



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item 10.1c

Meeting Date: December 6, 2018

Subject: Approve the Leataata Floyd Elementary School Farm and Community Garden Project Agreement

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: _____)
- Conference/Action
- Action
- Public Hearing

Division: Facilities Support Services

Recommendation: Board to approve the Leataata Floyd Elementary School Farm and Community Garden Project Agreement between the District and the City of Sacramento.

Background/Rationale: Northwest Land Park LLC previously made arrangements with the Sacramento City Unified School District to use land adjacent to Leataata Floyd Elementary School located at 401 McClatchy Way to establish an urban farm and a community garden to benefit the residents within the surrounding community, including the students who attend the School and their parents.

The Farm will be developed as urban farm for the purpose of educating students about agriculture, environmental protection, health and nutrition. In January 2016, the District approved the Food Literacy Center, a non-profit corporation, as operator of the Floyd Farm. Food Literacy intends to also use the Farm to educate school parents and the larger community about how sustainable organic gardening provides health and nutrition benefits.

The Community Garden component will allow for School staff, parents, and community members to obtain rights to a garden plot to grow their own fruits and vegetables. The Community Garden will be operated and maintained by the City.

Students, their parents, and other residents within the Northwest Land Park community will benefit from the establishment of the Farm and the Community Garden as an educational and recreational learning center. CA Education Code Section 10900 authorizes school districts to work with cities to conduct programs of community education and recreation for children and adults.

Financial Considerations: None at this time.

LCAP Goal(s): College, Career and Life Ready Graduates; Safe, Emotionally Healthy and Engaged Students; Family and Community Empowerment; Operational Excellence

Documents Attached:

1. Farm and Community Garden Project Agreement

Estimated Time of Presentation: N/A

Submitted by: Cathy Allen, Chief Operations Officer

Approved by: Jorge A. Aguilar, Superintendent

**LEATAATA FLOYD ELEMENTARY SCHOOL
FARM AND COMMUNITY GARDEN PROJECT AGREEMENT**

THIS AGREEMENT (“Agreement”) is made as of _____, 2018, by and between the SACRAMENTO CITY UNIFIED SCHOOL DISTRICT, a public school district (“District”) and the CITY OF SACRAMENTO, a municipal corporation (“City”) (collectively, the “Parties”).

Background

- A. Northwest Land Park LLC (“Developer”) has made arrangements with the Sacramento City Unified School District (“District”) to use excess land at the Leataata Floyd Elementary School (the “School”) located at 401 McClatchy Way to establish an urban farm (the “Farm”) and a community garden (the “Community Garden”) to benefit the residents within the surrounding community, including the students who attend the School and their parents.
- B. The Farm is to be developed as urban farm for the purpose of educating students about agriculture, environmental protection, health and nutrition. The District has made arrangements with Food Literacy Center, a non-profit corporation, for operation of the Farm. Food Literacy intends to also use the Farm to educate School parents and the larger community about how sustainable organic gardening provides health and nutrition benefits.
- C. The Community Garden component will allow for School staff, parents, and community members to obtain rights to a garden plot to grow their own fruits and vegetables. The Community Garden is to be operated and maintained by the City.
- D. The children of residents at the Northwest Land Park development project are expected to attend the School. The students, their parents, and other residents within the Northwest Land Park community would benefit from the establishment of the Farm and the Community Garden as an educational and recreational learning center. CA Education Code Section 10900 authorizes school districts to work with cities to conduct programs of community education and recreation for children and adults.
- E. CA Government Code Section 66477(f) (the “Quimby Act”) provides that land used for “recreational community gardening” can qualify as parkland as long as the produce is not sold for commercial purposes. The City must obtain an interest in the property that is to be dedicated as parkland in order to qualify for Quimby Act credit. Under the terms of an agreement between Developer, District and City dated October 3, 2012, City is to grant Developer parkland dedication credit for the Farm and Community Garden easement area granted to City by District.
- F. The agreement between the City and Developer also provides that the Developer will construct the Farm and Community Garden with park impact fees generated from the Northwest Land Park development project. The Farm site will be graded, an

irrigation system and utilities installed, and fencing provided in accordance with the Farm and Community Garden Master Plan and the District's specifications. The District, subject to available District funds and budget constraints, intends to construct a building, the cost and size to be determined, within the Farm area for food processing, storage, and education. Any additional structures desired by the Parties will be constructed by the Developer, upon receiving District approval.

