RANCHO SIMI RECREATION AND PARK DISTRICT

1692 SYCAMORE DRIVE

SIMI VALLEY, CALIFORNIA 93065

NOTICE OF SPECIAL MEETING

Notice is hereby given, pursuant to Section 54956 of the California Government Code, that the Board of Directors of the Rancho Simi Recreation and Park District, by call of the Chair of the Board of Directors, has ordered that it will hold a Special Meeting on Monday, September 28, 2015, at 4:30 p.m., in Conference Room B-1 at the Sycamore Drive Community Center, 1692 Sycamore Drive, Simi Valley, California. The purpose of the Special Meeting is to conduct the business listed on the attached Agenda.

Larry Peterson, District Clerk

Dated: September 10, 2015
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RANCHO SIMI RECREATION AND PARK DISTRICT

SPECIAL MEETING
BOARD OF DIRECTORS

SYCAMORE DRIVE COMMUNITY CENTER
B-1 CONFERENCE ROOM
1692 SYCAMORE DRIVE, SIMI VALLEY, CALIFORNIA 93065

MONDAY, SEPTEMBER 28, 2015, 4:30 P.M.

AGENDA

I. CALL TO ORDER

II. PUBLIC DISCUSSION

III. APPROVAL OF AMENDMENT TO EXCLUSIVE LISTING AGREEMENT BETWEEN DISTRICT AND CBRE TO EXTEND TERM TO DECEMBER 31, 2016

IV. CLOSED SESSION

Closed Session Pursuant to Government Code Section 54956.8

Conference with Real Property Negotiator

Re: Land Acquisition: Property Located in Ventura County at 1692 Sycamore Drive, Simi Valley, Ca

Assessor Parcel Numbers: 642-0-231-285
642-0-231-295
642-0-280-075
642-0-280-085
642-0-280-095

Agency Negotiators: District Manager, Director of Planning and Maintenance and Legal Counsel

Negotiating Parties: Qualified Buyers

Under Negotiation: Price and Terms of Payment

V. ADJOURNMENT

If any individual has a disability that may require accommodation to participate in this meeting, please contact Human Resources at 805/584-4400. Upon advance notification of the need for accommodation, reasonable arrangements will be made to provide accessibility to the meeting.
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RANCHO SIMI RECREATION AND PARK DISTRICT
INTEROFFICE MEMORANDUM

DATE: September 28, 2015

TO: Board of Directors

FROM: District Manager

SUBJECT: Approval of Amendment to Exclusive Listing Agreement Between District and CBRE to Extend Term to December 31, 2016

SUMMARY

On March 19, 2015, the Board approved the retention of CBRE, Inc., to serve as broker in connection with the District’s sale of property located at 1692 Sycamore Drive in Simi Valley. The term of that retention was from March 20, 2015 to September 20, 2015. The sale efforts are well underway and may not conclude until the end of 2016. Accordingly, staff recommends approval of the attached extension of that agreement through December 31, 2016, and authorization for the District Manager to sign the amendment on behalf of the District.

RECOMMENDED BOARD ACTION

Staff recommends the Board approve the attached amendment to the District’s listing agreement with CBRE., Inc., extending the term of that agreement, and authorize the District Manager to sign the agreement on behalf of the District.

Larry Peterson
District Manager
AMENDMENT TO LISTING AGREEMENT

This is an amendment to the Exclusive Sales Listing Agreement ("Listing Agreement") with the term beginning on March 20, 2015 between the undersigned ("Owner") and CBRE, INC. ("Broker") for the real property described as 1692 Sycamore Drive, Simi Valley, California, with APN known as 642-0-231-285, 642-0-231-295, 642-0-280-075, 642-0-280-085, 642-0-280-095 ("Property").

Subject to Board Approval, Owner and Broker hereby agree to amend the Listing Agreement as follows:

- The Listing Agreement is hereby extended to December 31, 2016.

All other terms of the Listing Agreement, Schedule of Sale Commissions and conditions remain in full force and effect.

"Broker":

CBRE, Inc.
Licensed Real Estate Broker

By: [Signature]
Print Name: Kadie Presley Wilson
Title: Senior Sales Director
Address: 1840 Century Park East, Suite 900

"Owner":

Rancho Simi Park and Recreation District

By: [Signature]
Print Name: [Signature]
Title: [Signature]
Address: [Signature]
EXCLUSIVE SALES LISTING AGREEMENT

CBRE, INC.

BROKERAGE AND MANAGEMENT
LICENSED REAL ESTATE BROKERS

1. In consideration of the listing for sale of the real property hereinafter described (the "Property") by CBRE, INC. ("Broker") and Broker's agreement to use its best efforts to effect a sale of same, the undersigned ("Owner") hereby grants to Broker the exclusive right to sell the Property for a period commencing March 20, 2015 and ending midnight September 20, 2015 (the "Term"), at a price acceptable to Owner. The Property is situated in the City of Simi Valley, County of Los Angeles, State of California, and is further described as a site containing 578,436 sf with address known as 1692 Sycamore Dr. Simi Valley, CA 93065 with APNs known as: 642-0-231-285, 642-0-231-296, 642-0-280-075, 642-0-280-085, 642-0-280-095. References herein to the Property shall be understood to include portions of the Property.

2. Owner agrees to pay Broker a sales commission in accordance with Broker's Schedule of Sale and Lease Commissions (the "Schedule"), a copy of which is executed by Owner, attached hereto and hereby made a part hereof. This commission shall be earned for services rendered if, during the Term: (a) the Property is sold to a purchaser procured by Broker, Owner, or anyone else; (b) a purchaser is procured by Broker, Owner, or anyone else who is ready, willing and able to purchase the Property at the price and on the terms above stated, or on any other price and terms acceptable to Owner; (c) any contract for the sale of the Property is entered into by Owner; (d) Owner removes the Property from the market or the Property is transferred due to eminent domain or the threat thereof, foreclosure, or conveyance in lieu of foreclosure; (e) Owner contributes or conveys the Property to a partnership, joint venture or other business entity; (f) Owner is a corporation, partnership or other business entity and an interest in such corporation, partnership or other business entity is transferred, whether by merger, outright purchase or otherwise, in lieu of a sale of the Property. Broker is authorized to cooperate with and to share its commission with other licensed real estate brokers, regardless of whether said brokers represent prospective purchasers or act as Broker's subagents.

3. As used in this Agreement the term "sale" shall include an exchange of the Property, and also the granting of an option to purchase the Property. Owner agrees that in the event such an option is granted, Owner shall pay Broker a sales commission in accordance with the Schedule on the price paid for the option and for any extensions thereof. This commission shall be paid upon receipt by Owner of the option payment(s). In the event such an option is exercised, whether during the Term or thereafter, Owner shall also pay Broker a sales commission on the gross sales price of the Property in accordance with the Schedule. Notwithstanding the foregoing, to the extent that all or part of the price paid for the option or any extension thereof is applied to the sales price of the Property, then any commission paid previously by Owner to Broker on an account of such option payments shall be credited against the commission payable to Broker on account of the exercise of the option.

4. Owner further agrees that Owner shall pay Broker a commission in accordance with the Schedule if, within ninety (90) calendar days after the expiration or termination of the Term, the Property is sold to, or Owner enters into a contract of sale of the Property with, or negotiations continue, resume or commence and continue leading to a sale of the Property to any person or entity including his/her/its successors, assigns or affiliates (with whom Broker has negotiated (either directly or through another broker or agent) or to whom the Property has been submitted prior to the expiration or termination of the Term. Broker is authorized to continue negotiations with such persons or entities. Owner, however, shall have no obligation to Broker under this paragraph 4 unless, not later than fifteen (15) calendar days following the expiration or termination of the Term, Broker submits a list of such persons or entities to Owner.

5. Commissions shall be payable hereunder when earned or at the earliest of closing, close of escrow, recordation of a deed, lease execution, or taking of possession by the purchaser or tenant.

6. Unless otherwise provided herein, the terms of sale shall be, at the option of the purchaser, either cash or cash to any existing loan. Any offer may contain normal and customary contingencies such as those relating to the condition of the Property, title report, and timing of closing.

7. Owner and Broker agree that the Property will be offered in compliance with all applicable anti-discrimination laws.

8. Owner agrees to cooperate with Broker in bringing about a sale of the Property and to refer immediately to Broker all inquiries of anyone interested in the Property. All negotiations are to be through Broker. Broker is authorized to accept a deposit from any prospective purchaser and to handle it in accordance with the instructions of the parties unless contrary to applicable law. Broker is exclusively authorized to advertise the Property, but may not place a sign(s) on the Property. Owner and its counsel will be responsible for determining the legal sufficiency of a purchase and sale agreement and other documents relating to any transaction contemplated by this Agreement.

9. Owner agrees to disclose to Broker and to prospective purchasers and tenants any and all information which Owner has regarding present and future zoning and environmental matters affecting the Property and regarding the condition of the Property, including, but not limited to structural, mechanical and soils conditions, the presence and location of asbestos, PCB transformers, toxic, hazardous or contaminated substances, and underground storage tanks, in, on, or about the Property, as well as whether the Property is or may be situated in a flood zone or an Earthquake Hazard Zone and/or a Seismic Hazard Zone, as defined in Sections 2621 et seq, and 2690 et seq. of the California Public Resources Code. Broker is authorized to disclose any such information to prospective purchasers or tenants.

10. Owner represents that it is the owner of the Property and that, except as may be set forth in an addendum attached hereto, no person or entity who has an ownership interest in the Property is a foreign person as defined in the Foreign Investment in Real Property Tax Act (commonly known as "FIRPTA").
To the extent permitted by applicable law, Broker is authorized to deduct its commissions from any deposits, payments or other funds, including proceeds of sale or rental payments, paid by a purchaser or tenant in connection with a transaction contemplated by this Agreement, and Owner hereby irrevocably assigns said funds and proceeds to Broker to the extent necessary to pay said commissions. Broker is authorized to provide a copy of this Agreement to any escrow or closing agent working on such transaction, and such escrow or closing agent is hereby instructed by Owner to pay Broker's commissions from any such funds or proceeds available. Owner shall remain liable for the entire amount of said commissions regardless of whether Broker exercises its rights under this paragraph.

Owner acknowledges that Broker is a national brokerage firm and that in some cases it may represent prospective purchasers and tenants. Owner desires that the Property be presented to such persons or entities and consents to the dual representation created thereby. Broker shall, as soon as practicable, disclose to Owner any election to act as a dual agent representing both Owner and buyer. Broker shall not disclose the confidential information of one principal to the other.

In the event that the Property comes under the jurisdiction of a bankruptcy court, Owner shall immediately notify Broker of the same, and shall promptly take all steps necessary to obtain court approval of Broker's appointment, unless Broker shall elect to terminate this Agreement upon said notice.

In the event that the Property becomes the subject of foreclosure proceedings prior to the expiration of this Agreement, then this Agreement shall be deemed suspended until such time as Owner may reacquire the Property within the Term. If this Agreement is suspended pursuant to this paragraph, Broker shall be free to enter into a listing agreement with any receiver, the party initiating the foreclosure, the party purchasing the Property at a foreclosure sale, or any other person having an interest in the Property.

ARBITRATION OF Disputes. In the event of any dispute between Owner and Broker relating to this Agreement, the Property or Owner or Broker's performance hereunder, Owner and Broker agree that such dispute shall be resolved by means of binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court of competent jurisdiction. Depositions may be taken and other discovery obtained during such arbitration proceedings in accordance with Title 5 of Part 3 of the California Code of Civil Procedure, including § 1281.05. The arbitrator(s) shall be limited to awarding compensatory damages and shall have no authority to award punitive, exemplary or similar type damages. The prevailing party in the arbitration proceeding shall be entitled to recover its expenses, including the costs of the arbitration proceeding, and reasonable attorneys' fees.

NOTICE: BY INITIATING IN THE SPACE BELOW YOU ARE AgreeING TO HAVE ANY DisPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIATING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION.

OWNER

BROKER

In the event that Owner lists the Property with another broker after the expiration or termination of this Agreement, Owner agrees to provide in the subsequent listing agreement that a commission will not be payable to the new broker with respect to transactions for which Owner remains obligated to pay a commission to Broker under paragraph 4 hereof. Owner’s failure to do so, however, shall not affect Owner’s obligations to Broker under paragraph 4 hereof.

Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement on behalf of the party for whom he or she signs and that this Agreement binds such party. In the event any clause, provision, paragraph or term of this Agreement shall be deemed to be unenforceable or void based on any controlling state or federal law, the remaining provisions hereof, and each part, shall remain unaffected and shall continue in full force and effect.

This Agreement constitutes the entire agreement between Owner and Broker and supersedes all prior discussions, negotiations and agreements, whether oral or written. No amendment, alteration, cancellation or withdrawal of this Agreement shall be valid or binding unless made in writing and signed by both Owner and Broker. This Agreement shall be binding upon, and shall benefit, the heirs, successors and assigns of the parties.

The parties hereto agree to comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders having jurisdiction over the parties, property or the subject matter of this Agreement, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment in Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and The Americans With Disabilities Act.

CBRE shall assemble and produce for Owner's review and approval an offering brochure and/or other marketing
materials of a type which is customary for similar properties. Owner shall provide the information in its possession, custody or control regarding the Property necessary for CBRE to prepare a professional offering brochure. The brochure shall include, as appropriate, property facts, photographs, cash flow projections, area and location information, and other relevant information as available. The cost of such offering brochure shall be borne by Broker.

The undersigned Owner hereby acknowledges receipt of a copy of this Agreement and the Schedule.

Accepted:

CBRE, Inc.
Licensed Real Estate Broker
License No. 00409987

By: Kadic Presley Wilson
Title: Senior Sales Director

License No.: 01476551
Address: 1840 Century Park East, Suite 900
Los Angeles, CA 90067

Telephone: 310-550-2600

“Owner” 3/24/15

By: Ranoa Simi Park and Recreation District
Name: District Manager
Print Name: Larry Peterson
Address: 1892 Sycamore Dr.
Simi Valley, CA 93065

Telephone: (805) 584-4406
SCHEDULE OF SALE COMMISSIONS
CB COMMERCIAL REAL ESTATE GROUP, INC.
BROKERAGE AND MANAGEMENT
LICENSED REAL ESTATE BROKERS


Broker's commission shall be 8% 4% (see below) of the gross sales price. Gross sales price shall include any and all consideration received or receivable, in whatever form, including but not limited to assumption or release of existing liabilities. This commission shall be paid when earned or at the close of escrow through escrow, or if there is no escrow, then upon recording of the deed; provided, however, if the transaction involves an installment contract, then payment shall be made upon execution of such contract. In the event Owner contributes or conveys the Property or any interest therein to a joint venture, partnership, or other business entity, then the commission shall be calculated on the fair market value of the Property, less the value of the interest in the Property retained by or transferred to Owner, as the case may be, and shall be paid at the time of the contribution or transfer. If Owner is a partnership, corporation or other business entity, and an interest in the partnership, corporation or other business entity is transferred, whether by merger, outright purchase, or otherwise, in lieu of a sale of the Property, and applicable law does not prohibit the payment of a commission in connection with such sale or transfer, the commission shall be calculated on the fair market value of the Property, rather than the gross sales price, multiplied by the percentage of interest so transferred, and shall be paid at the time of the transfer.

In the event there is another agent/broker in the transaction representing the Buyer and being compensated by the Owner, then the commission shall be divided as follows: 2.25% to the Listing Team of Broker (Team Lustig-Bower) and 1.75% to the agent/broker representing the Buyer.

The provisions hereof are subject to the terms and provisions of any Exclusive Sales Listing Agreement, or other agreement to which this Schedule may be attached and which is executed by the parties hereto.

In the event Owner fails to make payments within the time limits set forth herein, then from the date due until paid the delinquent amount shall bear interest at the maximum rate permitted in the state in which the office of the Broker executing this Schedule is located. If any party is required to institute legal action, including arbitration, against the other party relating to this Schedule or any agreement of which it is a part, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

Owner hereby acknowledges receipt of a copy of this Schedule and agrees that it shall be binding upon its heirs, successors and assigns. In the event Owner sells or otherwise disposes of its interest in the Property, Owner shall remain liable for payment of the commissions provided for in this Schedule and any agreement of which it is a part. The term "Owner" as used herein shall be deemed to include the owner of the Property, a party under contract to acquire the Property and a tenant under a ground lease.

“Owner”

Approved this 27th day of March 2015

By:

[Signature]

Title: District Manager

Print Name: Larry Peterson

CA #4615-3864-3162 v1
Please note that the terms “Seller” and “Buyer” are defined by the CA Civil Code to include a lessor and lessee, respectively.

If you are a Listing Agent - you must deliver the form to the seller/lessee before entering into the listing agreement. If the buyer/lessee is not represented by an agent, you must also deliver the form to it within one business day after receiving an offer from the buyer/lessee.

If you are the Buyer’s Agent - you must deliver the form to the buyer/lessee as soon as the buyer/lessee seeks your services, but in any event before the buyer/lessee signs an offer. In addition, you must also deliver the form to the seller/lessor before or concurrently with presenting an offer.

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP
(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer. In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

(a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered. The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on the reverse hereof. Read it carefully.

CBRE, INC.
Agent

Laurie Lustig-Bower 3/10/15
Associate Licensee Signature (Date)

Buyer/Lessee Signature (Date)

Laurie Lustig-Bower
Associate Licensee Printed Name

Buyer/Lessee Printed Name

Seller/Lessor Signature (Date)

Seller/Lessor Printed Name
3079.13. As used in Sections 3079.14 to 3079.24, inclusive, the following terms have the following meanings:

(a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2395) in a real property transaction, and includes any person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained.

(b) "Associate licensee" means any person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker's agent in connection with acts requiring a real estate license, and to function under the broker's supervision in the capacity of an associate licensee. The agent in the real property transaction bears responsibility for his or her associate licensee's acts as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, such duty is equitable to the duty owed to that party by the broker for whom the associate licensee functions.

(c) "Buyer" means a transferee in a real property transaction, and includes any person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than an incidental, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee.

(d) "Dual agent" means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction.

(e) "Listing agreement" means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer.

(f) "Listing agent" means a person who has obtained a listing of real property to act as an agent for compensation.

(g) "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent.

(h) "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property.

(i) "Offer to purchase" means a written contract executed by a buyer acting through a selling agent which becomes the contract for the sale of the real estate property upon acceptance by the seller.

(j) "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property which constitutes or is improved with one to four dwelling units, any leasehold in this type of property exceeding one year's duration, and mobile homes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code.

(k) "Real property transaction" means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.

(l) "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real estate sales contract within the meaning of Section 2565, and transactions for the creation of a leasehold exceeding one year's duration.

(m) "Seller" means the transferor in a real property transaction, and includes any person who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent or, on behalf of another, "Seller" refers both to vendor and lessor.

(n) "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.

(o) "Subagent" means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2348) of Chapter 1 of Title 9. However, "subagent" does not include an associate licensee who is acting under an agent in a real property transaction.

3079.14. Listing agents and selling agents shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 3079.16, and, as provided in subdivision (c), shall obtain a signed acknowledgment of receipt from that seller or buyer, except as provided in this section or Section 3079.15, as follows:

(a) The listing agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement.

(b) The selling agent shall provide the disclosure form to the seller as soon as practicable prior to presenting the seller with an offer to purchase, unless the listing agent previously provided the seller with a copy of the disclosure form pursuant to subdivision (a).

(c) Where the selling agent does not deal on a face-to-face basis with the seller, the disclosure form prepared by the selling agent may be furnished to the seller (and acknowledgment of receipt obtained) by the listing agent, or the listing agent may deliver the disclosure form by certified mail addressed to the seller at his or her last known address, in which case no signed acknowledgment of receipt is required.

(d) The selling agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase, except that if the offer to purchase is not acceptable to the selling agent, the selling agent shall present the disclosure form to the buyer not later than the next business day after the selling agent receives the offer to purchase from the buyer.

3079.15. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 3079.14, the agent, or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of refusal.

3079.17. (a) As soon as practicable, the selling agent shall disclose to the buyer and seller whether the selling agent is acting in the real property transaction exclusively as the buyer's agent, exclusively as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sale real property or in a separate writing executed or acknowledged by the seller, buyer, and the selling agent prior to or coincident with execution of that contract by the buyer and the seller, respectively.

(b) As soon as practicable, the listing agent shall disclose to the seller whether the listing agent is acting in the real property transaction exclusively as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sale real property or in a separate writing executed or acknowledged by the seller and the listing agent prior to or coincident with execution of that contract by the seller.

(c) The confirmation required by subdivisions (a) and (b) shall be in the following form:

SAMPLE ONLY — DO NOT FILL OUT

in the Listing agent of (check one): ( ) the seller exclusively, or ( ) both the buyer and seller.

in the Selling agent, if not the same as the (Listing agent, of (check one) ) the buyer exclusively, or ( ) both the buyer and seller.

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 3079.14.

3079.18. No selling agent in a real property transaction may act as an agent for the buyer only, when the selling agent is also acting as the listing agent in the transaction.

3079.19. The payment of compensation or the obligation to pay compensation to an agent by the buyer or seller is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not be determinative of a particular relationship.

3079.20. Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 3079.14 and Section 3079.17 are complied with.

3079.21. A dual agent shall not disclose to the buyer that the seller is willing to sell the property at a price less than the listing price, without the express written consent of the seller. A dual agent shall disclose to the seller that the buyer is willing to pay a price greater than the listing price, without the express written consent of the buyer. This section does not affect in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

3079.22. Nothing in this article precludes a listing agent from also being a selling agent, and the combination of these functions in one agent does not, of itself, make that agent a dual agent.

3079.23. A contract between the principal and agent may be modified or amended at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.

3079.24. Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.
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