



Agenda Item #: IV E: Action Item

Date: October 13, 2022

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

From: MPS Audit/Facilities Committee

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

RE: Approval of Closing of the Purchase of 7111 Winnetka Ave., the Assignment of the
Purchase and Sale Agreement to MPS Sherman Winnetka LLC, and the Signing of a
Lease for 7111 Winnetka Ave.

I. **Proposed Recommendation(s)**

Presented previously at the MPS Audit/Facilities Committee Meeting

Staff recommends and moves that the MPS Board approve the following actions:

- (1) the assignment by MPS to MPM Sherman Winnetka LLC (the "**Winnetka Ave LLC**") of all its right, title and interest in and to that certain agreement for the purchase of the property located at 7111 Winnetka Ave in Winnetka (APNs: 2135-038-016 and 2135-038-016) (the "**7111 Winnetka Ave Property**") including the right to take title to the Property and the good faith deposit made by MPS;
- (2) the execution by the MPS CEO, CFO or their designees, of a lease agreement by and between MPS and Winnetka Ave LLC (the "**7111 Winnetka Lease**") for the use and occupancy of the 7111 Winnetka Ave Property by Magnolia Science Academy—5 ("**MSA—5**");
- (3) under the 7111 Winnetka Lease, the payment by MPS to Winnetka Ave LLC of non-refundable advanced rent in an amount not to exceed \$350,000 consisting of the assignment of the good faith deposit made by MPS to escrow;
- (4) the execution by the MPS CEO, CFO or their designees, on behalf of Winnetka Ave LLC, as its sole manager of such documents and instruments as may be necessary in order for Winnetka Ave LLC to acquire the 7111 Winnetka Ave Property, including any loan documents; and
- (5) the execution by the MPS CEO and Superintendent, CFO, or their designees, of such documents and instruments as may be necessary to undertake and complete the foregoing actions.



II. Background

Prior Board Actions

At its December 19, 2021 meeting, the MPS Board approved MPS signing a purchase and sale agreement ("**PSA**") for the purchase of the 7111 Winnetka Ave Property and making a good faith, refundable, escrow deposit of Two Hundred Thousand Dollars (\$200,000).

Escrow for the purchase and sale of the Property was opened on December 22, 2021. MPS exercised all three (3) of its 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. At its June 16, 2022 meeting the Board approved the waiver of the contingencies, release of the balance in the escrow account of \$140,000 to the Seller and the deposit of an additional \$150,000 in non-refundable funds to escrow by June 30, 2022. At the June 16th meeting the Board also approved a loan from CLI Capital to fund the acquisition of the 7111 Winnetka Ave Property.

MPS Staff 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 assign to Winnetka Ave LLC the right to take acquire and take title to the Winnetka Ave Property with a loan from CLI Capital according to the terms a term sheet dated April 28, 2022, a copy of which is attached as **Exhibit A**. MPS expects that the final loan documents will be substantially similar to the loan documents used for the acquisition by Winnetka Ave LLC in which CLI Capital was also the lender. Winnetka Ave LLC is a subsidiary of Magnolia Properties Management, Inc., a 501(c)(3) support corporation. When MPS assigns the PSA to Winnetka Ave LLC, MPS will enter into a lease for the Property with the Winnetka Ave LLC.

At closing, the Seller must deliver the Property free and clear of all liens and tenants. There are no long term leases in place. Seller has the option of extending the closing in order to do so. Seller has six (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, of which it has exercised one. MPS does not believe that Seller will exercise anymore although it has 10 days before the scheduled closing date (i.e., October 20th) to exercise another option.

Current Requested Actions

Assignment of Right to Take Title and Execution of New Lease

MPS Staff recommends assigning the purchase agreement and all rights and interests in it to Winnetka Ave LLC which will hold title to the 7111 Winnetka Ave Property at the close of escrow. This structure will allow MERF to receive SB740 funding. Winnetka Ave LLC will lease the 7111 Winnetka Ave Property to MPS for the benefit and occupancy by MSA—5 under a new lease agreement..



Payment of Non-Refundable Advanced Rent to Winnetka Ave LLC and Execution of 7111 Winnetka Ave Lease

MPS Staff recommends that MPS pay advanced rent to Winnetka Ave LLC of up to \$350,000, consisting of the good faith deposit of \$350,000 made by MPS and assigned by MPS to Winnetka Ave LLC, and sign the 7111 Winnetka Ave Lease.

Winnetka Ave LLC is receiving a loan from CLI Capital to purchase the 7111 Winnetka Ave Property. Separately, Winnetka Ave LLC's sole member MPM has authorized or will authorize the receipt of the acquisition loan from CLI Capital. The loan, however, is for \$9,500,000 and the purchase price plus closing costs is expected to exceed such amount, requiring Winnetka Ave LLC to pay the difference. The advanced rent payment is needed by Winnetka Ave LLC in order to close escrow on the purchase of the 7111 Winnetka Ave Property.

MPS must sign the 7111 Winnetka Ave Lease with Winnetka Ave LLC in order for MSA—5 to use and occupy the 7111 Winnetka Ave Property. The rent payable to Winnetka Ave LLC under the Lease is equal to the debt service Winnetka Ave LLC will pay to CLI Capital.

Signature of Loan Documents by MPS as Sole Manager of Winnetka Ave LLC

Winnetka Ave LLC's sole manager is MPS. As such MPS's CEO, CFO or such other appropriate officer will be required to sign the loan documents with CLI Capital on Winnetka Ave LLC's behalf.

III. Conclusion / Budget Impact

The projected acquisition cost of \$9,900,000 (that is, the purchase price, broker's fee, CLI Capital's commitment fee, and miscellaneous closing costs) will be financed over a period of 30 years. There will be no principal or interest payments during the 2022-23 fiscal year but rather accrued interest will be added to the principal amount of the loan. The payment schedule will resume during the 2023-24 year at which time MSA-5 will begin making payments of approximately \$66,000 per month, which will be incorporated into the school's financial projections.

MPS has applied for funding through the California Office of Public School Construction in order to develop the 7111 Winnetka Ave Property. In the event that funding is awarded, one half of the award will be a loan and will need to be paid back while the other half will be a grant which will not need to be paid back. Until such time as funding is received from OPSC, CLI Capital will provide the funding for the acquisition and construction. Upon receipt of such award, MPS will use those funds to pay off CLI Capital's loan.

IV. Attachments

- Exhibit A – Term Sheet



Exhibit A

CLI Capital Term Sheet for the Financing of the Acquisition of 7111 Winnetka Ave



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