

summarizes the intent of the meeting and our willingness to cooperate with the Flood Project for an exchange of surplus vacant land. We never received a written response from our letter to Ms. Stock.

What slowly happened was the tenants started feeling anxious about the prospects of being forced to move. Many tenants could not take the uncertainty and decided to move strictly for peace of mind. Other tenants needed to provide their lenders with assurances that they would have a consistence location and rents; so they could obtain financing for their businesses.

To our shock and dismay one tenant in the middle of expanding his recording studio at 65 N. Edison Way # 4, was told by someone at the county that he would have to move soon and his improvement expenses would not be reimbursed. He immediately moved and dared me to sue him for damages. After this incident I called Mr. Gregg Salter and asked if he could ask the people at the County if they would be careful about what they said to our potential tenants.

There have been several accounts where County personnel in white trucks have told our tenants the subject property was in escrow. One gentleman from the County told my superintendant thinking he was a tenant in 65 N. Edison that the property was in escrow, several months before an offer was even presented. My superintendant looked at me like I had been lying to him.

It also did not help that a men's homeless shelter was located in the vacant building directly across from my office. In late fall and throughout the winter months in the early evening darkness these guys would stand around smoking outside our offices. My wife who worked in the office was often intimidated and frightened when she left. In the morning when we arrived at the office we would often find empty liquor bottles and cigarette butts in our front landscape area. It certainly wasn't lost on us that in spite of many alternative locations available, the unit directly across from our office was chosen for this shelter.

If you look at the income and expense summary the appraiser prepared on page 65 of the appraisal; 2008 and 2009 you can see the Effective Gross Incomes went down from the \$467,000 in 2007 to \$ 440,473 in 2008 and \$439,072 in 2009. The total of Effective Gross Income lost for

Electronically Filed
Aug 10 2021 03:35 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

TRFMA 00606

the two years is \$ 52,217. Our actual rental rates have stayed about the same and our occupancy rate at 97% to 98%. The difference is the turnover of tenants that were affected by the uncertainty and misinformation of the flood project.

Another major blow to our income came when Verizon was going to locate on the AT&T cell tower. Verizon sent us the letter of intent dated August 19, 2008. Verizon studied the site for several weeks and determined it was an excellent site for expanding its cell coverage. In parallel with our negotiations Verizon reached a deal with AT&T to locate on its tower. We negotiated a deal and had a Verizon lease in hand and were ready to execute the lease, about November 2008. Early in our discussions we had disclosed that someday we may be selling the project to the County and this was never an issue Verizon; actually wanted a first right of refusal to purchase the property if the County made an offer (which you will see on an email I have enclosed). I declined saying this would unnecessarily complicate our negotiations with the County. Phil Pluckebaum, the Verizon representative had heard about the Flood Project from a newspaper report and decided to check on its timing and progress.

He was told in no uncertain terms, that "the tower was going to be moved, one way or another." Months of work went down the drain and Verizon suddenly withdrew. I am including an exhibit of the letter of intent and the first couple pages of the lease.

Another detrimental turning point for our leasing program came as a result of a very prominent newspaper article about the recreational aspect of the flood project in October of 2008. This seemed to be positive proof that the buildings were coming down soon. I had to constantly reassure the tenants that I was not lying to them. More tenants started to leave and our expenses were increased because we had to renovate units that had been occupied for long periods.

There is also the fact that a grey water truck facility was also located immediately next to the office units at the front of 35 N. Edison Way. This has created steady truck traffic which is a concern to our office tenants located there.

TRFMA 00607

The other effect that has taken place is that our new replacement tenants are not the quality "small businesses" we had enjoyed doing business with for years. I would call these new tenants unconventional and certainly weaker credit. The short term nature of the buildings and the fact that I must disclose the potential future sale whether voluntary or forced, leaves me with a limited share of the viable tenants in the marketplace. My workload as a property manager and leasing broker has increased exponentially.

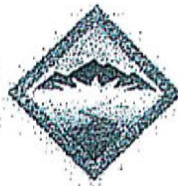
In conclusion with this section; it is clear that subject property has been negatively impacted by the flood project, and the income and value diminished by 1.) The long delay in the acquisition of the subject Edison buildings. 2.) Incorrect statements made by county personnel. 3.) News releases and public information meant to garner public support and funding. 4) The vacant buildings on N. Edison with boarded up windows and graffiti appearing regularly.

TRFMA 00608

EXHIBIT “19”

EXHIBIT “19”

Truckee River



Flood Management Project

Flood Project Coordinating Committee

October 4, 2010

Young Members

Ron Smith, Chair
Dan Guson, Vice Chair
Robert A. Cashell, Sr.
Robert Dickert, Ph.D.
Bob Larkin
David Humke
Gene Maruni
Ron Zurek

«First Name» «Last Name»
«Bus Name»
«St Number» «Street Name» #«Unit»
«City», «State» «Zip»

Re: General information regarding possible acquisition of your property and your relocation benefits.

Non-Young Members

Shaun Carey, P.E.
Franco Crivelli
Donna Dreika
John Flansberg, P.E.
John Jackson
Dan St. John, P.E.
Dennis Miller
Burnham Moffat
Jim Olsen
Dean Schultz
Wayne Seidel, P.E.
John Sherman
Katy Simon

Dear Property Tenant:

The property you occupy is being considered for a voluntary acquisition by Washoe County (the "Agency") for inclusion in the Truckee River Flood Management Project. We have made an offer to buy the property and voluntary negotiations are proceeding, but we have not yet reached an agreement and we do not know if the sale will be accomplished. This notice is intended only to explain the process to you and what you can expect if we do buy the property. This is not a notice to vacate. Please do not move from the property at this time.

We have appointed a Relocation Specialist who will help us determine the financial feasibility of acquiring the property as we negotiate this voluntary sale, and to assist you through the relocation process should we buy it. That Specialist is:

Overland Pacific & Cutler, Inc.,
8950 Cal Center Drive, Suite 102
Sacramento, CA 95826
Attn: Mr. Steve Harris
Phone (800) 385 0244

The Relocation Specialist may contact you to explain the process and obtain information we need to determine your eligibility for relocation benefits and provide you with relocation benefit estimates. You may contact the Relocation Specialist at any time.

In the mean time, attached is a question and answer sheet about the acquisition process and your rights under state and federal law. If you would like any more information about the Flood Project, please visit our website at www.truckee-flood.us, or contact us at the address and phone number below.

Director

Naomi Duerr, P.G.

Truckee River Flood Management Project • 9390 Gateway Dr., #230 • Reno, NV 89521 • 775-850-7460 • FAX 775-850-7453

www.truckee-flood.us

TRFMA 00904

If you rent your unit, please continue paying your rent to your landlord because failure to pay rent and meet your obligations as a tenant may cause your eviction and loss of relocation assistance from us. Please do not move or sign any agreement to purchase or lease somewhere else until we have contacted you to discuss your eligibility for relocation assistance and whether or not we are going to buy the property.