- G. The Parties intend that the Farm and Community Garden are constructed concurrently. After the District grants City the easement over the Farm and Community Garden property, City will enter into an agreement with the Developer to construct these facilities in accordance with the terms of this Agreement.

Agreement

NOW, THEREFORE, the Parties agree as follows:

1. EASEMENT – In consideration of the terms and covenants set forth in this Agreement, the District agrees to grant City an easement over a portion of the School property in the form attached, and City agrees to accept the easement.
2. MASTER PLAN - The District's grant of the easement is conditioned on District's prior approval of the Farm and Garden Master Plan, which is to be prepared by Developer and subject to approval by the City Council. As used herein, "Farm" and "Community Garden" means the areas as depicted in the easement's Exhibit B, the plat map depicting the Easement Area.
3. FARM AND COMMUNITY GARDEN CONSTRUCTION - City will arrange for the construction of the Farm and Community Garden by the Developer in accordance with the approved Farm and Garden Master Plan, and the District and City specifications as applicable. City accepts the property in its current condition and District shall have no liability to make the property suitable for construction of the Farm and Community Garden. City will insure that Developer's construction contractor posts 100% performance and payment bonds, and carries a minimum \$1 million General Liability insurance coverage which names District and City as additional insureds, as well as workers compensation coverage with a waiver of subrogation. The Farm and Community Garden, subject to available District funds and budget constraints, are to be constructed concurrently and the construction schedule is subject to District's approval to minimize impacts to the School operation. City will provide District with a minimum of fifteen days prior notice before construction commences.
4. FARM OPERATION AND MAINTENANCE – District shall have the exclusive right to make arrangements for the operation and maintenance of the Farm. District, through its arrangements with the Food Literacy Center, shall insure that members of the public, including residents of the Northwest Land Park development project, will have an opportunity to benefit from the educational component of the Farm operation by granting public access, such as an open house, to portions of the Farm

on days and hours as determined by the District. The Parties acknowledge that the Farm will be fenced and generally not open for unsupervised access by the public in order to protect the equipment and plantings from damage and to protect the public from harm.

5. FARM MAINTENANCE AND OPERATION COSTS – Although the City has established a maintenance assessment community facilities district that encompasses the Northwest Land Park development project and an allocation for park maintenance, which includes the off-site Farm and Community Garden, before the Farm commences operations, and before each fiscal year thereafter, the City and the District shall agree on a budget, subject to available funds described herein and subject to available District funds and budget constraints, to apportion for payment all operational and maintenance expenses, including utilities and staff costs associated with the Food Literacy Center, to support the Farm.
6. SALE OF FARM PRODUCE - The Parties acknowledge that the Farm is intended to educate students regarding agricultural, environmental protection, health and nutrition practices. City agrees that the produce from the Farm may be sold by the Food Literacy Center as long as the net sales proceeds are invested in the operation and maintenance of the Farm.
7. COMMUNITY GARDEN OPERATION AND MAINTENANCE - The Community Garden is intended to provide an opportunity for School teachers and students, School parents, and Northwest Land Park residents to engage in planting and harvesting produce for their own use. City will be responsible for the operation and maintenance of the Community Garden, and payment of all utility charges.

