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**West Contra Costa Healthcare District**

**Board of Directors**

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**Thursday, November 3, 2016**

**2:00 PM**

**San Pablo City Council Chambers**

**13831 San Pablo Avenue**

**San Pablo, CA**

**WEST CONTRA COSTA HEALTHCARE DISTRICT  
DOCTORS MEDICAL CENTER**

**BOARD OF DIRECTORS MEETING**

**WCCHD DOCTORS MEDICAL CENTER  
BOARD OF DIRECTORS  
MEETING  
November 3, 2016 – 2:00 P.M. PST  
San Pablo City Council Chambers  
13831 San Pablo Ave.  
San Pablo, CA 94806**

**Board of Directors**  
*Eric Zell, Chair  
Deborah Campbell, Vice Chair  
Irma Anderson  
Nancy Casazza  
Beverly Wallace*

**AGENDA**

1. **CALL TO ORDER** E. Zell, Chair
  
2. **ROLL CALL**
  
3. **PUBLIC COMMENTS** E. Zell, Chair  
*[At this time persons in the audience may speak on any items not on the agenda  
and any other matter within the jurisdiction of the District Board]*
  
4. **APPROVAL OF MINUTES OF October 19, 2016**
  
5. **ADJOURN TO CLOSED SESSION**
  - a. Conference with Real Property Negotiators (Gov. Code Section 54956.8) Regarding  
Hospital Property Sale E. Shaffer, Legal Counsel  
Agency Negotiators: K. White, E. Shaffer
  - b. Conference on pending proceeding litigation pursuant to Gov. Code Sections  
54956.9(d)(2) and 54956.9(d)(4) C. Coffey, Legal Counsel
  
6. **ANNOUNCEMENT OF REPORTABLE ACTION(S) TAKEN IN CLOSED SESSION, IF ANY**
  
7. **ADOPT RESOLUTION AUTHORIZING AND DIRECTING NEGOTIATION AND  
EXECUTION OF AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY** E. Shaffer, Legal Counsel
  - a. Presentation
  - b. Public Comment
  - c. Discussion
  - d. *ACTION: Adopt Resolution*
  
8. **ADJOURNMENT OF MEETING** E. Zell, Chair

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**MINUTES**  
**OCTOBER 19, 2016**

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**Agenda Item 4**

WEST CONTRA COSTA HEALTHCARE DISTRICT

BOARD OF DIRECTORS

WCCHD DOCTORS MEDICAL CENTER  
BOARD OF DIRECTORS  
October 19, 2016 – 1:00 P.M.  
San Pablo City Council Chambers  
13831 San Pablo Ave.  
San Pablo, CA 94806

Board of Directors

Eric Zell, Chair  
Deborah Campbell, Vice Chair  
Irma Anderson  
Nancy Casazza  
Beverly Wallace

MINUTES

1. **CALL TO ORDER**

The meeting was called to order at 1:10 P.M.

2. **ROLL CALL**

Quorum was established and roll was called:

*Present:*

*Eric Zell, Chair  
Beverly Wallace  
Nancy Casazza*

*Absent:*

*Irma Anderson  
Deborah Campbell*

3. **PUBLIC COMMENTS**

There were no public comments.

4. **APPROVAL OF MINUTES OF September 14, 2016**

*The motion made by Director Wallace and seconded by Director Casazza to approve the September 14, 2016 minutes passed unanimously.*

5. **CLOSED SESSION**

The meeting adjourned to Closed Session at 1:15 pm.

6. **ANNOUNCEMENT OF REPORTABLE ACTION(S) TAKEN IN CLOSED SESSION, IF ANY**

Colin Coffey, Legal Counsel reported that the District will be filing a lawsuit against Nerdy Girl Enterprises, Inc. for breach of contract, fraud, and negligence.  
The Board voted unanimously to proceed with the lawsuit.

**7. FINANCIAL UPDATE**

A financial forecast was provided which included a projected weekly cash flow analysis over the next 13 weeks and a projected quarterly cash flow forecast for 2017. The results conclude that the District is insolvent and will run out of cash by 11/25/16. This is primarily due to the property sale not going through as planned.