Regards,

A handwritten signature in black ink, appearing to read "Naomi Duerr", with a large, sweeping flourish at the beginning.

Naomi Duerr
Director

TRFMA 00905

EXHIBIT “20”

EXHIBIT “20”

Truckee River

Flood Management Project

Head Project
Coordinating
Committee

January 31, 2011

Truckee River
Flood Management
Project
Coordinating
Committee
P.O. Box 100
Reno, NV 89502
Phone: (775) 784-1234
Fax: (775) 784-1234
Email: trfmp@washoe.gov

Robert Feron and Jacalyn Feron,
as Co-Trustees of the Robert Feron and Jacalyn Ann Feron Family Trust dated
January 31, 1989 as to an undivided 1/2 interest;
968 Mesa Grande Drive
Palm Desert, CA 92211

Truckee River
Flood Management
Project
Coordinating
Committee
P.O. Box 100
Reno, NV 89502
Phone: (775) 784-1234
Fax: (775) 784-1234
Email: trfmp@washoe.gov

John DiFrancesco and Caroline A. DiFrancesco
as co-Trustees of the John DiFrancesco Trust under a Declaration of Trust dated
April 16, 1997 as to an undivided 1/2 interest.
4890 Aircenter Circle, Suite 202
Reno, Nevada 89502

Re: Second offer to purchase real property at 35 and 65 North Edison Way, Reno, NV
89502 APN 012-272-10 & 012-272-12

Dear Mr. & Mrs. Feron and Mr. & Mrs DiFrancesco:

On or about June 24, 2010, Washoe County, ("County") for the benefit of the Truckee River Flood Management Project, offered to purchase the fee simple interest in your property, according to the terms and conditions in the written offer and Purchase Agreement submitted with the offer. A copy of the appraisal used to determine the offer price was given to you. On or about August 16, 2010, you rejected the offer and submitted a counter offer for \$4,526,016, which counter offer has expired. In order to consider the information you submitted to us with your counteroffer and in order to have our offer reflect current market conditions, we commissioned Mr. Schiffmacher to do a new appraisal as of this month.

That new appraisal was completed yesterday and was forwarded to you this morning.

Washoe County hereby makes a second offer to you to purchase the property as follows.

Description of Property

We are interested in buying an undivided fee title in two lots generally located on 35 and 65 North Edison Way in Reno, Nevada, more particularly described in the attachments to this letter, including two existing buildings which are believed to be approximately

Truckee River Flood Management Project - 2011 January 31, 2011 - 012-272-10 & 012-272-12

DiFrancesco 00298

Padgett ROA - 1870

61,530 square feet (gba) more or less, and are divided into approximately 64 rentable units ranging from 576 to 1,100 square feet most of which are occupied by tenants, and all other improvements and fixtures located on the Property.

We will not be acquiring from you any tenant owned improvements, such as the antenna facilities owned by Reno Cellular Telephone Company under a lease agreement entered into in 1995.

Amount of Offer; Additional expenses to be paid

As explained below, under applicable law, we believe that the amount of "just compensation" for the property is:

US \$ 3,485,000 (THREE MILLION FOUR HUNDRED AND EIGHTY FIVE THOUSAND US DOLLARS.

In addition, we would pay the following costs and expenses:

- i. Closing costs. We will pay all escrow fees, recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal description of the real property and similar expenses incidental to conveying the real property to us, except that we will not pay your costs of perfecting your title to the property and providing title insurance.
- ii. Penalties. We will pay any penalty costs and other charges for prepayment of any preexisting recorded mortgages or deeds of trust entered into in good faith encumbering the real property;
- iii. Property Taxes. As the property will become exempt from property taxes on the day escrow closes, if you have prepaid any property taxes for any period after closing, you may recover directly from the Washoe County Treasurer any such prepaid real property taxes.

Terms and Conditions

1. Appropriation and Financing Contingency. This offer is subject to availability and appropriation of funds to acquire the Property.
2. Purchase Agreement. The acquisition would be subject to terms and conditions which would be negotiated and included in a purchase agreement. A *discussion draft* of such an agreement was submitted to you with our first offer. We are preparing a new discussion draft which will provide that the timing of closing will be subject to appropriation and availability of funds and will include some new terms, conditions, representations, warranties are indemnifications as a result of some circumstances and findings discovered during due diligence.
3. Due Diligence. This offer is conditioned on the completion of due diligence to the satisfaction of the County. The details of due diligence would be worked out in the purchase and sale agreement, and we would hope to conclude as much due diligence as we can during the negotiations and agenda scheduling period, so we can close as quickly as practicable. In order to

accomplish due diligence in a timely manner, you must provide us with access to the Property for our consultants.

4. Title. The County must be satisfied as to the status of title we would be getting, and will require title insurance.

5. Property Condition: Repair Holdback. The County must be satisfied as to the condition of the property prior to close of escrow. As we will continue to operate the buildings pending relocation of tenants and pending funding for future flood control improvements to be placed on the Property, of particular interest to the County is the condition of the buildings and meeting current local health and safety codes for ongoing commercial tenancy. An investigation as to the condition of the property will be conducted at the County's expense, and if it is determined repairs are needed, they must be made prior to close of escrow or funds may be held back as provided in the draft agreement.

6. Environmental. This offer is subject to and conditioned upon acceptable environmental compliance review, including soils conditions and the absence from the property of toxic or hazardous substances and any other kind of soil or water contamination, and to the grant of a right-of-entry to the County for the purpose of conducting a soils, toxic and hazardous substances investigation of the Property at County's expense. This offer is subject to modification depending on the results of that investigation.

7. Undivided fee. This offer is for the undivided fee interest of the Property and is conditioned on the satisfactory resolution of compensation due for the termination of any long term leases or other property interests on the Property.

8. Leaseback. We will acquire the property subject to all existing leases and we may also enter into temporary rental or leasing arrangements with new tenants pending construction of the flood control facilities contemplated for the property. Under Nevada law, we must first offer to lease space back to you before we can offer it to others under these temporary arrangements. We will discuss that with you as we negotiate the purchase and sale agreement.

Approval and Closing Process

If we successfully negotiate a draft purchase and sale agreement, it must first be approved by the Flood Project Coordinating Committee and then must be approved and funds must be appropriated by the Washoe County Board of County Commissioners in an open meeting before the agreement is binding on the County. Upon receiving an executed agreement, item would be scheduled for such approvals at the next available FPCC and Board meetings.

If the purchase and sale agreement is approved, we would open escrow with First American Title Company of Nevada and proceed to closing within the time frame agreed upon. We would pay cash at closing.

Tenants

Tenants who were lawfully present in the United States and are in lawful possession of units in the buildings at the time that the first offer was delivered to you may be eligible for relocation benefits from the County under state and federal law. We have provided notices to them explaining their rights under the law, and we will ask for your cooperation.

