you for your anticipated cooperation.

Maribel

Maribel S. Medina  
Partner  
LEAL TREJO APC  
3767 Worsham Avenue  
Long Beach, California 90808  
Tel: (213) 628-0808  
Fax: (213) 628-0818  
[mmedina@leal-law.com](mailto:mmedina@leal-law.com)

Privileged and Confidential Communication.

This electronic transmission, and any documents attached hereto, (a) are protected by the Electronic Communications Privacy Act (18 USC §§ 2510-2521), (b) may contain confidential and/or legally privileged information, and (c) are for the sole use of the intended recipient named above. If you have received this electronic message in error, please notify the sender and delete the electronic message. Any disclosure, copying, distribution, or use of the contents of the information received in error is strictly prohibited.

**From:** Maribel Medina  
**Sent:** Wednesday, March 21, 2018 10:44 AM  
**To:** 'Hilaria Bauer' <[hilaria.bauer@arUSD.org](mailto:hilaria.bauer@arUSD.org)>  
**Cc:** Esau Herrera <[esaulawyer@gmail.com](mailto:esaulawyer@gmail.com)>; Francisco Leal <[hfl@leal-law.com](mailto:hfl@leal-law.com)>  
**Subject:** Confidential Attorney-Client Privilege RE: Alum Rock Union Elementary School District Credit Rating

### **Confidential Attorney-Client Privilege**

Good morning Dr. Bauer:

Did your personal attorney prepare the memo to the Board that was requested by the District's bond disclosure counsel, David Casnocha (see e-mail below)? If so, please send me a copy of the memo.

If you recall, the Board directed a detailed disclosure memo of your meeting with the SEC in order to fully comply with the District's disclosure obligations and to better understand the impact of that meeting with S & P's subsequent down grade of the District.

I shared the paragraph you wrote below with David Casnocha. We both agreed the paragraph does not provide the necessary information. David and I will need to meet with you to discuss your meeting with the SEC. Please let me know if you are available either April 1 or 2. We will need approximately 2 hours. Please also provide us any correspondence you or your attorney had with the SEC, including the name of the SEC representative that contacted your attorney.

I will also need to interview you regarding the Har-Bro/ Mathson matter. Please let me know if you can also make yourself available for this interview on April 1 or 2<sup>nd</sup>.

Thank you,

Maribel

Maribel S. Medina  
Partner  
LEAL TREJO APC  
3767 Worsham Avenue  
Long Beach, California 90808  
Tel: (213) 628-0808  
Fax: (213) 628-0818  
[mmedina@leal-law.com](mailto:mmedina@leal-law.com)

Privileged and Confidential Communication.

This electronic transmission, and any documents attached hereto, (a) are protected by the

Electronic Communications Privacy Act (18 USC §§ 2510-2521), (b) may contain confidential and/or legally privileged information, and (c) are for the sole use of the intended recipient named above. If you have received this electronic message in error, please notify the sender and delete the electronic message. Any disclosure, copying, distribution, or use of the contents of the information received in error is strictly prohibited.

**From:** Hilaria Bauer <[hilaria.bauer@arUSD.org](mailto:hilaria.bauer@arUSD.org)>  
**Sent:** Monday, March 12, 2018 6:25 PM  
**To:** Maribel Medina <[mmedina@leal-law.com](mailto:mmedina@leal-law.com)>  
**Cc:** Esau Herrera <[esaulawyer@gmail.com](mailto:esaulawyer@gmail.com)>  
**Subject:** Fwd: Alum Rock Union Elementary School District Credit Rating

Dear Maribel,

As per your request.

Also, in regards to the SEC issue, at first I found the inquiry curious in that I have been involved in previous disclosures and they usually come from Bond Counsel. I haven't heard anything from either Dave or Carlos. Those inquiries were also limited to the financial well-being of the district. Regardless, I am happy to comply with what I understand to be the direction of the board.

Mr. Lee contacted my ACSA attorney directly. My attorney recommended that I comply with interview request from federal law-enforcement agency. They asked about Dr. Rono's report. I explained that when invoicing and performance issues concerning Del Terra were brought to my attention I asked our General Counsel then, Luis Saenz, and he recommended Dr. Rono prepare a report. Based on the report's findings, Mr. Saenz told me to share with the Board. I followed his recommendation.

Mr. Lee and another SEC representative were in the meeting.

Mr. Lee has not sent me any emails. However, Mr. Saenz and Rogelio Ruiz also talked to him, and they copied him in some of their emails.

Thanks,

----- Forwarded message -----

**From:** Casnocha, David <[DCasnocha@sycr.com](mailto:DCasnocha@sycr.com)>  
**Date:** Tue, Sep 26, 2017 at 3:20 PM  
**Subject:** Re: Alum Rock Union Elementary School District Credit Rating  
**To:** Hilaria Bauer <[hilaria.bauer@arUSD.org](mailto:hilaria.bauer@arUSD.org)>

Hilaria, you need to stay off these questions and answers. Did you see my email re suggesting your attorney write info memo to board? Greg has not return my call. David

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Hilaria Bauer  
**Sent:** Tuesday, September 26, 2017 3:11 PM

**To:** Villafuerte, Carlos; Casnocha, David  
**Cc:** eluissaenz@outlook.com; Rogelio Ruiz; Kolvira Chheng  
**Subject:** Fwd: Alum Rock Union Elementary School District Credit Rating

Dear gentlemen,

We can respond to these questions, but please understand that I have to add my knowledge of the of the SEC formal investigation.

Thanks,

----- Forwarded message -----

**From:** Geare, Benjamin <benjamin.geare@spglobal.com>  
**Date:** Tue, Sep 26, 2017 at 2:08 PM  
**Subject:** RE: Alum Rock Union Elementary School District Credit Rating  
**To:** "lalo@missiontrailadvisors.com" <lalo@missiontrailadvisors.com>  
**Cc:** "Hilaria Bauer (hilaria.bauer@arUSD.org)" <hilaria.bauer@arUSD.org>, "Villafuerte, Carlos" <cvillafuerte@sycr.com>, "Casnocha, David" <DCasnocha@sycr.com>, "Yang, Li" <li.yang@spglobal.com>, "Poree, Jenny" <jenny.poree@spglobal.com>, Kolvira Chheng <kolvira.chheng@arUSD.org>

Lalo,

Thank you for speaking with us today. We would appreciate if the district could provide responses to the questions below by September 27<sup>th</sup> (tomorrow) at close of business.

- *How much funding is currently reserved for or legally available to pay for contingent liabilities and legal costs associated with the FCMAT report and the district attorney's investigation*
- *Please discuss any specific actions the district has taken or will take to prepare for fiscal contingencies that could arise as a result of the district attorney's investigation*
- *Please discuss any other organizational, procurement, or leadership changes that have happen recently or that the district expects to occur in the near term as a result of the FCMAT report or the district attorney investigation*

Thanks,

**Ben Geare**  
Associate Director, US Public Finance  
**S&P Global Ratings**  
One California Street, 31<sup>st</sup> Floor  
San Francisco, CA 94111  
T: 415.371.5047 | benjamin.geare@spglobal.com  
[www.spglobal.com](http://www.spglobal.com)

<image001.png>

S&P Global maintains a separation of commercial and analytical activities. Please note that our ratings analysts are not permitted to engage in discussions about fees or receive fee information. Any questions about fees should be directed to a Relationship Manager. For fee quotes or more information, please email [pffeesvcs@spglobal.com](mailto:pffeesvcs@spglobal.com) or call



877.299.2569.

**Rating requests:** For local governments in the western U.S. states, please email us at [westlg@spglobal.com](mailto:westlg@spglobal.com) or visit Ratings Request Online at [www.mycreditprofile.standardandpoors.com](http://www.mycreditprofile.standardandpoors.com).

Visit [www.SPRatings.com/USPublicFinance](http://www.SPRatings.com/USPublicFinance) for our latest insights, reports, digital content and staff directory.

**From:** Kolvira Chheng [<mailto:kolvira.chheng@arUSD.org>]

**Sent:** Thursday, September 14, 2017 1:10 PM

**To:** Geare, Benjamin (Analytical)

**Cc:** Hilaria Bauer ([hilaria.bauer@arUSD.org](mailto:hilaria.bauer@arUSD.org)); [lalo@missiontrailadvisors.com](mailto:lalo@missiontrailadvisors.com); Villafuerte, Carlos; Casnocha, David

**Subject:** Alum Rock Union Elementary School District Credit Rating

Hello Mr. Geare,

I am following up on the status of your rating evaluation process for our District. Please let me know the status, and if there is any additional information that you would like from us.

In addition, I want to inform you that the District has learned that the Santa Clara County District Attorney's Office has initiated an active investigation of the District. However, the District has not been provided with any information as to the scope, timing or outcome of that investigation.

Regards,

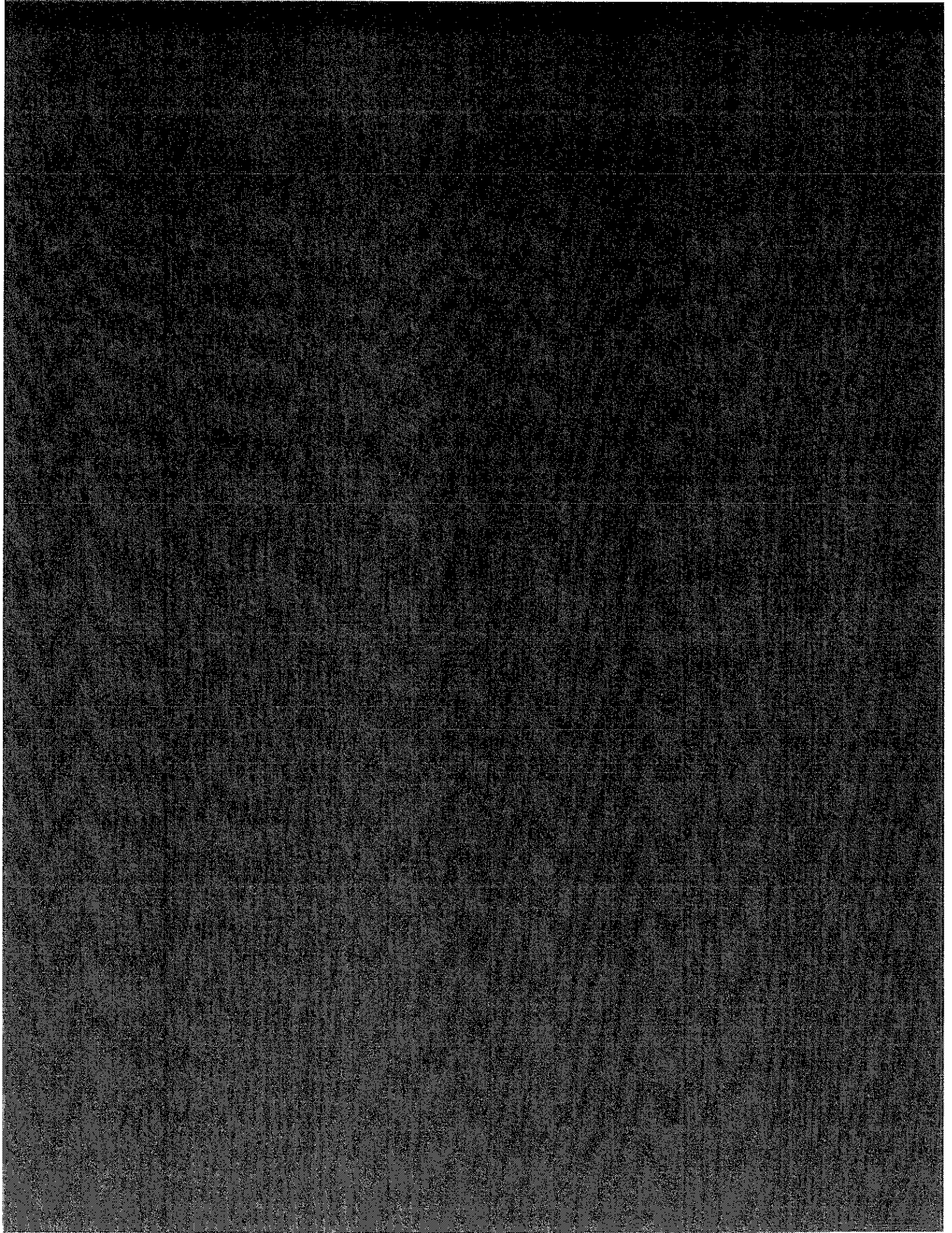
Kolvira Chheng  
Assistant Superintendent of Business Services  
Alum Rock Union School District  
2930 Gay Avenue  
San Jose, CA 95127  
(408) 928-6847

---

The information contained in this message is intended only for the recipient, and may be a confidential attorney-client communication or may otherwise be privileged and confidential and protected from disclosure. If the reader of this message is not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, please be aware that any dissemination or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by replying to the message and deleting it from your computer. S&P Global Inc. reserves the right, subject to applicable local law, to monitor, review and process the content of any electronic message or information sent to or from S&P Global Inc. e-mail addresses without informing the sender or recipient of the message. By sending electronic message or information to S&P Global Inc. e-mail addresses you, as the sender, are consenting to S&P Global Inc. processing any of your personal data therein.

---  
Hilaria Bauer, Ph.D.  
Superintendent

---  
Hilaria Bauer, Ph.D.  
Superintendent





UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION

San Francisco Regional Office  
44 Montgomery Street, Suite 2800  
San Francisco, CA 94104

DIVISION OF ENFORCEMENT

Jason Lee  
Senior Counsel  
415-705-2481

October 3, 2017

Via U.S. Mail & E-mail

Alum Rock Union Elementary School District  
c/o Dr. Hilaria Bauer, Superintendent  
2930 Gay Avenue  
San Jose, CA 95127

Re: In the Matter of Alum Rock Union Elementary School District (SF-4170)

Dear Dr. Bauer:

The staff of the San Francisco Regional Office of the United States Securities and Exchange Commission is conducting an investigation in the matter identified above. The enclosed subpoena has been issued to Alum Rock Union Elementary School District ("Alum Rock") as part of this investigation. The subpoena requires Alum Rock to provide us documents.

Please read the subpoena and this letter carefully. This letter answers some questions you may have about the subpoena. You should also read the enclosed SEC Form 1662. If Alum Rock does not comply with this subpoena, the SEC may bring an action in Federal Court to enforce this subpoena. Failure to comply with a court order enforcing this subpoena may result in the court imposing a fine, imprisonment or both.

Producing Documents

*What materials do I have to produce?*

The subpoena requires Alum Rock to provide us the documents described in the attachment to the subpoena. Alum Rock must provide these documents by October 25, 2017. The attachment to the subpoena defines some terms (such as "document") before listing what Alum Rock must provide.

Alum Rock should produce each and every document in its possession, custody, or control, including any documents that are not in Alum Rock's immediate possession but that Alum Rock has the ability to obtain. All responsive documents shall be produced as they are kept in the usual course of business, and shall be organized and labeled to correspond with the

Alum Rock Union Elementary School District  
c/o Dr. Hilaria Bauer, Superintendent  
October 3, 2017  
Page 2

numbered paragraphs in the subpoena attachment. In that regard, documents should be produced in a unitized manner, *i.e.*, delineated with staples or paper clips to identify the document boundaries.

Documents responsive to this subpoena may be in electronic or paper form. Electronic documents such as email should be produced in accordance with the attached document entitled SEC Data Delivery Standards (the "Standards"). If you have any questions concerning the production of documents in an electronic format, please contact me as soon as possible but in any event before producing documents. **All electronic documents responsive to the document subpoena, including all metadata, must also be secured and retained in their native software format and stored in a safe place.**

For documents in paper format, Alum Rock may send the originals, or, if Alum Rock prefers, it may send copies of the originals. The Commission cannot reimburse Alum Rock for the copying costs. If Alum Rock is sending copies, the staff requests that Alum Rock scan (rather than photocopy) hard copy documents and produce them in an electronic format consistent with the Standards. Alternatively, Alum Rock may send us photocopies of the documents in paper format. **If Alum Rock chooses to send copies, Alum Rock must secure and retain the originals and store them in a safe place.** The staff may later request or require that Alum Rock produce the originals.

Whether Alum Rock scans or photocopies documents, the copies must be identical to the originals, including even faint marks or print. Also, please note that if copies of a document differ in any way, they are considered separate documents and Alum Rock must send each one. For example, if Alum Rock has two copies of the same letter, but only one of them has handwritten notes on it, Alum Rock must send both the clean copy and the one with notes.

If Alum Rock does send us scanned or photocopied documents, please put an identifying notation on each page of each document to indicate that Alum Rock produced it, and number the pages of all the documents submitted. (For example, if Jane Doe sends documents to the staff, she may number the pages JD-1, JD-2, JD-3, etc., in a blank corner of the documents.) Please make sure the notation and number do not conceal any writing or marking on the document. If Alum Rock sends us originals, please do not add any identifying notations.

In producing a photocopy of an original document that contains post-it(s), notation flag(s), or other removable markings or attachments which may conceal all or a portion of the markings contained in the original document, photocopies of the original document both with and without the relevant post-it(s), notation flag(s), or removable markings or attachments should be produced.

Alum Rock Union Elementary School District  
c/o Dr. Hilaria Bauer, Superintendent  
October 3, 2017  
Page 3

*Do I need to send anything else?*

Alum Rock should enclose a list briefly describing each item it sends. The list should state to which numbered paragraph(s) in the subpoena attachment each item responds. A copy of the subpoena should be included with the documents that are produced.

Passwords for documents, files, compressed archives, and encrypted media should be provided separately either via email addressed to [ENF-CPU@sec.gov](mailto:ENF-CPU@sec.gov), or in a separate cover letter mailed separately from the data. **Password correspondence should reference case number, case name and requesting SEC staff member.**

Please include a cover letter stating whether Alum Rock believes it has met its obligations under the subpoena by searching carefully and thoroughly for everything called for by the subpoena, and sending it all to us. **Correspondence should reference case number, case name and requesting SEC staff member.**

Please also provide a narrative description describing what Alum Rock did to identify and collect documents responsive to the subpoena. At a minimum, the narrative should describe:

- who searched for documents;
- who reviewed documents found to determine whether they were responsive;
- what sources were searched (e.g., computer files, CDs, DVDs, thumb drives, flash drives, online storage media, hard copy files, diaries, datebooks, planners, filing cabinets, home office, work office, voice mails, home email, webmail, work email, backup tapes or other media);
- what third parties, if any, were contacted to obtain responsive documents (e.g., phone companies for phone records, brokerage firms for brokerage records); and
- where the original electronic and hardcopy documents are maintained and by whom.

For any documents that qualify as records of regularly conducted activities under Federal Rule of Evidence 902(11), please have the appropriate representative(s) of Alum Rock complete a business records certification (a sample of which is enclosed) and return it with the document production.