This report was for information only.

**PUBLIC COMMENTS**

There were no public comments.

**8. FISCAL YEAR 2014 AUDIT**

The Fiscal Year 2014 Audit was provided for review and acceptance. Due to the closure of the hospital in April 2015, the completion of the 2014 audit was delayed. The 2015 audit is expected to be completed by December 2016.

**PUBLIC COMMENTS**

There were no public comments.

*The motion made by Director Casazza and seconded by Director Wallace to accept the Fiscal Year 2014 Audit passed unanimously.*

**9. WEST CONTRA COSTA SUCCESSOR RETIREMENT PENSION PLAN  
FINANCIAL STATEMENTS FOR 2014 AND 2015**

The West Contra Costa Successor Retirement Pension Plan Financial Statements for 2014 and 2015 were provided for review and acceptance. The audit shows that we are \$12.8M underfunded in our pension obligations. The District must have cash in order to pay down the amount each year.

**PUBLIC COMMENTS**

There were no public comments.

*The motion made by Director Cassaza and seconded by Chair Zell to accept the West Contra Costa Successor Retirement Pension Plan Financial Statements for 2014 and 2015, passed unanimously.*

**10. CONSIDERATION OF DECLARATION OF FISCAL EMERGENCY**

The Board was provided extensive, detailed information regarding the financial situation of the District, including the untimely sale of the property. As was outlined in the financial update, the District will run out of cash in 4-6 weeks. After various options, including Chapter 9 bankruptcy filing were discussed, a Fiscal Emergency was declared.

This was for information only.

**PUBLIC COMMENTS**

There were no public comments.

**11. APPROVAL OF RESOLUTION DECLARING FISCAL EMERGENCY AND  
AUTHORIZING FILING OF CHAPTER 9 PROCEEDING**

David Gordon, Legal Counsel from Dentons US LLP presented a Resolution declaring the fiscal emergency and authorizing the filing of Chapter 9 proceeding. Extensive discussion among the Board members ensued regarding the Chapter 9 filing.

## **PUBLIC COMMENTS**

There were no public comments.

*The motion made by Director Casazza and seconded by Director Wallace to approve the Resolution declaring fiscal emergency and authorizing filing of Chapter 9 proceeding, passed unanimously.*

*Ayes: Chair Zell, Director Casazza, Director Wallace*

*Noes: None*

*Absent: Director Anderson, Director Campbell*

## **12. HOSPITAL CDPH LICENSE RENEWAL**

The Doctors Medical Center CDPH License expires on 10/31/2016. The cost of the renewal is \$55,534.64, with penalties incurred if not paid by 10/31/16. Due to the property still being listed for sale, a recommendation was made to notify CDPH of the intent to renew the license, keeping it in suspension.

## **PUBLIC COMMENTS**

There were no public comments.

*The motion made by Director Cassaza and seconded by Director Wallace to renew the hospital CDPH license, keeping it in suspension, passed unanimously.*

## **13. RECOMMENDATION TO THE BOARD OF SUPERVISORS ON APPOINTMENT TO DISTRICT BOARD SEAT BECOMING VACANT AT THE EXPIRATION OF THE TERM OF ERIC ZELL**

Board member Eric Zell's term ends on December 2, 2016. The Board has the opportunity to recommend names for the vacant seat by submitting names to the Board of Supervisors by 11/8/16.

## **PUBLIC COMMENTS**

There were no public comments.