Our acquisition will be subject to all existing leases and rental arrangements at the time of closing. It is not necessary (nor is it encouraged) for you to terminate any rental agreements or leases. Please encourage your existing tenants to remain in place pending the sale as we may ask them to stay on pending relocation.

Explanation of "just compensation" and your rights.

As explained to you in the first offer, under NRS 342.105, the County is required to follow the provisions of the Federal Uniform Relocation Assistance and Real Property Acquisition Act of 1970, 42 USC §§ 4601 – 4655 and the regulations pursuant thereto which are codified at 49 CFR, Part 24. The amount of this offer is believed to be "just compensation" under 49 CFR 24.102 because it is the amount established by an appraisal of the subject property which we obtained from Robert Schiffmacher, a Certified General Appraiser in Nevada who conducted the appraisal in accordance with the standards set forth in the 49 CFR 24.103. A copy of that appraisal was sent to you on January 31, 2011.

As you can see in the appraisal, this "just compensation" determination is based on certain assumptions regarding title and condition of the property and does not include any adjustments for severance damages or project benefits.

As provided in 49 CFR 24.102, with our first offer, you were given 30 days to consider that offer and to present to the County any material which you believe is relevant in determining the value of the Property and to suggest modifications in the proposed terms and conditions of the purchase. Even though the first offer expired before you rejected it and submitted additional material regarding the value of the property, we considered that additional material and asked for a new appraisal which has now been delivered to you. Again, you will have 30 days to consider this second offer and submit any material you believe that is relevant to the value of the property, and we will consider one more time any new information or modifications you present. If you choose to hire your own appraiser to do a new appraisal, you may do so, but please advise the appraiser that the appraisal must be done in accordance with 49 CFR 24.103 and related regulations. If you feel that the 30 day time period is not reasonable under the circumstances, please suggest a modification to this offer.

Contact Information

We have appointed the firm of Overland, Pacific and Cutler Inc. to be our acquisition and relocation specialist in this proposed transaction, and you may contact

Mr. Steve Harris
Overland, Pacific & Cutler Inc.
8950 Cal Center Drive, Suite 102
Sacramento, CA 95826
(916) 857-1520
email: sharris@OPCservices.com

If you would like to present information or commence negotiations with us, please contact Mr. Harris within 30 days. If you do not do so, we will consider this offer as rejected.

If you have any questions, please call Mr. Harris, or you may call this office at (775) 850-7461, or Greg Salter, Deputy District Attorney at 775-337-5726.

Expiration of Offer; funding considerations.

This offer expires on March 3, 2011.

If you accept this offer by Wednesday, February 9, 2011, we can retain available funds and close during this fiscal year.

If you do not accept this offer by then, we will continue to negotiate with you with the expectation that we will be able to obtain funding in a future fiscal year from bond proceeds or available fee or tax revenues.

Sincerely,



Naomi Duerr, Director
Truckee River Flood Project

EXHIBIT "21"

EXHIBIT "21"

Truckee River



Flood Management Project

Flood Project Coordinating Committee

March 24, 2011

Young Members

Ron Smith, Chair
Bob Larkin, Vice Chair
David Alazzi
Robert Dickens, Ph.D.
David Humke
Gino Harini
Jessica Sterrazza
Ron Zurek

Hon-Young Members

Shaun Carey, P.E.
Franco Crivelli
John Flansberg, P.E.
John Jackson
Dan St. John, P.E.
Dennis Miller
Burnham Moffat
Jill Olsen
Dean Schudtz
John Sherman
Katy Simon

Director

Hasmi Durr, P.G.

Mr. John DiFrancesco
Mr. Bob Feron
65 North Edison Way, Suite 14
Reno, Nevada 89521

BY HAND DELIVERY

Re: Purchase of real property located at 35 and 65 North Edison Way

Dear Mr. DiFrancesco and Mr. Feron:

Responding to your counteroffer dated February 28, 2011 and your letters dated March 11 and March 18, it appears that we are headed in the wrong direction since our offers and your counteroffers are getting further apart.

In June of last year, we offered you \$3,100,000 to purchase your property at 35 and 65 North Edison Way based on an appraisal we had obtained and sent to you with the offer. You sent us a letter in August expressing your disappointment with the appraisal and making a counteroffer to sell us the property for \$4,526,016 based on your own opinion of the value of your property.

We obtained a second appraisal and sent you a second offer on January 31, 2011 for \$3,485,000 based on that second appraisal. You have now rejected that offer based on your evaluation of the second appraisal. You counter-offered for \$4,997,000, again based on your own opinion of the value of your property.

As explained in the past and acknowledged in your February 28 letter, the Flood Project must base its offer on an appraisal by a licensed appraiser in accordance with federal law and state statutes for public acquisition. Additionally, the appraisal must be conducted under the "Yellow Book" (Uniform Appraisal Standards for Federal Land Acquisitions) standards. While we appreciate your perspective on the second appraisal, I hope you will appreciate, in turn, that we can not accept a counter-offer that is \$1.5 million (44%) over the appraised value and based solely on your own opinion of what you think your property is worth.

You had recently indicated to Mr. Harris that you were going to obtain your own appraisal. We were hoping that your counter-offer would be supported by an independent appraisal upon which we could rely. Unfortunately, there is no third appraisal to substantiate your offer. Legally, we can not accept your counter-offer under such conditions.

Truckee River Flood Management Project • 9390 Gateway Dr., #230 • Reno, NV 89521 • 775-850-7460 • FAX 775-850-7453

www.truckeeflood.us

TRFMA 00838

At this point, it appears we are at a standstill. Before parting ways, I would like to suggest one more attempt to reach a mutually acceptable price. I suggest that we consider: 1) jointly selecting and paying a new appraiser, 2) jointly providing written instructions to the appraiser, and 3) agree to be jointly bound by the price set in the new appraisal. The new appraisal would need to be reviewed by another appraiser under the standards set forth in federal acquisition law before it is considered final. This is for the protection of both of us.

I do not have the authority to make this letter a formal offer because it involves an open-ended price, but if you are interested in pursuing this approach, I suggest we draft up an agreement and get it before the Flood Project Coordinating Committee and the Board of County Commissioners for approval. If all goes well and the Flood Project has the funding, maybe we could close this summer.

If you are willing to discuss a jointly-commissioned appraisal, please contact Steve Harris by 5 p.m. on Friday, April 1, 2011. Mr. Harris may be contacted at (916) 857-1520 or by email at sHarris@OPCservices.com. We need to advise our Board as to whether we are moving forward or they should focus on other uses of our funds at this time. If you are *not* interested in the joint appraisal process, we would also appreciate a call.

I sincerely hope you will consider my suggestion. It would be great to complete this part of the process and come up with a win-win for both of us.