*What if I do not send everything described in the attachment to the subpoena?*

The subpoena requires Alum Rock to send all the materials described in it. If, for any reason – including a claim of attorney-client privilege – Alum Rock does not produce something called for by the subpoena, Alum Rock should submit a list of what it is not producing. The list should describe each item separately, noting:

- its author(s);

Alum Rock Union Elementary School District  
c/o Dr. Hilaria Bauer, Superintendent  
October 3, 2017  
Page 4

- its date;
- its subject matter;
- the name of the person who has the item now, or the last person known to have it;
- the names of everyone who ever had the item or a copy of it, and the names of everyone who was told the item's contents;
- the reason you did not produce the item; and
- the specific request in the subpoena to which the document relates.

If Alum Rock withholds anything on the basis of a claim of attorney-client privilege or attorney work product protection, it should identify the attorney and client involved. If Alum Rock withholds anything on the basis of the work product doctrine, it should also identify the litigation in anticipation of which the document was prepared.

If documents responsive to this subpoena no longer exist because they have been lost, discarded, or otherwise destroyed, Alum Rock should identify such documents and give the date on which they were lost, discarded or destroyed.

*Where should I send the materials?*

Please send the materials to:

ENF-CPU  
U.S. Securities and Exchange Commission  
100 F St., N.E., Mailstop 5973  
Washington, DC 20549-5973

For smaller electronic productions under 10MB in size, the materials may be emailed to the following email address: [ENF-CPU@sec.gov](mailto:ENF-CPU@sec.gov).

**Other Important Information**

*May I have a lawyer help me respond to the subpoena?*

Yes. Alum Rock has the right to consult with and be represented by its own lawyer in this matter. We cannot give you legal advice.

*What will the Commission do with the materials I send?*

The enclosed SEC Form 1662 explains how we may use the information Alum Rock provides to the Commission. This form also has other important information for Alum Rock. Please read it carefully.

Alum Rock Union Elementary School District  
c/o Dr. Hilaria Bauer, Superintendent  
October 3, 2017  
Page 5

*Has the Commission determined that anyone has done anything wrong?*

This investigation is a non-public, fact-finding inquiry. We are trying to determine whether there have been any violations of the federal securities laws. The investigation and the subpoena do not mean that we have concluded that you or anyone else has violated the law. Also, the investigation does not mean that we have a negative opinion of any person, entity or security.

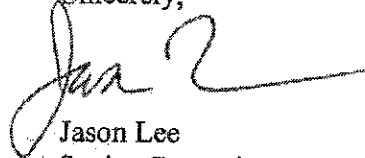
*Important Policy Concerning Settlements*

Please note that, in any matter in which enforcement action is ultimately deemed to be warranted, the Division of Enforcement will not recommend any settlement to the Commission unless the party wishing to settle certifies, under penalty of perjury, that all documents responsive to Commission subpoenas and formal and informal document requests in this matter have been produced.

*I have read this letter, the subpoena, and the SEC Form 1662, but I still have questions. What should I do?*

If you have any other questions, you may call me at 415-705-2481.

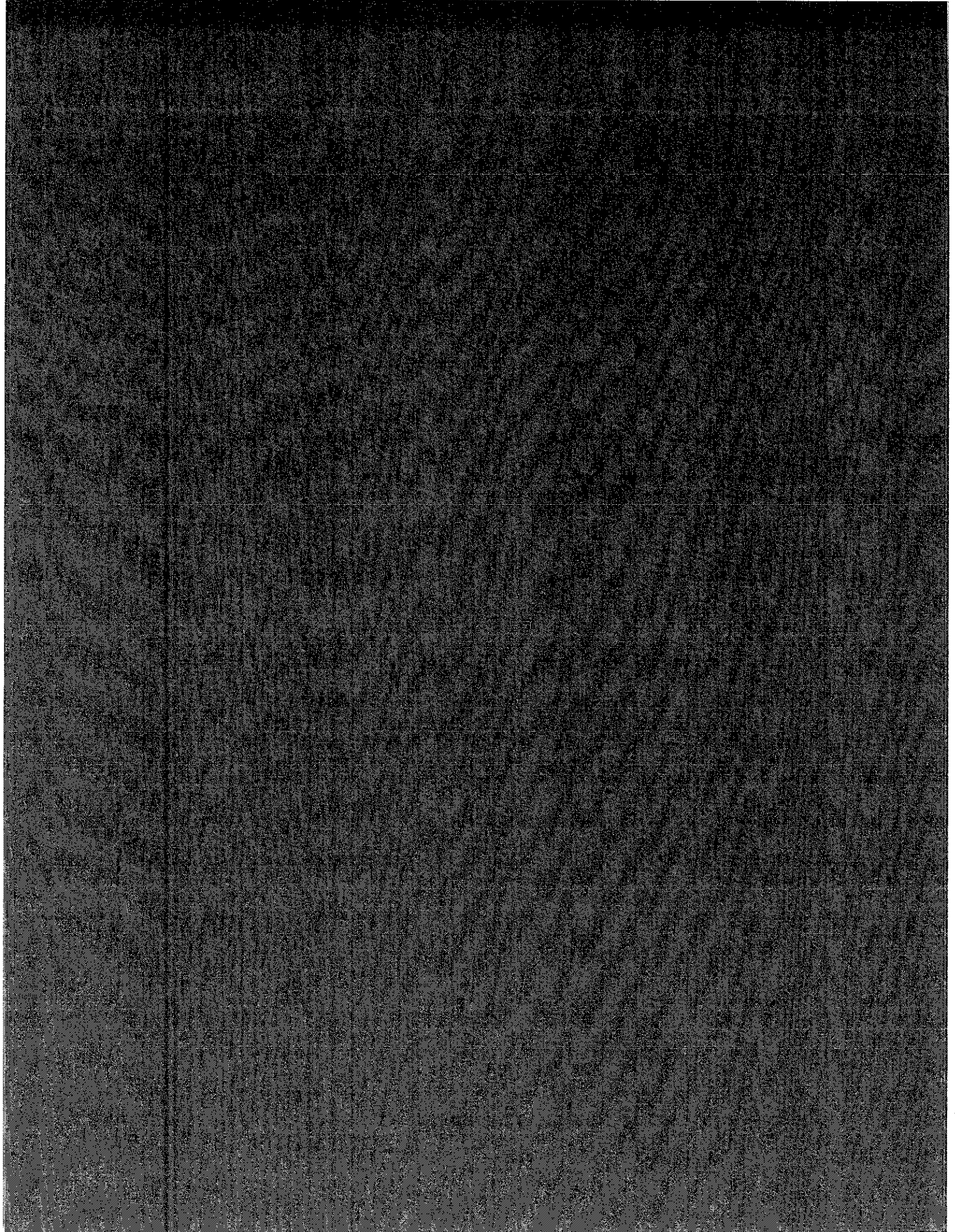
Sincerely,



Jason Lee  
Senior Counsel  
Division of Enforcement

Enclosures: Subpoena and Attachment  
SEC Data Delivery Standards  
SEC Form 1662  
Business Records Certification





# Re: Additional Monies

Kolvira Chheng <kolvira.chheng@arUSD.org>

Mon 4/2/2018 9:33 PM

To: Maribel Medina <mmedina@leal-law.com>;

Cc: Esau Herrera <esaulawyer@gmail.com>; Hilaria Bauer <hilaria.bauer@arUSD.org>; Francisco Leal <hfl@leal-law.com>;

📎 1 attachments (266 KB)

QSCB 2010 Series A B Repayment Schedule\_2.28.18\_Final\_KC.pdf;

Hello Maribel,

Please see my responses in red below embedded in your questions.

Thanks.

Kolvira Chheng  
Assistant Superintendent of Business Services  
Alum Rock Union School District  
2930 Gay Avenue  
San Jose, CA 95127  
(408) 928-6847

On Wed, Mar 28, 2018 at 5:19 PM, Maribel Medina <mmedina@leal-law.com> wrote:

Hi Kolvira,

Thank you very much for your prompt response.

According to the attached documents, the proposed \$14 million ( The schedule I provided per attached file reflects \$12.8M in funding) for repayment of the COPs comes from three sources:

1. State modernization matching funds currently on deposit in the County School Facility Fund (Fund 35);

2. Developer Feed currently on deposit in the capital facility fund (Fund 25)
3. Unallocated balance currently on deposit in the Self Insurance Fund (Fund 67)

Do you have an exact breakdown of how much is coming from each fund? See attachment. Are Funds 35 and 25 with the County treasurer or SCCOE? They are both with the County Treasurer.

Is the Self Insurance Fund a restricted fund pursuant to any agreement with the District's JPA? It seems odd to be using funds from the Self Insurance for facilities needs. Do you have the total amount in the Self Insurance Fund. Fund 67, Self Insurance Fund, is used to account for both workers' compensation insurance and health and welfare benefits. At one point, the District was self insured for both programs. The District has transitioned to being fully insured for both programs. For workers' compensation, although the District is fully insured, it still has open claims that dated back prior to the District becoming fully insured. Until said claims are all closed out, it's difficult to determine the exact amount that will remain at the end but the District believe it would be able to utilized \$1.8M and will be able to cover the liability for the open claims. Health and Welfare program does not have any open claims, thus no potential risk.

The Resolution asks for authorization from the Board to set up restricted accounts. Are the restricted accounts set up with the County Treasurer or with Private Banks? This is more of an internal process. Consistent with GASB 54 and the resolution that the Board recently approved, if funds are transferred to the General Fund which will be the case with funds currently in the Self Insurance Fund, they will need to be committed and reflected in the component of fund balance in its SACS financial report. Funds that remains in the Capital Project Funds such as Funds 25 and 35, they are automatically considered to be assigned fund balance at a minimum, thus no further action is needed. Are the monies in the restricted accounts included in the budget approved by the Board? Yes, they will be included the District's overall budget, except for the \$2.8M currently being held with US Bank as part of an agreement to maintain a reserve for the repayment of COPs. For clarification, the \$2.8M is included in \$12.8M identified in the attached file. It's part of the total reflected in Fund 35.

If the District opens accounts with private Banks, who selects the bank? The District would select private bank. Funds that are required to be maintained by the County Treasurer will need to use Wells Fargo. Who is/are the authorized signatories? They are Dr. Bauer, Efrain Robles (Director of Fiscal Services) and myself.

Does the District have a master list of all existing separate restrict accounts, including account numbers and balance of each account? We will need to compile this for you.

Thank you,

Maribel

Maribel S. Medina

Partner

LEAL TREJO APC

H. FRANCISCO LEAL  
WILLIAM J. TREJO  
MARIBEL S. MEDINA  
DAVID J. ALVAREZ  
MICHAEL E. WOLFSOHN  
DENISE A. MARTINEZ  
JENNIFER A. CHAMBERLAIN  
ARTURO N. FIERRO  
ANA MARIA QUINTANA

3767 WORSHAM AVENUE  
LONG BEACH, CALIFORNIA 90808  
(213) 628-0808  
FAX (213) 628-0818  
WWW.LEAL-LAW.COM

## MEMORANDUM

\*\*\*CONFIDENTIAL\*\*\*

THIS MATERIAL IS SUBJECT TO THE  
ATTORNEY-CLIENT AND/OR THE ATTORNEY  
WORK PRODUCT PRIVILEGES. DO NOT DISCLOSE  
THE CONTENTS HEREOF. DO NOT FILE WITH  
PUBLICLY ACCESSIBLE RECORDS.

To: Honorable President Herrera and Members of the Board

From: H. Francisco Leal *H. Leal*  
Maribel S. Medina

Date: May 29, 2018

RE: Update Regarding Superintendent Bauer's Authorization of Over Two Million Dollars in  
Payments to Har-Bro Northern California, Inc.

---

At the Board meeting of April 12, 2018, we provided the Board an analysis of whether awarding of a contract to Har-Bro Northern California, Inc., in violation of the Education Code, public procurement laws, and Board Policies, and authorization of payments, totaling more than Two Million Dollars (\$2,000,000.00) to Har-Bro without Board approval or ratification constitutes a breach of fiduciary obligations to the District and misappropriation of public funds. The brief answer previously provided to the Board was that the California Supreme Court in *People v. Hubbard* (2016) 63 Cal. 4<sup>th</sup> 378, held, "where a superintendent [has] explicit contractual responsibilities to oversee the 'budget and business affairs' of the district, superintendent owed a duty to safeguard school district funds, and superintendent had a responsibility to ensure such public funds were spent in accordance with the law."

We further stated that the facts, documents and analysis in the Rogelio Ruiz of Rehon & Roberts Mathson Fire Investigation Report, dated July 13, 2017, support the conclusion that District's funds were not spent in accordance with the law, as mandated in *People v. Hubbard*. In our Report, dated April 11, 2018, we also indicated that there had been allegations that Dr. Bauer's

husband had a previous relationship with Har-Bro, but we were unable to determine if there was a financial interest since Dr. Bauer's Form 700s did not include any income for her husband. In closed session, the Board asked Dr. Bauer if her husband had any prior relationship with Har-Bro. Dr. Bauer responded that he had not.

In addition, we informed the Board that Daniel Flores had disclosed that he was previously employed by Har-Bro. However, his Form 700 did not disclose any income from Har-Bro. The Board therefore directed that we interview Dr. Bauer, who personally authorized \$1,036,744.01 in payments to Har-Bro and Kolvira Chheng who also authorized the payments. Neither Dr. Bauer nor Mr. Chheng had been previously interviewed regarding the Mathson matter. The Board also directed a follow up interview with Daniel Flores.

**Interview with Dan Flores:**

Mr. Flores indicated that he had worked for Har-Bro for approximately 10 years. He indicated that on or about January 2015 he received a phone call from Dr. Bauer asking if he was interested in working for the District as the Director of Maintenance, Operations, and Transportation. ("MOT"). He agreed to accept the employment. He continued working with Har-Bro through February 2015 and began working with the District on March 30, 2015. The Board agenda for March 4, 2015 agendaed under closed session, "Public Employee Appointment/ Employment [Government Code section 54957]—Title: MOT." The minutes under Report of action Taken in Closed Session, state, "Superintendent Hilaria Bauer reported that the Board by a vote of 5 in favor, no opposition, no absent, and no abstention, took action to approve the employment of Mr. Daniel Flores as the District Director of Maintenance and Transportation (MOT) effective on Monday, March 9, 2015." (Exhibit 1).

Mr. Flores indicated that his only prior experience working as an employee of a school district was as a custodian. He indicated that when he assumed the position he did not have any experience with public contracting. He indicated that he was experienced working on insurance projects. Mr. Flores said he had known Dr. Bauer and her husband for years prior to receiving Dr. Bauer's phone call regarding employment with the District. Mr. Flores indicated that during the time he was employed with Har-Bro he had done work at the Faith Baptist Church in San Jose. He stated that the Faith Baptist Church was the church where Dr. Bauer's husband was the pastor. However, Dr. Bauer's husband did not own the building. Mr. Flores indicated that the work he did at the church as repair of water damage and was paid for by the insurance. He did not recall the name of the insurance. Dr. Bauer and her husband knew Har-Bro and Mr. Flores, as a Har-Bro employee, performed the work at the church.

In reviewing Mr. Flores' personnel file, District staff was unable to locate an employment application. Jess Serna, Interim Assistant Superintendent of Human Resources indicated District

staff was unable to find a hard copy or digital copy of Mr. Flores' employment application.<sup>1</sup> Mr. Flores was placed at Step 5 of the Classified Management Schedule and began at a salary of \$123,745. Pursuant to a note in his file, he was placed at the highest step in the salary schedule "per Dr. Bauer." (Exhibit 2). There is no documentation in the personnel file, that the Board approved or ratified Mr. Flores' salary.

Mr. Flores completed a Form 700 on March 30, 2015, when he assumed the position. In his Form 700 he did not identify Har-Bro as a source of income. He admitted he received salary from Har-Bro through February 2015. The District was not able to locate Mr. Flores' Form 700s for 2016 or 2017. During the interview Mr. Flores indicated he had completed the Form 700s for 2016 and 2017 but did not have copies.

Mr. Flores recounted the Mathson fire incident. He indicated the fire happened February 27, 2016, on a Saturday. He, Dr. Bauer and other individuals went out to the site. Mr. Flores indicated Dr. Bauer instructed him to have the repairs done so that school would not be interrupted on Monday. He stated, Sandra Harrington, Assistant Superintendent of Business suggested he contact Har-Bro, since he had previously worked for them.<sup>2</sup> He contacted Har-Bro that same day and entered into a contract with them that same day. Mr. Flores stated that Dr. Bauer was informed that he was entering into the contract with Har-Bro that same day.

Mr. Flores stated he did not inform the Board when the Board declared the emergency or adopted the Resolution delegating contract authority. He stated he was doing what he was told. During the interview Mr. Flores repeated that he had significant experience on insurance projects. Although initially the only damage that was identified was fire to one classroom, he identified water damage to 2 additional classrooms. As the project progressed Mr. Flores knew of smoke damage to 16 additional classrooms.

Mr. Flores indicated that the \$800,000 variance between what the District had billed Zurich insurance and what Har-Bro was paid was the amount of damage to "content." He then showed an e-mail that had been prepared by District staff valuing the loss of "content" at \$2,500. He would not agree to provide a copy. When asked how the valuation of content loss went from \$2,500 to over nearly one million dollars, Mr. Flores indicated he retained professional appraisers, SRH Restoration, Inc. Zurich insurance would not authorize retaining SRH so Mr. Flores directed Har-Bro to hire SRH as subcontractors. SRH was also hired on September 27, 2016, the same day as the fire. Mr. Flores indicated Dr. Bauer was aware Mr. Flores had contacted Har-Bro to direct them to subcontract with SRH.

---

<sup>1</sup> Jess Serna contact Dr. Elizondo, the previous Assistant Superintendent of Human Resources who recalled a hard copy of Mr. Flores' employment application, but he did not have a copy.

<sup>2</sup> Sandra Harrington no longer works for the District.

### Interview with Dr. Bauer:

Dr. Bauer requested that the SCCOE fiscal advisor, Dr. Gillespie sit in on the interview. He did. Dr. Bauer acknowledged she had called Mr. Flores on or about January 2015 and asked him to apply for the position as Director of MOT. Dr. Bauer did not disclose to the Board that she had called Mr. Flores to apply for the position. Dr. Bauer acknowledged knowing that Mr. Flores' only prior experience with a school district was as a custodian. She indicated that she did not know whether or not he was familiar with procurement laws.

She initially maintained her position that neither Har-bro nor Mr. Flores had a prior relationship with her husband. When informed that Mr. Flores had disclosed during his interview, that while he was employed by Har-Bro he had done insurance work at the church where Dr. Bauer's husband worked as a pastor, she conceded she knew. She indicated, however, that the work had been done years earlier and that the work was paid for through insurance proceeds. She indicated that after the Board meeting she had amended her Form 700s from 2015-2018 to disclose her husband's income. (Exhibit 3).

