



Agenda Item #: III D: Action Item

Date: February 9, 2023

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

RE: Approval of Resolutions Related to 16600 Vanowen Street

I. Proposed Recommendation(s)

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

(1) the assignment by MPS to MPM 16600 Vanowen Street LLC (the "Vanowen Street LLC") of all its right, title and interest in and to that certain agreement for the purchase of the property located at 16600 Vanowen Street (APNs: 2231-007-008, -016 and -017) (the "Vanowen Street 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 Vanowen Street LLC (the "Lease") for the use and occupancy of the Vanowen Street Property by Magnolia Science Academy—2 ("MSA-2");

(3) under the Lease, the payment by MPS to Vanowen Street LLC of non-refundable advanced rent in an amount equal to approximately \$3,100,000, consisting of (i) \$400,000 from the assignment of the good faith deposit made by MPS to escrow for the Vanowen Street Property and (ii) approximately \$2,700,000 in cash;

(4) the execution by the MPS CEO, CFO or their designees, on behalf of Vanowen Street LLC, as its sole manager of such documents and instruments as may be necessary in order for Vanowen Street LLC to acquire the Vanowen Street 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

MSA-2 Co-Location Use Agreement

MSA-2 operates on Birmingham Community Charter High School ("**BCCHS**") campus pursuant to a co-location use agreement ("**CUA**") with the Los Angeles Unified School District ("**LAUSD**"). By its terms the CUA is co-terminus with MSA-2's charter. Originally, MSA-2's charter was scheduled to expire in June 2022. However, when the State of California through legislation provided an extension for all charters expiring during the COVID pandemic, MSA-2's charter was extended for two years, now expiring in June 2024. Notwithstanding, LAUSD asserted that such extension was inapplicable to the CUA and that MSA-2 was required to submit an application for Prop 39 space commencing with the 2022-23 school year, with no guarantee that MSA-2 would remain on the BCCHS campus. MPS disputed LAUSD's position. After negotiation, MPS and LAUSD agreed that MSA-2 could remain on the BCCHS property through the 2023-24 school year. Thereafter, MSA-2 will be required to apply for space under Prop 39. In fact, MSA-2 submitted a Prop 39 application when the CUA's interpretation was being disputed by LAUSD. Around the time that the MPS and LAUSD came to a resolution, LAUSD prepared a response to the Prop 39 application which revealed that LAUSD intended to split the MSA-2 campus in two.

16600 Vanowen Street Purchase

At its October 6, 2022 meeting, the Committee approved and ratified the execution by MPS of the purchase and sale agreement for the acquisition of the Property and approved MPS to engage in due diligence activities. At the Board's meeting on October 13, 2022 it approved and ratified the same. Committee and Board members expressed a desire to have MPS Staff to extend the due diligence period. MPS Staff negotiated an extension to the contingency period by releasing \$40,000, non-refundable, to the Seller from escrow. This action extended the due diligence period to expire on January 13, 2023. The Committee and Board

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 that MPS fulfilled its obligation to LACOE by notifying them 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 January 10, 2023, a copy of which is attached as **Exhibit A**. CLI Capital and MPS still need to negotiate final terms but the term sheet is substantially similar to the term sheets received by MPS for the purchase of the 7111 Winnetka Ave and 18242 Sherman Way. MPS will assign the PSA to Vanowen Street LLC, a subsidiary of Magnolia Properties Management, Inc. ("**MPM**"), a 501(c)(3) support corporation for MPS. When MPS assigns the PSA to Vanowen Street LLC, MPS will enter into a lease for the Property, for the benefit of MSA-2 with the LLC.

III. Purpose

The purpose of the proposed action is to proceed with the acquisition of the Property for the benefit of MSA-2. MSA-2's co-location use agreement ("**CUA**") with the Los Angeles Unified School District ("**LAUSD**") for the occupancy of the Birmingham Community Charter High School ("**BCCHS**") campus expires after the 2023-24 school year.



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 Vanowen Street LLC which will hold title to the Vanowen Street Property at the close of escrow. This structure will allow MERF to receive SB740 funding. Vanowen Street LLC will lease the Vanowen Street Property to MPS for the benefit and occupancy by MSA-2 under a new lease agreement.

Payment of Non-Refundable Advanced Rent to Vanowen Street LLC and Execution of Lease

MPS Staff recommends that MPS pay advanced rent to Vanowen Street LLC of approximately \$3,100,000, consisting of the good faith deposit of \$400,000 made by MPS and assigned by MPS to Vanowen Street LLC and cash of \$2,700,000, and sign the Lease.

