



MEMORANDUM

To: Dr. Janet Vinson

From: Larry Shackelford

Date: November 8th, 2021

Re: New Exclusive Listing Agreement

SUBJECT

Accept and Approve the NEW exclusive listing agreement between Broken Arrow Public Schools and Coldwell Banker to provide broker services to sell District owned property located at W. Houston and S. Elm Place, Broken Arrow, Oklahoma. Total cost to the District is 6% of the gross sales price and will be paid with Bond Funds. L. Shackelford

SUMMARY

BAPS agrees to exclusively employ Coldwell Banker as realtor/broker for the purpose of offering the property known as the tract of land at West Houston and Elm Place for sale; locating a suitable buyer for the property; and assisting with the negotiation of a sales contract and closing the sale of the property until November 9, 2022. The realtor/broker receives as compensations at closing, a commission equal to 6% of the gross sales prices

FUNDING

Bond Funds

RECOMMENDATION

Approve

Contract Committee Review Request
MUST BE COMPLETED IN FULL

Date: 10/25/2021

Contract/Agreement Vendor: Coldwell Banker
 Name of Vendor
Andy Osburn
 Contact Person Phone Number
 Address
Tulsa, OK
 City State Zip
osburnandy@gmail.com
Email address

 1 year from the date of the contract being signed
 Date of services

IS THIS A NEW VENDOR? IF SO, PLEASE PROVIDE : W9 _____
 And _____
Vendor Registration

Person Submitting Contract/Agreement for Review: Courtney Cheatwood COM
Name Site

Reason for Review: (New Agreement, Renewal...): New Agreement

Audience/Group to benefit from Contract/Agreement: District

Routing Approval: PLEASE SEND TO APPROPRIATE LEADERSHIP TEAM MEMBER BEFORE SENDING TO STACIE CHASE

Principal **and** Director or Administrator: _____
Signature

Does this Contract/Agreement utilize technology? No Yes
 Has it been reviewed by the Chief Technology Officer? No Yes

If yes, Approved by: _____
(Signature) Technology /Approval

Leadership Team Member: _____
Signature

Funding Source: _____
Description OCAS Coding

Process: PLEASE FOLLOW ALL STEPS

- 1. The Contract/Agreement is reviewed and approved by site Principal/ Director/ Administrator.
- 2. If Technology related, the Contract/Agreement is reviewed and approved Technology.
- 3. Prepare Board Agenda Memorandum and attach to Contract/Agreement.
- 4. Begin the requisition process and place a comment in the Notes section that says, "Please hold req pending board approval on 11/8/2021"
Date of Board Meeting
- 5. Attach this form with Contract/Agreement and Board Memo
- 6. **The appropriate Leadership Team Member will review and submit to the Contract Committee**
- 7. Keep copy for your records

The Contract/Agreement should be received at least 2 weeks prior to a Board Meeting to ensure placement on the Agenda. The Contract Committee meets most Tuesdays at 8:30a.m. All Contracts/Agreements, regardless the amount, must be first approved by the Contract Committee and then presented to the Board of Education for approval and signature. The item will be placed on Electronic School Board for the board agenda by Stacie Chase. By following this process, the liability of entering into an agreement is placed with the district rather than an individual.

This is a legally binding contract; if not understood seek advice from an attorney.

LISTING AGREEMENT - COMMERCIAL/INDUSTRIAL EXCLUSIVE RIGHT TO SELL

In consideration of the services to be rendered by the undersigned Broker the undersigned ("Seller/Owner") hereby exclusively lists with Broker the Property described as:

Property Address **No Assigned Address - 81 St & Elm Pl, Broken Arrow, OK 74012**

Legal Description **Beg 660.44BEG 660.44E & 423S NWC NW TH S158.54 W660.49 N268 E285 SE176.17 S94 E199.98 TO POB LESS .419ACS ON W FOR RD & LESS**

BEG 660.44E & 423S NWC NW TH S20 W590.47 N130 E215 SE176.17 S94 E199.98 POB SEC 14 18 14

together with all improvements (the "Property"), and grants to Broker the exclusive right to sell the Property and to accept a deposit thereon, within the term of this listing, at a price of \$ **585,885.00** and on the terms herein stated, or at such other price and terms as shall be acceptable to Seller/Owner. This listing shall be subject to the following:

