

Agenda Item:	III D: Action Item
Date:	July 13, 2023
To:	Magnolia Educational & Research Foundation dba Magnolia Public Schools (“ <b>MPS</b> ”) Board of Directors (the “ <b>Board</b> ”)
From:	Audit & Facilities Committee
Staff Lead(s):	Mustafa Sahin, Project Manager Patrick Ontiveros, General Counsel & Director of Facilities
RE:	Approval of Use of Omnia for Procurement for Magnolia Science Academy-5 (“ <b>MSA-5</b> ”) Charter School Facility Program Project t 7111 Winnetka Ave.

1. **Action Proposed:**

MPS Staff recommends that the Board approve the resolutions attached as Exhibit A for purposes of using Omnia Partners to procure certain materials for the construction of the new campus at 7111 Winnetka Ave (the “**Project**”) for Magnolia Science Academy—5 (“**MSA-5**”).

2. **Purpose:**

The purpose of this proposed action is to approve MPS to participate in and use the Omnia Partners purchasing cooperative to procure long lead items for the Project.

3. **Background:**

***Acquisition of Winnetka Ave Property***

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 June 16, 2022 meeting the Board approved the waiver of the contingencies. At the June 16th meeting the Board also approved a loan from CLI Capital to fund the acquisition of the Property.

MPS assigned to MPM Sherman Winnetka LLC (“**Winnetka LLC**”) the right to acquire and take title to the Property with a loan from CLI Capital. Winnetka Ave LLC is a subsidiary of Magnolia Properties Management, Inc., a 501(c)(3) support corporation. Concurrent with the

foregoing assignment, MPS entered into a lease for the Property with Winnetka Ave LLC. Escrow on the Property closed on October 21, 2022.

### ***CSFP Award***

MPS Staff applied for funding to the OPSC's CSFP program during the application period held from May 2, 2022 to June 3, 2022. CSFP provides funding to charter schools for new school facilities. On October 26, 2022, the State Allocation Board ("**SAB**") approved a preliminary apportionment in the amount of \$50,832,332. Awards made by CSFP are 50% loan and 50% grant. The loan portion is paid back by the award recipient and is amortized over 30 years. The CSFP award will be used to construct the Project for MSA-5 which is currently co-located with MSA-1 on MSA-1's campus.

### ***Architect of Record Selection***

The DLR Group was selected as the architect of record for the Project at the Board's January 12, 2023 meeting.

### ***Construction Manager Selection***

At its April 13, 2023, the Board approved the selection of Erickson-Hall Construction Inc. as the construction manager ("**CM**") for the Project under a multi-prime delivery method.

#### **4. Analysis & Impact:**

MPS's CM for the Project recommends that MPS join the Omnia Partners purchasing cooperative for purposes of purchasing long lead items at a more favorable price with standard contractual terms and conditions.

#### **5. Budget Implications:**

MSA-5 will pay for the materials, supplies, equipment, and related services for the Science Academy 5 Project from its operating budget and expects that it will be reimbursed with proceeds from the CSFP award.

#### **6. Exhibits:**

Exhibit A      Resolution

## EXHIBIT A

### BEFORE THE GOVERNING BOARD OF DIRECTORS OF MAGNOLIA PUBLIC SCHOOLS

#### RESOLUTION TO APPROVE COOPERATIVE PURCHASING CONTRACTS FROM OTHER PUBLIC AGENCIES OR OTHER STATES TO PROCURE VARIOUS MATERIALS, SUPPLIES, EQUIPMENT, AND RELATED SERVICES

#### RESOLUTION NO. \_\_\_\_\_

**WHEREAS**, the Governing Board of Directors (the “**Board**”) of Magnolia Educational & Research Foundation dba Magnolia Public Schools (“**Magnolia**”) has determined that a need exists to quickly and efficiently procure various materials, supplies, equipment, and related services for the Science Academy 5 Project (collectively, “**Materials and Equipment**”);

**WHEREAS**, the Attorney General of the State of California concluded that a charter school may not be formed as a separate legal entity from the school district that granted the charter, and that whether a charter school may exercise independent legal rights to contract for services, is governed by the provisions of the particular charter. See 81 Ops.Cal.Atty.Gen. 140 (1998);

