

Willowick Golf Course
City of Garden Grove
Revised: December 6, 2019 (ver 2)

The following is an outline of the material terms for a transaction between McWhinney and the City of Garden Grove to be completed by December 23, 2019 with the goal of re-entitling the property from a golf course to a mixed-use multi phased development. Other more detailed terms will be set forth in the transaction documents.

Initial Master Ground Lease

- A newly formed entity controlled by McWhinney, MWillowick Land, LLC (“Tenant”) will lease the land from the City with a master ground lease, for a initial cash payment of \$2.0 million. The ground lease will be completed and executed by both parties by December 23, 2019.
- The Master Ground Lease will have an initial term of 55 years.
- The City will receive additional deferred payments as detailed below, based on the City receiving 85% of the net value and the Tenant receiving 15% of the net value.

Entitlement & Planning

- Tenant will lead all community outreach, planning, and entitlements.
- The Tenant will be responsible for the cost of its pre-development, planning, entitlements, financing, infrastructure design and developer fees (collectively, “Predevelopment Costs”) and infrastructure development, with the ability to utilize first priority land debt and/or public financing opportunities, as appropriate to fund these costs. The City will fully cooperate with those public financing opportunities.
- Net income from the golf course may be used to fund Predevelopment Costs or other project expenses, and the City will have no affirmative payment obligations towards such costs.

Termination Rights

- The City (and Tenant) will have the right to terminate the Master Ground Lease if substantial entitlements satisfactory to Tenant, are not obtained within three years from execution of the Lease (“Entitlement Period”). The Entitlement Period will be extended day-for-day on account of Force Majeure (to be defined in the Master Ground Lease) which will include, without limitation, the period and pendency of any litigation, stay, or moratoria related to the Surplus Land Act, CEQA, the City’s authority or ability to enter into the transaction, or to hinder the project, until such issue has been fully resolved, beyond all appeal period, in favor of the project (collectively “City Legal Impediment”). In addition, Tenant may extend the Entitlement Period for two additional periods of one year each, by paying the City as additional rent, \$500,000 per extension. In the case of such termination, the Tenant would not receive a refund of the initial cash payment or extension payments (if applicable).
- Tenant will have the right to terminate the Master Ground Lease, on an ongoing basis, in connection with adverse developments, adverse outcomes, or new instances in City Legal Impediments as determined by Tenant, acting reasonably, and in such event, will receive a return of the initial cash payment, except for \$200,000 thereof