Dr. Bauer acknowledged that she had been at Mathson the day of the fire. She also indicated that she directed Mr. Flores to take whatever action was necessary to ensure the school could open that Monday. Dr. Bauer was aware that Mr. Flores had contracted with Har-Bro the day of the fire. Dr. Bauer acknowledged that she did not disclose to the Board either when they adopted the Emergency Resolution or when the resolution delegating to her the authority to contract, that Har-bro had already been retained, nor did she disclose the Board that SRH had also been retained at Mr. Flores' direction. Dr. Bauer was aware that Mr. Flores had been authorizing Har-Bro change orders. Sandra Harrington, the CBO at the time did not sign the change orders. Dr. Bauer acknowledged that she had signed change orders totaling \$1,036,744

Dr. Bauer indicated that when she arrived at the Mathson fire she witnessed "a lot of damage." She indicated she witnessed damage to 5-7 classrooms. Dr. Bauer was aware that staff had valued the loss of the content at \$2,500 and that SRH had increased the loss to \$800,00. She indicated that she had never disclosed to the Board the difference in valuation, nor had she advised the Board that the District had received the additional money.

### Interview of Kolvira Chheng:

Although Mr. Chheng himself was not interviewed for the Rogelio Ruiz Investigation, he sat on two interviews with Mr. Flores. Mr. Chheng began signing change orders on or about February 2017 after he was promoted to CBO. Mr. Chheng was aware that his predecessor Ms. Harrington had not signed change orders, and that prior to his promotion Dr. Bauer signed the change orders.

## LEGAL ISSUES

## Department of State Architect Documents

The Department of State Architect website shows that Mathson fire project as completed on 9/13/2017, but has not received all the documents for DSA closeout. The site also lists the project cost as \$350,000 rather than the \$2.1 million that was paid to Mathson. We have contacted the architects of record for this project, Sugimura Finney Architects to determine if they can clarify the discrepancy in project cost. (Exhibit 4).

### Political Reform Act

The Political Reform Act ("PRA") prohibits any public official from making, participating in making, or using his or her position to influence a governmental decision in which the official has a financial interest. (Government Code Section 87100)<sup>3</sup>. By Regulation, the Fair Political Practices Commission ("FPPC") has adopted a process for the analysis of conflict of interest. (Cal.Regs. tit. 2 ("Regulation")§18700). This process and our analysis, given the facts as we currently know them, are set forth below.

#### *1. Public Official*

Dr. Bauer as the Superintendent and Chief Executive Officer of the District is considered a public official. Mr. Flores, as the Director of MOT with contracting authority is also considered a public official.

#### *2. Financial Interest*

Dr. Bauer:

Dr. Bauer's amended Forms 700 disclose for 2014 and 2015 Faith Baptist Church as a source of income. Dr. Bauer disclosed that Har-Bro and Mr. Flores had been retained to perform repair work at the Faith Baptist Church. The relevant PRA section for Dr. Bauer is the following:

An interest in a business entity in which the official has a direct or indirect investment of \$2,000 or more (Section 87103(a); Regulation 18703.1(a)); or in which the official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d); Regulation 18703.1(b)).

Neither Dr. Bauer nor Mr. Flores recalled the date when the work was done. Dr. Bauer indicate that the building itself is owned by someone other than Dr. Bauer or her husband and his salary as a Pastore is a set amount. In addition, the work performed by Har-Bro was repaid work of water damage. Assuming the work was performed prior to 2014 and Dr. Bauer's spouse's income was not dependent on the contract awarded Har-Bro, Dr. Bauer does not appear to have a financial interest.

---

<sup>3</sup> All references are to the Government Code unless otherwise indicated.



Mr. Flores

A public official has a financial interest in any person from whom he or she has received income aggregating \$500 or more within 12 months prior to when the relevant government decision is made. (§87103(c)); Regulation 2 §18703.3). Although Mr. Flores' Form 700 did not disclose Har-Bro as a source of income, he disclosed that he was employed by Har-Bro through February 2015 and received income from Har-Bro totaling more than \$500 in the 12 months prior to his employment. Therefore, from April 2014 through April 2015, Har-Bro was a source of income to Mr. Flores.

However, the PRA does provide for an exception for income from a former employer (Regulation §18703.3(b)) Under this exception, an official does not have an interest in a former employer as a source of income if: "All income from the employer was received by or accrued to the public official prior to the time he or she became a public official; the income was received in the normal course of the previous employment; and there was no expectation by the public official at the time he or she assumed office of renewed employment with the former employer." (*Id.*)

According to the Board minutes from the Board meeting March 4, 2015, Mr. Flores assumed his position as Director of MOT on March 5, 2015. Therefore, so long as all income from Har-Bro was accrued and received prior to Mr. Flores assuming office and he does not have an expectation of renewed employment with the firm, the exception for income from a former employee applies. During the interview, Mr. Flores stated that if he was let go from the District he would seek reemployment with Har-Bro. We cannot reach a definitive conclusion on whether or not the former employer exception applies, without reviewing documentation confirming that all income and payments from Har-Bro were accrued and paid prior to assuming the position with the District. A trier of fact could also determine Mr. Flores statement that if he was let go by the District he would seek employment with Har-Bro constitutes expectation of renewed employment, in which case, the exception would not apply and Mr. Flores will be deemed to have a financial interest in the awarding of the Har-Bro decision.

### *3. Making, Participating in Making, or Influencing a Governmental Decision*

The PRA's conflict of interest provisions apply only where a public official "make[s] participate[s] in making or in any way attempt[s] to use [her]/his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest." (§87100; Regulation §18700(b)(2).) The FPPC has adopted a series of regulations which define "making", "participating in making" and "influencing" a government decision.

A public official "makes a government decision" when the official, acting within the authority of his or her office or position, votes on a matter, obligates or commits his or her agency to any course of action, or enters into any contractual agreement on behalf of his or her agency. (Regulation §18702.2). Here, Mr. Flores, in his capacity as Director of MOT, contacted Har-Bro directly and entered into a contract for services, a contract which he signed. Dr. Bauer, in her capacity as Superintendent authorized 25 change orders, and \$2.1 million dollars in payment to Har-Bro. Also relevant for his step of the analysis is the fact that the initial contract and subsequent

change orders were done in violation of procurement laws and the Education Code and that during the year and a half period never disclosed to the Board.

### Statements of Economic Interest (Form 700)

The PRA requires all public official designated by the District's conflict-of-interest code to file a Form 700, Statement of Economic interest upon assuming office, and every year thereafter. When individuals are required to file a Form 700 they must disclose any investment, business position, interest in real property or source of income that that foreseeably be affected by a decision made in their official capacity. (§87302(a)).

Failure to properly file the Form 700 is generally punished through administrative fines (up to \$10,000 per violation). In cases of particularly egregious behavior, civil and criminal penalties may be imposed as well. (Penal Code Section 118(a); §87100 et. seq.). Mr. Flores did not disclose his income from Har-Bro when he assumed the position in March 2015. The District did not have Mr. Flores' Form 700 for 2016 or 2017. Dr. Bauer did not disclose her spouse's income in her Form 700s from 2014-2018. After the closed session in April 2018, Dr. Bauer filed amendments to the Form 700s for the referenced dates disclosing her spouse's income. The signature block in the Form 700 reads, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct." Both Dr. Bauer and Mr. Flores signed the Forms under penalty of perjury.

### SEC Disclosures

The Board had directed Dr. Bauer to meet with the District's legal counsel and disclose what information she had provided the SEC in her official position as the Superintendent. Although Dr. Bauer agreed to the meeting, at the meeting she refused to disclose any information. She was reminded that her employer, the Board of Education directed her to disclose the information in order to ensure the District and Board complied with the Federal Securities Laws, both under the existing bond program and in the contemplated bond issuance.

Dr. Bauer was reminded that she had also refused to meet with the S & P, after she was cautioned by the District's legal counsel to ensure any statements to the rating agencies were accurate and verified. Dr. Bauer indicated that she did not meet with S & P at legal counsel's direction. Dr. Bauer was provided the attached e-mails from legal counsel contradicting her position, including the directive she had given her staff not to participate in the S & P meeting. Shortly thereafter, S & P issued the District's downgrade. Moody's had issued their rating without a downgrade one week earlier. The Moody's report included information related to FCMAT, District Attorney and SEC investigation, yet did not result in a downgrade.

Kolvira Chheng was also interviewed regarding S & P and the SEC matter and also refused to answer any questions, unless the Board of Education issued a directive that he had to respond.

### Conclusion

The Rehon & Roberts Investigation Report, and our previous report documents a failure to follow procurement laws and failure to disclose the contracts, change orders and expenditures to the Board over a year and half period. These interviews revealed prior relationships that, at minimum, should have been disclosed to the Board, but likely implicate conflict of interest laws. Dr. Bauer is entrusted with taking personnel decisions, contracts and expenditures to the Board and ensuring the Board's direction is carried out in compliance with the law. There is no evidence that Dr. Bauer ever obtained the Board's approval of Mr. Flores compensation. Further, the absence of any employment application, coupled with Dr. Bauer's directive to award Mr. Flores the highest salary in the salary schedule is highly problematic, and not in compliance with the Education Code. Even in light of these undisputed violations of law, Dr. Bauer continues to refuse to disclose to the Board information that is critical to the District and Board's legal disclosure requirements.

We are seeking the Board's directive on how to proceed.





**Wednesday, March 4, 2015  
Special Board Meeting**

**Type: Special Board Meeting/Board Retreat**

**Time: 5:30 p.m.**

**Code: Special #13-14/15**

**Location: Alum Rock Union Elementary School District, 2930 Gay Avenue, San Jose, CA 95127;  
Board Room**

**In compliance with the Americans with Disabilities Act, if you need special assistance in order to participate in the public meeting of the Board of Trustees, please contact the Office of the Superintendent at (408) 928-6822. Notification 72 hours prior to the meeting will enable the District to make reasonable arrangements.**

**1. OPEN SESSION - CALL TO ORDER AND ROLL CALL**

1.01 Call to Order / Roll Call -- President Esau Ruiz Herrera.

1.02 Announcement and Public Comments regarding items to be discussed in Closed Session [Government Code Section 54957.7].

1.03 The Board will adjourn to Closed Session at approximately 5:30 p.m. Open Session will resume at the end of Closed Session in the Board Room at approximately 6:00 p.m.

**2. CLOSED SESSION**

2.01 Discussion/Action; Public Employee Appointment/Employment [Government Code Section 54957] -- Title: MOT Director.

2.02 Discussion/Action; Approve Public Employee Discipline/Dismissal/Release (Government Code Section 54957).

**3. RECONVENE TO OPEN SESSION - DISTRICT OFFICE BOARD ROOM**

3.01 Call to Order and Pledge of Allegiance by President Esau Ruiz Herrera.

3.02 Report of Action Taken in Closed Session.

**4. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD**

4.01 "Requests to Address the Board" provides members of the public an opportunity to speak to the Board. Comments are limited to the matters on the Special Board Meeting Agenda for March 4, 2015.

**5. ADJOURNMENT**

5.01 President adjourns the meeting.

**APPROVED MINUTES  
ALUM ROCK ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue  
San Jose, CA 95127**

**MINUTES OF A SPECIAL BOARD MEETING OF THE BOARD OF TRUSTEES  
of the Alum Rock Union Elementary School District  
Held on Wednesday, March 4, 2015, 5:30 p.m. at the Alum Rock Union Elementary  
School District Office Board Room, 2930 Gay Avenue, San Jose, CA 95127  
Meeting #13-14/15**

**1. OPEN SESSION – CALL TO ORDER AND ROLL CALL**

**1.01 Call to Order and Roll Call**

President Esau Ruiz Herrera called the March 4, 2015 Special Board Meeting to order at 5:30 p.m. followed by Roll Call.

Board Members Present:

Esau Ruiz Herrera	President
Dolores Marquez	Vice-President
Khanh Tran	Clerk
Karen Martinez	Member
Andrés Quintero	Member

Administrative and Support Staff Members Present:

Hilaria Bauer	Superintendent
Marie Sanchez	Recording Secretary

President Esau Ruiz Herrera welcomed everyone in the audience.

**1.02 Announcement and Public Comments Regarding Items to be Discussed  
in Closed Session**

President Esau Ruiz Herrera announced the items that would be discussed in Closed Session.

There were no public comments from the audience at this time.

**1. OPEN SESSION – CALL TO ORDER AND ROLL CALL** *(continued)*

**1.03 The Board will Adjourn to Closed Session at Approximately 5:30 p.m. Open Session will Resume at the end of Closed Session at approximately 6:00 p.m.**

The Board recessed to Closed Session at 5:32 p.m.

President Esau Ruiz Herrera announced that the Board would reconvene back to Open Session at approximately 6 p.m.

**3. RECONVENE TO OPEN SESSION – DISTRICT OFFICE BOARD ROOM**

**3.01 Call to Order and Pledge of Allegiance by President Esau Ruiz Herrera**

The Board reconvened to Open Session at 6:02 p.m.

President Esau Ruiz Herrera welcomed everyone in the audience. President Esau Ruiz Herrera led the Pledge of Allegiance.

There were no public comments from the audience at this time.

**3.02 Report of Action Taken in Closed Session**

**Item 2.01 Public Employee Appointment/Employment, Title: MOT Director**

Superintendent Hilaria Bauer reported that the Board by a vote of 5 in favor, no opposition, no absent, and no abstention, took action to approve the employment of Mr. Daniel Flores as the District Director of Maintenance, Operations, and Transportation (MOT) effective on Monday, March 9, 2015.

**Item 2.02 Public Employee Discipline/Dismissal/Release**

Superintendent Hilaria Bauer reported that the Board, with a unanimous vote of 5 in favor, took action in accordance with Education Code Section 44951, to direct the Superintendent or her designee, to notify five (5) certificated administrators that he/she may be released/or reassigned from his/her position for the following school year.

**4. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD**

President Esau Ruiz Herrera reported that there were no speakers from the audience to address the Board at this time.

**5. ADJOURNMENT**

**5.01 President Adjourns the Meeting**

The Board was in consensus to adjourn the meeting.

President Esau Ruiz Herrera adjourned the meeting at 6:04 p.m.

Respectfully submitted,



---

Khanh Tran  
Board Clerk

HB/mcs

Minutes of March 4, 2015  
Special Board Meeting #13-14/15



**APPROVED MINUTES  
ALUM ROCK ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue  
San Jose, CA 95127**

**MINUTES OF A REGULAR BOARD MEETING OF THE BOARD OF TRUSTEES  
of the Alum Rock Union Elementary School District  
Held on Thursday, March 12, 2015, 5:30 p.m. at Fischer Middle School,  
1720 Hopkins Drive, San Jose, CA 95122  
Meeting #14-14/15**

**1. OPEN SESSION**

**1.01 Call to Order / Roll Call**

President Esau Ruiz Herrera called the March 12, 2015 Regular Board Meeting to order at 5:34 p.m. followed by Roll Call.

Board Members Present:

Esau Ruiz Herrera	President
Dolores Marquez	Vice-President
Khanh Tran	Clerk
Karen Martinez	Member
Andrés Quintero	Member

Administrative and Support Staff Members Present:

Hilaria Bauer	Superintendent
Marie Sanchez	Recording Secretary

**1.02 Announcement and Public Comments Regarding Items to be Discussed  
in Closed Session**

President Esau Ruiz Herrera announced the items that would be discussed in Closed Session.

Public Comments:

- 1) Nate Dawson – Lyndale teacher that spoke in favor of settling the contract
- 2) Mariam Martinez – Dorsa teacher that spoke in favor of settling the contract
- 3) Female teacher (no name given) – Teacher that spoke in favor of settling the contract
- 4) Jennifer Dixon – Dorsa teacher that spoke on the employment projection
- 5) Rita Minster – McCollam teacher that spoke in favor of settling the contract
- 6) Cathy Flores – Teacher that spoke in favor of settling the contract
- 7) Shawn Swiss – Dorsa teacher that spoke in favor of settling the contract

**1. OPEN SESSION (continued)**

**1.02 Announcement and Public Comments Regarding Items to be Discussed in Closed Session**

Public Comments:

- 8) Abby Lopes – Sheppard teacher that spoke in favor of settling the contract
- 9) Leti Gutierrez – Teacher that spoke in favor of settling the contract
- 10) Ben Chee – Linda Vista teacher that spoke in favor of settling the contract
- 11) Sandra Rivera – Teacher and AREA Vice-President that spoke in favor of settling the contract
- 12) Deborah McDowell – Lyndale resource teacher that spoke in favor of settling the contract
- 13) Randy Barber – Teacher that spoke in favor of settling the contract
- 14) Jocelyn Merz – AREA president that spoke in favor of settling the contract

**1.03 The Board will Adjourn to Closed Session at Approximately 5:30 p.m.**

The Board recessed to Closed Session at 5:55 p.m. President Esau Herrera announced that the Board would reconvene back to Open Session at approximately 6:35 p.m.

**3. RECONVENE TO OPEN SESSION**

**3.01 Call to Order / Pledge of Allegiance**

The Board reconvened to Open Session at 6:50 p.m. President Esau Herrera welcomed everyone in the audience. President Esau Herrera led the Pledge of Allegiance with the assistance of three students from Fischer Middle School and ACE Charter School.

**3.02 Report of Action Taken in Closed Session**

President Esau Herrera reported that the Board had no reportable action to report at this time.

**3.03 Agenda Review and Adoption**

President Esau Herrera asked to move *Agenda Item 11.01 Approve the 2<sup>nd</sup> Interim Financial Report* after *Agenda Item 4.01 Fischer Middle School Presentation* and then to follow with *Agenda Item 8.01 Multi-Purpose Community Center*.

Superintendent Hilaria Bauer asked to remove *Agenda Item 10.02 Resolution No. 36-14/15 Classified Layoffs for Paraeducators* to a future agenda. The Board had consensus to do this.

#### **4. SPECIAL PRESENTATION/RECOGNITION**

##### **4.01 Fischer Middle School Presentation**

Superintendent Hilaria Bauer introduced Ms. Imee Almazan, Fischer principal who introduced her staff that would be presenting. The following staff members presented a Power Point presentation.

Public Comments:

- 1) Hilaria Bauer - Superintendent
- 2) Lauren Chapman - Counselor
- 3) Katy Grunewald - Teacher
- 4) Crystal Madril - Teacher
- 5) Randy Barber - Teacher
- 6) Lyssa Perry - Vice-Principal
- 7) Imee Almazan - Principal

Board Comments: Esau Herrera.

#### **11. BUSINESS SERVICES**

##### **11.01 Approve the 2<sup>nd</sup> Interim Financial Report**

Superintendent Hilaria Bauer introduced Ms. Dana Taylor, Interim Business Services Officer who gave a Power Point presentation on the 2<sup>nd</sup> Interim Financial Report.