**WHEREAS**, the charter for Magnolia, its Memorandum of Understanding with the Los Angeles County Office of Education, its board policies, and applicable law do not prohibit Magnolia from procuring Materials and Equipment in the same manner a school district may (including Los Angeles Unified School District) pursuant to applicable laws and regulations and in fact will potentially allow Magnolia to procure Materials and Equipment at lower cost as a result of economies of scale;

**WHEREAS**, the governing board of a school district may under Section 20118 of the California Public Contract Code, without advertising for bids, if the board has determined it to be in the best interest of the district, authorize by contract, lease, requisition or purchase order, any public corporation or agency to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors, services and other personal property for the district in the manner in which the public corporation is authorized by law to lease or purchase;

**WHEREAS**, pursuant to California Public Contract Code section 20118 and California Government Code section 6500 *et seq.*, school districts can participate in programs including multi-state purchasing groups for governmental entities and school districts including, but not limited to: OMNIA Partners which now includes or incorporates National IPA, The Cooperative Purchasing Network, U.S. Communities, and others; National Association of State Procurement Officials/ NASPO ValuePoint System; Sourcwell; and other current and future programs and cooperatives (collectively, “**Cooperative Programs**”); and

**WHEREAS**, the Board of Magnolia has determined that it is in the best interest of Magnolia to authorize the procurement of required Materials and Equipment through approved Cooperative Programs subject to the following conditions:

- a. Confirmation that the applicable Cooperative Program is valid and was properly procured by the public corporation or agency in a manner that the public corporation or agency is authorized by law to make such leases or purchases;

- b. Confirmation that the Cooperative Program authorizes school districts or charter schools to procure the specific Materials and Equipment Magnolia requires, and confirmation that Magnolia will only procure the specific Materials and Equipment as set forth in the applicable Cooperative Program at the same or lower approved price or prices;
- c. Magnolia shall register or become a member of the Cooperative Program as necessary or required; and
- d. Any contract, lease, requisition, or purchase order procured pursuant to this Resolution shall be approved or ratified by the Board, with said approval or ratification to be evidenced by a motion of the Board duly passed and adopted.

**NOW, THEREFORE,** the Board hereby finds, determines, declares and resolves as follows:

- Section 1.** All of the recitals set forth above are true and correct and the Board so finds and determines.
- Section 2.** The Board hereby finds and determines the acquisition of the Materials and Equipment under an approved Cooperative Program pursuant to Public Contract Code section 20118 and Government Code section 6500, *et seq.* to be in the best interest of Magnolia.
- Section 3.** The Board hereby finds and determines that Magnolia's operating documents (including its ) and applicable law do not prohibit the procurement of the Materials and Equipment in the same manner that a California public school may pursuant to the applicable laws and regulations.
- Section 4.** Due to the cost savings associated with the acquisition of Materials and Equipment, given that purchases through a Cooperative Program have already proceeded through a procurement and bidding process, the Board waives any requirements to comply with any bidding or procurement requirements in its Financial Policies and Procedures for these purchases.
- Section 5.** The Board hereby approves the delegation of authority and appoints Magnolia's Chief Executive Officer and Superintendent, its Chief Financial Officer, and their designees, who is and are hereby authorized and directed, pursuant to a majority of the vote of the Governing Board, to do any and all things and to negotiate, execute and deliver any and all documents which they may, in consultation with legal counsel, deem necessary or advisable in order to complete any required transaction and bring it to the Board for approval or ratification, and otherwise carry out, give effect to and comply with the terms and intent of this Resolution.
- Section 6.** This Resolution shall be effective as of the date of its adoption.



APPROVED, PASSED AND ADOPTED by the Governing Board of Magnolia Educational & Research Foundation this \_\_\_\_ day of \_\_\_\_\_ 2023, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAINED: \_\_\_\_\_

I, Mekan Muhammedov, Chair of the Governing Board of Directors for Magnolia Educational & Research Foundation, do hereby certify that the foregoing is full, true, and correct copy of the Resolution passed and adopted by said Board at a regularly scheduled and conducted meeting held on said date, which Resolution is on file in office of said Board.

\_\_\_\_\_  
Chair of the Board of Directors  
Magnolia Educational & Research Foundation

I, Jennifer Lara, Secretary for the Governing Board of Directors for Magnolia Educational & Research Foundation, do hereby certify that the foregoing resolution was regularly introduced and adopted by the Governing Board at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_ 2023, by the above-described vote of the Governing Board;

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
Secretary  
Magnolia Educational & Research Foundation