Very truly yours,



Naomi Duerr
Director
Truckee River Flood Project

TRFMA.00839

EXHIBIT “22”

EXHIBIT “22”

DI FRANCESCO – FERON

Mailing Address: P.O. Box 7116
Reno, NV 89510
65 No. Edison Way, Suite 14
Reno, NV 89502

August 22, 2011

Mr. Jay Aldean
Executive Director
Truckee River Flood
Management Project
9390 Gateway Dr., # 230
Reno, NV 89521

Re: Offer to Sell
35, 55 & 65 North Edison

Dear Mr. Aldean:

Here is our counter offer to sell the referenced property.

Price: \$ 4,700,000. Cash

*The price has been determined to be the fair market value per the
enclosed appraisal by David Yerke MAI*

Term and Conditions:

Due Diligence: Buyers will have 45 days to conduct its due diligence from
the date of acceptance of this offer.

Property Condition: All mutually agreed upon repairs, cleaning of sand oil
separators and remediation of soil if needed; will be completed by seller and
certified by an independent engineer, prior to close of escrow.

TRFMA 00827

Padgett ROA - 1879

Leases: This property sale is subject to all leases.

Prepaid Rents and Security Deposits: All security deposits and prepaid rents will be credited to Buyer in escrow.

Subject to Board Approvals: If you agree to the terms and conditions of this offer, please send us an acceptance letter, subject to approval of the TRFP board and Washoe County Commission. Please outline the approval process and timeline.

Escrow Instruction: The parties will use First American Title standard escrow instructions for the sale and transfer of title and will be the controlling and sole sale agreement.

Escrow Closing: Escrow to close on or before November 31, 2011.

Relocation of Tenants: Provided the tenants agree, The Sellers would have first right for relocation of the tenants to either, other properties which we own or outside properties, acting as tenant's agent.

Disclosures: John Di Francesco is a licensed real estate broker in the States of Nevada and California. Bob Feron has an active real estate broker's license in the State of California and an inactive license in the State of Nevada. The sellers are acting as Principals on their own behalf and their respective family trusts.

No agency relationships: No Agency exists between the sellers or buyers.

Time is of the Essence: This counter offer is valid until September 23, 2011.

Sincerely,



John Di Francesco

Sincerely,



Bob Feron

TRFMA 00828

EXHIBIT “23”

EXHIBIT “23”

Subject: RE: Offer Response
From: Steven Harris (sHarris@opcservices.com)
To: nvindustrial1@yahoo.com;
Date: Tuesday, October 4, 2011 2:31 PM

John, thanks for letting me know the status of your response.

As per our phone conversation last week, the Agency has asked me to inquire if you would be willing to consider an offer of \$4,200,000 to purchase 35 & 65 Edison Way. This offer would be subject to approval from the County Board and is the maximum amount they will consider asking the Board to approve at this time.

Steve

Steven Harris | Project Manager
Overland, Pacific & Cutler, Inc.
8950 Cal Center Dr, Suite 102, Sacramento, CA 95826
(916) 857-1520 www.OPCServices.com
Building relationships, delivering projects.

From: John Di Francesco [mailto:nvindustrial1@yahoo.com]
Sent: Tuesday, October 04, 2011 1:20 PM
To: Steven Harris
Subject: Offer Response

Hi Steve,

Bob Feron and I are working on a response to the latest offer. I'll give you a heads up later this week.

Thanks,

John D

EXHIBIT “24”

EXHIBIT “24”

DI FRANCESCO - FERON

Mailing Address: P.O. Box 7116
Reno, NV 89510
65 No. Edison Way. Suite 14
Reno, NV 89502

October 19, 2011

Mr. Jay Aldean
Executive Director
Truckee River Flood
Management Project
9390 Gateway Dr., # 230
Reno, NV 89521

Re: 35, 55 & 65 North Edison

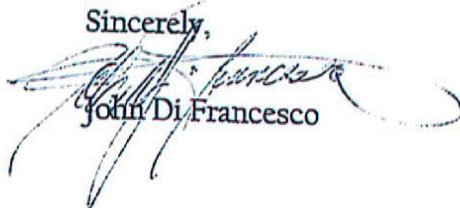
Dear Mr. Aldean:

At the end of September 2011 Steve Harris contacted me saying that the TRFMA had authorized him to make us a new counter offer to our written offer of August 20, 2011. The offer was for \$ 4,200,000 however there were no specifics as to the terms and conditions. Steve did say that the appraisal by David Yerke MAI had been reviewed and found to be bona fied and credible. Steve also said that the lack of specifics with the offer had to do with the current transition but that TRFMA now had a way of moving forward on the acquisition in the near future.

On October 4, 2011 I emailed Steve and told him we were working on a response to the verbal offer. Steve sent me a response a short time later. I have enclosed a copy for your review. Subsequently, I suggested we have a meeting with TRFMA so we could answer many questions and hopefully reach a tentative agreement on the purchase of the subject property. Copy also enclosed. To date we have not received a response to our request for a meeting.

Jay, our dealing with you have been very limited to date, so I want to express our willingness to cooperate with you and the TRFMA board and find common ground and solutions in our negotiations for the sale of the final two parcels on No. Edison Way. We feel it is important that these negotiations are concluded in a timely manner.

Sincerely,



John Di Francesco

DiFrancesco 00304

Padgett ROA - 1884

EXHIBIT “25”

EXHIBIT “25”

Truckee River Flood



Management Authority

TRUCKEE RIVER FLOOD MANAGEMENT AUTHORITY
BOARD OF DIRECTORS
STAFF REPORT
MEETING DATE: November 17, 2011

DATE: November 5, 2011
TO: Flood Management Authority Board Members
FROM: Jay Aldean, Executive Director, TRFMA, 850-7470, jaldean@washoecounty.us
SUBJECT: IDENTIFICATION AND PRIORITIZATION OF TASKS REQUIRED TO BE DONE
BY NON-FEDERAL SPONSOR BASED ON CURRENT FMA BUDGET

BACKGROUND

The Truckee River Flood Management Authority (TRFMA) Fiscal Year (FY) 2012 budget (the current budget) includes funding to complete certain accomplishments that are dependent on a large part to meet the expectations for serving as the Non-Federal sponsor for the Federal Project, The Truckee Meadows Flood Project. TRAction projects that are currently in design or under construction are likewise intended to mesh with the ultimate Corps project plan and be credited as part of the Non-Federal sponsor's contribution according through the Section 104 process.

As the non-federal sponsor to this project TRFMA will enter into an agreement with the federal government and will agree to certain responsibilities. Among these responsibilities, the acronym "LERRDs" is often used to signify the following three responsibilities:

1. Purchase of lands, easements, and right-of-way necessary for the construction of the project and for the protection of and future maintenance of the facilities;
2. The relocation of any non-project facilities that cause interference with the project during construction or ultimate project footprint such as utilities, roadways, bridges, etc;
3. Finally, the disposal of excess construction materials such as excavation and other wastes.