*A motion was made by Chair Zell to recommend Dr. Bill Van Dyk to the vacant seat. Due to the motion having no second, no action was taken.*

## **14. CONSIDERATION OF BOARD POSITION REGARDING LAFCO SPECIAL STUDY OF GOVERNANCE OPTIONS FOR WEST CONTRA COSTA HEALTHCARE DISTRICT**

The Governing Board discussed the options for the future of the Healthcare District that were outlined in the study prepared by Contra Costa County LAFCO study. After discussion, the Board directed District counsel to draft a letter to LAFCO supporting the option that would establish a County Service Area (CSA), while doing all that is possible to maximize the revenue available to provide support for future healthcare needs in West Contra Costa, once all District debts are paid off. In addition, the Board also recommends that LAFCO pursue the establishment of the CSA through state legislation, to avoid unnecessary costs to the taxpayers and time delays. A letter stating the Boards official recommendations to LAFCO will be sent prior to LAFCO's 12/14/16 meeting.

## **PUBLIC COMMENTS**

There were no public comments.

*The motion made by Director Cassaza and seconded by Director Wallace to approve the Board position regarding the LAFCO special study of governance options for West Contra Costa Healthcare District and submitting a letter to LAFCO, passed unanimously.*

THE MEETING WAS ADJOURNED AT 3:10 P.M.

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**RESOLUTION AUTHORIZING AND  
DIRECTING NEGOTIATION AND  
EXECUTION OF AGREEMENT FOR  
PURCHASE AND SALE OF REAL  
PROPERTY**

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**Agenda Item 7**

September 21, 2016

Eric Zell, Chairman of the Board  
West Contra Costa Healthcare District

Re: Letter of Interest – for 2000 Vale Road, San Pablo CA

Dear Eric:

We have been authorized by the below referenced Buyer to present this non-binding letter of interest that summarizes the basic business terms and conditions upon which the Buyer may be willing to purchase the property referenced above, as more particularly described below.

1. Buyer: Lytton Rancheria of California
2. Seller: West Contra Costa Healthcare District
3. Purchase Price: \$ 13,000,000.00
4. Earnest Money Deposit. Upon opening of escrow, Buyer to deposit two hundred thousand dollars (\$200,000.00) as earnest money deposit with the escrow holder. Deposit shall be invested by escrow holder in an interest bearing account with all interest accruing thereon to be added to the earnest money deposit. All deposits shall be credited to the Purchase Price upon the close of escrow. This initial earnest money deposit shall become non-refundable upon the expiration of the Due Diligence Period (as defined below), and such deposit, as increased, will constitute liquidated damages to the Seller if the Buyer fails to perform the Buyer's obligations under this transaction. If Buyer elects to proceed with the purchase of the Property upon the expiration of the Due Diligence Period, Buyer shall deposit an additional two hundred thousand dollars (\$200,000.00) as additional non-refundable earnest money deposit in cash ("Additional Deposit") within one (1) business day after the expiration of the Due Diligence Period.
5. Due Diligence Period. The Due Diligence Period shall expire at 5:00pm (California Time) forty-five (45) days from the mutual execution of the Purchase and Sale Agreement (PSA). Buyer shall perform any and all due diligence it deems appropriate and necessary during such time. If the Buyer fails to approve the Property to its full and complete satisfaction, then the Buyer shall have the right to cancel this Agreement by written notice to the Seller on or before 5.00pm (California Time) the end of the Due Diligence Period, and all deposit monies returned after payment of one-half of any escrow fee or cancellation charges. All contingences will be deemed waived unless written notification of non-waiver is provided before expiration of the Due Diligence Period.
6. Closing. Close of escrow to occur within fifteen (15) days from the expiration of the Due Diligence Period. Time is of the essence in performance of all terms.
7. Access. Seller shall grant Buyer access to the Property during the escrow period so that Buyer may complete its due diligence investigations.
8. Warranties and Representations. Property is being purchased in its present 'as is' condition without representations and warranties of any kind from Seller, other than a representation that it has provided Buyer with all material information relating to the Property that is in its possession and is authorized to sell the Property.

