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June 20, 2016

Dr. David Rostetter, Independent Monitor
Office of the Independent Monitor
Modified Consent Decree
333 South Beaudry Avenue, 18th Floor
Los Angeles, California 90017

Re: District Responses to Various Independent Monitor Letters Related to Facilities

Dear Dr. Rostetter:

This letter is being sent in response to the following letters you have written to me regarding facilities-related issues:

1. April 7, 2016 (Re: Site Visit Feedback – ADA);
2. May 6, 2016 (Re: Site Visits – Preschool for All Learners (PALs) feedback);
3. May 9, 2016 (Re: IM’s Response to District’s May 6, 2016, Letter);
4. May 16, 2016 (Re: IM’s Response to District’s May 6, 2016 Letter);
5. May 20, 2016 (Re: Report on the Effectiveness of Scopes of Work at 20 Stand Alone Barrier Removal Projects); and
6. June 13, 2016 (Re: 52nd Street Elementary School).

Since there is significant overlap in the observations, issues and allegations set forth in your letters above, this response will not provide a line by line or issue by issue correlation with the six letters. Instead, this letter is intended to provide the District’s overall responses to the major categories of issues you identified. In our conversations on April 13, 2016, April 14, 2016, May 11, 2016, and most recently on June 13, 2016, I informed you that the District is contracting with national ADA Title II experts to review and analyze the District’s ADA Title II Districtwide Transition Plan Update (Transition Plan). The results of that analysis are likely to lead to revisions of the Transition Plan. The decision to have the Transition Plan analyzed resulted in large part from our March, 2016 correspondence regarding the content of the Transition Plan and the District’s approach to the identification and removal of barriers under the ADA Title II Transition Plan requirements. As that analysis has not yet been completed, I am unable to provide you with an exact date when the revisions will be finalized. Furthermore, as you note in your March 25, 2016 letter, “the Modified Consent Decree does not give the Independent Monitor (IM) the purview to approve the District’s Transition Plan.” In your role of

determining, based upon your judgment, that the District has no systemic program accessibility problems that prevent substantial compliance with the program accessibility requirements of federal special education laws and regulations, it is important that a common understanding of the ADA Title II program accessibility requirements between the Office of the Independent Monitor and the District occurs in order to satisfy that MCD requirement.

As I stated to you in each of the meetings mentioned above on this topic, a prudent approach would be to allow the District time to obtain an expert analysis of the draft Transition Plan and make the necessary revisions in order to finalize the Transition Plan. At that time you could make an informed final determination regarding the District's success or failure to provide accessible programs and whether the District has systems in place to ensure substantial compliance with program accessibility. My expectation is that the steps leading to a final Transition Plan will be completed by the end of August 2016. I will keep you apprised of the District's progress in this regard.

1. Your April 7, 2016 letter entitled "Site Visit Feedback – ADA" states, "Failure to provide accessible programs is evidence that the District does not have systems in place to ensure substantial compliance with program accessibility. These issues are not addressed in the SOW's provided to improve program accessibility at these schools." Many of the items highlighted are not required by ADA Title II for program accessibility.

2. Your May 6, 2016 letter entitled "Site Visits – Preschool for All Learners (PALs) feedback" includes statements such as, "To date, we have visited 13 sites across all local districts; all share common problems indicative of systemic failures to ensure program accessibility and the health and safety of students with disabilities (SWDs)" and "The OIM also observed a lack of program access at these sites." Many of the statements, allegations and claims made in your May 6, 2016 letter do not address the program accessibility requirements under ADA Title II regulations.

The District has had numerous discussions with the Office of the Independent Monitor (OIM) over the past 30 months regarding the Facilities Services Division's schedule to survey schools to identify barriers to program accessibility. This involves identification of all barriers which limit program accessibility. Once barriers are identified, those barriers are prioritized and provided to Project Execution for remediation. Many of the schools the OIM is currently visiting have not yet been surveyed and not all of the schools at which the OIM is conducting site visits have been identified as a high priority at this time. Given the fact that the District has approximately 900 school sites, prioritization is key to being able to identify and remove barriers to program accessibility and all sites cannot be addressed at the same time. As you stated in your March 25, 2016 letter, "Our agreement on an approach to achieve compliance is not necessary" but the lack of a common understanding between the OIM and the District regarding program accessibility requirements will not lead to the District being able to prevent or address any actual systemic program accessibility problems that prevent substantial compliance with the program accessibility requirements of federal special education laws and regulations as you are charged with determining.