For reference, an updated list of TRAction projects is included with this report as Attachment 1. It contains information on completed, current (Board-approved) and future planned TRAction projects and the associated financial data. On the following page of this report is a list of TRAction projects and land acquisition items currently included in the FY12 budget that the Board may wish to review and possibly consider for reprioritization.

AGENDA ITEM #4

Project Description	Current Status	FY12 Budget	Expenditures	Funds Remaining
Virginia St Bridge: Prelim Design/Vision	In progress	\$1,800,000	\$772,677	\$1,027,323
Virginia St Bridge: Final Design	Pending prelim design completion	\$3,000,000	\$0	\$3,000,000
Tracy Power Plant Restoration: Design	In progress	\$250,000	\$109,577	\$140,423
35/65 Edison Way: Land Acquisition	On hold	\$3,500,000	\$0	\$3,500,000
35/65 Edison Way: Tenant Relocation	Pending land acquisition	\$1,421,800	\$0	\$1,421,800
UNR: Land Acquisition	On hold	\$4,000,000	\$0	\$4,000,000
Home Elevation Grants: Phase 1	Pending IRS	\$2,000,000	\$170,000	\$1,830,000
Living River Parkway: Design	On hold	\$500,000	\$0	\$500,000

By way of suggestion, I would like for the Board to consider the following information when prioritizing any of these and other future endeavors:

The Tracy Power Plant Ecosystem Restoration project is currently in final design phase; as part of the upcoming FY13 budgeting process, staff plans to request from the Board additional funding to construct the project in late summer 2012. Additional funding to complete the project has been secured from other entities (see below).

- TRFMA anticipated contribution in FY13 (1/8-cent sales taxes) = \$1,379,542
- U.S. Bureau of Reclamation (Desert Terminal Lakes Program) = \$2,000,000
- Washoe County (State Question 1 Bond Act) = \$1,000,000
- NV Energy (in-kind contribution of land) ~ \$5,600,000

This opportunity to leverage outside funding may be lost if the project does not move forward next year as planned. The Tracy project is included in all Corps alternatives and in the Locally Preferred Plan adopted by TRFMA; it is eligible for cost-share credit per Section 113.

The acquisition of 35/65 Edison Way is currently on-hold pending a 3rd party confirmation of previous appraisals. No offers are currently active. This property however is crucial to the needs of the Flood Project. It is located within the Truckee River's floodway as designated by FEMA and it further impacts this area of the river during a storm event with a hydraulic constriction. It is recommended that TRFMA continue to pursue this acquisition due to the eventual need of this property. If the Board decides to lower the priority of this item, the tenant relocation item listed associated with the purchase of this property and may be reprioritized as well.

Negotiations are currently on-hold for acquisition of the UNR property. This property is one that will ultimately provide stabilization to this area of the river and is necessary for ecosystem restoration. There are few hydraulic or flood risk reduction benefits for this reach of the river. Since the Corps has now dropped this feature from its NED project, the Board may wish to postpone further negotiations on this property and take a "wait-and-see" position.

EXHIBIT “26”

EXHIBIT “26”



WASHOE COUNTY

"Dedicated To Excellence in Public Service"

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STAFF REPORT

BOARD MEETING DATE: July 10, 2007

CM/ACM KS
Finance AA
DA PS
Risk Mgt. JJ
HR —
Other —

DATE: June 3, 2007

TO: Board of County Commissioners

THROUGH: Naomi Duerr, P.G., Director, Truckee River Flood Management Project
850-7420, nduerr@washoecounty.us

FROM: Ronda L. Moore, Deputy Director, Truckee River Flood Project,
850-7461, rmoore@washoecounty.us

SUBJECT: Approve the purchase of the property located at 125 North Edison for \$2,050,000 by assignment from the Nevada Land Conservancy; authorize the Chairman to execute a resolution to acquire the property; and authorize the Director of the Department of the Truckee River Flood Management Project to act on behalf of Washoe County to execute and deliver any and all instruments and funds, including without limitation, contracts, agreements, notices, escrow instructions, deeds, leases, checks, and warrants as may be necessary or appropriate to accomplish the acquisition of the 125 North Edison parcel in the name of Washoe County on behalf of the Truckee River Flood Project.

SUMMARY

The Early Land Acquisition Plan – Real Property List was developed to take advantage of opportunities to purchase real property needed for the Flood Project. The Real Property List was approved by the Board of County Commissioners (BCC) on September 23, 2003.

The Nevada Land Conservancy (NVLC) has been hired by Washoe County (County), on behalf of the Truckee River Flood Project, to acquire certain properties, including the parcel at 125 North Edison, as part of the implementation of the Early Land Acquisition Plan. These acquisitions will benefit Washoe County and further the implementation of the Truckee River Flood Management Project for the benefit of the public. NVLC has negotiated an agreement with the owners of the parcel at 125 North Edison to purchase the property and then assign this purchase to the County for use in the Truckee River Flood Management Project.

The property at 125 N. Edison Way comprises 1.5 acres with a 32,345 sq. ft. building built in 1973. The property was valued by a certified appraiser, Robert Schiffmacher, MAI of Warren and Schiffmacher, at \$2,050,000.

AGENDA ITEM # 34

As with all properties, staff has been performing the appropriate due diligence by having the property appraised, getting title reports, getting environmental reports, surveys, reviewing the land description, etc., to make sure that the County will have clear title to the land when it is purchased. A Phase I environmental assessment was completed on the property and showed no overt physical evidence of contamination. As with all buildings constructed during this period (mid-70's), asbestos was a fairly commonly used building material and is expected to be present here. The title report was prepared by First American title and showed no deficiencies.

The closing for the purchase of this parcel is scheduled to occur no later than August 14, so action by the BCC is needed now to ensure the Flood Project Director has sufficient time to complete the transaction. Otherwise, the land may be sold to other buyers, which would then cause the County to have to come back and attempt to purchase this property at a higher cost, which may also involve relocation of any additional tenants. This parcel is needed for all of the flood project alternatives that are currently being studied and evaluated by the Corps of Engineers.

Attached are a map of the property and a summary of the appraisal, as well as the Resolution for the Chairman's signature.

County Priorities/Goals supported by this item: Manage and protect regional water resources in a sustainable, cost-effective manner. Preserve natural resources.

PREVIOUS ACTION

1. On March 11, 2003, the BCC approved the "Land Acquisition and Early Project Implementation Plan" for the Truckee River Flood Management Project.
2. On September 23, 2003, the BCC approved the "Early Land Acquisition Plan -- Real Property List," dated September 5, 2003, for the Truckee River Flood Management Project.
3. On August 10, 2004, the BCC approved an agreement with NVLC to purchase certain properties to implement the Early Land Acquisition Plan and approved a resolution approving the use of a list of appraisers for appraising land to be purchased by NVLC and assigned to Washoe County for use in the Truckee River Flood Management Project.
4. On October 14, 2005, the Flood Project Coordination Committee (FPCC) adopted an updated property acquisition list for the Truckee River Flood Management Project.
5. On November 8, 2005, the BCC approved the updated property acquisition list adopted by the FPCC.
6. On June 8, 2007, the Flood Project Coordinating Committee (FPCC) approved the acquisition of 125 N. Edison Way for up to \$2,050,000.