Vanowen Street LLC is receiving a loan from CLI Capital to purchase the Vanowen Street Property. The acquisition loan is for \$11,800,000. The balance of the acquisition cost including the balance of the purchase price, and closing costs will exceed such amount, requiring Vanowen Street LLC to pay the difference. Therefore, the advanced rent payment is needed by Vanowen Street LLC in order to close escrow on the purchase of the Vanowen Street Property. The total commitment from CLI Capital is for financing of \$27,000,000, \$11,800,000 of which is for acquisition purposes and the balance of \$15,200,000 of which is for construction and related costs.

Separately, Vanowen Street LLC's sole member MPM has authorized or will authorize the receipt of the acquisition loan from CLI Capital.

MPS must sign the Lease with Vanowen Street LLC in order for MSA-2 to use and occupy the Vanowen Street Property. The rent payable to Vanowen Street LLC under the Lease is, or will be, equal to the debt service Vanowen Street LLC will pay to CLI Capital.

Signature of Loan Documents by MPS as Sole Manager of Vanowen Street LLC

Vanowen Street 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 Vanowen Street LLC's behalf.

IV. Committee Discussion / Recommendation(s)

The Audit & Facilities Committee Meeting held on February 2, 2023 discussed and recommended their approval to the full Board. Clarifications made at the Committee meeting follows:

- This newly formed LLC will be under Magnolia Properties Management (MPM)
- The \$3,100,000 purchase price includes various fees, miscellaneous costs and for cost of financial advisor.
- MSA-2 is in a good financial position as seen with its increased enrollment. More of the financials for MSA-2 and other MSA schools will be presented at the 2nd Interim Report that will be coming to the Board later in February.



V. Conclusion / Budget Impact

The projected acquisition cost for the Vanowen Street Property is \$14,900,000 (that is, the purchase price, broker's fee, CLI Capital's commitment fee, and miscellaneous closing costs) and will be paid for with an acquisition loan from CLI Capital in the amount of \$11,800,000, representing approximately 85% of the acquisition costs and the balance will be paid for with cash from MSA-2, via a nonrefundable advanced rent deposit to Vanowen Street LLC under the Lease. MSA-2 will commence paying lease payments in April 2023 which will then allow the Vanowen Street LLC to commence making interest only payments on the CLI Capital loan.



Exhibit A Term Sheet



Exhibit A

CLI Capital Term Sheet for the Financing of the Acquisition of 16600 Vanowen Street



January 10, 2023

Via e-mail

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

RE: Property acquisition and construction loan - "MSA-2 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 Seven Million Dollars (\$27,000,000), 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 January 31, 2023. 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 16600 Vanowen Street in Van Nuys, 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 February of 2023. 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 February 1, 2028. 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) Land Closing Funding. At the closing of the land purchase, CLI will initially advance up to \$11.8M to fund the purchase of the land. This amount works out to 85% of the appraised value of the land, plus an allowance for closing fees and costs.
- 5) Repayment. Monthly interest payments will be required on the outstanding loan balance beginning April 1, 2023 and continue until the construction project begins.
 - a. Once construction draws begin, monthly payments of interest and/or principal will no longer be required until construction completion (expected March 2026).
 - i. Construction Draws. Construction draws may be funded upon the completion of the following project development milestones:
 1. Zoning and usage is changed as planned;
 2. The sale of the "excess land" has taken place resulting in a principal paydown of at least \$5 Million;
 3. The final construction plans, construction budget, and campus operating budget have been approved by CLI in writing and appraised by a qualified third party appraiser.
 4. Construction draws advanced by CLI will be limited to the lesser of 100% construction costs, or 100% of appraised value.
 5. Up to \$500,000 may be advanced to Borrower for the reimbursement of development expenses previously incurred once the construction period has commenced, subject to the appraised value limitation discussed above.
 - b. If construction draw advances have not begun by March 2025, monthly principal and interest payments will be required until construction draws begin. The payments will be based on a 20 year amortization schedule.
 - c. Once construction is complete, (expected by March 2026) any outstanding interest will be capitalized to the loan's principal balance. Monthly payments of principal and interest based on a 30 year amortization will then be required for the remainder of the loan term.
- 6) Borrower will pay to Lender an origination fee of 2% of the total loan commitment 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.
- 7) The loan may be prepaid at any time without penalty.

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. Please note that the \$50.8M grant/loan that has been recently awarded regarding the MSA5 campus project is approved by CLI.
- 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) 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.
- 9) 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. Note: CLI has been provided a Phase 1 which suggested soil sample testing. Please forward the results of these soil sample tests to CLI so they may be reviewed by CLI and approved by CLI in writing.
- 10) 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.
- 11) 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.
- 12) 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

Printed Name and Title / Date

cc: Lender's Counsel