



Agenda Item #: IV G: Action Item

Date: June 16, 2022

To: Magnolia Educational & Research Foundation dba Magnolia Public Schools ("MPS")  
Board of Directors (the "Board")

From: Alfredo Rubalcava, CEO & Superintendent

Staff Lead: Patrick Ontiveros, General Counsel & Director of Facilities  
Mustafa Sahin, Project Manager

RE: Approval of Waiver of Contingencies for the Purchase of 7111 Winnetka Ave

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## I. Proposed Recommendation(s)

Staff recommends and moves that the MPS Board approve

- (1) the waiver of the contingencies for the purchase of the property located at 7111 Winnetka Ave in Winnetka (the "Property") and the deposit of an additional good faith funds of \$150,000 into escrow,
- (2) the financing of the purchase of the Property pursuant to the terms and conditions set forth in that certain term sheet dated May 29, 2022 by CLI Capital,
- (3) the assignment of the purchase and sale agreement for the Property to a wholly owned limited liability company subsidiary of Magnolia Properties Management, Inc., and
- (4) the execution by the MPS CEO and Superintendent, or his designees, of such documents and instruments as may be necessary to undertake and complete the foregoing actions.

## II. Background

At its December 19, 2021 meeting, the MPS Board approved MPS signing a purchase and sale agreement ("PSA") for the purchase of the Property and making a good faith, refundable, escrow deposit of Two Hundred Thousand Dollars (\$200,000). Portions of the "Background" section of the December 19<sup>th</sup> report is excerpted below.

*For the 2021-22 school year, Magnolia Science Academy—5 ("MSA—5") is co-located with Magnolia Science Academy—1 ("MSA-1") at the property located at 18220 and 18238 Sherman Way in Reseda. MPS elected to co-locate MSA—5 with MSA—1 when the Los Angeles Unified School District ("LAUSD") made MSA—5 an offer of space at Chatsworth High School in lieu of Reseda High School, where it has been located for several years. MSA—5 subleases space from MSA—1. MSA—1 leases such property from MPM Sherman Way LLC, a California limited liability company and wholly owned subsidiary of Magnolia Properties Management, Inc., a California non-profit public benefit corporation and 501(c)(3) tax exempt organization. MSA-1 operates a middle school and high school on the leased premises.... MPS desires to re-locate MSA—5 to its own private campus*



at the Property which is within close proximity to MSA—5’s original location at Reseda High School....

*The Property at 7111 Winnetka Ave ... consists of a 21,849 square foot building on land that is approximately 75,794 square feet. The Property is presently leased to multiple tenants and must delivered free of all tenancies by the close of escrow.*

*MPS’s real estate broker, InSite EFS, Inc., negotiated an offer for the purchase of the Property. ... :*

<i>Price</i>	<i>\$9,450,000,000</i>
<i>Free Look/Due Diligence Period</i>	<i>90 Days with option to extend for three 30 day periods for the following consideration: First 30 day Extension = \$15,000 Second 30 day Extension = \$20,000 Third 30 day Extension = \$25,000</i>
<i>Good Faith Deposit</i>	<i>\$200,000, increased to \$350,000 by the end of the Due Diligence Period as such may be extended by Buyer.</i>
<i>Closing Period</i>	<i>30 days. Owner has the option to extend the closing for up to six (6) consecutive 30 day periods for the purpose of removing any tenants.</i>

Escrow for the purchase and sale of the Property was opened on December 22, 2021. Since such time, MPS Staff has been engaged in due diligence activities including commissioning multiple studies: a phase I environmental site assessment, an ALTA and topographic survey, an appraisal, a zoning/entitlements survey, and a soils study. MPS Staff worked with Pacific Charter School Development, an architect, and a general contractor to evaluate and price out various design concepts that could be adapted for the Property. MPS Staff determined that it only will proceed with the project if it will be a new construction project. MPS Staff does not believe that a tenant improvement project would yield the best facilities for MPS and MSA—5.

MPS has exercised all three (3) options to extend the contingency period. At its March 8, 2022 meeting the Board approved the exercise of the first option and the release of \$15,000 from escrow. At its April 7, 2022 meeting the Board approved the exercise of the second option and the release of \$20,000 from escrow. At its May 12, 2022 meeting the Board approved the exercise of the third option and the release of \$25,000 from escrow. With the waiver of the contingencies, the balance in the escrow account of \$140,000 will be released to the Seller. The waiver of contingencies must be delivered to the Seller and escrow by June 22, 2022. In addition, MPS will be responsible for depositing an additional \$150,000 in non-refundable funds to escrow by June 30, 2022.