**MOTION #14-01 by Member Andrés Quintero to accept and adopt the 2<sup>nd</sup> Interim Financial Report as presented. MOTION #14-01 was seconded by Vice-President Dolores Marquez and Member Karen Martinez.**

*MOTION #14-01 carried with a vote of 5-0-0-0.*

#### **8. BOND/FACILITIES**

##### **8.01 Multi-Purpose Community Center**

Vice-President Dolores Marquez reported that she had recently met with her Bond/Facilities Committee and the Financial Advisor.

Public Comments:

- 1) Neil Struthers - Adelante parent and community member that spoke about a performance contract

8. **BOND/FACILITIES** *(continued)*

**8.01 Multi-Purpose Community Center**

The following speakers spoke and were in support of the multi-purpose community center at either Fischer or George Middle Schools.

- 2) Leticia Sanchez – Fischer parent
- 3) Guadalupe Arciga – George parent
- 4) Liliana Mireles – George parent
- 5) Daryl Davis – Renaissance parent commented on both centers
- 6) Ernesto Bejarno – Advocate for the City of San Jose
- 7) Julie Pierce – Fischer student
- 8) Hadie Hernandez – Fischer student
- 9) Timothy Nguyen – Fischer student
- 10) Diana Hernandez – Fischer student
- 11) Jesus Gonzales – Fischer student
- 12) Eric Fuerte Diaz – Fischer student
- 13) Miguel Chavez – Cureton and George parent
- 14) Claudia Torres – George parent
- 15) Greg Holt – Cureton and George parent
- 16) Maria Fuerte – Fischer parent
- 17) Pilar Navarrete – George parent
- 18) Bertha Razo – George parent
- 19) Tara Bickford – George parent
- 20) Rosalva Ruvalcaba – George parent
- 21) Adrienne Tejeda – Fischer parent

The Board had discussion on this agenda item.

Public Comments: Hilaria Bauer and Neil Struthers.

Board Comments: Dolores Marquez, Karen Martinez, Andrés Quintero, Khanh Tran, and Esau Herrera.

Additional Board Comments: Khanh Tran, Karen Martinez, and Esau Herrera.

**MOTION #14-02 by Vice-President Dolores Marquez to authorize the planning and construction of the school multi-purpose community center with construction at Fischer Middle School. MOTION #14-02 was seconded by President Esau Herrera.**

President Esau Herrera suggested that he would entertain a motion to access and direct administration and the Superintendent for a 2<sup>nd</sup> multi-purpose community center with construction with brick and mortar from ground up and bring back to the Board at the April meeting.

**8. BOND/FACILITIES** *(continued)*

**8.01 Multi-Purpose Community Center**

Additional Board Comments: Andrés Quintero, Karen Martinez, and Khanh Tran.

After some Board dialogue, Vice-President Dolores Marquez made and amended her previous motion. President Esau Herrera was in consensus to amend his second motion.

**MOTION #14-03 by Vice-President Dolores Marquez to move and bring forward two sites for construction of the school multi-purpose community center at Fischer and George Middle Schools. President Esau Herrera accepted the amended motion. MOTION #14-03 was seconded by President Esau Herrera and Clerk Khanh Tran.**

Board Comment: Andrés Quintero.

*MOTION #14-03 carried with a vote of 5-0-0-0.*

**5. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD**

- 1) Greg Lippman – ACE Creative Arts director
- 2) Rosario Ruiz – ACE parent
- 3) Mario Rosas – ACE parent
- 4) Male speaker – ACE parent
- 5) Grecia Gomez – ACE student
- 6) Karen Lopez – ACE student
- 7) Mark Renderos – ACE student
- 8) Olivia (no last name given) – Somos Mayfair representative
- 9) Maria (no last name given) – Somos Mayfair representative
- 10) Dilza Gonzalez – Somos Mayfair representative

**6. COMMENTS AND COMMUNICATION**

**6.01 Teamsters**

There were no representatives from Teamsters at this time.

**6.02 California School Employee's Association (CSEA)**

There were no representatives from CSEA at this time.

**6. COMMENTS AND COMMUNICATION** *(continued)*

**6.03 Alum Rock Administrator's Association (ARAA)**

Kristin Burt – ARAA President reported that Mr. Doug Kleinhenz, Renaissance I & II principal was awarded the Principal of the Year Award for Region 8; and Ms. Olga Martinez, Adelante Assistant Principal was awarded the Administrator of the Year Award.

Congratulations to Doug and Olga!

**6.04 Alum Rock Educator's Association (AREA)**

Jocelyn Merz – AREA president commented that when there is priority for the students, the monies are made available -- her hope is that the district will soon also find the monies for the settlement of the teacher's contract.

**6.05 Superintendent**

Superintendent Hilaria Bauer announced that Alum Rock School District, Adelante Academy, had been nominated for the Hoffman Award along with Campbell, Moreland, and Oak Grove School Districts.

Superintendent Hilaria Bauer announced that George Middle School is on the run for a Golden Ribbon Award from the State.

Superintendent Hilaria Bauer also reported that 4 additional licenses have been granted for the Kinder Plus Pilot Program to begin on April 6, 2015.

Lastly, Superintendent Hilaria Bauer reported that Fischer Middle School won the Spirit Rally Award, First Place at MESA Day.

**6.06 Board of Trustees/Communications/Comments**

Khanh Tran – Commented that he likes that the board meetings are held at various school sites.

Andrés Quintero – Commented that he is happy that the Board has come together with regards to the community centers and the bargaining units. Trustee Quintero reported that there is a walk-a-thon scheduled for May 29 at Fischer Middle School.

Dolores Marquez – Commented that she is happy the team is moving forward. She announced that she had been invited to the Parent Institute for Quality Education (PIQE) Graduation scheduled for March 18, 2015, 6 pm at Meyer Elementary.

6. COMMENTS AND COMMUNICATION *(continued)*

6.06 Board of Trustees/Communications/Comments

Esau Herrera – Thanked those folks that attended the recent Annual March Madness at William Overfelt High School.

7. PUBLIC HEARING

7.01 Public Hearing Request by Marc Babin to Appeal Compliance Officer Decision Denying Uniform Complaint regarding Physical Education Minutes

*President Esau Herrera opened the Public Hearing at 9:41 p.m.*

Superintendent Hilaria Bauer introduced Ms. Jean Gallagher, Chief Student/Special Services Officer who reported on the responses to Mr. Marc Babin and Cal200's Public Records Act Request to the following:

- 1) Whether Alum Rock Union Elementary School District has a course of study requiring at least 200 minutes of physical education each 10 school days for students in grades one through six;
- 2) Whether Alum Rock Union Elementary School District communicates to its multiple subject teachers that it has a course of study requiring all students in grades one through six to receive at least 200 minutes of physical education each 10 school days;
- 3) Whether Alum Rock Union Elementary School District multiple subject teachers are given the time needed to fulfill the 200 minute mandate;
- 4) What steps Alum Rock Union Elementary School District takes to verify that its multiple subject teachers are providing each student in grades one through six with at least 200 minutes of physical education each 10 school days.

Attorney Luis Saenz reported that the Board decided not to hear the complaint.

**MOTION #14-04 by Member Andrés Quintero to deny the request by Mr. Marc Babin to appeal the Compliance Officer decision denying Uniform Compliant regarding Physical Education minutes. MOTION #14-04 was seconded by Vice-President Dolores Marquez.**

*MOTION #14-04 carried with a vote of 5-0-0-0.*

There were no speakers from the audience at this time.

*President Esau Herrera closed the Public Hearing at 9:46 p.m.*

**8. BOND/FACILITIES**

**8.02 Approve Resolution No. 35-14/15 Resolution of the Board of Trustees of the Alum Rock Union Elementary School District, Santa Clara County, California, Authorizing the Issuance of ARUESD 2015 General Obligation Refunding Bonds, Series A**

President Esau Herrera introduced Mr. Luis Trujillo, Mission Trails President who gave a Power Point presentation on the resolution and the Bond Refinancing Opportunity.

**Summary of Refinancing Opportunity**

Original Bonds from Bond Election 2008 (Measure G)

Authorized amount	\$ 179,000,000
Issued amount	\$ 39,000,328
Currently outstanding	\$38,539,185
Date sold	August 28, 2008
Final maturity	August 1, 2033
Optional call date	August 1, 2018

Proposed Refunding Bonds

Par amount	\$37,800.00
Refunded amount	\$36,990.00
Final maturity (same)	August 1, 2033

Mr. Lalo Trujillo spoke about the interest rate trends from the sale of the bond from January 2008 through January 2015. He also gave a summary of the estimated potential savings.

The Board had dialogue on this agenda item.

**MOTION #14-05 by Vice-President Dolores Marquez to accept and approve Resolution No. 35-14/15 as presented. MOTION #14-05 was seconded by Member Karen Martinez.**

Board Comments: Andrés Quintero, Khanh Tran, Dolores Marquez, and Esau Herrera.

***MOTION #14-05 carried with a vote of 5-0-0.***



**9. SUPERINTENDENT/BOARD BUSINESS**

**9.01 Formal Legal Opinion Regarding Reimbursement by Charter Schools for Underutilized Facilities**

The Board had dialogue on this agenda item.

Public Comment: Hilaria Bauer.

Board Comments: Andrés Quintero, Dolores Marquez, Khanh Tran, and Esau Herrera.

**9.02 Board Created Ad Hoc Committees**

President Esau Herrera suggested that this agenda item be postponed for the next board meeting due to lack of time. The Board was in consensus to postpone this agenda item.

**10. HUMAN RESOURCES**

**10.01 Information Regarding Resignations**

The Board was in consensus to accept the resignations as presented.

**12. CONSENT CALENDAR**

Member Andrés Quintero asked to pull *Agenda Item 12.02 Approve Contracts for Professional Services-Contracts, Contract for Dr. Susan Heredia for separate discussion.*

President Esau Herrera asked to pull *Agenda Item 12.16 Out-of-State-Travel, NALEO Conference, Las Vegas, NV, June 17-19, 2015 for Trustee Quintero for separate discussion.*

**MOTION #14-06** by Vice-President Dolores Marquez to accept and adopt the Consent Calendar as amended. **MOTION #14-06** was seconded by Member Karen Martinez.

*MOTION #14-06 carried with a vote of 5-0-0.*

**12.02 Contracts for Professional Services – Individual Contract for Dr. Susan M. Heredia, \$5,000, Superintendent’s Office**

The Board had dialogue on this agenda item. Superintendent Hilaria Bauer reported that the contract was in the amount of \$5,000 and the Board would decide on how to use the facilitator’s service(s).

12. CONSENT CALENDAR *(continued)*

**12.02 Contracts for Professional Services – Individual Contract for  
Dr. Susan M. Heredia, \$5,000, Superintendent’s Office**

Public Comment: Hilaria Bauer.

Board Comments: Andrés Quintero and Esau Herrera.

**MOTION #14-07 by Member Andrés Quintero to accept and approve the individual contract for Dr. Susan M. Heredia as presented. MOTION #14-07 was seconded by Vice-President Dolores Marquez.**

*MOTION #14-07 carried with a vote of 5-0-0-0.*

**12.16 Out of State Travel, NALEO Conference, Las Vegas, for Trustee  
Andrés Quintero**

The Board had dialogue on this agenda item.

President Esau Herrera recommends to the Board that the Board’s budget be increased to a minimum of \$5,000 for each board member in order to attend professional development conferences throughout the year. He suggested to have a board policy implemented and that the board work on such a policy and report back to him. Vice-President Dolores Marquez was very much in support of his suggestion.

**MOTION #14-08 by President Esau Herrera to accept and approve Agenda Item 12.16 Out-of-State Travel, NALEO Conference, Las Vegas, for Trustee Andrés Quintero as presented. MOTION #14-08 was seconded by Member Karen Martinez.**

*MOTION #14-08 carried with a vote of 5-0-0-0.*

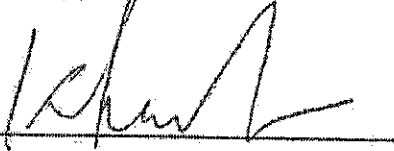
Clerk Khanh Tran suggested that the last item not addressed in Closed Session be moved to the Saturday, March 14<sup>th</sup> special board training. Attorney Luis Saenz agreed that this would be fine except that the agenda would have to be amended and posted by 7:30-8:00 am on Friday, March 13<sup>th</sup> in order to be in compliance with the Brown Act. The Board had dialogue on Trustee Tran’s suggestion. President Esau Herrera stated that he thought their last unaddressed item could be taken care of and addressed at the April board meeting since there were no time constraints to this item. The Board was in consensus with his suggestion.

**13. ADJOURNMENT**

**13.01 President adjourns the meeting**

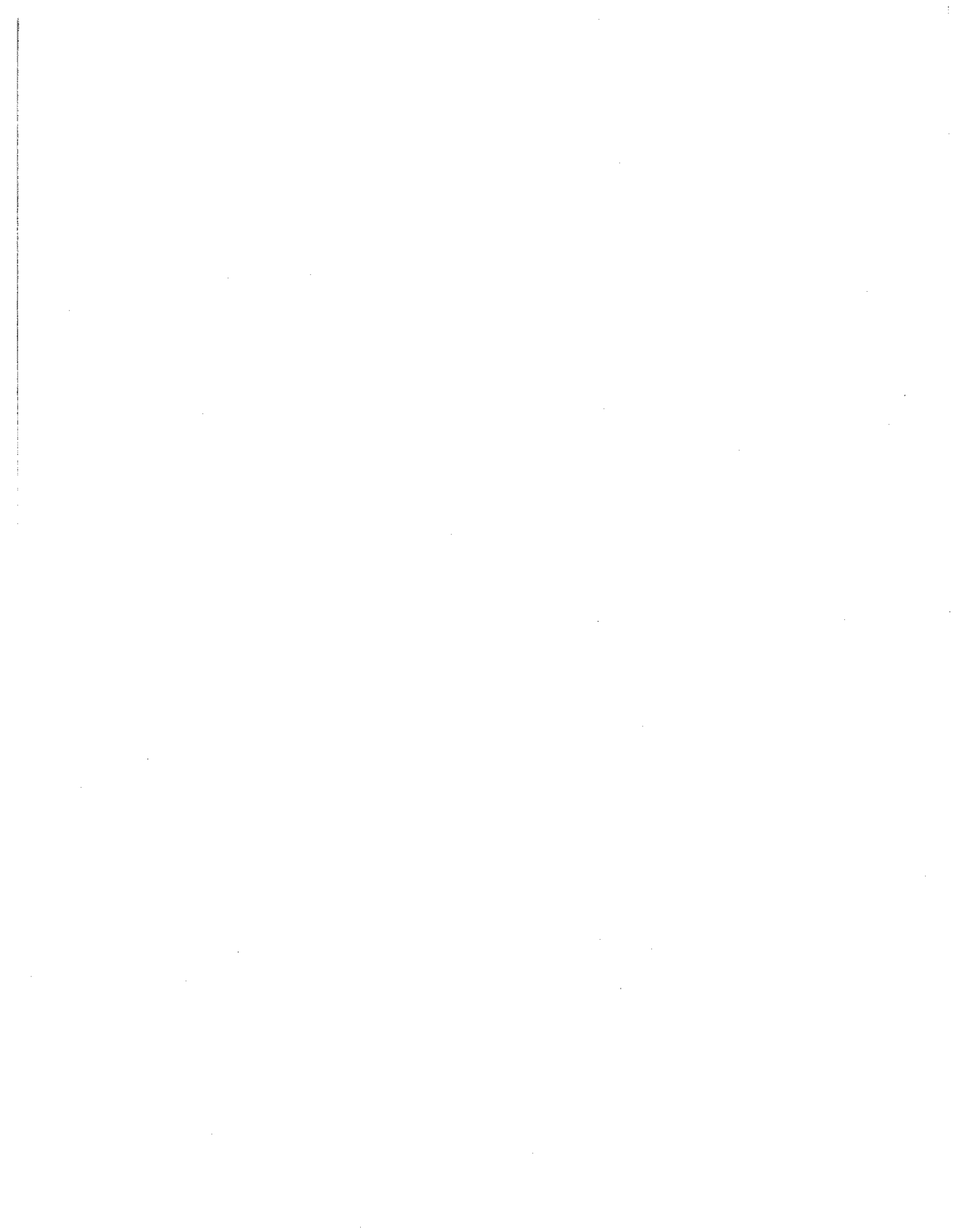
President Esau Ruiz Herrera adjourned the meeting at 10:25 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Khanh', written over a horizontal line.

Khanh Tran  
Board Clerk

HB/mcs



Alum Rock Union Elementary School District  
**CLASSIFIED MANAGEMENT SALARY SCHEDULE**  
 2013-2014 (3%)

Effective: 01/01/14  
 Board Approved: 12/11/2014

Title/Position	Work Year	1	2	3	4	5
Assistant Superintendent	220	\$130,950	\$137,498	\$144,375	\$151,590	\$159,170
Officers	220	\$112,189	\$117,798	\$123,689	\$129,874	\$136,366
Chief Technology Officer						
Director						
Child Nutrition Services						
Fiscal Services	220	\$101,805	\$106,896	\$112,241	\$117,854	\$123,745
Human Resources						
Maintenance, Operations & Transportation						
Internal Auditor	220	\$96,950	\$101,798	\$106,896	\$112,241	\$117,854
Administrator	220	\$87,944	\$92,340	\$96,950	\$101,798	\$106,896
Fiscal Services						
Coordinators/Managers						
Bond Account						
Child Nutrition Services						
Maintenance & Transportation						
Operations & Security	220	\$81,357	\$85,425	\$89,691	\$94,058	\$98,525
Payroll						
Procurement						
Student Information Systems						
State & Federal Programs						

\* Earned Doctorate: \$2,000 on base salary (Hire date after July 1, 2008)

\* Effective July 1, 2014: Longevity Increments (5): \$1,943 at 10, 14, 18, 22 and 25 years of service to the District. For initial placement of new Classified Management employees, relevant outside management experience may be used for placement on the salary schedule, including granting of any longevity increment(s).



**STATEMENT OF ECONOMIC INTERESTS**

**FILED**  
 Date Initial Filing Received  
Official Use Only  
**APR 19 2018**

**COVER PAGE**

COUNTY OF SANTA CLARA  
 Clerk of the Board of Supervisors  
(MIDDLE)

*Please type or print in ink.*

NAME OF FILER (LAST) (FIRST) (MIDDLE)  
 Bauer Hilaria R.