1. The term of this Listing Agreement begins on **November 9, 2021**, and expires (except for the provisions of paragraph 2) at midnight on **November 9, 2022**.
2. Seller/Owner agrees to pay a sales commission at Closing in an amount equal to **6.000%** of the total sale price of the Property described herein, as and for the compensation of Broker, in any of the following events:
 - a. The sale, exchange or lease of the Property, in whole or in part, during the term of this Agreement, whether procured by Broker, Seller/Owner, or a third person;
 - b. The sale, exchange or lease of the Property within **90** days after the termination of this Agreement, if with any one to whom Broker or any cooperating Broker has shown the Property, or with whom the Broker or any cooperating Broker has negotiated concerning the Property ("Prospective Purchasers/Tenants") prior to the termination of this Agreement; provided, however, Broker shall deliver to Seller/Owner a notice in writing containing a list of the name or names of such Prospective Purchasers/Tenants within twenty (20) days of the Expiration Date. If Seller/Owner enters into an exclusive listing agreement with another licensed real estate broker with respect to the Property, Seller/Owner agrees to exclude the "Prospective Purchasers/Tenants" from any such other exclusive listing agreement for and during the period stated herein;
 - c. In the event the subject Property is leased as described in paragraphs 2(a) and 2(b), the Seller/Owner agrees to pay a leasing commission. Said leasing commission shall be at the same rate as set out above of the gross rentals for the primary term upon execution of the lease and for all renewals, extensions and expansions when executed as compensation to Broker. For the purpose of this paragraph gross rentals is defined as base rent plus Common Area Maintenance (CAM), if any. Total commissions on CAM shall be calculated at the initial monthly rate identified in the lease agreement;
The Lease Commission shall be payable as follows: **NA**
 - d. If Seller/Owner refuses to sell after Broker procures a Buyer who is ready, willing, and able to purchase the Property, at the price and on the terms set forth herein, or at such other price and terms as shall be acceptable to Seller/Owner;
 - e. Upon the closing of a sale of the Property to any tenant whose Lease Term commenced during the term of this Agreement, provided that Seller/Owner shall be allowed a credit on such commission equal to the amount of leasing commission paid on any part of the Lease Term remaining.
3. In the event a Contract for Sale or Exchange (a "Contract") is entered into with a Buyer, Seller/Owner agrees:
 - a. Unless the Contract provides otherwise, Broker shall receive and hold any earnest money deposit, which may be in the form of the Buyer's check endorsed for deposit without recourse, in Broker's trust or escrow account in accordance with the terms of the Contract, applicable law, rules, and regulations governing such funds;
 - b. To furnish a current Uniform Commercial Code Search Certificate and an abstract of title certified to date showing merchantable title in Seller/Owner, subject only to reasonable utility easements and building restrictions of record, and other exceptions specified in the Contract;
 - c. At the time prescribed in the Contract, to convey the Property by Warranty Deed to Buyer, free and clear of all liens and encumbrances, except those specifically reserved in the Contract;
 - d. Unless otherwise provided in the Contract, all ad valorem taxes, interest, rents, special assessments and any other continuing items shall be prorated to the date of transfer, except that personal property taxes for the entire year shall be paid by Seller/Owner;

LISTING AGREEMENT -COMMERCIAL/INDUSTRIAL EXCLUSIVE RIGHT TO SELL (Continued)