MPS Staff has advised MSA-5’s charter authorizer, the Los Angeles County Office of Education (“**LACOE**”), of its desire to purchase and develop the Property. LACOE acknowledged both verbally and in writing that MPS fulfilled its obligation to LACOE by notifying them of the transaction but that LACOE does not have the authority to approve or disapprove of the transaction.



MPS proposes to purchase the Property with a loan from CLI Capital according to the terms reflected in a term sheet dated April 28, 2022, a copy of which is attached as **Exhibit A**. CLI Capital and MPS are negotiating loan documents. Once the documents have been negotiated and finalized, MPS Staff will return to the MPS Board for authorization to either close the purchase and financing or assign the PSA to a limited liability company ("**LLC**") subsidiary of Magnolia Properties Management, Inc. ("**MPM**"), a 501(c)(3) support corporation for. When MPS assigns the PSA to an LLC of MPM, MPS will enter into a lease for the Property with the LLC.

At closing, the Seller must deliver the Property free and clear of all liens and tenants. It has the option of extending the closing in order to do so. Seller has 6 30-day options (no cost, with 10-days notice) to extend the Closing for the sole purpose of delivering the Property as required by the PSA. There are no long term leases in place

### III. Conclusion / Budget Impact

MPS would like to acquire or lease the Property for the benefit of MSA-5 to allow MSA-5 to relocate from the MSA-1 campus to its own private facility.

The **full** budget impact to MSA-5 of the purchase transaction is unknown and depends on a multitude of factors including how much equity (i.e., cash) MSA—5 can invest in the Project, and financing terms. In the short term, the good faith deposit of \$200,000 was paid from MSA—5's operating budget. The additional \$150,000 will also be paid from its operating budget. **MSA 5 has sufficient budget capacity to absorb this expense.**

Staff will keep the Facilities Committee and the Board apprised of the status of the Project. It will seek Committee and Board approval in order to close on the purchase of the Property.

Exhibit A\_\_\_\_\_CLI Capital Term Sheet



## Exhibit A

### CLI Capital Term Sheet



May 19, 2022

*Via e-mail*

Magnolia Educational & Research Foundation  
Board of Directors  
% John Buck, Buck Financial Advisors, LLC

RE: Property acquisition and construction loan - "MSA-5 Winnetka Project"

This will constitute the commitment of CLI Capital ("CLI") to loan to Magnolia Property Management, Inc. or a wholly owned single asset entity ("Borrower"), the sum of up to Twenty Five Million Seven Hundred Fifty Thousand Dollars (\$25,750,000), less any title insurance, appraisal costs, mortgage registration tax, origination fees and all other closing costs and expense that may be incurred by CLI in connection with the funding and collection of the loan. This is a commitment to provide financing based on the contingencies located within this letter. This letter is not intended to be an all-encompassing document but a formal communication of approval, commitment of terms, and identification of contingencies and other requirements to facilitate closing in a reasonable time frame. The actual loan documents supersede all terms and conditions of this letter.

The acceptance of this commitment must be indicated by Borrower's signing and returning this letter no later than 5:00 pm Central time on May 26, 2022. If this commitment is not accepted within the specified time frame, CLI may extend the commitment (required to be in writing), allow the commitment to terminate, or issue a revised commitment (required to be in writing). The acceptance of this commitment will be the Borrower's authorization for CLI to withhold from the proceeds of the loan any closing costs or expenses associated with making the loan.

I. Loan Structure and Pricing

The loan will be structured as an advancing note for the purchase of the property located at 7111 N. Winnetka Avenue, Winnetka, California and related improvements. The initial loan advance will be for closing costs associated with the loan. Subsequent advances will be for the purpose of property acquisition and construction in accordance with the construction contracts and construction budget as approved by CLI.

- 1) It is anticipated that the transaction will close in June of 2022. If an earlier closing is desired, closing may occur within 10 business days of CLI's receipt of all Contingencies and Requirements listed below.
- 2) The note will have a maturity date of June 1, 2027. On that date all unpaid principal, accrued interest, and other charges allowed under the note will be due.
- 3) The interest rate will be a floating rate based on the Wall Street Journal Prime rate plus a margin of 1.50%. The interest rate will have a 5.75% floor. Interest will accrue daily on the outstanding unpaid principal balance.