**1. Office, Agency, or Court**

Agency Name *(Do not use acronyms)*  
 Alum Rock Union Elementary School District  
 Division, Board, Department, District, if applicable Your Position  
 Superintendent

► If filing for multiple positions, list below or on an attachment. *(Do not use acronyms)*

Agency: \_\_\_\_\_ Position: \_\_\_\_\_

**2. Jurisdiction of Office** *(Check at least one box)*

- State  Judge or Court Commissioner (Statewide Jurisdiction)  
 Multi-County \_\_\_\_\_  County of \_\_\_\_\_  
 City of \_\_\_\_\_  Other School District

**3. Type of Statement** *(Check at least one box)*

- Annual: The period covered is January 1, 2017, through December 31, 2017.  
 -or-  
 The period covered is 06 / 01 / 2014 through December 31, 2017.  
 Assuming Office: Date assumed 06 / 01 / 2014  
 Leaving Office: Date Left \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
*(Check one)*  
 The period covered is January 1, 2017, through the date of leaving office.  
 -or-  
 The period covered is \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, through the date of leaving office.  
 Candidate: Date of Election \_\_\_\_\_ and office sought, if different than Part 1. \_\_\_\_\_

**4. Schedule Summary (must complete)** ► Total number of pages including this cover page: 12

**Schedules attached**

Schedule A-1 - Investments - schedule attached  
 Schedule A-2 - Investments - schedule attached  
 Schedule B - Real Property - schedule attached  
 Schedule C - Income, Loans, & Business Positions - schedule attached  
 Schedule D - Income - Gifts - schedule attached  
 Schedule E - Income - Gifts - Travel Payments - schedule attached

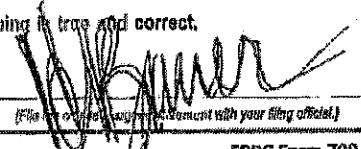
-or-  
 None - No reportable interests on any schedule

**5. Verification**

MAILING ADDRESS STREET CITY STATE ZIP CODE  
*(Business or Agency Address Recommended - Public Document)*  
 2930 Gay Ave. San Jose CA 95127  
 DAYTIME TELEPHONE NUMBER E-MAIL ADDRESS  
 ( 408 ) 928-6822 hilaria.bauer@arusd.org

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 04/19/2018 4/19/18 Signature   
(File this statement with your filing official.)

**SCHEDULE C**  
**Income, Loans, & Business**  
**Positions**  
 (Other than Gifts and Travel Payments)

1. INCOME RECEIVED	1. INCOME RECEIVED
NAME OF SOURCE OF INCOME <u>Faith Baptist Church</u> ADDRESS (Business Address Acceptable) <u>3195 Senter Rd. San Jose, 95111</u> BUSINESS ACTIVITY, IF ANY, OF SOURCE <u>Church</u> YOUR BUSINESS POSITION <u>Pastor</u> GROSS INCOME RECEIVED <input type="checkbox"/> No Income - Business Position Only <input type="checkbox"/> \$500 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000 <input checked="" type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> OVER \$100,000 CONSIDERATION FOR WHICH INCOME WAS RECEIVED <input type="checkbox"/> Salary <input checked="" type="checkbox"/> Spouse's or registered domestic partner's income (For self-employed use Schedule A-2.) <input type="checkbox"/> Partnership (Less than 10% ownership. For 10% or greater use Schedule A-2.) <input type="checkbox"/> Sale of _____ (Real property, car, boat, etc.) <input type="checkbox"/> Loan repayment <input type="checkbox"/> Commission or <input type="checkbox"/> Rental income, list each source of \$10,000 or more _____ (Describe) <input type="checkbox"/> Other _____ (Describe)	NAME OF SOURCE OF INCOME _____ ADDRESS (Business Address Acceptable) _____ BUSINESS ACTIVITY, IF ANY, OF SOURCE _____ YOUR BUSINESS POSITION _____ GROSS INCOME RECEIVED <input type="checkbox"/> No Income - Business Position Only <input type="checkbox"/> \$500 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> OVER \$100,000 CONSIDERATION FOR WHICH INCOME WAS RECEIVED <input type="checkbox"/> Salary <input type="checkbox"/> Spouse's or registered domestic partner's income (For self-employed use Schedule A-2.) <input type="checkbox"/> Partnership (Less than 10% ownership. For 10% or greater use Schedule A-2.) <input type="checkbox"/> Sale of _____ (Real property, car, boat, etc.) <input type="checkbox"/> Loan repayment <input type="checkbox"/> Commission or <input type="checkbox"/> Rental income, list each source of \$10,000 or more _____ (Describe) <input type="checkbox"/> Other _____ (Describe)

Comments: Spouse's Income from January 1, 2014 to December 31, 2018 was \$ 43,000 Annually

**2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PERIOD**

\* You are not required to report loans from commercial lending institutions, or any indebtedness created as part of a retail installment or credit card transaction, made in the lender's regular course of business on terms available to members of the public without regard to your official status. Personal loans and loans received not in a lender's regular course of business must be disclosed as follows:

NAME OF LENDER* _____ ADDRESS (Business Address Acceptable) _____ BUSINESS ACTIVITY, IF ANY, OF LENDER _____ HIGHEST BALANCE DURING REPORTING PERIOD <input type="checkbox"/> \$500 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> OVER \$100,000	INTEREST RATE _____% <input type="checkbox"/> None TERM (Months/Years) _____ SECURITY FOR LOAN <input type="checkbox"/> None <input type="checkbox"/> Personal residence <input type="checkbox"/> Real Property _____ Street address _____ City _____ <input type="checkbox"/> Guarantor _____ <input type="checkbox"/> Other _____ (Describe)
--	---

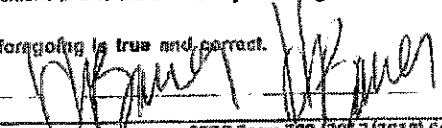
**Filer's Verification**

Print Name Hilaria Bauer Office, Agency or Court ARUESD

Statement Type  2017/2018 Annual  2014 Annual  Assuming  Leaving  Candidate  
 (yr)

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 4/16/18 4/19/18 Filer's Signature 



# SCHEDULE C Income, Loans, & Business Positions (Other than Gifts and Travel Payments)

**CALIFORNIA FORM 700**  
FAMILY POLITICAL PRACTICE COMMISSION  
**AMENDMENT**

▶ 1. INCOME RECEIVED	▶ 1. INCOME RECEIVED										
<b>NAME OF SOURCE OF INCOME</b> Faith Baptist Church	<b>NAME OF SOURCE OF INCOME</b> _____										
<b>ADDRESS (Business Address Acceptable)</b> 3195 Senter Rd. San Jose, 95111	<b>ADDRESS (Business Address Acceptable)</b> _____										
<b>BUSINESS ACTIVITY, IF ANY, OF SOURCE</b> Church	<b>BUSINESS ACTIVITY, IF ANY, OF SOURCE</b> _____										
<b>YOUR BUSINESS POSITION</b> Pastor	<b>YOUR BUSINESS POSITION</b> _____										
<b>GROSS INCOME RECEIVED</b> <table style="display: inline-table; vertical-align: top; margin-left: 20px;"> <tr> <td><input type="checkbox"/> No Income - Business Position Only</td> </tr> <tr> <td><input type="checkbox"/> \$500 - \$1,000</td> </tr> <tr> <td><input type="checkbox"/> \$1,001 - \$10,000</td> </tr> <tr> <td><input checked="" type="checkbox"/> \$10,001 - \$100,000</td> </tr> <tr> <td><input type="checkbox"/> OVER \$100,000</td> </tr> </table>	<input type="checkbox"/> No Income - Business Position Only	<input type="checkbox"/> \$500 - \$1,000	<input type="checkbox"/> \$1,001 - \$10,000	<input checked="" type="checkbox"/> \$10,001 - \$100,000	<input type="checkbox"/> OVER \$100,000	<b>GROSS INCOME RECEIVED</b> <table style="display: inline-table; vertical-align: top; margin-left: 20px;"> <tr> <td><input type="checkbox"/> No Income - Business Position Only</td> </tr> <tr> <td><input type="checkbox"/> \$500 - \$1,000</td> </tr> <tr> <td><input type="checkbox"/> \$1,001 - \$10,000</td> </tr> <tr> <td><input type="checkbox"/> \$10,001 - \$100,000</td> </tr> <tr> <td><input type="checkbox"/> OVER \$100,000</td> </tr> </table>	<input type="checkbox"/> No Income - Business Position Only	<input type="checkbox"/> \$500 - \$1,000	<input type="checkbox"/> \$1,001 - \$10,000	<input type="checkbox"/> \$10,001 - \$100,000	<input type="checkbox"/> OVER \$100,000
<input type="checkbox"/> No Income - Business Position Only											
<input type="checkbox"/> \$500 - \$1,000											
<input type="checkbox"/> \$1,001 - \$10,000											
<input checked="" type="checkbox"/> \$10,001 - \$100,000											
<input type="checkbox"/> OVER \$100,000											
<input type="checkbox"/> No Income - Business Position Only											
<input type="checkbox"/> \$500 - \$1,000											
<input type="checkbox"/> \$1,001 - \$10,000											
<input type="checkbox"/> \$10,001 - \$100,000											
<input type="checkbox"/> OVER \$100,000											
<b>CONSIDERATION FOR WHICH INCOME WAS RECEIVED</b> <input type="checkbox"/> Salary <input checked="" type="checkbox"/> Spouse's or registered domestic partner's income <small>(For self-employed use Schedule A-2.)</small>	<b>CONSIDERATION FOR WHICH INCOME WAS RECEIVED</b> <input type="checkbox"/> Salary <input type="checkbox"/> Spouse's or registered domestic partner's income <small>(For self-employed use Schedule A-2.)</small>										
<input type="checkbox"/> Partnership (Less than 10% ownership. For 10% or greater use Schedule A-2.)	<input type="checkbox"/> Partnership (Less than 10% ownership. For 10% or greater use Schedule A-2.)										
<input type="checkbox"/> Sale of _____ <small>(Real property, car, boat, etc.)</small>	<input type="checkbox"/> Sale of _____ <small>(Real property, car, boat, etc.)</small>										
<input type="checkbox"/> Loan repayment	<input type="checkbox"/> Loan repayment										
<input type="checkbox"/> Commission or <input type="checkbox"/> Rental income, list each source of \$10,000 or more _____ <small>(Describe)</small>	<input type="checkbox"/> Commission or <input type="checkbox"/> Rental income, list each source of \$10,000 or more _____ <small>(Describe)</small>										
<input type="checkbox"/> Other _____ <small>(Describe)</small>	<input type="checkbox"/> Other _____ <small>(Describe)</small>										

**Comments:** Spouse's Income from January 1, 2014 to December 31, 2018 was \$ 43,000 Annually

▶ 2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PERIOD	
* You are not required to report loans from commercial lending institutions, or any indebtedness created as part of a retail installment or credit card transaction, made in the lender's regular course of business on terms available to members of the public without regard to your official status. Personal loans and loans received not in a lender's regular course of business must be disclosed as follows:	
<b>NAME OF LENDER*</b> _____ <b>ADDRESS (Business Address Acceptable)</b> _____ <b>BUSINESS ACTIVITY, IF ANY, OF LENDER</b> _____	<b>INTEREST RATE</b> _____ % <input type="checkbox"/> None <b>TERM (Months/Years)</b> _____
<b>HIGHEST BALANCE DURING REPORTING PERIOD</b> <input type="checkbox"/> \$500 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000 <input type="checkbox"/> \$10,001 - \$100,000 <input type="checkbox"/> OVER \$100,000	<b>SECURITY FOR LOAN</b> <input type="checkbox"/> None <input type="checkbox"/> Personal residence <input type="checkbox"/> Real Property _____ <small>Street address</small> _____ <small>City</small> <input type="checkbox"/> Guarantor _____ <input type="checkbox"/> Other _____ <small>(Describe)</small>

**Filer's Verification**

Print Name Hilaria Bauer    Office, Agency or Court ARUESD

Statement Type     2017/2018 Annual     2015 Annual     Assuming     Leaving     Candidate  
(yr)

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 4/18/18    (month, day, year)    Filer's Signature [Signature]

**SCHEDULE D  
Income - Gifts**

▶ NAME OF SOURCE (Not an Acronym)  
**Del Terra**

ADDRESS (Business Address Acceptable)  
**13181 Crissroads Parkway N St 540 City of Industry, C**

BUSINESS ACTIVITY, IF ANY, OF SOURCE  
**Real State and Construction**

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
10 / 01 / 15	\$ 50.00	Lunch
10 / 02 / 15	\$ 80.00	Dinner
	\$	

▶ NAME OF SOURCE (Not an Acronym)

ADDRESS (Business Address Acceptable)

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
	\$	
	\$	
	\$	

▶ NAME OF SOURCE (Not an Acronym)

ADDRESS (Business Address Acceptable)

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
	\$	
	\$	
	\$	

▶ NAME OF SOURCE (Not an Acronym)

ADDRESS (Business Address Acceptable)

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
	\$	
	\$	
	\$	

▶ NAME OF SOURCE (Not an Acronym)

ADDRESS (Business Address Acceptable)

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
	\$	
	\$	
	\$	

**Filer's Verification**

Print Name **Hilaria Bauer**

Office, Agency or Court **ARUSD**

Statement Type  2017/2018 Annual  Assuming  Leaving  
 <sup>1/1/</sup> 2015 Annual  Candidate

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed **4/18/18** *Hilaria Bauer*

Filer's Signature *Hilaria Bauer*

Comments: \_\_\_\_\_

**SCHEDULE C**  
**Income, Loans, & Business**  
**Positions**  
 (Other than Gifts and Travel Payments)

**1. INCOME RECEIVED**

NAME OF SOURCE OF INCOME  
Faith Baptist Church

ADDRESS (Business Address Acceptable)  
3195 Senter Rd. San Jose, 95111

BUSINESS ACTIVITY, IF ANY, OF SOURCE  
Church

YOUR BUSINESS POSITION  
Pastor

GROSS INCOME RECEIVED  No Income - Business Position Only  
 \$500 - \$1,000  \$1,001 - \$10,000  
 \$10,001 - \$100,000  OVER \$100,000

CONSIDERATION FOR WHICH INCOME WAS RECEIVED  
 Salary  Spouse's or registered domestic partner's income  
 (For self-employed use Schedule A-2.)

Partnership (Less than 10% ownership. For 10% or greater use  
 Schedule A-2.)

Sale of \_\_\_\_\_  
 (Real property, car, boat, etc.)

Loan repayment

Commission or  Rental Income, list each source of \$10,000 or more  
 \_\_\_\_\_  
 (Describe)

Other \_\_\_\_\_  
 (Describe)

**1. INCOME RECEIVED**

NAME OF SOURCE OF INCOME  
 \_\_\_\_\_

ADDRESS (Business Address Acceptable)  
 \_\_\_\_\_

BUSINESS ACTIVITY, IF ANY, OF SOURCE  
 \_\_\_\_\_

YOUR BUSINESS POSITION  
 \_\_\_\_\_

GROSS INCOME RECEIVED  No Income - Business Position Only  
 \$500 - \$1,000  \$1,001 - \$10,000  
 \$10,001 - \$100,000  OVER \$100,000

CONSIDERATION FOR WHICH INCOME WAS RECEIVED  
 Salary  Spouse's or registered domestic partner's income  
 (For self-employed use Schedule A-2.)

Partnership (Less than 10% ownership. For 10% or greater use  
 Schedule A-2.)

Sale of \_\_\_\_\_  
 (Real property, car, boat, etc.)

Loan repayment

Commission or  Rental Income, list each source of \$10,000 or more  
 \_\_\_\_\_  
 (Describe)

Other \_\_\_\_\_  
 (Describe)

Comments: Spouse's Income from January 1, 2014 to December 31, 2018 was \$ 43,000 Annually

**2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PERIOD**

\* You are not required to report loans from commercial lending institutions, or any indebtedness created as part of a retail installment or credit card transaction, made in the lender's regular course of business on terms available to members of the public without regard to your official status. Personal loans and loans received not in a lender's regular course of business must be disclosed as follows:

NAME OF LENDER\* \_\_\_\_\_

ADDRESS (Business Address Acceptable) \_\_\_\_\_

BUSINESS ACTIVITY, IF ANY, OF LENDER \_\_\_\_\_

HIGHEST BALANCE DURING REPORTING PERIOD  
 \$500 - \$1,000  
 \$1,001 - \$10,000  
 \$10,001 - \$100,000  
 OVER \$100,000

INTEREST RATE \_\_\_\_\_%  None

TERM (Months/Years) \_\_\_\_\_

SECURITY FOR LOAN  
 None  Personal residence  
 Real Property \_\_\_\_\_  
 Street address \_\_\_\_\_  
 City \_\_\_\_\_

Guarantor \_\_\_\_\_

Other \_\_\_\_\_  
 (Describe)

**Filer's Verification**

Print Name Hilaria Bauer Office, Agency or Court ARUESD

Statement Type  2017/2018 Annual  2016 Annual  Assuming  Leaving  Candidate  
 (yr)

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 4/18/18 4/19/18 Filer's Signature [Signature]  
 (month, day, year)

**SCHEDULE C**  
**Income, Loans, & Business**  
**Positions**  
 (Other than Gifts and Travel Payments)



**1. INCOME RECEIVED**

NAME OF SOURCE OF INCOME  
Faith Baptist Church

ADDRESS (Business Address Acceptable)  
3195 Senter Rd, San Jose, 95111

BUSINESS ACTIVITY, IF ANY, OF SOURCE  
Church

YOUR BUSINESS POSITION  
Pastor

GROSS INCOME RECEIVED  No Income - Business Position Only  
 \$500 - \$1,000  \$1,001 - \$10,000  
 \$10,001 - \$100,000  OVER \$100,000

CONSIDERATION FOR WHICH INCOME WAS RECEIVED  
 Salary  Spouse's or registered domestic partner's income  
 (For self-employed use Schedule A-2.)

Partnership (Less than 10% ownership. For 10% or greater use  
 Schedule A-2.)

Sale of \_\_\_\_\_  
 (Real property, car, boat, etc.)

Loan repayment

Commission or  Rental income, list each source of \$10,000 or more  
 \_\_\_\_\_  
 (Describe)

Other \_\_\_\_\_  
 (Describe)

**1. INCOME RECEIVED**

NAME OF SOURCE OF INCOME

ADDRESS (Business Address Acceptable)

BUSINESS ACTIVITY, IF ANY, OF SOURCE

YOUR BUSINESS POSITION

GROSS INCOME RECEIVED  No Income - Business Position Only  
 \$500 - \$1,000  \$1,001 - \$10,000  
 \$10,001 - \$100,000  OVER \$100,000

CONSIDERATION FOR WHICH INCOME WAS RECEIVED  
 Salary  Spouse's or registered domestic partner's income  
 (For self-employed use Schedule A-2.)

Partnership (Less than 10% ownership. For 10% or greater use  
 Schedule A-2.)

Sale of \_\_\_\_\_  
 (Real property, car, boat, etc.)