BACKGROUND

The early land acquisition plan was first brought to the BCC on March 11, 2003. It included a description of the process to determine which parcels should be considered for early acquisition and a list of parcels which met those criteria. The BCC approved the process to select parcels and directed us to bring them a list of parcels for acquisition. On September 23, 2003 we brought them that list.

At the September 23, 2003, BCC meeting the parcel list for early land acquisition was approved and the BCC "authorized staff to work with the Nevada Land Conservancy and GBLW, both of whom are already doing similar work for the County, to provide support in contacting and negotiating with property owners and developing the necessary agreements and due diligence documents for the purchase of the real property described on the list."

On August 10, 2004, the County approved an agreement with NVLC to purchase properties for the Truckee River Flood Management Project.

On October 14, 2005, the Flood Project Coordination Committee adopted an updated property acquisition list for the Truckee River Flood Management Project. The parcel at 125 North Edison is on this list.

NVLC has negotiated a purchase agreement with the owners of the parcel at 125 North Edison Way, which is scheduled to close no later than August 14, 2007. NVLC has been doing its due diligence work in having the property appraised, getting title reports, getting environmental reports, surveys, reviewing the land description, etc. to make sure that the County will have clear title to the land when it is purchased.

On June 8, 2007, the Flood Project Coordinating Committee considered the purchase of the parcel located at 125 North Edison. Since it is needed for the construction of levees and ecosystem restoration for the flood project and it is on the approved land acquisition list for the flood project, the FPCC approved the purchase and requested that the BCC approve a resolution to purchase the property and authorize the Director of the Department of the Truckee River Flood Management Project to act on behalf of Washoe County to accomplish the acquisition of the parcel at 125 North Edison.

FISCAL IMPACT

The cost of the parcel at 125 N. Edison has been determined to be \$2,050,000. The value for the parcel was determined by an appraisal performed by Robert E. Schiffmacher, MAI, of the firm Warren & Schiffmacher LLC. Mr. Schiffmacher and Mr. Warren are both on the list of appraisers approved by BCC to use for the Flood Project Land Acquisition Program.

The cost of the land acquisition is a part of the overall flood project and is appropriately funded with the 1/8-cent sales tax proceeds and/or the interest earnings in the Truckee River Flood Management Project. Sufficient budget authority for the project exists in project # IF941001 in the Truckee River Flood Project's capital fund 494 to proceed with the agreement.

RECOMMENDATION

Staff's recommendation is to approve the purchase of the property located at 125 North Edison for \$2,050,000 by assignment from the Nevada Land Conservancy; authorize the Chairman to execute a resolution to acquire the property; and authorize the Director of the Department of the Truckee River Flood Management Project to act on behalf of Washoe County to execute and deliver any and all instruments and funds, including without limitation, contracts, agreements, notices, escrow instructions, deeds, leases, checks, and warrants as may be necessary or appropriate to accomplish the acquisition of the 125 North Edison parcel in the name of Washoe County on behalf of the Truckee River Flood Project.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be to approve the staff recommendation.

Attachment #1 – Map of the property

Attachment #2 – Summary of the appraisal

Attachment #3 – Resolution

**TRUCKEE RIVER FLOOD MANAGEMENT PROJECT
EARLY LAND ACQUISITION
RESOLUTION NO. 2007-___**

(125 North Edison Way - Acquisition of Land)

WHEREAS, On March 11, 2003 the Board of County Commissioners (BCC) approved the "Land Acquisition and Early Project Implementation Plan" for the Truckee River Flood Management Project; and

WHEREAS, On September 23, 2003 the BCC approved the "Early Land Acquisition Plan -- Real Property List," dated September 5, 2003, for the Truckee River Flood Management Project; and

WHEREAS, On August 10, 2004 the BCC approved an agreement with The Nevada Land Conservancy (NVLC) to purchase certain properties to implement the Early Land Acquisition Plan and approved a resolution approving the use of a list of appraisers for land to be purchased by NVLC and assigned to Washoe County for use in the Truckee River Flood Management Project; and

WHEREAS, On November 8, 2005 the BCC approved the latest revision to the "Early Land Acquisition Plan -- Real Property List" now being referred to as the "Flood Control Parcel List" and the parcel at 125 North Edison Way (APN 012-272-05) is on this list; and

WHEREAS, Under their agreement with Washoe County to Implement the Early Land Acquisition Plan NVLC has negotiated a purchase agreement with the owners of the parcel at 125 North Edison Way, comprised of approximately one and a half acres of land and an industrial building approximately 32,345 square feet in size that was constructed in 1973, at a purchase price not to exceed \$2,050,000, which was established to be fair market value by an appraisal conducted pursuant to the Uniform Appraisal Standards for Federal Land Acquisition and the Uniform Standards of Professional Appraisal Practice; and

WHEREAS, as part of the implementation of the Early Land Acquisition Plan, NVLC desires to assign the purchase of the parcel at 125 North Edison Way to Washoe County before closing;

NOW, THEREFORE, be it resolved that Naomi Duerr, the Director of the Truckee River Flood Management Department, is hereby authorized to execute and deliver any and all instruments and funds, including without limitation, contracts, agreements, notices, escrow instructions, deeds, leases, checks, and warrants as may be necessary or appropriate to accomplish the acquisition of the parcel at 125 North Edison Way in the name of and on behalf of Washoe County.

Adopted this 10th day of July, 2007.

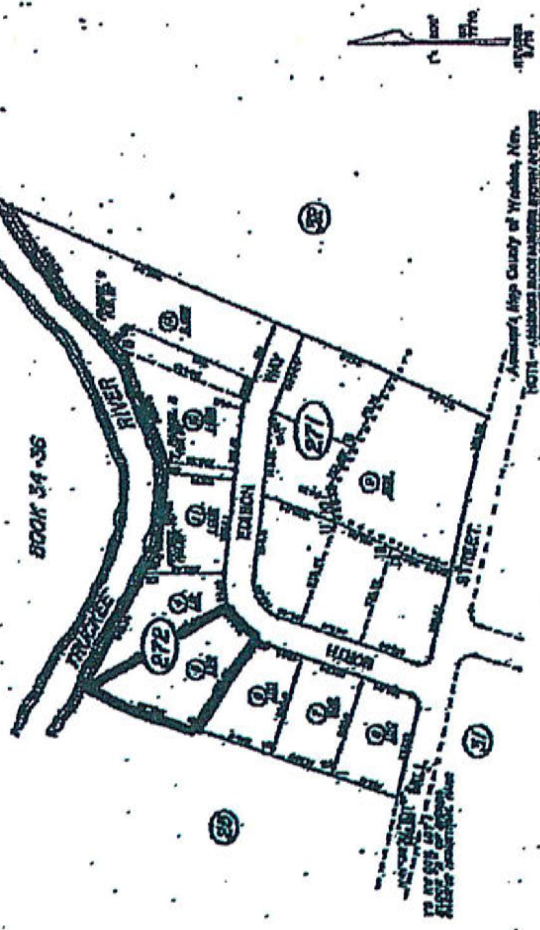
Robert M. Larkin, Chairman
Washoe County Commission