City agrees to provide a preference in allocating garden plots to School staff and parents, with at least half of the plots set-aside for registration by School users. If the School is not using all of their assigned garden plots, City will have the opportunity to assign the vacant/abandoned plots to members of the public for a one year term. All gardeners will be required to comply with City’s community garden rules, which include plant type restrictions, herbicide prohibition, and plot maintenance requirements.
8. INSURANCE AND INDEMNITY – District and City have entered into a Memorandum of Understanding (“MOU”) dated May 31, 2001 (City Agreement No. 2001-050), which provides for each party to maintain certain insurance coverages and to defend and hold harmless the other party for any liability caused by the negligence of their officers, agents or employees. The Parties agree to be bound by the terms of the MOU and to incorporate the indemnity provisions set forth in the MOU in this Agreement in the event that the MOU is ever terminated.
9. NAYLOR ACT WAIVER – City agrees that in consideration of the easement to be granted by District to City at no cost, City will not assert rights under the Naylor Act regarding acquiring the District property at less than fair market value if District

determines that the School site is surplus property. District is willing to enter into this Agreement under the express understanding that the easement will not create Naylor Act issues for District. Therefore, in consideration of District's permission to allow its property to be made available for public recreational use, City hereby waives any rights in the Easement Area (as defined in the attached Easement Deed) that may arise in the future under the Naylor Act.

If District ever determines that it would be in District's best interest to close the School and sell the parcel of land which includes the Easement Area, then either, at City's election: (i) the Easement Area shall be segregated from the remainder and City shall have the right to purchase the residual fee interest based on an appraisal, and continue to use the Easement Area for open space and recreational purposes; or (ii) City shall reconvey its interest in the Easement Area without any recourse of, or obligation to, District, including any obligation to remove any improvements on the Easement Area.

10. SIGNAGE - City may install directional and information signage within the Community Garden portion of the Easement Area without the prior written consent of District. Any signage to be placed outside of the Easement Area within the School property must be approved by District. City's signage shall post the hours that the Community Garden is open to the public, which is generally from sunrise to sunset. City will also post rules with regard to garden operations to prohibit use of radios or other audio equipment during School hours, as well as any other rules that the Parties mutually agree is needed to minimize disruption to School operations.
11. WAIVER - The waiver by either party of any breach of any term or condition in this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other term or condition.
12. COMPLIANCE WITH ENVIRONMENTAL LAWS - City represents, warrants and covenants that City and its employees, agents and contractors will occupy and use the Easement Area in compliance with all applicable federal, state and local laws, ordinances and regulations (including consent decrees and administrative orders) relating to public health and safety and protection of the environment (collectively "Environmental Laws"). City will not permit any storage, release, or disposal of any hazardous material, as that term is defined in the Environmental Laws, on or within the Easement Area. City shall immediately notify District of any release of hazardous material in or around the Easement Area and shall take such necessary remediation measures at City's expense to the complete the remediation to the satisfaction of District.
13. NOTICES

All notices and demands required to be given between the Parties shall be in writing and transmitted by any of the following methods: (1) facsimile with proof of transmission; (2) overnight mail with proof of delivery; (3) email provided receipt is acknowledged; (4) personal delivery; (5) certified mail, return receipt requested; or

(6) by regular mail placed in the United States Mail, postage prepaid, and addressed as follows:

Notice to City:

City of Sacramento
Director, Department of Youth, Parks and Community Enrichment
New City Hall
915 I Street, 3rd Floor
Sacramento, CA 95814

Notice to District:

Sacramento City Unified School District
Superintendent
5735 47th Avenue
Sacramento, CA 95824

The Parties may designate other addresses by notice in writing.

14. NO JOINT VENTURE OR AGENCY

The Parties to this Agreement do not constitute a joint venture, partnership or association. It is understood and agreed that each Party is an independent contractor and neither Party, nor any of its employees or agents, shall be considered for any reason whatsoever to be employees of the other Party.

15. NO THIRD PARTY BENEFICIARIES

This Agreement is for the sole benefit of the Parties. Nothing set forth in this Agreement is intended to benefit or create any legal rights to any person not a party to this Agreement, including without limitation Developer.

16. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties and supersedes any prior written or oral agreements between the Parties with respect to the matters contained herein.

17. AUTHORITY

Each of the signatories to this Agreement represents that he/she is authorized to sign the Agreement on behalf of such party and that all agency approvals, resolutions and consents which must be obtained to bind such party have been obtained that no further approvals, acts or consents are required to bind such party to this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

City of Sacramento

Sacramento City Unified School District

By: _____

By: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Senior Deputy City Attorney

By: _____
Legal Counsel

ATTEST:

By: _____
Assistant City Clerk