Loan repayment

Commission or  Rental income, list each source of \$10,000 or more  
 \_\_\_\_\_  
 (Describe)

Other \_\_\_\_\_  
 (Describe)

Comments: Spouse's Income from January 1, 2014 to December 31, 2018 was \$ 43,000 Annually

**2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PERIOD**

\* You are not required to report loans from commercial lending institutions, or any indebtedness created as part of a retail installment or credit card transaction, made in the lender's regular course of business on terms available to members of the public without regard to your official status. Personal loans and loans received not in a lender's regular course of business must be disclosed as follows:

NAME OF LENDER*	INTEREST RATE	TERM (Months/Years)
_____	_____ % <input type="checkbox"/> None	_____
ADDRESS (Business Address Acceptable)	SECURITY FOR LOAN	
_____	<input type="checkbox"/> None <input type="checkbox"/> Personal residence	
BUSINESS ACTIVITY, IF ANY, OF LENDER	<input type="checkbox"/> Real Property _____ <small>Street address</small>	
_____	_____ <small>City</small>	
HIGHEST BALANCE DURING REPORTING PERIOD	<input type="checkbox"/> Guarantor _____	
<input type="checkbox"/> \$500 - \$1,000	<input type="checkbox"/> Other _____ <small>(Describe)</small>	
<input type="checkbox"/> \$1,001 - \$10,000		
<input type="checkbox"/> \$10,001 - \$100,000		
<input type="checkbox"/> OVER \$100,000		

**Filer's Verification**

Print Name Hilaria Bauer Office, Agency or Court ARJESD

Statement Type  2017/2018 Annual  \_\_\_\_\_ Annual  Assuming  Leaving  Candidate  
(yr)

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 4/18/18 4/18/18 Filer's Signature [Signature]  
(month, day, year)





Home

**Project Status eTracker**

Inspectors

Accepted Labs

Plan Review Fee Calculator

Project Status Pre-Tracker

Help

## Application Summary

<b>Office ID:</b>	01	<b>Application #:</b>	115900	<b>File #:</b>	43-4
<b>Project Name:</b>	Lee Mathson Middle School				
<b>Project Scope:</b>	Reconstruction of 1-Classroom Building D fire reconstruction				
<b>Address:</b>	1290 Bal Harbor Way				
<b>City:</b>	San Jose	<b>Zip:</b>	95122		
<b>PTN #:</b>	69369-65	<b>OPSC #:</b>			
<b>Project Type:</b>	SCHOOL (K-12)	<b># Of Incr:</b>	0		
<b>Project Class:</b>	Class 2	<b>Special Type:</b>	NA		

Estimated Amt: \$350,000.00 Contracted Amt: \$0.00

Change Order Amt: \$0.00 Final Project Cost: \$0.00

Adj Est.Date#1: Adj Est.Amt#1: \$0.00

Adj Est.Date#2: Adj Est.Amt#2: \$0.00

Received Date: 5/25/2016 Approved Date: 8/18/2016

Approval Ext. Date: Closed Date: 9/13/2017 2:27:09 PM

Incomplete Submittal Complete Submittal Received Date:

SB 575

New Campus  Modernization

	Auto Fire Detection	Sprinkler System
Required	---	---
Included In Plan	---	---

Required review services

<input checked="" type="checkbox"/> Access Compliance	<input checked="" type="checkbox"/> Fire & Life Safety	<input type="checkbox"/> HPS
<input checked="" type="checkbox"/> Structural Safety	<input checked="" type="checkbox"/> Field Review	<input type="checkbox"/> CGS Review

Special review type

<input type="checkbox"/> Class.S Reduction	<input type="checkbox"/> Concurrent Review	Incremental Review
<input type="checkbox"/> Over the Counter		

Energy Efficiency

The Plan meet Title 24 Energy Requirements

Project's new construction exceeds Title 24 by 0%

0%

**Project's modernization exceeds  
Title 24 by**

**Climate Zone:** 0 **Project's Sq.footage:** 0 **EPR Approved Date:**

**HPI:**  **HPI Points:** **HPI Hours:**

**Energy Notes:**

**Client's Notes:** EXPEDITE

## DGS Links

- DGS Home
- DSA Home
- DSA News & Events

## Tracker Links

### Project Status

- Home
- Application Summary
- Project Fee
- Project Schedule
- Service Review Status
- Field Review Status
- Addenda
- Change Orders
- Deferred Approvals
- Revision
- Project Professional
- Project Certification
- Documents Required List



[Privacy Policy](#)

[Accessibility](#)

[Contact Us](#)

Copyright © 2015 State of California



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street • Suite 3000 • Sacramento, CA 95811

August 6, 2018

Savannah Skelton

[REDACTED]  
Long Beach, California 90808

Also sent to: [REDACTED]

Re: FPPC No. 2018-00707; Hilaria Bauer, Daniel Flores

Dear Ms. Stockton:

This letter is to notify you that the Enforcement Division of the Fair Political Practices Commission will investigate the allegation, under the jurisdiction of the Commission, of the sworn complaint you submitted in the above-referenced matter. You will next receive notification from us upon final disposition of the case. However, please be advised that, at this time, we have not made any determination about the validity of the allegation you have made or about the culpability, if any, of the persons you identify in your complaint.

Thank you for taking the time to bring this matter to our attention.

Sincerely,

*Galena West*

Galena West  
Chief, Enforcement Division

GW:cah

cc: Hilaria Bauer (via email: [REDACTED])  
Daniel Flores (via email: [REDACTED])

**REHON & ROBERTS, APC**  
**LEGAL MEMORANDUM**

**TO:** Board of Trustees  
**FROM:** Rogelio M. Ruiz, Esq. *RM R*  
**CC:** E. Luis Saenz, Esq.  
**DATE:** July 13, 2017  
**RE:** Mathson Fire: Investigation Report

---

The Board directed a review and investigation into whether the contracts for the repairs to Mathson Middle School in connection with the February 2016 fire were procured in compliance with Board Policies, the District's Administrative Regulations, and with the laws governing public contracting.

The scope of this report is limited to the procurement of contracted services for the Mathson fire repair project, with specific focus on the agreements between, and services provided, by Har-Bro Northern California, Inc. This Investigator has been informed that the matter of the procurement processes used has been submitted by the Board President to the Santa Clara County District Attorney's Office for review and investigation. Therefore, neither the investigation nor this report addresses or includes any review of any potential criminal violations or activity in connection with the procure process within its scope. This Investigator understands, however, that if during the performance of the investigation I received any information demonstrating that fraud, misappropriation of public funds, or any other illegal activities may have occurred, then I would inform and report such information to the District.

This report details the findings of the review and investigation conducted by this Investigator.

**DOCUMENTS REVIEWED**

This Investigator received several thousands of pages of documents and transaction reports (including but not limited to copies of contracts, correspondence, e-mails) from multiple sources relating to the Mathson fire and the restoration, repair and reconstruction of the affected facilities. The documents reviewed were provided by the District's General Counsel (E. Luis Saenz), Daniel Flores (Director of Maintenance, Operations and Transportation (MOT)), Kolvira Chheng (Assistant Superintendent of Business Services), Efrain Robles (Administrator, Fiscal Services), Marco Baeza (former Assistant Superintendent of Human Resources), Jacalyn

**REHON & ROBERTS, APC**  
**LEGAL MEMORANDUM**

Stromquist (Executive Assistant, Human Resources Department/Risk Management). The District provided me with a copy of all documents forwarded to the Santa Clara County District Attorney for review in connection with the restoration and repair of the Mathson facilities in connection with the fire. In connection with the assignment this Investigator also reviewed relevant publicly available documents on the District's website including Board meeting minutes and documents and information available on the websites for the California Contractors State License Board (<http://www.cslb.ca.gov>), and the California Department of Industrial Relations (<https://www.dir.ca.gov/>).

**PERSONS INTERVIEWED**

The following persons were interviewed in the course of the review and investigation. For ease of reference, the interviewees are listed here in alphabetical order by last name.

<b>Person</b>	<b>Job Position</b>	<b>Date(s)</b>
Daniel Flores	Director of Maintenance, Operations and Transportation	June 21* and July 10 and 11**, 2017
Maria J. Martinez	Procurement Manager	July 10, 2017
Efrain Robles	Administrator, Fiscal Services	July 12, 2017
Jacalyn Stromquist	Executive Assistant, Human Resources Department/Risk Management	July 11, 2017

\* Edgar Gudiel (Lead Custodian/Project Support) was present during the June 21 meeting. The purpose of the meeting was for Flores to provide this Investigator with his files relating to the Mathson fire project and to explain the organization of his files. Flores requested that Gudiel be present since, according to Flores, Gudiel has assisted Flores in overseeing the project and Gudiel has been delegated the responsibility by Flores to maintain the MOT file for the project.

\*\* Assistant Superintendent Kolvira Chheng was present during both interviews.

**FACTUAL DEVELOPMENT**

**The Mathson Fire**

On February 27, 2016, a fire at Mathson Middle School damaged or destroyed several classrooms and ancillary facilities in the "B" and "C" wing of rooms at the Mathson site.

Daniel Flores, the District's Director of MOT, was called to the site to survey the fire situation and was directed to engage the District's initial response to the fire and its aftermath,

## REHON & ROBERTS, APC LEGAL MEMORANDUM

including arranging for emergency restoration services to remove debris, secure the site with temporary fencing, and otherwise ensure a safe site. According to Flores, Classroom C1 and the Resource Room and Custodial Room in the building were most extensively damaged from the fire, with the remainder of the rooms in the building affected by water and/or smoke damage.

### Daniel Flores, Director of MOT

Flores has been employed by the District since April 30, 2015, in the position of Director of MOT. According to Flores, immediately prior to his employment by the District he was employed by HarBro for 10 years as a supervisor in the company's Seattle office. For the 10 year period prior to that he had owned and operated his own general contracting company, Flores Constriction, Inc., during which period he occasionally provided subcontractor services to HarBro. According to Flores, his prior employment with HarBro was disclosed on his resume and/or his employment application to the District. Flores stated that prior to his employment with the District he had not previously worked for a public agency overseeing public contracting.

The state Contractor State License Board website does not indicate any current or past affiliation by Flores with HarBro.

### District Response to the Mathson Fire

According to Flores, there was substantial debris and water at the site. He was concerned that the debris needed to be removed and the site secured in time for the resumption of classes on Monday, March 1, 2016.

Flores stated that he contacted Advanced Restoration (located in San Jose) by telephone on February 27 and left a message on the company's voicemail message box. Flores stated that he contacted Advanced Restoration because it had previously performed some restoration services for the District at the library room at Mathson. (According to Flores, Advanced Restoration did not return his message until Monday, March 1, two days after the fire). Flores stated that he then contacted Wesley Peterson from Har-Bro of Northern California, Inc., ("HarBro") which is also a restoration services company. According to Flores, the HarBro representative stated that HarBro could respond immediately to the site with sufficient manpower to provide the services being requested by the District.

Flores also stated that at that time he had considered contacting ServPro, another restoration services provider, which he understood had previously (like Advanced Restoration) provided restoration services to the District. Flores stated that he decided not to contact ServPro because he was not confident that ServPro could provide the manpower or level of service required for the District, and because, in light of his past relationship with HarBro, he felt

**REHON & ROBERTS, APC**  
**LEGAL MEMORANDUM**

confident that HarBro could provide the manpower and service required by the District for the project. Flores stated that he was concerned that the site needed to be safe for students and employees upon their return to school classes on Monday, March 1, 2016.

After reviewing the site conditions, HarBro confirmed for Flores that it could provide the resources and manpower to secure the site with temporary fencing, provide temporary power to the site, temporary roof covers over the roof penetrations by the fire department, and debris clean-up and restoration services. HarBro proposed to perform the work on a “time and materials” basis according to HarBro’s hourly fee rate schedule.

According to Flores, the District’s insurance representatives had been contacted and notified of the fire casualty at the Mathson site. According to Flores, the Zurich representative approved the District retaining HarBro on a time and material basis through Monday, March 1, to perform the work.

The HarBro Commercial Service Agreement and Change Orders 1 - 4

That same day, February 27, 2016, Flores was presented with HarBro’s form “Commercial Service Agreement”. The Commercial Service Agreement included the following scope of work:

“Phase 1 Fire/Water Mitigation, Restoration Services. To include Temp Power, Temp Roof Cover, Board Up, Temp Fencing, Debris Clean Up, And Restoration Services.”

The approximate start and completion dates stated in the agreement were February 27, 2016 – March 27, 2016. The agreement also stated that the price for the performance of work would be on a time-and-material basis according to HarBro’s January 2016 Fee Schedule, a copy of which was attached to the agreement.

The fire resulted not only in damage to the classroom facilities, but also in the damage and destruction of the building contents including, for example, furnishings, equipment (e.g., computers), files, etc. Flores stated that, after consultation with the Zurich representative, he determined that it would be necessary to engage a restoration firm to remove and inventory the building contents and cleaning and deodorize the contents which were salvageable. Flores contacted SRH Restoration, Inc. (“SRH”) and an SRH representative was at the Mathson site on February 27. SRH proposed to perform the building contents recovery work on a time and materials basis. Flores stated that he was concerned about engaging SRH on a time and material basis as proposed because SRH did not also provide a fee schedule for its labor and he was concerned the contract would be too open-ended. According to Flores, he consulted with the

**REHON & ROBERTS, APC**  
**LEGAL MEMORANDUM**

Zurich and HarBro representatives that day on this subject and, based on that discussion, Flores directed HarBro to subcontract the building contents recovery work to SRH.

According to Flores, and based on his direction to HarBro to subcontract the building contents recovery work to SRH, HarBro issued, and Flores signed, Change Order No. 1 on February 27, 2016, to include the following change to the Commercial Service Agreement:

“Complete Total Loss Contents Inventory. Complete Contents Pack Out, Storage and Pack Back. Complete Contents Restoration. Hazardous Materials Charges Are In Effect And Will Be Billed Accordingly.”

The price stated in Change Order #1 (CO#1) for the increased scope of work was “TBD” (to be determined) and CO#1 also specified that the change would add 20 days to the projected completion date for the work.

Flores also stated that the extent of the damage to the Mathson building would require temporary classroom and other spaces for classes and programs displaced from the building by the fire. Flores stated that, in light of the availability of classroom and other space in the former MACSA building on the Mathson site, only four (4) temporary modular classrooms would be needed.

The HarBro Commercial Service Agreement is on a HarBro form and does not include standard provisions typically included in District contracts for construction, repair and restoration of school facilities including, for example, bonding requirements, minimum insurance and indemnification requirements, prevailing wage requirements, nondiscrimination requirements, retention provisions, etc. This Investigator asked Flores whether he considered using the District’s standard form of agreements for the work for which HarBro was being engaged to perform. Flores responded that he was not aware such forms existed. With respect to any bonding requirements, Flores stated that he was not aware that bonding requirements might apply and that, in light of the Board’s March 3 and March 10 resolutions declaring an emergency and the delegation of authority to let contracts, he believed that there were not any limitations on the District’s ability to contract for the performance of the work.

With respect to prevailing wage issues, Flores stated that he did not believe that the prevailing wage requirements applied to all of the work performed by HarBro, and that he also believed that if the prevailing wage requirements did apply to any of the HarBro work then HarBro’s estimates and proposals to the District would have been higher.

A February 29, 2016, e-mail from HarBro to Flores states in part:

**REHON & ROBERTS, APC**  
**LEGAL MEMORANDUM**

“Good evening Daniel,  
Affected wing is – B & C.  
Harbro personnel was advised by yourself that none of the Phase 1 mitigation/restoration work would be at prevailing wage rates. This was discussed on Saturday, 2/27/16 as well as on Sunday, 2/28/2016.”

On March 1, 2016, Sandra Harrington forwarded the HarBro February 29 e-mail to Maria Martinez and asked Martinez whether the District was “legally required” to pay at prevailing wage rates. On March 2, 2016, Martinez responded:

“It doesn’t look like the work being done at this point is public works, we would only be responsible to make sure employees were being paid prevailing wage if it were a public works project.”<sup>1</sup>

On Tuesday, March 1, 2016, HarBro issued, and Flores signed and authorized, Change Orders #2 and 3. CO#2 included the installation of plywood to cover all roof openings and roof patching. CO# was for a fixed sum of \$7,425.00. CO #3 was for the removal and replacement of two (2) toilets in the MACSA building to prepare that facility for temporary housing for the displaced students and staff. CO#3 was for a fixed amount of \$1,390.00.

On March 2, 2016, HarBro issued and Flores authorized and signed, Change Order #4 to install a gravel walkway between the Mathson main school site and the temporary classrooms at the MACSA building. CO#4 was in the fixed amount of \$10,440.00.

At a special board meeting on March 3, 2016, the Board considered and unanimously approved Resolution 34-15/16 determining that an emergency existed and authorized the execution of contracts for the remediation, repair and reconstruction of the Mathson facilities, and for the provision of temporary classroom facilities, without the necessity of advertising for bids. The Board minutes reflect that the special meeting last approximately 5 minutes.

The next day, March 4, 2016, then-Assistant Superintendent Sandra Harrington sent a written request to Jon Gundry, County Superintendent of Schools, notifying him of the Mathson

---

<sup>1</sup> “Public work” for purposes of the State’s prevailing wage laws is defined at Labor Code section 1720 (a) to include “Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds.” Since the February 27 HarBro Commercial Service Agreement and CO#1 was limited to debris and water clean-up and temporary power, fencing and board up, and contents inventory and control, it does not appear the scope at that time qualified as “public works” as defined in section 1720. However, as discussed below, the change orders subsequently changed the scope of work to include demolition, construction, alteration, installation and repair work. Martinez stated to this Investigator that following the March 2 e-mail, she was never consulted again whether or not the increased scope of work triggered the State prevailing wage requirements.



**REHON & ROBERTS, APC**  
**LEGAL MEMORANDUM**

Fire and the Board's Resolution 34-15/16 and requesting the County Superintendent's approval of Resolution 34-15/16.

On March 9, 2016, County Superintendent of Schools notified the District of his approval of the Board's determination of an emergency and approved the Board's Resolution 34-15/16.

According to Flores, Louie Moran was responsible for engaging professional services to assist with the project (architect and engineer), and for procuring the lease for temporary classrooms at the site.

At its March 10, 2016, regular meeting, the Board was presented with Resolution 35-15/16 delegating to the Superintendent and/or Assistant Superintendent of Business Services the authority and discretion to award emergency contracts for public works without competitive bidding. The Resolution also provided as follows:

- (1) If a person with authority delegated pursuant to paragraph (1) or (2) orders any action specified in paragraph (1) of subdivision (a), that person shall report to the governing body, at its next meeting required pursuant to this section, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.
- (2) If a person with authority delegated pursuant to subdivision (b) orders any action specified in paragraph (1) of subdivision (a), the governing body shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless a person with authority delegated pursuant to subdivision (b) has terminated that action prior to the governing body reviewing the emergency action and making a determination pursuant to this subdivision. If the governing body meets weekly, it may, after the initial review, review the emergency action in accordance with this paragraph every 14 days.
- (3) When the governing body reviews the emergency action pursuant to paragraph (1) or (2), it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts."

However, the resolution also specified that a 4/5ths vote by the Board was required for approval of such a delegation of authority.