July 10, 2007

ASSESSOR'S PARCEL MAP

12-27

EDISON INDUSTRIAL SUB: 8
 PORTION NW 1/4 SEC. 16
 PORTION NE 1/4 SEC. 17
 T19N-R20E



WARREN & SCHIFFMACHER, LLC
 07-010/Nevada Land Conservancy

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

Name	125 North Edison Way, Reno, Nevada
Address	125 North Edison Way, Reno, Nevada 89502
Location	West side of North Edison Way, 490 feet north of Mill Street, 2,485 feet west of South McCarran Boulevard in the east Reno industrial district
Assessor's Parcel Number	012-272-05
Land Area	35,340± square feet, 1.50± acres
Zoning/Master Plan	IB, Industrial Business/Industrial
Flood Zone Designation 23,700± sf 40,546± sf	Flood Zone AE/Floodway Flood Zone AE with a flood elevation determined at 4,405 feet (the subject is level and its elevation is estimated at 4,406 feet)
Current Use	32,345± square foot (gbs) industrial flex building constructed in 1973
Highest and Best Use As if Vacant	Development of an industrial building that would benefit from a somewhat higher land-to-building ratio than the 2.5:1 that is typical. The floodway designation, which affects one-third of the property, restricts development of that portion of the site. The flood zone AE designation would require the building to be elevated above the base flood elevation.
As Improved	Continued use of the existing improvements as they represent a more intense use of the site than would be allowed if the site were developed with current restrictions.

Building Improvements

The subject is a fair quality, Class C industrial flex building constructed in the early 1970s. It is a multi-tenant property with bays ranging from 750 to 6,000± square feet. The property has been adequately maintained but has not been upgraded or updated since its initial construction. By most standards, the building is unremarkable.

Actual Building Age 34 years

Environmental Information

The subject occupies a site which was vacant prior to its development in 1973. The majority of the site is paved and the building has had a variety of industrial/industrial commercial tenants.

As a result, although there is no overt physical evidence of environment contamination, there is the possibility of contamination resulting from the subject's prior uses and/or the surrounding users.

The subject was constructed at a time when asbestos was a fairly commonly used building material and it is likely that the subject does contain some asbestos containing materials.

Seismic Risk Zone

Risk Zone 3

Effective Date of Value

April 13, 2007

Date of Report

May 1, 2007

Property Rights Appraised

Fee Simple, assuming stabilized occupancy and market rents.

The subject's current economic conditions have been affected by its pending acquisition for the flood control project. Based on my analysis, the pending acquisition has affected the subject's occupancy, the length of the existing leases, and the rental rates being paid by the tenants. Currently all leases in the building expire within 7 months of the date of value. As these circumstances are unusual, they are viewed as a project influence and the following analysis assumes stabilized occupancy and operations.

Opinion of Market Value

\$2,050,000

Exhibit 31

Exhibit 31

Di Francesco - Feron

4890 Aircenter Circle, Suite 202
Reno, NV 89502

November 28, 2018

Re: Edison Current Case Status

Mr. Brian Padgett
Ms. Amy Sugden
Law Offices of Brian C. Padgett
611 South Sixth Street
Las Vegas NV 89101

Dear Brian and Amy:

We have not had a conversation with you since our conference call of September 25th. Both Bob and I have tried contacting you several times in our usual manner of phone calls, text messages and emails.

After previous long delays in your response to us Amy, you mentioned you were having health issues. Not wanting to seem insensitive, we did not press you when you didn't immediately respond to our several attempts to contact you. We certainly hope that you are well.

Our 1st question and of primary importance is: are you capable and still interested in representing us? We are at a critical point in our case that requires immediate response with pending motions before Judge Polaha. We have many questions as to the lack of response from Mr. Silva to your last two motions. We consider this an urgent request, please contact us immediately so we can plan on how we can proceed or if we need to transition the case to new legal counsel.

Sincerely,

 
John Di Francesco Bob Feron

Exhibit 32

Exhibit 32

Robert Feron

From: Brian Padgett <brian@briancpadgett.com>
Sent: Saturday, December 1, 2018 9:49 AM
To: John Di Francesco; robertpferon@verizon.net
Cc: Amy Sugden
Subject: Re: DiFrancesco Response

Importance: High

Bob and John,

As you will see below, Amy has some strong opinions on the matter.

She and I discussed the original draft below while I was in the car driving to Utah for a meeting on Thursday.

At that time I told her to remove the "or find another attorney" language because that is not the way my office works.

You are always free to find other counsel but I do not believe you will find better counsel.

And maybe that is why she is frustrated – we have been at it collectively for a long time and she knows exactly how much maneuvering can still be done and she doesn't want to see you left with less even if you can be "big pains in the ass".

Clients and lawyers are often like family, there can be scrapping and clawing but ultimately we look after each other.

Please read the most recent draft directly below. This was the one I was hoping to read and modify before sending to you.

Lets talk on Monday. I am open all day. Just give me a time that works best for you.

All the best,

Brian C. Padgett
Law Offices of Brian C. Padgett
611 South 6th Street
Las Vegas, Nevada 89101
(702) 304-0123
www.briancpadgett.com



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From: Amy Sugden <amy@briancpadgett.com>
Date: Saturday, December 1, 2018 at 8:36 AM
To: Brian Padgett <brian@briancpadgett.com>
Cc: John Di Francesco <nvindustrial1@yahoo.com>
Subject: FW: DiFrancesco Response

Can you please review and send to them (robertpferon@verizon.net; nvindustrial1@yahoo.com) I really think it will be better from you.

Dear John and Brian,

Thank you for your letter dated November 14, 2018. We understand you want to move this matter forward to a successful conclusion as swiftly as possible, as do we. We believe that we have reached a very viable opportunity to do so but strategically we need to be on the same page.

As we discussed on the phone on our last call, the defendants have agreed to appraise your properties, with two appraisers of our choosing (Kimmel and Yerke) and using a current date of value. Based on those appraisals, the defendants will work thereafter to acquire your properties in the entireties. In addition to acquiring the properties, they are also willing and able to discuss recognition of additional compensation to resolve the outstanding litigation.

This is what we believe to be the best approach to resolving the litigation and maximizing results. We understand that you have wanted to push forward with motion practice, discovery and prepare for trial to address the precondemnation damages first and, then, separately thereafter consider the acquisition of the properties. However, there are several concerns we have with this approach.

