



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item 9.1f

Meeting Date: August 15, 2019

Subject: Approve Exclusive Negotiating Agreement – Extension, 2718 G Street, Old Marshall

- 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: Approve Exclusive Negotiating Agreement

Background/Rationale: The second Exclusive Negotiating Agreement will expire September 30, 2019. This agreement is an extension of the second and will extend the agreement for an additional six months. Both parties desire to renew the agreement to allow sufficient time to identify exchange parameters.

Financial Considerations: None at this time.

LCAP Goal(s): Family and Community Empowerment

Documents Attached:

1. Exclusive Negotiating Agreement

<p>Estimated Time of Presentation: N/A Submitted by: Cathy Allen, Chief Operations Officer Approved by: Jorge A. Aguilar, Superintendent</p>

**EXCLUSIVE NEGOTIATING AGREEMENT
(2718 G STREET, OLD MARSHALL SCHOOL)**

PREAMBLE

This Exclusive Negotiating Agreement (the “Agreement” or “ENA”) is effective on August 15, 2019 (the “Effective Date”) by and between the **Sacramento City Unified School District** (the “District”), **Bardis Homes, Inc.** and **Mogavero Architects** (collectively, “Bardis/Mogavero”) (referred to as the “Parties”).

RECITALS

WHEREAS, Bardis/Mogavero has been selected to acquire and develop the Old Marshall School property located at 2718 G Street, Sacramento, California (“Old Marshall School” or the “Property”) pursuant to its proposal (“Proposal”) dated September 30, 2016 to the District’s Request for Proposals (the “RFP”); and

WHEREAS, Bardis/Mogavero has been engaged in due diligence activities for the development of the Old Marshall School; and

WHEREAS, additional due diligence activities are required before a mutually acceptable agreement can be negotiated for development of Old Marshall.

TERMS AND CONDITIONS

NOW, THEREFORE, the Parties agree as follows:

1. Adoption of Recitals. The foregoing recitals are incorporated herein by this reference.
2. Duration of Exclusive Negotiating Period. The duration of the exclusive negotiating period shall be for a period of six months from the Effective Date through March 31, 2020, unless extended in writing by the Parties.
3. Scope of Exclusive Negotiations. During the ENA period, the Parties agree to negotiate an agreement, subject to ratification by the District, on terms and conditions mutually beneficial and feasible for the Parties in order to achieve the objectives of the successful development of Old Marshall.
4. Costs; Right of Entry Agreement. The District shall not be responsible for any costs incurred by Bardis/Mogavero for development of plans, due diligence testing, or the engagement of any consultants it considers necessary for feasibility or development of the Property, including, but not limited to, development entitlements, loan commitments and CEQA compliance. To facilitate Bardis/Mogavero’s due diligence activities, the Parties will enter into a separate Right of Entry Agreement.

5. Non-Assignability; No Third Party Beneficiaries. The Agreement is non-assignable as it is unique to the Parties. There are no third party beneficiaries.

6. Indemnity. The Parties shall be responsible for their own acts or omissions giving rise to claims of liability or liability and the Party shall be indemnified, defended and held harmless by the Party whose acts or omissions have resulted in claims of liability or liability.

7. Notice. Any notice to be given shall be provided to the following addressees:

For the District:

Cathy Allen
Chief Operations Officer, Facility Support Services
Sacramento City Unified School District
5735 47th Avenue
Sacramento, CA 95824
Phone: (916) 643-9233
Facsimile: (916) 643-2020
Email: cathy-allen@scusd.edu

For Bardis Homes, Inc.

Katherine Bardis, Co-Founder/Chief Executive Officer
10630 Mather Blvd.
Mather, CA 93655
Phone: (916) 313-3120
Fax: (916) 364-3570
Email: katherine@bardishomes.com

For Mogavero Architects, Inc.

David Mogavero, Principal/Chief Executive Officer
Dominic Mogavero, Development Services
2012 K Street
Sacramento, CA 95811
Phone: (916) 443-1033
Email: dommogavero@mogaveroarchitects.com

Notice may be provided by personal service, regular mail, certified mail, overnight mail with proof of delivery, facsimile with proof of transmission, or by email provided receipt is acknowledged.

8. Entire Agreement; Amendment. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements made prior to the date hereof. This Agreement may not be amended except in writing executed by both Parties.

9. Authority; Execution in Counterparts. The persons designated below shall have the power to authorize and designate an agent or representative to sign on behalf of the signatory below by

written acknowledgment which shall not be required to be notarized. Signatures may be executed in counterparts on separate signature pages. Copies of signatures, including facsimile and electronic signatures, shall have the same force and effect as original signatures.

10. Ratification by District. The ENA shall not be effective until ratified by the Board of Education or delegated for approval to the Superintendent or his authorized designee.

EXECUTION

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the last signature date below.

Dated: August __, 2019

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

By _____

Its:

Dated: August __, 2019

BARDIS HOMES, INC.

By _____

Katherine Bardis,
Co-Founder/Chief Executive Officer

Dated: August __, 2019

MOGAVERO ARCHITECTS

By _____

David Mogavero,
Principal/Chief Executive Officer