## REHON & ROBERTS, APC LEGAL MEMORANDUM

At the time the Resolution was presented for Board consideration at the March 10 Board meeting, only three Board members were present and members Tran and Martinez were absent from the meeting. Upon a vote at that time, Resolution 35-15/16 was approved by a vote of 3-0, with two Board members absent. The vote did not meet the required 4/5ths vote, and therefore the delegation of authority was not approved because the vote did not meet the minimum legal requirements.

Despite the insufficient vote, the Resolution was signed and certified as approved. Based on this Investigator's discussions with staff, it appears that all staff believed and assumed Resolution 25-15/16 has passed in accordance with the law when, in fact, it had not.

According to Maria Martinez, the District's Procurement Manager, in a discussion immediately following the March 3 special meeting for which Sandra Harrington (former CBO), Dan Flores and Efrain Robles (Administrator, Fiscal Services) were present, Martinez stated that the emergency resolution applied only to the public bidding requirement but that all other documentation and legal requirements would need to be followed including, specifically, proof of adequate insurance and bonds. Efrain Robles recalls that both he and Maria Martinez told Flores that the emergency resolution only relieved the District from the public bidding requirements but that all other legal requirements would have to be met. According to Robles, during the course of the project Flores' and MOTs position was that the Board's emergency resolutions allowed the District to contract for the performance of the work without having to meet any legal or other District contracting guidelines or requirements. Robles does not recall when these conversations occurred but stated that he generally recalls that the conversations took place in March or April 2016, and that both he and Martinez discussed these issues with Flores.

Flores stated to this Investigator that he was advised by staff that the effect of the Board's emergency resolutions and delegation of authority was to suspend not just the bidding requirements but all other requirements which might apply to such contracts and services, except for the requirement that the contractors provide the District with proof of adequate insurance. Flores could not recall, however, the staff members who gave him this advisement.

On March 11, 2016, Louie Moran, Director of Facilities, Bonds and Leases, sent the following e-mail addressed to "Executive Cabinet":

"Dr. Bauer, Sandra,  
Attached please find Sugimura Finney Architects proposal for Architectural and Engineering service for construction documents needed to repair Fire Damage Classroom at Mathson M.S.

**REHON & ROBERTS, APC**  
**LEGAL MEMORANDUM**

I have requested the Architect to remove Bid and Award (BA) from contract and deduct 5% which is \$1,625.00. We do not need to bid this out since there is a contractor already working to bring the building back and operational.

Please provide comments ASAP as we all know this is a priority and time sensitive.”

Flores states that he does not recall receiving or reading this email.

From March 21 – May 26, 2016, HarBro issued, and Flores signed and authorized, Change Orders nos. 5 – 10, which included, generally, smoke seal work on the damaged facilities (CO#5, \$18,777.00), electrical work in the damaged building to re-route the power source (CO#6, \$25,968.00), installation of a new electrical panel for the temporary portable classrooms being installed at the site (CO#7, \$30,440.00), the installation of asphalt landings for the portable classrooms (CO#8, \$12,520.00), the installation of insulation in the affected structure not including Classroom C1 and the Resource Room (CO#9, \$40,894.96), and the installation of fire taping and fire blocking and new drywall in specified rooms “per DSA requirements” and “per code upgrade requirements.” (CO#10, \$22,754.00.)

A summary of the HarBro Commercial Service Agreement and all HarBro change orders, all insurance proceeds received by the District, and all District payments to HarBro is attached.

According to Flores, the installation of the four (4) portable classrooms was complete in or around the second week of April 2016 and some of the students and staff housing temporarily at the MACSA facilities since the fire were then relocated to

By the beginning of school in August 2016 all of the damaged wing except for C1 and the Resource Room was complete and those rooms were now occupied and used.

On June 21, 2016, HarBro issued Change Order #11 in the amount of \$476,866.74. According to Flores, the scope of work for CO#11 was for the restoration and repair of all of the damaged rooms in the building wing except for Classroom C1, the Resource Room and the Custodial Room which had suffered structural damage in the fire.

Flores stated that as a result of a discussion between him, and insurance representatives regarding the next phase of repairs, he (Flores) asked HarBro to prepare an estimate for the work outlined in CO#11. When asked by this Investigator why this portion of the work was not put out to bid, Flores responded that HarBro had done a good job performing the “emergency” work and he decided to keep using them. Flores also stated to this Investigator that he did not consider using any other contractor to perform all or any portion of the work. According to Flores, the continued use of HarBro was discussed in Superintendent’s Cabinet meeting and had been approved by his immediate supervisor, the District’s CBO (Flores does not recall who was CBO

## REHON & ROBERTS, APC LEGAL MEMORANDUM

at that time). Flores acknowledged that the Zurich representatives did not ask or suggest the use of HarBro to perform the work, and further stated that Zurich could not direct the District which contractor to use. Flores stated, however, that throughout this entire project he was in constant communication with Zurich and its claim representatives and that, in connection with all of the work and all of the change orders, he received prior approval from Zurich's claims representatives regarding the scope of work specified in the change orders and that all of the work would be within the District's insurance coverage and reimbursed by Zurich.

From July 29, 2016 through June 13, 2017, HarBro issued an additional fourteen (14) change orders (COs nos. 12-25) totaling \$1,615,204.66 in additional project work and costs.

Flores described HarBro Change Order #13 dated August 19, 2016, in the amount of \$136,932.00 to include the pass-through of subcontractor SRH's storage costs for the District's property, as well as repairs to the fire alarm system. CO#13 (at p. 3) specifies that, as to the repairs to the fire alarm system, "ALL WORK TO BE PERFORMED UNDER PREVAILING WAGE RATES".

According to Flores, HarBro Change Order #14 (\$345,432.83) dated October 7, 2016, more than seven months after the fire and HarBro's initial work, was for the repair and reconstruction of Classroom C1 and the Resource Room and other structurally damaged portions of the building from the fire. Flores stated that this Change Order was submitted in October only after the plans and specifications for that portion of the work had been approved by DSA, and thus HarBro's change order was based on the scope of work included in the District architect's plans and specifications. CO#14 specifies (at p. 9): "ESTIMATE NOT TO INCLUDE PREVAILING WAGE RATES."<sup>2</sup>

### Status of the Project and Insurance Claims

Staff reports that a claim for the fire loss was filed with Zurich insurance on March 1, 2016. According to Jacalyn Stromquist, the claim has 2 components to it: (1) the contents claim, i.e., for loss or damage to the contents of the affected building), and (2) the claim relating to the damage/destruction to the structure, including but not limited to covered costs for repair and reconstruction.

According to District records provided to this Investigator:

---

<sup>2</sup> Other HarBro change orders also specify that the estimates or work "NOT TO INCLUDE ANY PREVAILING WAGE RATES". (HarBro CO#15 (11/10/2016) at p. 10.)

## REHON & ROBERTS, APC LEGAL MEMORANDUM

1. As of June 13, 2017, the District has paid to HarBro the total sum of **\$2,024,105.70** for the performance of the work under the original Commercial Service Agreement and Change Orders nos. 1 – 24;
2. As of June 13, 2017, total expenses paid by the District to all contractors and consultants in connection with the repair project (including but not limited to HarBro, architects and engineers, inspectors, fees, etc.) totals **\$2,329,803.65**.
3. As of June 13, 2017, the District has received from Zurich in connection with its claims the total amount of **\$2,509,085.11**. This represents payment on both the contents claim and the building casualty claim.

(See Attachment hereto.)

Flores informed this Investigator that, as of this date, the project and HarBro's work is substantially complete, all punchlist work has been completed and approved, but that some minor corrective work remains to be completed to obtain DSA closeout and project certification. Jaclyn Stromquist informed this Investigator that the District's claims through Zurich for the loss have not yet been closed and settled, and the District is compiling additional cost and expense information for submission to Zurich for approval and reimbursement.

### Daniel Flores and Potential Conflict of Interest Issues

Flores stated to this Investigator that he was employed with HarBro prior to his employment with the District. In response to this Investigator's inquiries, Flores stated that neither he nor any family member has received any gift, compensation, payments, loans, stock, commissions or any other thing of value from HarBro in connection with the Mathson project, and that he has not received any promise of any gift or payment or compensation or loan of any kind, or promise of future employment. Flores stated that he does not own any stock in HarBro and he has not been promised any stock in connection with the Mathson project. Flores stated that since the project started he has met for lunch with a HarBro representative (Victor Ho) to discuss the status of the project, and that Ho may have paid for a one or more such meals but that the meals (which were at Bite of Wyoming on Alum Rock Avenue and a taqueria near the District office) did not exceed \$50.00.

### INVESTIGATIVE FINDINGS

Based on the information and documents reviewed to date and the statements of the persons identified above, this Investigator makes the following findings relevant to the scope of review of this report:

**REHON & ROBERTS, APC**  
**LEGAL MEMORANDUM**

**Finding #1**

There was a reasonable basis for the Board to determine the existence of an emergency as a result of the Mathson fire and as the basis for Resolutions 34-15/16 and 35-15/16. Pursuant to the Public Contract Code, an “emergency” means a “sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.” (Public Contract Code section 1102.) The fire was an unexpected occurrence. The fire destroyed at least 1 classroom and a resource room in the B-C wing at the Mathson site, and caused water and smoke damage to the remaining rooms in the building. As a result of the fire, none of the rooms in the building could be used for educational or other purposes until repaired. The damage caused necessitated immediate action to mitigate the loss of safe education facilities for the Mathson staff and students.

**Finding #2**

On February 27, 2016, the District engaged Har-Bro of Northern California, Inc. (“HarBro”) to provide fire and water damage mitigation services and restoration service to the affected Mathson facilities and other services to address the loss of property to the District. The contract was on a “time and material basis” according to a Schedule of Fees provided by HarBro and attached to the contract.

**Finding #3**

On March 3, 2016, the Board unanimously passed Resolution 34-15/16 declaring the existence of an emergency situation, subject to approval of the County Superintendent, to address the remediation and repair of the affected Mathson facilities without the necessity of advertising for bids.

**Finding #4**

Resolution 25-15/16 purporting to delegate to the Superintendent and/or the Assistant Superintendent the authority to award emergency service contracts for public works without competitive bidding was invalid and of no force or effect since it was not passed by the requisite 4/5ths vote. Public Contract Code section 22050 provides:

“(a) (1) In the case of an emergency, a public agency, pursuant to a four-fifths vote of its governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.”

**REHON & ROBERTS, APC**  
**LEGAL MEMORANDUM**

The Board approved minutes of the March 10, 2016, Board meeting and the certified copy of Resolution #35-15/16 specifies that the vote on the Resolution was 3-0, with 2 Board members absent (Tran and Martinez); the minutes also reflect that Member Tran left the meeting before the item was considered by the Board. Since the vote to approve was 3-0-2, the resolution was not approved with the requisite 4/5ths vote and, therefore, the delegation of authority was invalid.

**Finding #5**

Neither the HarBro Commercial Service Agreement nor any other contracts relating to the Mathson fire repair project have been presented the Board for ratification or approval at a duly agendized Board meeting. Board Policy 3312 provides in part:

“To be valid or to constitute an enforceable obligation against the district, all contracts must be approved and/or ratified by the Board.”

Education Code section 17604 further provides:

“Wherever in this code the power to contract is invested in the governing board of the school district or any member thereof, the power may by a majority vote of the board be delegated to its district superintendent, or to any persons that he or she may designate, or if there be no district superintendent then to any other officer or employee of the district that the board may designate. The delegation of power may be limited as to time, money or subject matter or may be a blanket authorization in advance of its exercise, all as the governing board may direct. 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. 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.”

**Finding #6**

Although Resolutions 34-15/16 authorized the execution of contracts for the remediation, repair and reconstruction of the Mathson facilities, and for the provision of temporary classroom facilities, without the necessity of advertising for bids, the Resolution did not exempt the District from complying with other legal and Board Policy requirements relating to any contracts in connection with the repair and reconstruction of the affected Mathson facilities.

**REHON & ROBERTS, APC**  
**LEGAL MEMORANDUM**

**Finding #7**

The Commercial Service Agreement entered into by the District with HarBro did not meet various legal requirements and the requirements of applicable Board Policies.

- (1) Board Policy 3312 states that “All contracts between the district and outside agencies shall conform to standards required by law and shall be prepared under the direction of the Superintendent or designee.”
- (2) HarBro was not required by the District to provide a Payment Bond in connection with its performance of the work. Civil Code section 9550(a) provides:

“A direct contractor that is awarded a public works contract involving an expenditure in excess of twenty-five thousand dollars (\$25,000) shall, before commencement of work, give a payment bond to and approved by the officer or public entity by whom the contract was awarded.” (See also Civ. Code §§ 9554 and 9560 re: payment bond requirements and claims on the bond.)

Civil Code section 9552 provides in part:

“If a payment bond is not given and approved as required by Section 9550:  
(a) Neither the public entity awarding the public works contract nor any officer of the public entity shall audit, allow, or pay a claim of the direct contractor pursuant to the contract.”

- (3) Notwithstanding Civil Code section 9552, HarBro was paid by the District for its work under the Commercial Service Agreement and change orders even though it had not provided the required payment bond to the District.
- (4) The HarBro contract does not contain a nondiscrimination clause prohibiting discrimination by contractors or subcontractors, as specified in Board Policy 3312.
- (5) Based on the information provided and reviewed thus far, it appears that all or some portion of the work under the HarBro Commercial Service Agreement and subsequent change orders may not have complied with the state’s prevailing wage requirements. All workers employed on public works projects must be paid the prevailing wage determined by the Director of the Department of Industrial Relations, according to the type of work and location of the project. Har-Bro currently appears on the registration page for the state Department of Industrial Relations. (This Investigator has not been able to determine on-line HarBro’s registration status in 2016.) Some of the HarBro change orders specified explicitly that the work to be performed by HarBro did not include



**REHON & ROBERTS, APC**  
**LEGAL MEMORANDUM**

prevailing wage rates. Per Labor Code section 1771.4, the following requirements are applicable to all public works projects:

- (i) The contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- (ii) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

The HarBro Commercial Service Agreement did not include the information specified in (i) above and did not require HarBro to post the notices in (ii) above.

- (6) The HarBro Commercial Service Agreement did not specify the District's minimum or standard insurance requirements or require HarBro, as is typically done with other contractors and vendors, to obtain an endorsement naming the District as an additional insured under the HarBro insurance policies. Moreover, the HarBro insurance certificate in the District files provided expired in April 2016. Also, the agreement does not contain an indemnity provision obligating HarBro to indemnify the District against any claims, losses, causes of action or damages that may have arisen from HarBro's work on the project.
- (7) The HarBro Commercial Service Agreement does not require HarBro to provide any certifications or lien releases or waivers to certify that all subcontractors have been paid all sums owed in connection with the performance of the work.
- (8) The HarBro Commercial Service Agreement did not require, and the District did not demand, a list of HarBro's subcontractors for the work as specified in the Subletting and Subcontracting Fair Practices Act, Public Contracting Code sections 4100 et seq.
- (9) The HarBro Commercial Service Agreement did not specify the withholding of at least a 5% retention, and the District did not withhold any retention. The purpose of a retention is to provide security against potential mechanics liens and to insure the contractor will complete the work properly and repair defects. (*Yassin v. Solis* (2010) 184 Cal.App.4th 524, 534.)
- (10) The Commercial Service Agreement did not include a not-to-exceed amount.
- (11) The HarBro Commercial Service Agreement contains non-standard terms that are potentially detrimental to the interests of the District.
  - a. Section 1 of the Terms and Conditions of the Commercial Service Agreement is a limitation of liability clause which limits HarBro's liability to the District for certain types of claims to the lesser of the amount of any available coverage under HarBro's liability insurance, or \$10,000.00.
  - b. Section 11 of the Terms and Conditions of the Commercial Service Agreement provides for a one year limitation after completion of the work on actions arising from or related to that agreement, or the work, or Harbro's performance of the

## REHON & ROBERTS, APC LEGAL MEMORANDUM

work under the agreement. Generally, claims for latent defects are subject to a 10 year statute of limitations.

- c. Section 12 of the Terms and Conditions of the Commercial Service Agreement provides that final payment by the District shall constitute a waiver of any claim it may have against HarBro “for any damages or defects that are known to the [District] or apparent from reasonable inspection at the time final payment is made.”

### **Finding #8**

The manner in which the change orders were issued and approved did not comply with the limits on change orders as specified in Public Contract Code section 20118.4. Public Contract Code section 20118.4 provides, in part:

“(a) If any change or alteration of a contract governed by Article 3 (commencing with Section 17595) of Chapter 5 of Part 10.5 of the Education Code is ordered by the governing board of the district, the change or alteration shall be specified in writing and the cost agreed upon between the governing board and the contractor. The board may authorize the contractor to proceed with performance of the change or alteration, without the formality of securing bids, if the cost so agreed upon does not exceed the greater of the following:

- (1) The amount specified in Section 20111 or 20114, whichever is applicable to the original contract.
- (2) Ten percent of the original contract price.

Although the original Commercial Service Agreement was not for a fixed sum but was on a time-and-materials basis, HarBro’s Change Order #11 specifies that the “original Contract Sum” under the agreement was \$547,501.98. Assuming and using that as the original contract price for the purposes of Section 20118.4, total cumulative change orders for the project should not have exceeded \$ 54750.20. In this case, since February 27, 2016, HarBro has issued at least twenty four (24) separate change orders in connection with the Commercial Service Agreement totaling \$1,630,160.50. As of July 10, 2017, the District has paid to HarBro \$2,024,105.70 for work performed under the Commercial Service Agreement.

### **Finding #9**

Based on the interviews and the documents and information reviewed to date, this Investigator has not received any information indicative of fraud, misappropriation of public funds, or any other illegal activities by any District employee or any other person in connection with the Mathson repairs project. However, while it is true that the District’s insurance proceeds

## REHON & ROBERTS, APC LEGAL MEMORANDUM

to date have paid for all of HarBro's contract and change order costs, the manner and circumstances in which the HarBro Commercial Service Agreement and change orders were entered into, approved and administered creates the appearance of possible favoritism and that favoritism towards HarBro may have played at least some role in connection with the letting of the Commercial Service Agreement and the Change Order work. This includes, but is not limited to, the retention of HarBro using the change order process to conduct and perform the reconstruction of the B and C wing building at Mathson Middle School. The "purpose of requiring governmental entities to open the contracts process to public bidding is to eliminate favoritism, fraud and corruption; avoid misuse of public funds; and stimulate advantageous market place competition." (*Marshall v. Pasadena Unified Sch. Dist.* (2004) 119 Cal.App.4th 1291, 1256, quoting *MCM Construction Inc. v. City and County of San Francisco* (1998) 66 Cal.App.4th 359, 369.) The facts and information on which this finding is based includes:

- (1) Daniel Flores, Director of Maintenance, Operations and Transportation (MOT) is a former superintendent/employee of HarBro and was employed by HarBro immediately prior to his employment with the District;
- (2) Flores told this Investigator that he contacted HarBro on February 27 based on his past employment and contracting relationship with HarBro, although Flores also stated that based on his experience he believed HarBro was capable and competent to perform the initial work on an expedited basis;
- (3) Neither the HarBro Commercial Service Agreement nor any of the HarBro Change Orders 1-24 work has ever been presented to the Board for ratification or approval;
- (4) According to Flores, the securing of the site and the removal of the fire debris and the work to prepare the interim classrooms for occupancy was completed by mid-April 2016. With the installation and occupancy of the temporary facilities the emergency conditions had arguably subsided and had been abated. No effort was made to solicit bids or estimates for the repair reconstruction work for the damaged wing of rooms (i.e., Change Orders nos. 11-25).