One being that we have run past the "five year" rule in bringing this case to a trial. As such, the plaintiffs can move now at any time to dismiss the current case and the court has no choice but to dismiss it. NRCP 41(e). Thus, pushing back aggressively with motion practice will simply compel the defendants to file to dismiss based on NRCP 41(e). We can then attempt to start all over, but there is a chance that Judge Poleha could dismiss our case "with prejudice", thereby preempting us from re-filing based on the same facts we previously set forward. Conversely, we can attempt to set forth separate sets of facts that give rise to a newly stated cause of action. Under either of these scenarios, we lose the time and resources invested in the litigation (including but not limited to, the depositions taken, the extensive discovery we have propounded and responded to, the expert reports we have commissioned, etc.)

Second, with the ongoing litigation, it serves as leverage for the defendants to work to settle this matter with you. Without the ongoing litigation, the defendants will just sit and wait for us to refile and fight us all over again with motions to dismiss (in front of what will likely be a different judge) and we will be at square one all over again in litigation.

We do not want to lose the leverage we have with the current case – nor do we want to lose Judge Pohela. We do not see any downside to allowing the defendants to proceed with the appraisals, which they have agreed to also pay for in their entirety, to at least see the values that they conclude. From there, we bootstrap on additional consideration for the pending litigation and provide a much more palatable global resolution for the defendants to consider. In our goal to get you the maximum recovery, we are keenly aware that the defendants are much more susceptible to tack on additional consideration and pay premiums in exchange for acquiring your property and to resolve the ongoing

litigation. This is because (1) they will actually be acquiring something of value (as opposed to just paying damages for their bad behavior but not receiving anything in exchange) and (2) they need to be able to justify any settlement before the public

Third, we have become aware that the tax ballot initiative failed at the most recent election. According to the defendants, this further handicaps their project planning and ability to move forward (arguing that there's no funding). Also, they contend there's no "immediate" need for your properties. On that note, they also want us to be cognizant of the fact that in acquiring your properties, they are required to relocate all of your tenants which is additional costs that they need to expend. We know you need to care very much about your tenants, especially the longstanding ones, and want them to receive the benefits that they should in this process. If the defendants don't voluntarily acquire your properties, the tenants will not be afforded those benefits.

We are ready, willing and able to proceed with this course of action as laid out above. There is no downside to getting your property appraised under the current date of value and seeing what we can do to resolve this globally. If that process fails, then we will proceed with more aggressive litigation tactics.

Please advise if you are agreeable and we will get it underway immediately.

Thank you,

From: Amy Sugden <amy@briancpadgett.com>
Date: Wednesday, November 28, 2018 at 5:23 PM
To: Brian Padgett <brian@briancpadgett.com>
Subject: DiFrancesco Response

DRAFT:

In response to the DiFrancesco letter, I want to send the following (I thought about it and think it's important to lay this out and then have a call if we can get on same page). Honestly, they are big pains in the ass in that they are getting in their own way/trying to tell us how to litigate the case. When it comes to strategy, we decide (at least that's my understanding) and so if they aren't ok with that, go find another attorney. We have more than enough work to do and can file an attorneys lien for the work already done.

Dear John and Brian,

Thank you for your letter dated November 14, 2018 (which we just received after the Thanksgiving holiday). We understand you want to move this matter forward to a successful conclusion as swiftly as possible, as do we. We believe that we have reached a very viable opportunity to do so but strategically we need to be on the same page.

As we discussed on the phone on our last call, the defendants have agreed to appraise your properties, with two appraisers of our choosing (Kimmel and Yerke) and using a current date of value. Based on those appraisals, the defendants will work thereafter to acquire your properties in the entireties. In addition to acquiring the properties, they are also willing and able to discuss recognition of additional compensation to resolve the outstanding litigation.

This is what we believe to be the best approach to resolving the litigation and maximizing results. We understand that you have wanted to push forward with motion practice, discovery and prepare for trial to address the precondemnation damages first and, then, separately thereafter consider the acquisition of the properties. However, there are several concerns we have with this approach.

One being that we have run past the "five year" rule in bringing this case to a trial. As such, the plaintiffs can move now at any time to dismiss the current case and the court has no choice but to dismiss it. NRCP 41(e). Thus, pushing back aggressively with motion practice will simply compel the defendants to file to dismiss based on NRCP 41(e). We can then attempt to start all over, but there is a chance that Judge Poleha could dismiss our case "with prejudice", thereby preempting us from re-filing based on the same facts we previously set forward. Conversely, we can attempt to set forth separate sets of facts that give rise to a newly stated cause of action. Under either of these scenarios, we lose the time and resources invested in the litigation (including but not limited to, the depositions taken, the extensive discovery we have propounded and responded to, the expert reports we have commissioned, etc.)

Second, with the ongoing litigation, it serves as leverage for the defendants to work to settle this matter with you. Without the ongoing litigation, the defendants will just sit and wait for us to refile and fight us all over again with motions to dismiss (in front of what will likely be a different judge) and we will be at square one all over again in litigation.

We do not want to lose the leverage we have with the current case – nor do we want to lose Judge Pohela. We do not see any downside to allowing the defendants to proceed with the appraisals, which they have agreed to also pay for in their entirety, to at least see the values that they conclude. From there, we bootstrap on additional consideration for the pending litigation and provide a much more palatable global resolution for the defendants to consider. In our goal to get you the maximum recovery, we are keenly aware that the defendants are much more susceptible to tack on additional consideration and pay premiums in exchange for acquiring your property and to resolve the ongoing litigation. This is because (1) they will actually be acquiring something of value (as opposed to just paying damages for their bad behavior but not receiving anything in exchange) and (2) they need to be able to justify any settlement before the public

Third, we have become aware that the tax ballot initiative failed at the most recent election. According to the defendants, this further handicaps their project planning and ability to move forward (arguing that there's no funding). Also, they contend there's no "immediate" need for your properties. On that note, they also want us to be cognizant of the fact that in acquiring your properties, they are required to relocate all of your tenants which is additional costs that they need to expend. We know you need do care very much about your tenants, especially the longstanding ones, and want them to receive the benefits that they should in this process. If the defendants don't voluntarily acquire your properties, the tenants will not be afforded those benefits.

Finally, while you are potentially searching for other counsel, we want you to be happy but we also want to lead you in a way that is productive to reach maximum recovery in the most efficient way possible. Respectfully, it may be that we have a difference of opinions in how we proceed and if you want counsel to litigate this instead of working to settle this globally, we wish you the best. We certainly want to keep working with you but we want to pursue the option as laid out regarding the appraisal process first before advancing intense litigation. Please advise if you are agreeable and we will get it underway immediately.

Thank you,

On 11/28/18, 2:04 PM, "kyocera@briancpadgett.com" <kyocera@briancpadgett.com> wrote:

Please do not reply.

TASKalfa 6550ci

[00:c0:ee:86:ad:43]