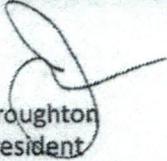
9. Escrow and Title Insurance. Escrow and Title to be provided by Fidelity National Title Insurance in Santa Rosa, California (Courtney Triolo, (707) 541-0300) and shall be opened within 24 hours of mutual execution of the Purchase and Sale Agreement.
10. Closing Costs. Buyer shall be responsible for its own legal fees, costs of any and all inspections or reports it obtains, and half of the escrow fee. Seller shall be responsible for its own legal fees, owners title insurance policy (CLTA), documentary transfer tax, real estate commission and one-half (1/2) of the escrow fee. Current income and expenses, taxes and assessments shall be prorated as of the date of closing. The taxes and other income and expenses pertaining to the Property will be prorated as of the date of closing.
11. Vesting. Prior to closing, the Buyer indicated in Section 1 above may assign some or all its interests in the Purchase and Sale Agreement to one or more entities controlled by Buyer. These assignments will be made without approval of Seller. Any such assignment shall not release Buyer and Assignee must agree to be bound by all terms of the agreement and escrow.
12. Real Estate Commissions. Kennedy Wilson represents the W. Contra Costa Healthcare District and shall be paid 1.5% of the purchase price at close of escrow per listing agreement. Both Buyer and Seller recognize there are no other brokers involved in this transaction except Kennedy Wilson.
13. Buyer and Seller recognize the property is currently in contract to another buyer whose due diligence period ends November 8<sup>th</sup> and Seller has indicated they will not provide any further extensions. Buyer and Seller recognize the City of San Pablo may exercise a first-right-of-refusal to purchase the property.
14. Formal Agreement. This agreement shall be non-binding subject to the execution of a formal Purchase and Sale Agreement to be prepared by Seller and approved by both parties.
15. Expiration Date. This letter of interest shall expire and be withdrawn at 5:00 p.m. (California Time), on October 7<sup>th</sup> 2016.

It is understood that all communications between the parties, however denominated, are not contractual and are to remain strictly confidential. This letter summarizes the basic business terms and conditions by which the Buyer may be willing to buy the Property. Each party is free to terminate its negotiations with the other at any time prior to execution of the Purchase and Sale Agreement and Escrow Instructions. Buyer and Seller acknowledge that both have the right to carry on simultaneous negotiations with other prospective buyers and sellers. It is intended that the legal rights and obligations regarding this transaction will come into existence only when a definitive Purchase Agreement is mutually executed and delivered to all appropriate entities.

This document is intended to constitute a letter of interest only and not a binding or enforceable agreement. Statements made in this letter, in related documents and other negotiations in connection with the subject matter of this letter shall not constitute any offer, acceptance or legal binding enforceable contract against any party to this letter. Only a fully executed Purchase and Sale Agreement shall bind the parties.

We look forward to completing this transaction with you.

Sincerely,  
Kennedy Wilson Properties, Ltd.



John Troughton  
Vice President

Buyer: Lytton Rancheria of California

Margaret Meyer

By: \_\_\_\_\_

Date: 9/26/2016

Seller: West Contra Costa Healthcare District

Eric Zell

By: Eric Zell

Date: 10/19/2016

**DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS (Page 1 of 2)**  
(as required by the Civil Code)

KENNEDY WILSON

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 you wish to have with the agent(s) in the transaction.

**DISCLOSURE FORM NEEDS TO BE COMPLETED AND PROVIDED AS FOLLOWS:**

- |  |   |
|--|---|
| a) Listing Agent to the Seller before entering into a listing agreement; | b) Buyer's Agent to the Buyer as soon as practicable before signing an offer;                                       |
| c) Buyer's Agent to the Seller before presenting an offer;               | d) Listing Agent, when acting as a dual agent, to the Buyer as soon as practicable before the Buyer signs an offer. |

*Please note that the terms "Seller" and "Buyer" are defined by the Civil Code to include a Lessor and Lessee, respectively.*

**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 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 Section 2079.13 to 2079.24, inclusive, of the Civil Code set forth on the reverse side hereof. Read it carefully.

If the transaction involves one-to-four dwelling residential property(s), including a mobile home, this Disclosure form must be provided in a listing, sale, exchange, installment land contract, or lease over one year.