Master Ground Lease Conversion

- Following the Entitlement Period and any infrastructure development phase, which may occur on a parcel by parcel basis, the developable parcels may be converted by the Tenant from the master ground lease into one of the following structures for development:
 1. **McWhinney Parcel Ground Lease** – A McWhinney Landlord Entity or the Tenant entity, will acquire the parcel for a purchase price equal to 85% of the net proceeds from future ground rent described below. The McWhinney Landlord Entity or Tenant, as owner, will then in turn, ground lease the property for a financeable long-term period determined by Tenant to a McWhinney Vertical Entity for Fair Market Value rent (using BOV method provided by Tenant) with 4.5% return to landlord, escalating annually at the lesser of CPI or 2%. The City will not be a party to the Parcel Ground Lease. McWhinney Landlord Entity or Tenant will remit 85% of net proceeds from ground rent to City, and retain 15%.
 2. **Third Party Parcel Ground Lease** – A McWhinney Landlord Entity or the Tenant entity, will acquire the parcel for a purchase price equal to the 85% of the net proceeds from future ground rent described below. The McWhinney Landlord Entity or Tenant, as owner, will then in turn ground lease the property for a financeable long-term period to a Third Party for at a market rent, all as determined by Tenant. The City will not be a party to the Parcel Ground Lease. McWhinney Landlord Entity or Tenant will remit 85% of net proceeds from ground rent to City, and retain 15%.
 3. **McWhinney Option to Purchase** – Tenant would exercise the option to take down a parcel for a purchase price equal to 85% of the net proceeds of the transaction described below, and then sell the land to a McWhinney vertical entity at a Fair Market Value (using BOV method provided by Tenant) price, at which point the vertical entity will own the property outright. Tenant will retain 15% of net proceeds, and remit 85% of net proceeds to City as purchase price under the option.
 4. **Third Party Parcel Sale** – Tenant will acquire the parcel temporarily for a purchase price equal to 85% of the net proceeds of the transaction described below, and then sell the land to a third party at a market price determined by Tenant. Tenant will remit 85% of the net proceeds to the City as purchase price under the option, and retain 15% of the net proceeds.
- Except with the consent of the City, up to 30 developable acres may be sold by Tenant using the McWhinney Option to Purchase and/or the Third Party Sale options. The remainder of the developable parcels will be monetized using the Parcel Ground Lease method.
- Tenant will endeavor promptly following the Entitlement Period and appropriate infrastructure development to cause there to be an initial sale of at least 30 acres of the parcels in one or more transactions (the “Initial Parcel Sales”), in order to accelerate proceeds paid to the parties.
- At the end of any Parcel Ground Lease terms, the land on the ground lease parcels will revert to the City, without payment by City.
- Tenant (or a McWhinney affiliate) will have the option of forgoing its 15% interest in the net cash from Parcel Sales or Parcel Ground Lease rent in the form of an equity interest in the applicable Vertical Entity, but the Tenant will nevertheless remit the City’s 85% interest as if Tenant has received its portion of the cash proceeds.
- Any Predevelopment Costs, the initial cash payment (excluding \$200,000 of such payment, as independent consideration), infrastructure costs or other investments/costs by

Tenant/McWhinney which have not yet been recovered will be paid, at the agreed-upon rate of return of 15%, out of the project's proceeds of the Initial Parcel Sales and other initial transactions, prior to application of the net proceed sharing outlined above. Any subsequent costs, after the initial transactions, will be paid at such rate of return prior to distribution of proceeds from later transactions.

Additional Items

- Tenant will be responsible for leasing or contracting the golf course to a qualified operator for interim operations, upon commencement of the Master Ground Lease term.
- The City has no affirmative financial obligations for Tenant fees, which will be paid by the project from land monetizations:
 - Entitlement period development fee of \$750,000 per year until commencement of infrastructure construction.
 - Upon commencement of infrastructure construction: (A) a 3% development fee based on total project cost, straight lined and paid monthly, not to exceed \$100,0000 per month; (B) a 1.5% construction management fee, based on total infrastructure construction cost, straight lined and paid monthly, not to exceed \$50,000 per month; and (C) recovery of all McWhinney/Tenant direct on-site staff working on the project at cost plus 25%, and recovery of other direct support labor using allocation, at cost, including a 1.5% sales and marketing fee in connection with each Parcel sale or ground lease.
- Various other City and Tenant project expenses will be addressed by the parties in more detail in the definitive agreements.
- The City, as landlord under the Master Ground Lease, will maintain responsibility for any pre-transaction liabilities related to golf operations accruing prior to the first day of the Master Ground Lease and any deferred maintenance, and large capital expenditures related to the golf operations.

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McWHINNEY

This is a non-binding term sheet provided for confidential discussion purposes only, and is subject to change. Financial information, expenses, and projections include estimates, assumptions, and forward-looking statements which may not prove to be correct and which involve risks. The parties acknowledge that no provisions of this term sheet are binding upon any of the parties until such time as the parties have entered into a binding Master Ground Lease, and thereafter, the parties obligations will be governed by the Master Ground Lease and any other definitive agreements, with such modifications as the parties agree and are contained therein.

Acknowledged and agreed to:

TENANT:

MWillowick Land, LLC

By: McWhinney Real Estate Services, Inc., its manager

By: _____

Name:

Title:

CITY:

City of Garden Grove, a California municipal corporation

By: _____

Name:

Title: