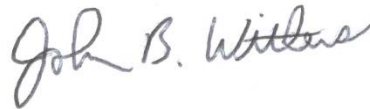


SPECIAL MEETING
OF THE BOARD OF DIRECTORS OF
BARDEEN PARTNERS, INC.

To: Members of the Board of Directors of Bardeen Partners, Inc.
Steve LaMar, Karen McLaughlin, Doug Reinhart, and Peer Swan

Pursuant to the call of the President of Bardeen Partners, Inc., notice is hereby given that a Special Meeting of the Board of Directors of Bardeen Partners, Inc. has been called and will be held on Monday, June 26, 2023 at 5:00 p.m. The meeting is called for the purposes set forth in the attached agenda.

This notice is given in accordance with the bylaws of Bardeen Partners, Inc. and Section 54956 of the California Government Code and Corporation Code Section 5211.



John Withers
President

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AGENDA

BOARD OF DIRECTORS OF BARDEEN PARTNERS, INC. SPECIAL MEETING

June 26, 2023

CALL TO ORDER 5:00 p.m.

ROLL CALL Directors Reinhart, Swan, LaMar, McLaughlin
and President Withers

PUBLIC COMMENT NOTICE

If you wish to address the Board of Directors on any item, please submit a request to speak. Remarks are limited to three minutes per speaker on each subject. You may also submit a public comment in advance of the meeting by emailing comments@irwd.com before 12:00 p.m. on Monday, June 26, 2023.

Bardeen Partners, Inc. was formed in March 1991 to act on behalf of IRWD in matching its real estate investments, and to segregate such investments from other activities of IRWD.

1. **APPROVAL OF MINUTES**

Recommendation: Approve the minutes of Special Annual Meeting of March 13, 2023.

2. **230 COMMERCE LEASE EXTENSION AND EXPANSION**

Recommendation: That the Board approve the lease rate and terms for the extension of IRWD's lease with Optimum Professional Management, Inc. at the 230 Commerce office property and authorize the General Manager to execute the necessary lease extension and expansion documents.

3. **ORAL COMMUNICATIONS**

4. **ADJOURNMENT**

Availability of agenda materials: Agenda exhibits and other writings that are disclosable public records distributed to all or a majority of the members of the above-named Board in connection with a matter subject to discussion or consideration at an open meeting of the Board are available for public inspection in the District's office, 15600 Sand Canyon Avenue, Irvine, California ("District Office"). If such writings are distributed to members of the Board less than 72 hours prior to the meeting, they will be available from the District Secretary of the District Office at the same time as they are distributed to Board Members, except that if such writings are distributed one hour prior to, or during, the meeting, they will be available electronically. Upon request, the District will provide for written agenda materials in appropriate alternative formats, and reasonable disability-related modification or accommodation to enable individuals with disabilities to participate in and provide comments at public meetings. Please submit a request, including your name, phone number and/or email address, and a description of the modification, accommodation, or alternative format requested at least two days before the meeting. Requests should be emailed to comments@irwd.com. Requests made by mail must be received at least two days before the meeting. Requests will be granted whenever possible and resolved in favor of accessibility.

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MINUTES OF SPECIAL ANNUAL MEETING OF
BARDEEN PARTNERS, INC.

MARCH 13, 2023

The special annual meeting of the Board of Directors of Bardeen Partners, Inc. was called to order by President Withers at 5:51 p.m.

Directors Present: McLaughlin, Reinhart, and Withers

Directors Absent: LaMar and Swan

Also Present: Legal Counsel Collins, and member of the IRWD, staff and public.

ANNUAL MEETING:

On MOTION by Reinhart, seconded by McLaughlin, and unanimously carried, THE MEETING OF MARCH 13, 2023 WAS DEEMED TO BE THE ANNUAL MEETING OF THE BOARD OF DIRECTORS FOR 2023 ONLY IN LIEU OF THE ANNUAL MEETING NORMALLY HELD ON THE SECOND MONDAY IN JUNE PURSUANT TO RESOLUTION NO. 2018-1.

ELECTION OF OFFICERS:

On MOTION by Reinhart, seconded by McLaughlin, and unanimously carried, JOHN WITHERS WAS ELECTED PRESIDENT AND LAMAR WAS ELECTED VICE PRESIDENT.

APPROVAL OF MINUTES

On MOTION by Reinhart, seconded by McLaughlin and unanimously carried, THE MINUTES OF THE APRIL 11, 2022 SPECIAL MEETING WAS APPROVED.

STATE AND FEDERAL EXEMPT ORGANIZATION TAX FILING

On MOTION by McLaughlin, seconded by Reinhart and unanimously carried, THE STATE AND FEDERAL EXEMPT ORGANIZATIONAL FILINGS FOR THE BARDEEN PARTNERS, INC. FOR 2021 FISCAL YEAR BEGINNING JULY 1, 2021 AND THE PERIOD ENDING JUNE 30, 2022 WERE APPROVED.

COMMUNICATIONS: None

ADJOURNMENT

There being no further business, President Withers adjourned the meeting.

APPROVED and SIGNED this 26th day of June 2023.

John Withers
President, Bardeen Partners

MINUTES OF SPECIAL ANNUAL MEETING OF BARDEEN PARTNERS, INC.

Leslie Bonkowski,
Secretary, Bardeen Partners


APPROVED AS TO FORM:

Legal Counsel, Bardeen Partners, Inc.

June 26, 2023

Prepared by: J. Davis

Submitted by: K. Morris

Approved by: Paul A. Cook 

BARDEEN PARTNERS

230 COMMERCE LEASE EXTENSION AND EXPANSION

SUMMARY:

Staff has been in negotiations with Optimum Professional Property Management, Inc. regarding its interest in extending its lease of 12,936 square feet and expanding into the adjacent 2,720 square feet of office space at 230 Commerce Office Property. The proposed terms include a lease extension for a term of seven years starting July 1, 2023, an expansion into an adjacent vacant suite no later than January 1, 2024, and include tenant improvement (TI) costs of \$30.00 per square foot.

Staff recommends the Board approve the proposed lease extension, expansion rate, and terms and authorize the General Manager to execute all related lease documents.

BACKGROUND:

The 230 Commerce Office property is a 40,851 square-foot general office building and currently has two available suites: Suite 285 (2,720 square feet) and Suite 190 (4,468 square feet). Suite 285 and Suite 190 have been vacant for approximately 24 months and seven months, respectively. Most of the space in this building (12,936 square feet) has been leased by Optimum. Optimum's original lease for Suite 250, consisting of 11,021 square feet, began on August 22, 2016. In 2021, Optimum expanded into Suite 290, consisting of 1,915 square feet. The current lease term is scheduled to end December 31, 2024. In December 2022, Optimum expressed its interest in expanding into suite 285, consisting of 2,720 square feet.

Optimum's lease extension and expansion is proposed for a seven-year term, beginning July 1, 2023. The starting lease rate would be \$2.45 per square foot. Optimum would begin paying rent for Suite 285 by January 1, 2024. The proposal includes tenant improvements of \$30.00 per square foot for the expanded space; it also includes annual increases of 3.0% for the entire leased area. A copy of the lease proposal is provided as Exhibit "A".

Staff has consulted with the general office commercial representatives from Colliers International's Orange County office to determine expected lease rates if the space is vacated, estimated tenant improvement costs for a new tenant, and demand for general office space in the property's market area. According to Colliers, the estimated starting lease rate for a new tenant in a comparable office space is between \$2.45 and \$2.60 per square foot, with an expected tenant improvement allowance from the landlord of \$20 to \$30 per square foot. Colliers also noted other cash flow considerations when leasing to a new tenant which include abated (free) rent, loss of income during the marketing period, and tenant improvement construction.

The effective rate in the proposed lease extension and expansion over the term is \$2.64 per square foot and \$2.28 per square foot before and after TI, respectively. Also included is a commission to the tenant's broker of 4% for the first five years and 2% for the final two years.

FISCAL IMPACTS:

The effective lease rate for the seven-year term will be \$2.64 per square foot for the proposed lease extension and expansion, prior to TI costs. In the first year of the proposed lease extension, total lease income will be \$460,286, which will increase by 3% per year over the seven-year term of the proposed lease.

ENVIRONMENTAL COMPLIANCE:

This item is not a project as defined in the California Environmental Quality Act (CEQA), Code of Regulations, Title 14, Chapter 3, Section 15378.

COMMITTEE STATUS:

This item was not reviewed by a Committee due to the timing of the proposed lease commencement.

RECOMMENDATION:

THAT THE BOARD APPROVE THE LEASE RATE AND TERMS FOR THE EXTENSION OF IRWD'S LEASE WITH OPTIMUM PROFESSIONAL MANAGEMENT, INC. AT THE 230 COMMERCE OFFICE PROPERTY AND AUTHORIZE THE GENERAL MANAGER TO EXECUTE THE NECESSARY LEASE EXTENSION AND EXPANSION DOCUMENTS.

LIST OF EXHIBITS:

Exhibit "A" – Optimum Offer to Extend and Expand



3501 Jamboree Road, Suite 100
Newport Beach, CA 92660
949.725.8500 Tel
949.725.8545 Fax
www.cbre.com

Scott Kenny, Senior Vice President
CBRE, Inc.
Advisory & Transaction Services
Broker Lic. 01330187

June 19, 2023

Mr. Nick Velasquez
Vice President
Colliers International
Nick.Velasquez@Colliers.com

**RE: COUNTERPROPOSAL TO EXTEND AND EXPAND – OPTIMUM PROFESSIONAL
PROPERTY MANAGEMENT, INC.
230 Commerce, Irvine, CA 92602**

Dear Nick,

On behalf of our client, Optimum Professional Property Management, Inc. ("Tenant"), we have been authorized to submit a non-binding proposal to Bardeen Partners ("Landlord") to extend and expand at the above referenced Building pursuant to the following terms and conditions.

- 1. Building Name & Address:** Market Place Center
230 Commerce Drive
Irvine, CA 92602
- 2. Tenant:** Optimum Professional Property Management, Inc.
- 3. Existing Premises:** Approximately 12,936 rentable square feet ("RSF") located in suites 250 & 290.
- 4. Expansion Premises:** Approximately 2,720 RSF located in suite 285.
- 5. New Premises:** Approximately 15,656 RSF located in suites 250, 285, and 290.
- 6. Term:** Tenant shall lease the Existing Premises for a term of eighty-four (84) months from July 1, 2023 to June 30, 2030. Tenant shall lease the Expansion Premises for as many months necessary to expire on June 30, 2030.
- 7. New Lease Commencement Dates:** The New Lease Commencement for the entire Expansion Premises shall be upon substantial completion of Tenant Improvements but no later than February 1, 2024..

The Existing Premises Commencement shall be July 1, 2023 and Base Rent from the Original Lease and First Amendment shall be reset as of this date.

8. Base Rent:

The Monthly Base Rent for the New Premises shall be \$2.45/RSF Full Service Gross, from July 1, 2023 until December 31, 2024, with three percent (3%) annual increases beginning January 1, 2025.

9. Operating Expenses:

Per the Master Lease. However, Existing Premises Base Year shall be updated to 2023 upon Existing Premises Commencement.

Additionally, should the New Lease Commencement occur after 12/31/2023, Tenant shall be granted a 2024 Base Year.

Regardless of the respective year of the Base Year, Tenant shall receive a maximum of twelve (12) months without pass-throughs following the respective lease commencements and only for the expansion Premises Suite 285.

10. Parking:

Per the Master Lease, except for additional stalls per the existing ratio.

11. Signage:

No signage allowance shall be provided, however Tenant may use part of Tenant Improvement Allowance for signage.

12. Security Deposit:

Per the Master Lease. No additional deposit shall be required.

13. Tenant Improvements:

Landlord shall provide a \$30.00/RSF Tenant Improvement Allowance (the Allowance) which at least \$21.00/RSF shall be used for hard/soft costs of improvements on the Expansion and Existing Premises. Tenant may use the balance of any unused Allowance up to \$9.00/RSF towards hard/soft costs for improvements, furniture purposes, and signage costs., and/or future abated rent. Said Allowance shall be available to Tenant for a period of twelve (12) months following mutual execution of the New Premises lease herein contemplated.

Any cost Tenant incurs over the Tenant Improvement Allowance shall be paid by Tenant.

In an effort to accommodate Landlord's preferred method of implementing tenant improvements, Tenant shall hold the contracts with contractors and vendors, and Landlord shall reimburse Tenant directly following submission of invoices. So long as the tenant improvements are managed by Riverrock, Landlord will reimburse tenant within 10 business days after Tenant shows proof of payment as work is completed. Further details of reimbursement shall be agreed to in the lease amendment.

14. Right of First Refusal:

Tenant shall have a continuous Right of First Refusal to lease the contiguous adjacent space on the Floor at matching terms to a new potential tenant. Once Landlord gives notice, Tenant must exercise the right of first refusal within 14 calendar days. Further details of right of first refusal shall be negotiated in the lease amendment.

15. Non-Disturbance:

Landlord shall deliver a Non-Disturbance agreement from any and all current and future ground Lessor, superior Lessor, mortgage holder or otherwise.

16. Brokerage Commission:

Tenant and Landlord do each hereby agree and recognize that Scott Kenny & Garrett Ellis of CBRE represents the Tenant in this transaction and shall be entitled to a commission pursuant to Landlord's commission agreement.

Landlord shall pay a Brokerage Commission to Colliers International (Landlord's Broker) per a separate agreement, and in turn Colliers will pay a brokerage commission in the amount of four (4%) percent for all net new lease consideration provided under this lease expansion/extension. Commission to CBRE shall be paid 100% upon the execution of the lease document by Landlord and Tenant.

17. Confidentiality:

This proposal and all discussions related thereto shall be held in confidence by Landlord and Tenant and will not be discussed with third parties except on an "as needed" basis (e.g. attorneys).

18. Disclaimer:

CBRE, Inc. submits this non-binding Letter of Intent ("**LOI**") on behalf of the Tenant. This LOI is not a contractual offer and neither party shall be bound by an agreement until a definitive written contract is executed by both parties.

This LOI is intended solely as a preliminary expression of general intention and is for discussion purposes only. This LOI is not intended to, and shall not, create any agreement or obligation by either party to negotiate a definitive agreement pertaining to the Property and imposes no duty on either party to continue negotiations. Neither party shall have any contractual obligations to the other with respect to the matters referred herein unless and until a definitive written agreement setting forth all material terms of the parties' agreement has been fully executed and delivered by the parties. Prior to delivery of such definitive executed agreement, and without any liability to the other party, either party may (1) propose different terms from those summarized herein, (2) enter into negotiations with other parties, and/or (3) unilaterally terminate all negotiations with the other party hereto.

LANDLORD AND TENANT ACKNOWLEDGE THAT THIS LETTER IS NOT A LEASE AND THAT IT IS INTENDED AS THE BASIS FOR THE PREPARATION OF A LETTER OF INTENT LEADING TO A LEASE BY LANDLORD. A LEASE SHALL BE SUBJECT TO LANDLORD'S AND TENANT'S APPROVAL AND ONLY A FULLY EXECUTED LEASE SHALL CONSTITUTE A LEASE FOR THE PROPERTY. BROKER MAKES NO WARRANTY OR REPRESENTATION TO LANDLORD OR TENANT THAT ACCEPTANCE OF THIS LETTER OF INTENT WILL GUARANTEE THE EXECUTION OF A LEASE FOR THE PROPERTY. LEASE APPROVAL SHALL BE SUBJECT TO FINANCE AND PERSONAL COMMITTEE APPROVAL.

The terms and conditions set forth above shall not be binding upon Landlord or Tenant until such time as a lease and related documents have been approved by counsel, Tenant and the Landlord, and such lease and related documents have been fully executed by both Landlord and Tenant mutually exchanged.

Please respond to every item in your proposal (even if in the negative) by directly editing this document and returning it to me by not later than five (5) days after receipt. We look forward to receiving your proposal and discussing it with you soon after the above date. Please feel free to call me with any questions or concerns.

Sincerely,

CBRE, Inc.

A handwritten signature in black ink, appearing to read "Scott Kenny", with a stylized flourish at the end.

Scott Kenny
Senior Vice President

CBRE © 2020 All Rights Reserved. All information included in this letter/proposal pertaining to CBRE, Inc.—including but not limited to its operations, employees, technology and clients—is proprietary and confidential and supplied with the understanding that such information will be held in confidence and not disclosed to any third party without CBRE's prior written consent. This letter/proposal is intended solely as a preliminary expression of general intentions, is for discussion purposes only, and does not create any agreement or obligation by CBRE to negotiate or continue negotiations. CBRE shall have no contractual obligation with respect to the matters referred to herein unless and until a definitive, fully-executed agreement has been delivered by the parties. Prior to delivery of a definitive executed agreement, and without any liability to the other party, either party may (1) propose different terms from those summarized herein, (2) enter into negotiations with other parties and/or (3) unilaterally terminate all negotiations with the other party hereto.



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 the Seller's Agent - you must deliver the form to the seller/lessor before entering into the listing agreement.

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.

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 Buyer's 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 salespersons and broker associates, 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, a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the Buyer's or Seller's financial position, motivations, bargaining position or other personal information that may impact price, including the Seller's willingness to accept a price less than the listing price or the Buyer's willingness to pay a price greater than the price offered.

SELLER AND BUYER RESPONSIBILITIES

Either the purchase agreement or a separate document will contain a confirmation of which agent is representing you and whether that agent is representing you exclusively in the transaction or acting as a dual agent. Please pay attention to that confirmation to make sure it accurately reflects your understanding of your agent's role.

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.

If you are a Buyer, you have the duty to exercise reasonable care to protect yourself, including as to those facts about the property which are known to you or within your diligent attention and observation. Both Sellers and Buyers should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

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

Salesperson or Broker Associate, if any (Signature) (Date)

Salesperson or Broker Associate, if any (Printed Name)

Buyer/Seller

Buyer/Seller (Signature)

(Date)

Buyer/Seller (Printed Name)

2079.13. As used in Sections 2079.7 and 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

- (a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a 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. The agent in the real property transaction bears responsibility for that agent's salespersons or broker associates who perform as agents of the agent. When a salesperson or broker associate owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the salesperson or broker associate functions.
- (b) "Buyer" means a transferee in a real property transaction, and includes a 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 a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee of real property.
- (c) "Commercial real property" means all real property in the state, except (1) single-family residential real property, (2) dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, (3) a mobilehome, as defined in Section 799.3, (4) vacant land, or (5) a recreational vehicle, as defined in Section 799.29.
- (d) "Dual agent" means an agent acting, either directly or through a salesperson or broker associate, as agent for both the seller and the buyer in a real property transaction.
- (e) "Listing agreement" means a written contract between a seller 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, including rendering other services for which a real estate license is required to the seller pursuant to the terms of the agreement.
- (f) "Seller's 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 seller's 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 buyer's agent that becomes the contract for the sale of the real property upon acceptance by the seller.
- (j) "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property, and includes (1) single-family residential property, (2) multiunit residential property with more than four dwelling units, (3) commercial real property, (4) vacant land, (5) a ground lease coupled with improvements, or (6) a manufactured home as defined in Section 18007 of the Health and Safety Code, or a mobilehome as defined in Section 18008 of the Health and Safety Code, 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 retained by a buyer, seller, or both a buyer and seller 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 property sales contract within the meaning of Section 2985, 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 an owner 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 on behalf of another. "Seller" includes both a vendor and a lessor of real property.
- (n) "Buyer's agent" means an agent who represents a buyer in a real property transaction.

2079.14. A seller's agent and buyer's agent shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and, shall obtain a signed acknowledgment of receipt from that seller and buyer, except as provided in Section 2079.15, as follows:

- (a) The seller's agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement.
- (b) The buyer's agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase. If the offer to purchase is not prepared by the buyer's agent, the buyer's agent shall present the disclosure form to the buyer not later than the next business day after receiving the offer to purchase from the buyer.

2079.15. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.17.

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

_____ is the broker of (check one):	_____ is (check one):
<input type="checkbox"/> the seller; or	<input type="checkbox"/> is the Seller's Agent (salesperson or broker associate)
<input type="checkbox"/> both the buyer and seller (dual agent)	<input type="checkbox"/> is both the Buyer's and Seller's Agent (dual agent)
_____ is the broker of (check one):	_____ is (check one):
<input type="checkbox"/> the buyer; or	<input type="checkbox"/> the Buyer's Agent (salesperson or broker associate)
<input type="checkbox"/> both the buyer and seller (dual agent)	<input type="checkbox"/> both the Buyer's and Seller's Agent (dual agent)

- (d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14. An agent's duty to provide disclosure and confirmation of representation in this section may be performed by a real estate salesperson or broker associate affiliated with that broker.

2079.19. The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer 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 necessarily be determinative of a particular relationship.

2079.20. 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 2079.14 and Section 2079.17 are complied with.

2079.21. (a) A dual agent may not without the express permission of the seller, disclose to the buyer any confidential information obtained from the seller.

- (b) A dual agent may not, without the express permission of the buyer, disclose to the seller any confidential information obtained from the buyer.
- (c) "Confidential information" means facts relating to the client's financial position, motivations, bargaining position, or other personal information that may impact price, such as the seller is willing to accept a price less than the listing price or the buyer is willing to pay a price greater than the price offered.
- (d) This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22. Nothing in this article precludes a seller's agent from also being a buyer's agent. If a seller or buyer in a transaction chooses to not be represented by an agent, that does not, of itself, make that agent a dual agent.

2079.23. (a) A contract between the principal and agent may be modified or altered to change the agency relationship 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.

- (b) A lender or an auction company retained by a lender to control aspects of a transaction of real property subject to this part, including validating the sales price, shall not require, as a condition of receiving the lender's approval of the transaction, the homeowner or listing agent to defend or indemnify the lender or auction company from any liability alleged to result from the actions of the lender or auction company. Any clause, provision, covenant, or agreement purporting to impose an obligation to defend or indemnify a lender or an auction company in violation of this subdivision is against public policy, void, and unenforceable.

2079.24. 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.



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

This form must be delivered before or concurrently with the signing of the purchase and sale contract (or lease). In lieu of this form, such confirmation may also be set forth in the purchase and sale contract (or lease).

REPRESENTATION CONFIRMATION

Date: 11/9/2022
Seller/Lessor: Bardeen Partners
Buyer/Lessee: Optimum Professional Property Management, Inc.
Property Name: Market Place Center
Street Address, City, State: 230 Commerce Drive
Further described as: Suite 250 & 285 & 290

SELLER'S AGENT

Colliers International (Seller's brokerage firm and license number) is the broker of (check one):

- ☒ the seller.
☐ both the buyer and seller (dual agent).

Nick Velasquez (individual agent and license number) is (check one):

- ☒ the Seller's Agent (salesperson or broker associate).
☐ both the Buyer's and Seller's Agent (dual agent).

BUYER'S AGENT

CBRE, Inc. (Buyer's brokerage firm and license number) is the broker of (check one):

- ☒ the buyer.
☐ both the buyer and seller (dual agent).

Scott Kenny - 01330187 (individual agent and license number) is (check one):

- ☒ the Buyer's Agent (salesperson or broker associate).
☐ both the Buyer's and Seller's Agent (dual agent).

CBRE, INC.
Agent

Bardeen Partners
Buyer/Seller

Salesperson or Broker Associate, if any (Signature) (Date)

Buyer/Seller (Signature) (Date)

Salesperson or Broker Associate, if any (Printed Name)

Buyer/Seller (Printed Name)