Finally, this Investigator notes that while it is true that the District has received insurance proceeds in excess of the total HarBro and other project costs, the fact that costs are being paid with insurance proceeds did not relieve the District of its obligation to comply with Board Policies and all laws relating to the procurement and payment for such services.



**SCHEDULE OF HAR-BRO CONTRACTS AND CHANGE ORDERS, AND INSURANCE PROCEEDS RECEIVED\***

\*The data and information contained in this report is a summary of information provided by the District's Business Services Department and has not been independently verified as accurate or complete.

A	B	C	D	E	F	G
Date	Description	HarBro Charges to District	Insurance proceeds from Zurich	Total Cumul. Ins. Proceeds Rec'd	Paid to Har-Bro	Total Cumul. Paid to Har-Bro
02/27/2016	Commercial Service Agreement (Schedule of Fees) between District and Har-Bro of Northern California, Inc.	T&M based on Jan. 2016 schedule of fees				
2/27/2016	Change Order #1	"TBD"				
3/1/2016	Change Order #2	\$7,425.00				
3/1/2016	Change Order #3	\$1,390.00				
3/2/2016	Change Order #4	\$10,440.00				
3/21/2016	Change Order #5	\$18,777.00				
3/21/2016	Change Order #6	\$25,968.00				
3/29/2016	Zurich In. Payment to District		\$300,000	\$300,000		
4/5/2016	Change Order #7	\$30,440.00				
4/5/2016	Change Order #8	\$12,520.00				
4/19/16	Change Order #9	\$40,894.96				
5/26/2016	Change Order #10	\$22,754.00				
5/26/2016	Payment to Har-Bro Check # 129805				\$185,965.54 \$64,000.00 \$190,927.48 \$83,854.96	\$524,747.98

A	B	C	D	E	F	G
Date	Description	HarBro Charges to Dist.	Ins. Proceeds from Zurich	Total Cumul. Ins. Proceeds Received	Paid to HarBro by District	Total Cumul. Paid to HarBro By District.

6/21/2016	Change Order #11	\$476,866.74				
6/28/2016	Zurich In. Payment to District		\$249,965.52	\$ 549,965.52		
6/30/2016	Zurich In. Payment to District		\$477,363.82	\$1,027,329.34		
7/15/2016	Payment to Har-Bro Check #130917				\$22,754.00	\$547,501.98
7/29/2016	Change Order #12	\$71,245.32				
8/19/2016	Change Order #13	\$136,932.00				
9/16/2016	Payment to Har-Bro Check #131519				\$244,383.59	\$791,885.57
9/26/2016	Zurich In. Payment to District		\$136,932.00	\$1,164,261.34		
10/7/2016	Change Order #14	\$345,432.83				
10/20/2016	Payment to Har-Bro Check #131980				\$334,760.36 \$71,647.84	\$1,198,293.77
11/1/2016	Zurich In. Payment to District		\$43,513.14	\$1,207,774.48		
11/10/2016	Change Order #15	\$446,859.28				
11/30/2016	Payment to Har-Bro Check #132582				\$34,252.27 \$69,938.90	\$1,302,484.94
12/8/2016	Change Order #16	\$17,097.94				
12/12/2016	Change Order #17	\$77,758.52				
12/15/2016	Payment to Har-Bro Check #132958				\$250,921.77	\$1,553,406.71
12/16/2016	Change Order #18	\$6,267.12				
1/11/2017	Change Order #19	\$-15,295.98				
1/13/2017	Zurich In. Payment to District		\$388,480.32	\$1,596,254.80		
1/13/2017	Zurich In. Payment to		\$678,999.93	\$2,275,254.73		

A	B	C	D	E	F	G
Date	Description	HarBro Charges to Dist.	Ins. Proceeds from Zurich	Total Cumul. Ins. Proceeds Received	Paid to HarBro by District	Total Cumul. Paid to HarBro By District.

	District					
1/24/2017	Payment to Har-Bro Check #133311				\$284,662.94	\$1,838,069.65
2/2/2017	Change Order #20	\$21,697.21				
3/3/2017	Payment to Har-Bro Check #133919				\$53,064.76	\$1,891,134.41
3/22/2017	Change Order #21	\$40,612.37				
3/22/2017	Payment to Har-Bro Check #134264				\$24,572.16 \$16,609.75	\$1,932,316.32
4/12/2017	Change Order #22	\$2,016.00				
5/1/2017	Change Order #23	\$2,401.15				
5/4/2017	Payment to Har-Bro Check #134933				\$54,041.93	\$1,986,358.25
5/9/2017	Change Order #24	\$2,016.00				
5/18/2017	Change Order #25	-\$16,701.84				
6/1/2017	Payment to Har-Bro Check #135447				\$37,747.45	\$2,024,105.70
6/13/2017	Zurich In. Payment to District		\$233,830.38	\$2,509,084.84		
<b>Totals</b>				<b>\$2,509,085.11</b>		<b>\$2,024,105.70</b>

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

RESOLUTION NO. 35-15/16

DELEGATION OF AUTHORITY IN REGARD TO AWARDING OF EMERGENCY CONTRACTS

WHEREAS, pursuant to Public Contract Code Section 22050 et. seq. the governing body, by a four-fifths vote, may delegate, by resolution or ordinance, to the appropriate county administrative officer, city manager, chief engineer, or other non-elected agency officer, the authority to order any action to repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts provided that the designee complies with the conditions set forth in the code; and

WHEREAS, Public Contract Code Section 20112 requires the Board to advertise for bids for public projects by publishing a notice calling for bids at least once a week for two consecutive weeks in a newspaper of general circulation published within the District; and

WHEREAS, from time to time emergencies arise necessitating awarding of a contract without competitive bidding to permit the continuance of existing school classes or to avoid danger to life or property; and

WHEREAS, the Board desires to delegate to District staff certain authority in regard to contracting for emergency public works projects.

NOW, THEREFORE, the Board does hereby determine, resolve, and order as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The Board hereby delegates the authority and discretion to the Superintendent and/or the Assistant Superintendent of Business Services to award emergency contracts for public works without competitive bidding.

Section 3. If a person with authority delegated pursuant to paragraph (1) or (2) orders any action specified in paragraph (1) of subdivision (a), that person shall report to the governing body, at its next meeting required pursuant to this section, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.

Section 4. If a person with authority delegated pursuant to subdivision (b) orders any action specified in paragraph (1) of subdivision (a), the governing body shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless a person with authority delegated pursuant to subdivision (b) has terminated that action prior to the governing body reviewing the emergency action and making a determination pursuant to this subdivision. If the governing body meets weekly, it may, after the initial review, review the emergency action in accordance with this paragraph every 14 days.

Section 5. When the governing body reviews the emergency action pursuant to paragraph (1) or (2), it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

Section 6. This Resolution shall take effect immediately and shall remain in effect until rescinded by the Board.

Ayes 3 Noes 0 Absent 2 Raven Martin Khanh Tran Abstain 0

- Board of Trustees: Dolores Marquez, President; Khanh Tran, Vice-President; Andrés Quintero, Clerk; Esau R. Herrera, Member; Karen Martinez, Member

Handwritten signatures and 'absent' marks for Board members.

HEREBY CERTIFY that the foregoing resolution was duly and regularly introduced, passed, and adopted by the members of the Board of Trustees of the Alum Rock Union Elementary School District at a public meeting of said Board held on March 10, 2016.

Hilary Bauer, Ph.D., Superintendent

3/15/16 Date



ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue  
San José, CA 95127

12.14

Office of Superintendent of Schools

ITEM REQUIRING ATTENTION - BOARD OF TRUSTEES

COPY

To the Superintendent of Schools:

Date: March 1, 2016

**Subject:** Resolution 35-15/16  
Delegation of Authority in Regard to Awarding of Emergency Contracts

**Staff Analysis:** Pursuant to Public Contract Code Section 22050 (b) (1) the governing body, by a four-fifths vote, may delegate, by resolution or ordinance, to the appropriate county administrative officer, city manager, chief engineer, or other nonelected agency officer, the authority to order any action to repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts provided that the designee complies with the conditions set forth in the code.

The adoption of resolution 35-15/16 will authorize the Superintendent and/or the Assistant Superintendent of Business Services to award an emergency contract for public works as outlined in the attached resolution.

**Recommendation:** Staff recommends that the Board adopt Resolution 35-15/16 Delegating Authority to the Superintendent and/or Assistant Superintendent of Business Services to Award Emergency Contracts.

Prepared by: <u>Maria J. Martinez</u> <i>MJM</i>	Title: <u>Procurement Manager</u>
Approved by: <u>Sandra Harrington</u> <i>SH</i>	Title: <u>Assistant Superintendent of Business Services</u>

To the Board of Trustees:	Meeting: <u>March 10, 2016</u>	ARUESD Board Approved <u>3/10/16</u>
Recommended Approval <u>12.14</u>	<i>[Signature]</i>	
Agenda Placement	Hilaria Bayer, Ph.D., Superintendent	

DISPOSITION BY BOARD OF TRUSTEES			
Motion by: <u>Andrés Quintana</u>	Seconded by: <u>Esau F. Herrera</u>		
Approved <u>3</u>	Not Approved <u>⊖</u>	Absent <u>Kare Martin</u>	<u>Khan Tran</u>
		Tabled	



Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION - BOARD OF EDUCATION**

To the Board of Trustees:

Date: March 1, 2016

**Subject:** Resolution No. 34-15/16  
Declaring Emergency Conditions Exist at Mathson Middle School/Mathson Institute of Technology, and Authorization to Enter into Contracts for the Remediation, Repair and Reconstruction at the Mathson Site and for the Provision of Temporary Classroom Facilities  
(Public Contract Code section 20113)

**Staff Analysis:** On February 27, 2016, a sudden and unexpected fire occurred at the Mathson Middle School/Mathson Institute of Technology site located at 2050 Kammerer Ave., San José, CA 95118. The fire damaged or destroyed the C1 classroom, damaged all eleven classrooms located within the B/C wing and all storage, and custodial and mechanical rooms within the B/C wing were damaged or destroyed by fire, water or smoke damage, and such room and facilities in their condition present a potential health and safety hazard. The cause of the fire is under investigation. Due to the fire, the District has been required to increase class sizes and to hold classes in temporary facilities. Such temporary facilities and arrangements are impairing the delivery of needed education services to the Mathson students.

The debris and rubble resulting from the fire present an on-going and clear and imminent danger and health and safety risk to staff and students and to members of the public on or about the Mathson campus. The location, amount and nature of the debris and rubble and the reconstruction and repair of the damaged facilities require immediate attention to mitigate the loss of property and essential public services.

Public Contract Code section 20113 provides:

"(a) In an emergency when any repairs, alterations, work, or improvement is necessary to any facility of public schools to permit the continuance of existing school classes, or to avoid danger to life or property, the board may, by unanimous vote, with the approval of the county superintendent of schools, do either of the following:

(1) Make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.

(2) Notwithstanding Section 20114, authorize the use of day labor or force account for the purpose.

(b) Nothing in this section shall eliminate the need for any bonds or security otherwise required by law."

An emergency is defined in section 1102 of the Public Contract Code as follows:

"Emergency,' as used in this code, means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."

Administration requests that the Governing Board will unanimously approve accompanying resolution #34-15/16 declaring that, pursuant to Public Contract Code section 20113, emergency conditions exist at the Mathson school site and, with the approval of the County Superintendent of Schools, authorize the Superintendent and her designee to enter into contracts to repair and remediate the fire damage at the Mathson Middle School/Mathson Institute of Technology site located at 2050 Kammerer Ave., San José, CA 95116, and to ensure the delivery of public education is not impaired for the Mathson Middle School/Mathson Institute of Technology students.

There will be a budget impact; however the amount is unknown at this time.

**Recommendation:** Staff recommends approval of Resolution No. 34-15/16 authorizing a Declaration of Emergency Conditions at Mathson Middle School/Mathson Institute.

Prepared by: <u>Sandra Harrington</u> <i>SH</i>	Title: <u>Assistant Superintendent Business Services</u>
Submitted by: <u>Hilaria Bauer, Ph.D.</u>	Title: <u>Superintendent</u>

To the Board of Trustees:	Meeting: <u>March 3, 2016</u>
Recommend Approval <u>2.01</u>	<u>Hilaria Bauer, Ph.D., Superintendent</u>
Agenda Placement	

<b>DISPOSITION BY BOARD OF TRUSTEES</b>		
Motion by: <u>Esau R. Neira</u>	Seconded by: <u>Khaol TRAN</u>	
Approved: <u>5</u>	Not Approved: <u>0</u>	Tabled: <u>0</u>

APRUESD  
Board Approved 3/3/16

APRUESD  
Board Approved 3/3/16  
Special Bd Meeting  
March 3, 2016

COPY



**Thursday, March 3, 2016  
SPECIAL BOARD MEETING**

**Type: SPECIAL**

**Time: 6:30 p.m.**

**Code: SPECIAL #14-15/16**

**Location: Alum Rock Union Elementary School District, 2930 Gay Avenue, San Jose, CA 95127; Board Room.**

**PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54953, VICE-PRESIDENT KHANH TRAN WILL BE PARTICIPATING VIA TELECONFERENCE AT THE FOLLOWING LOCATION: Nam Hua Vietnamese Cuisine, Suite 305, Cali Saigon Mall, 3212 North Jupiter Road, Garland, Texas 75044. This agenda will be posted at the foregoing location at least 24 hours before the March 3, 2016 Board Meeting is scheduled to commence. Public participation will be permitted at the Teleconferencing Location. Government Code Section 54953 requires that all votes taken during the Teleconferencing Meeting shall be by Rollcall.**

**In compliance with the Americans with Disabilities Act, if you need special assistance in order to participate in the public meeting of the Board of Trustees, please contact the Office of the Superintendent at (408) 928-6822.**

**1. OPEN SESSION - CALL TO ORDER AND ROLL CALL**

1.01 CALL TO ORDER AND ROLL CALL -- President Dolores Marquez-Frausto.

**2. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD**

2.01 "REQUESTS TO ADDRESS THE BOARD" provides members of the public an opportunity to speak to the Board. Comments are limited to the matters on the Special Board Meeting for Thursday, March 3, 2016.

**3. SUPERINTENDENT/BOARD BUSINESS**

3.01 DISCUSSION AND ADOPTION OF RESOLUTION NO. 34-15/16 DECLARING EMERGENCY CONDITIONS EXIST AT MATHSON MIDDLE SCHOOL/MATHSON INSTITUTE OF TECHNOLOGY, AND AUTHORIZATION TO ENTER INTO CONTRACTS FOR THE REMEDIATION, REPAIR AND RECONSTRUCTION AT THE MATHSON SITE AND FOR THE PROVISION OF TEMPORARY CLASSROOM FACILITIES (California Public Contract Code Section 20113).

**4. ADJOURNMENT**

4.01 President adjourns the meeting.

Alum Rock Union Elementary School District  
**Resolution #34 – 15/16**

**Declaring Emergency Conditions Exist at Mathson Middle School/Mathson Institute of Technology, and Authorization to Enter Into Contracts For the Remediation, Repair and Reconstruction at the Mathson Site and for the Provision of Temporary Classroom Facilities  
(Public Contract Code section 20113)**

**WHEREAS**, On February 27, 2016, a sudden and unexpected fire occurred at the Mathson Middle School/Mathson Institute of Technology site located at 2050 Kammerer Ave., San José, CA 95116; and

**WHEREAS**, the Mathson site serves approximately 37 District employees and 375 students; and

**WHEREAS**, the fire damaged or destroyed the C1 classroom, damaged all eleven classrooms located within the B/C wing and all storage, and custodial and mechanical rooms within the B/C wing were damaged or destroyed by fire, water or smoke damage, and such room and facilities in their condition present a potential health and safety hazard; and

**WHEREAS**, due to the fire, instruction at the Mathson site has been disrupted and the District has been required to increase class sizes and to hold classes in temporary facilities, and such arrangements are impairing the delivery of needed education services to the Mathson students; and

**WHEREAS**, the debris and rubble resulting from the fire present an on-going and clear and imminent danger and health and safety risk to staff and students and to members of the public on or about the Mathson campus; and

**WHEREAS**, the location, amount and nature of the debris and rubble and the reconstruction and repair of the damages and destroyed facilities require immediate attention to mitigate the loss of property and essential public services and to ensure that the delivery of public education is not impaired at the Mathson site;

**WHEREAS**, Public Contract Code Section 20113, as further defined by Public Contract Code Section 1102, provides that a school district may, with the unanimous approval of the Governing Board and approval of the County Superintendent of Schools, contract for the performance of labor and purchase of materials without advertising for or inviting bids in an emergency when such work is necessary to permit the continuance of existing school classes or to avoid danger to life or property;

**NOW THEREFORE BE IT RESOLVED**, that the Governing Board of the Alum Rock Union Elementary School District does hereby adopt each and all of the above facts; and

**IT IS FURTHER RESOLVED** that the Governing Board of the Alum Rock Union Elementary School District has determined that these facts and circumstances constitute an emergency

condition and, by unanimous vote pursuant to Public Contract Code Section 20113 and Public Contract Code Section 1102 and subject to the approval of the Santa Clara County Superintendent of Schools, authorizes the execution of contracts for the remediation, repair and reconstruction of the Mathson Middle School/Mathson Institute of Technology site located at 2050 Kammerer Ave., San José, CA and for the provision of temporary classroom facilities without advertising or inviting bids; and, notwithstanding Public Contract Code section 20114, authorizes the use of day labor or force account labor to respond to the emergency conditions at the Mathson site.

PASSED AND ADOPTED by unanimous vote of the Members of the Governing Board of the Alum Rock Union Elementary School District this 3<sup>rd</sup> day of March, 2016 by the following vote:

AYES: 5  
NOES: 0  
ABSENT: 0  
ABSTENTIONS: 0

STATE OF CALIFORNIA     )  
  )ss  
COUNTY OF SANTA CLARA    )

I, Anches Quintana Clerk/Secretary of the Governing Board of the Alum Rock Union Elementary School District, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the said Board at a regularly called and conducted special meeting held on said date.

3/3/16  
APR 5 2016  
Board Approved

[Signature]  
Clerk/Secretary of the Governing Board  
Signature