3. The federal and state standards you refer to in your May 9, 2016 letter which references your correspondence of May 6, 2016 (see above), only apply to New Construction and/or Alteration projects. The standards you reference are the ADA Accessibility Guidelines written by the United States Access Board, and are enforceable under 35.151 of the ADA (New Construction and Alterations). These Guidelines are applicable to built-in or fixed items. The changing tables referred to in your letters are non-fixed and therefore, these guidelines are not applicable.

4. Your May 16, 2016 letter in response to my May 6, 2016 letter provided that, "A search of the LAUSD website found several ventilation requirements in the District's Office of Environmental & Health Safety (OEHS) page, with references to District bulletins and an external source (the US Environmental Protection Agency [EPA]) that schools must use to ensure indoor air quality." I provided your letter to the District's OEHS and have been informed that the LAUSD OEHS *Safe School Inspection Guidebook* is a document that provides guidance for District inspectors to assist in ensuring consistency across the District and to provide template language for their use. Some of what is contained in the document is guidance and some is based on regulations or policy. Inclusion of information in the guidebook is not necessarily intended to cover all uses or situations. The item in the "Subtype" column entitled "Restroom-Ventilation" is language OEHS uses to document broken ventilation systems in restrooms. This language is not meant to address non-restroom situations. The item in the Subtype" column entitled "Odors-Indoor Air Quality" is language OEHS uses as guidance and it is not based upon any regulation. The item in "Subtype" column entitled "Tools for Schools" is a voluntary EPA program. The "Subtype" column entitled "Ventilation – Adequate" is guidance for addressing indoor air quality complaints. This guidance is not universal. The reference on page 3 to the "EPA Reference Guide for Indoor Air Quality in Schools" is a reference to EPA guidance material.

5. You issued your May 20, 2016 letter indicating your "concern for the lack of progress for achieving ADA compliance" following at least 3 previous conversations you and I had on April 13, 2016, April 14, 2016, and May 11, 2016 wherein I specifically informed you that the District is having an analysis conducted of its Transition Plan by national ADA Title II experts and that revisions of the draft Transition Plan will result from that analysis. Despite those conversations, the Report you attach to your May 20, 2016 letter requires the District to provide explanations regarding the identification of barriers to program accessibility, changes in the identification of barriers to program accessibility from previous drafts of the Transition Plans and surveys conducted pursuant to those previous drafts, and the District's use of Safe Harbor provisions, etc. All of these items are directly related to the overall analysis that is being conducted which will inform the District's final Transition Plan. Again, it is premature for the District to address any of the issues contained in your May 20, 2016 Report prior to the completion of this ADA Title II analysis and issuance of a final version of the Transition Plan. All of the previous versions you mention were drafts that included your concerns and recommendations some of which were not ADA Title II requirements (i.e., comprehensive surveys).

6. Your June 13, 2016 correspondence entitled "52nd St. Elementary School" addresses your observation of restrooms located in the locked basement of 52nd Street Elementary School. The restrooms in the basement were not surveyed by the Facilities Access Compliance Unit as these restrooms are not utilized by either students or staff, are in a locked area, and are not needed to

provide program accessibility as required by ADA Title II regulations. As I informed you in the June 13, 2016 meeting we had with David Holmquist and Jaime Hernandez, the work completed in those restrooms was part of District deferred maintenance projects, do not constitute a "renovation" as defined in the ADA Standards which would trigger ADA upgrades, was completed in 2011, and did not utilize any of the funding allocated for the ADA Title II removal of barriers to program accessibility. It should be noted that the main building at 52nd Street Elementary School was constructed in 1908. Funding for the deferred maintenance projects typically includes expenditures related to plumbing, heating, air conditioning, electrical systems, roofing, interior and exterior painting, floor systems, and asbestos encapsulation or removal. Based upon these facts, your statement that, "the size and scope of this renovation should have required DSA plan check and close out. These bathrooms are located in an inaccessible location and do not include any accessible features. This is indicative of systemic failures that resulted in noncompliant construction and poor management of limited resources" is not accurate. If the "examination of the processes the District contends are in place to ensure compliance with the ADA" you indicate in this letter is based upon the bathrooms addressed in this June 13, 2016 letter, I respectfully must state to you that these bathrooms are not within the scope of ADA Title II Transition Plan requirements and therefore, should not be "one of the primary case studies" your office will examine in relation to the Districtwide Transition Plan Update.

Superintendent King informed you in her June 17, 2016 letter that the District will be participating in collaborative school visits with you to both observe facilities conditions related to program accessibility under ADA Title II Transition Plan requirements and review PAL programs commencing in September 2016. The District will provide you with the final Transition Plan resulting from the analysis mentioned above upon completion and prior to the commencement of the site visits. The information gained from the expert analysis will address the issues raised in your various correspondence as referred to in this letter regarding facilities-related issues.

Sincerely,



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Associate General Counsel I

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