- e. Seller/Owner acknowledges and gives the Listing Broker the right to utilize the services of a title escrow company for the closing process subsequent to a Contract of Sale on this Property. Seller/Owner understands that fees for these services are shared equally by Seller/Owner and Buyer and Seller/Owner agrees to pay Seller's/Owner's share of such fees to a closing escrow company or directly to the Listing Broker. Seller/Owner understands said fee is in addition to the agreed commission amount and that no fee for closing escrow is due until the actual closing is conducted.
4. In order to fulfill Seller's/Owner's and Broker's obligations of disclosure, if the Property has been damaged or affected by storm run off water or flooding, is located in a flood hazard area, or if the Property has any other material defect, Seller/Owner has communicated in writing any such defect to the Broker. Broker is authorized to disclose to any potential buyer any such defects and any other material information, including the flood hazard status of the Property, known by the Broker relating to the Property.
5. All of the information provided herewith, or which may be provided to Broker, shall be true to the best of Seller's/Owner's knowledge and Seller/Owner agrees to hold Broker, Broker's employees and sales associates harmless from any cost, expense, or damage due to any information which is withheld by Seller/Owner from Broker, or which is incorrect.
6. Seller/Owner agrees to cooperate with Broker, Broker's sales associates and cooperating brokers fully with respect to Broker's efforts to sell the Property. Seller/Owner agrees to refer to Broker all inquiries received by Seller/Owner relating to the purchase or sale of the Property and to conduct all negotiations with prospective purchasers of the Property through Broker. Seller/Owner further agrees to furnish Broker such information concerning the Property as Broker may reasonably request from time to time as a result of inquiries by prospective purchasers.
7. Seller/Owner agrees to reimburse Broker for expenses incurred by Broker in advertising or marketing the Property, which are expressly authorized by the Seller/Owner.
8. In connection with this Listing Agreement, Seller/Owner authorizes Broker:
 - a. To place a "For Sale" sign on the Property and to remove all other similar signs;
 - b. Subject to the provisions of Paragraph 10, at Seller's/Owner's expense, to turn on, or leave on, all utilities, and to authorize servicemen to do so, in order to show the Property to its best advantage or to permit inspection thereof;
 - c. To obtain all information pertaining to any present mortgage on the Property from any mortgage or mortgage service company and to furnish information pertaining to the Property to any prospective lender;
 - d. To obtain a key to the Property, and furnish keys to others necessary to show the Property or to carry out the objectives of this Agreement;
 - e. To have access to the Property for the purpose of showing it to prospects at any reasonable hour;
 - f. Unless the Contract provides otherwise, Broker and Seller/Owner agree that Broker shall be authorized to accept delivery of Contract documents, title documents, inspection reports and other notices provided in the Contract on behalf of the Seller/Owner, and to accept a similar appointment by Buyers and prospective Buyers.
9. Broker duties and responsibilities:
 - A. A broker shall have the following duties to all parties in a transaction, which are mandatory and may not be abrogated or waived by a broker:
 1. Treat all parties with honesty and exercise reasonable skill and care;
 2. Unless specifically waived in writing by a party to the transaction:
 - a) receive all written offers and counteroffers,
 - b) reduce offers or counteroffers to a written form upon request of any party to a transaction, and
 - c) present timely such written offers and counteroffers;
 3. Timely account for all money and property received by the broker;
 4. Keep confidential information received from a party or prospective party confidential. The confidential information shall not be disclosed by a firm without the consent of the party disclosing the information unless consent to the disclosure is granted in writing by the party or prospective party disclosing the information, the disclosure is required by law, or the information is made public or becomes public as the result of actions from a source other than the firm. The following information shall be considered confidential and shall be the only information considered confidential in a transaction:
 - a) that a party or prospective party is willing to pay more or accept less than what is being offered;
 - b) that a party or prospective party is willing to agree to financing terms that are different from those offered;

LISTING AGREEMENT -COMMERCIAL/INDUSTRIAL EXCLUSIVE RIGHT TO SELL (Continued)

- c) the motivating factors of the party or prospective party purchasing, selling, leasing, optioning, or exchanging the property; and
- d) information specifically designated as confidential by a party unless such information is public.
- 5. Disclose information pertaining to the property as required by the Residential Property Condition Disclosure Act; and
- 6. Comply with all requirements of The Oklahoma Real Estate License Code and all applicable statutes and rules.
- B. A broker shall have the following duties and responsibilities only to a party for whom the broker is providing brokerage services in a transaction which are mandatory and may not be abrogated or waived by a broker:
 - 1. Inform the party in writing when an offer is made that the party will be expected to pay certain costs, brokerage service costs and approximate amount of costs; and
 - 2. Keep the party informed regarding the transaction.
- C. When working with both parties to a transaction, the duties and responsibilities set forth in this section shall remain in place for both parties.
- 10. Broker shall use Broker's best efforts to effect a sale of the Property during the term of this Agreement, in accordance with the Code of Ethics of the National Association of REALTORS®. Broker shall not be charged with the custody of the Property, its management, maintenance, repair, or protection of Property from climatic changes (freezing, etc.).
- 11. Forfeited earnest money, if any, shall be divided equally between Seller/Owner and Broker, except that Broker's portion shall, in no event, exceed the agreed commission; provided, however, that no release of a Buyer or waiver of a forfeiture of earnest money after a Contract is executed shall relieve Seller/Owner of any obligation to pay a commission.
- 12. The term "Broker" herein shall include any sales associate or broker-associate of Broker whose signature appears on this Agreement.
- 13. This Property is offered without regard to sex, race, religion, color, ancestry, handicap, familial status, or national origin.
- 14. Seller/Owner and Broker agree to the terms herein set forth and understand that this is a binding agreement and that it cannot be canceled or terminated except upon their mutual written consent.

15. SPECIAL CONDITIONS.

None

Accepted This _____ Day of _____, _____

BROKER:

Coldwell Banker Select Realtors

By _____
Andy Osburn

Phone No. (918)398-3660

Fax No. _____

Accepted This _____ Day of _____, _____

SELLER/OWNER:

Indepent School District #3 of Tulsa County

701 S Main St

Broken Arrow, OK 74012

Mailing Address of Seller-Owner

Phone No. (918)259-5700

Fax No. _____