- 4) In August 2024 all accrued interest will be capitalized and added to the outstanding principal balance of the loan. In September 2024, monthly principal and interest payments based on a 30 year amortization will be required.
- 5) Borrower will pay to Lender an origination fee of 1.5% of the loan amount in conjunction with the closing of the loan. Borrower may pay this and/or all of its closing costs with an advance on the loan.
- 6) The loan may be prepaid at any time without penalty.
- 7) The loan will be cross-pledged to the "Sherman Project" loan which is referenced in a separate commitment letter.
- 8) Loan funding is subject to confirmation from Borrower's counsel that the proposed loan meets the terms of the Additional Indebtedness Test as specified in Borrower's existing bond documents.

II. Contingencies and other Requirements

This commitment shall be subject to the following conditions:

- 1) Borrower shall return a signed copy of this commitment letter to CLI on or before the expiration date listed above.
- 2) The loan shall be secured by a first mortgage lien on the property purchased and an assignment of all rents, leases, contracts, etc. concerning the property. The lease between Borrower and the tenant must be reviewed and approved by CLI prior to closing. Said property shall be subject to no other liens or encumbrances unless otherwise approved by CLI in writing. Payments made to other related entities for management fees or other similar expenses may be restricted by the lender in the event of an uncured default under the loan documents.
- 3) The loan will be made pursuant to a loan agreement entered into by the Borrower and CLI consistent with the terms of this commitment and such other normal covenants of the Lender's loan agreement.
- 4) That a mortgage title insurance policy in the face amount of not less than the total amount of the loan be issued by a title insurance company acceptable to CLI, insuring CLI is the holder of a good and valid first lien mortgage upon the real estate securing the loan.
- 5) During the term of the loan Borrower agrees to periodically supply CLI with financial statements, reports, and any other pertinent financial or statistical data as reasonably requested by CLI.
- 6) The loan agreement will include a limitation on MERF/MPM borrowing additional debt without obtaining prior written approval by CLI, subject to a de-minimis aggregate amount of \$1,000,000.
- 7) Borrower will be required to furnish to CLI evidence of builder's risk coverage/hazard insurance in an amount not less than the amount of the note. The policy is to provide for customary builders risk coverages, fire, and extended coverage on the entire facility. CLI is to be listed as mortgagee and loss payee. Evidence of such coverage must be furnished prior to loan funding and approved by CLI.
- 8) Loan funding is subject to the receipt of an appraisal performed by a third party deemed acceptable to CLI. The final loan amount will be limited to the lesser of the following amounts: \$25,750,000, 100% of costs, or 100% of appraised value as improved.
- 9) Borrower will provide a full project budget and related construction contract prior to funding loan advances beyond the initial closing advance, which must be approved by CLI. No construction changes or modifications will be made to the construction budget without the expressed written

consent of CLI. Construction draws will be processed using normal and customary AIA Construction Progress Draw Forms. Construction draws must be approved by the architect supervising the project. The construction draw process will be monitored by a third party construction monitoring agent as selected or approved by CLI. The costs related to this monitoring agent will be paid by Borrower. These costs are estimated at \$450 per construction draw.

- 10) Borrower agrees to pay all lender's costs associated with this loan, including legal fees for document preparation (estimated to be 8,000), flood searches (estimated at \$16) and environmental assessment (estimated at \$500). If the environmental assessment indicates any potential environmental issues, a Phase 1 must be obtained and approved by CLI prior to closing. If Borrower has already obtained a Phase 1 on the property the \$500 environmental assessment charge will be waived.
- 11) CLI and Borrower must review and approve all legal documents prior to closing and CLI and or its legal counsel must review and approve the corporate documentation of the Borrower and other entities involved in the transaction prior to closing.
- 12) The parties represent and agree that CLI is a resident of Potter County, Texas and that Borrower has contacted CLI in Potter County, Texas and this contract has been negotiated, in whole or in part, in Potter County, Texas. The parties further represent and agree that all notices and all payments to CLI are to be made in Potter County, Texas.
- 13) Based on the foregoing representations, the parties agree that this contract is to be governed by the laws of the state of Texas, and that jurisdiction of any dispute over interpretation or enforcement of this contract is proper in a district court in the state of Texas, which location would not be unreasonably inconvenient, or unjust. The parties therefore designate that any suit brought to interpret or enforce this contract shall be brought in a district court in Potter County, Texas, or in the United States District Court for the Northern District of Texas, Amarillo Division.

We look forward to working with you in connection with this transaction.

Sincerely,



Travis David  
Senior Vice President and Chief Financial Officer  
CLI Capital

This commitment has been agreed to and accepted by the undersigned on behalf of Borrower



Signature

Alfredo Rubalcava, CEO and Superintendent 5/20/2022

Printed Name and Title / Date

cc: Lender's Counsel