**I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).**

Kennedy Wilson Brokerage Group

9/21/2016

Associate Licensee Signature

(Date)

**JOHN TROUGHTON** CalBRE: 01137509

Associate Licensee Printed Name

*Eric Zell* 10/19/2016  
Seller/Lessor Signature (Date)

**Eric Zell**  
Seller/Lessor Printed Name

*Margie Meyers* 9/26/2016  
Buyer/Lessee Signature (Date)

Buyer/Lessee Printed Name

<input type="checkbox"/>	I represent the buyer exclusively; or
<input checked="" type="checkbox"/>	I represent the seller exclusively; or
<input type="checkbox"/>	I represent the buyer and seller.

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS (Page 2 of 2)  
(as required by the Civil Code)

ARTICLE 2, CHAPTER 3 OF TITLE 6 OF PART 4 OF DIVISION 3 OF THE CIVIL CODE

As used in Sections 2079.13 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.
- (b) "Associate licensee" means a 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 licensees who perform 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, that duty is equivalent 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 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.
- (d) "Commercial real property" means all real property in the state, except single-family residential real property, dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, mobilehomes, as defined in Section 798.3, or recreational vehicles, as defined in Section 799.29.
- (e) "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.
- (f) "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.
- (g) "Listing agent" means a person who has obtained a listing of real property to act as an agent for compensation.
- (h) "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.
- (i) "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.
- (j) "Offer to purchase", means a written contract executed by a buyer acting through a selling agent that becomes the contract for the sale of the real property upon acceptance by the seller.
- (k) "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property that constitutes or is improved with one to four dwelling units, any commercial real property, any leasehold in these types of property exceeding one year's duration, and mobilehomes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code.
- (l) "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.
- (m) "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.
- (n) "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 of behalf of another. "Seller" includes both a vendor and a lessor.
- (o) "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.
- (p) "Subagent" means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1 of Title 9. However, "subagent" does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

2079.14 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 2079.16, and, except 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 2079.15, 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 selling 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 for the selling agent from the seller) by the listing agent, or the selling 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 acknowledgement 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 prepared by 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.

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, or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.17

- (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 sell real property or in a separate writing executed or acknowledged by the seller, the 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 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 and the listing 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:

~~DO NOT COMPLETE SAMPLE ONLY~~ is the agent of (check one):  the seller exclusively; or  both the buyer and the seller.  the buyer exclusively  
(Name of Listing Agent)

~~DO NOT COMPLETE SAMPLE ONLY~~ is the agent of (check one):  the seller exclusively; or  both the buyer and the seller.  the buyer exclusively  
(Name of Selling Agent if not the same as the Listing Agent)

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14.

2079.18 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.

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 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 not disclose to the seller that the buyer is willing to pay a price greater than the offering price, without the express written consent of the buyer. 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 the price.

2079.22 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.

2079.23 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.

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 the acts governed by this article or for any breach of a fiduciary duty or a duty of disclosures.

**WEST CONTRA COSTA HEALTHCARE DISTRICT**

**RESOLUTION NO. 2016-09**

**RESOLUTION AUTHORIZING AND DIRECTING  
NEGOTIATION AND EXECUTION OF AGREEMENT FOR PURCHASE AND SALE  
OF REAL PROPERTY AND RELATED DOCUMENTS, AND DIRECTING CERTAIN  
ACTIONS WITH RESPECT THERETO**

RESOLVED, by the Board of Directors (the "Board") of the West Contra Costa Healthcare District, Contra Costa County, California (the "District"), as follows:

WHEREAS, pursuant to Section 32121 (c) of the California Health and Safety Code, the District has the power to buy and sell interests, including leaseholds and easements, in real property;

WHEREAS, Lytton Rancheria of California ("Lytton") offered to purchase from the District certain real property in San Pablo consisting of Doctors Medical Center ("DMC") at 2000 Vale Road and approximately 8.3 acres on which DMC and its accessory improvements are located;

WHEREAS, the District and Lytton reached preliminary agreement on a purchase price of \$13,00,000.00 and on terms and conditions pursuant to that certain nonbinding letter of interest dated September 21, 2006 attached to this Resolution as Attachment 1 (the "LOI");

WHEREAS, the Board finds based on information provided and arms' length negotiations with Lytton that this price represents fair value;

WHEREAS, Lytton's purchase of the District property permits the District to meet certain financial obligations, in a manner that it would not be able to otherwise meet in a timely fashion;

WHEREAS, the Board has reviewed the LOI with the aid of its management and has been informed of possible details remaining to be negotiated, including the possible need to resolve the status of existing leases and easements as a condition to closing escrow;

WHEREAS, the Board has considered whether the proposed transaction requires consideration under the California Environmental Quality Act;

NOW, THEREFORE, the Board of Directors hereby DECLARES and ORDERS, as follows:

1. The Board of Directors of the West Contra Costa Healthcare District hereby approves the proposed transaction generally as described in the LOI and hereby directs and authorizes the Chair of the Board and/or the District's Chief Executive Officer ("CEO") to negotiate a Purchase and Sale Agreement ("PSA") substantially conforming to the terms and conditions in the LOI, and to finalize and execute the following documents, each of which incorporates the terms and conditions set forth in the Letter of Interest, and otherwise contains such terms and conditions that are consistent therewith and are deemed in the Chair's or CEO's judgment to be reasonable and necessary to effectuate the transaction: the PSA; a recordable grant deed; assignment of leases if any; and such other documents deemed in the Chair's or CEO's judgment to be reasonable and necessary to effectuate the transaction.

2. All actions heretofore taken by the officers and agents of the District with respect to the execution, delivery and completion of the transaction approved by this Resolution are hereby approved, confirmed and ratified.

3. The Chair and CEO are authorized to take such other steps and do such acts and things, all as in their judgment may be necessary, appropriate or desirable on behalf of and in the name of the District to carry out, observe and perform and enforce the performance by others of, and comply with, the terms and provisions of the proposed transaction, and to consummate the transaction herein contemplated.

4. The Board finds that sale of the District's property is exempt from the need for consideration under Public Resources Code section 21000 et seq., the California Environmental Quality Act ("CEQA"), and under California Code of Regulations Title 14, Chapter 3 (the "CEQA Guidelines"), (a) pursuant to CEQA Guidelines section 15301 ("Existing Facilities – minor alteration") as they involve proposed continued use of an existing building that will not have a significant effect on the environment, (b) pursuant to CEQA Guidelines section 15312 ("Surplus Government Property Sales"), (c) pursuant to the general "common sense" exemption in CEQA Guidelines section 15061(b)(3) where no physical alterations to the properties are intended and it can be concluded with certainty that there is no risk of mere change in ownership causing significant environmental impacts, and (d) the transactions do not qualify as a "project" under CEQA Guidelines section 15378 because they do not have the potential to result in a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and each grounds for exemption independently is sufficient to support this finding. The Board further finds that to the extent Lytton's future use of DMC and the property may require discretionary approvals by the City of San Pablo and/or other public agencies, those agencies will be required to comply with CEQA before granting such approvals and allowing such uses, and it would be premature and overly speculative for the District to undertake CEQA review before approving and consummating this transaction.

5. The Board authorizes and directs the Chair or CEO to file a notice of exemption pursuant to CEQA Guidelines section 15062 with the County Clerk of Contra Costa County, reflecting this Resolution and the exempt status of this Resolution.

6. This Resolution shall take effect upon its adoption by this Board.

**PASSED AND ADOPTED** this 3<sup>rd</sup> day of November, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Eric Zell, Chair of the Board of Directors  
West Contra Costa Healthcare District

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Nancy Casazza, Secretary of the Board of Directors  
West Contra Costa Healthcare District

## Secretary's Certification

I, the undersigned Secretary of the West Contra Costa Healthcare District, hereby certify that the foregoing is a full, true and correct copy of a resolution duly adopted by the Board of Directors of the District at a meeting thereof held on the 3<sup>rd</sup> day of November, 2016.

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Nancy Casazza, Secretary of the Board of Directors  
West Contra Costa Healthcare District