

November 8, 2017

State Board of Regents
Board of Regents Building, The Gateway
60 South 400 West
Salt Lake City, Utah 84101-1284

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MEMORANDUM

TO: State Board of Regents

FROM: David L. Buhler

SUBJECT: University of Utah – Property Acquisition

Issue

Regent Policy R703, *Acquisition of Real Property* requires the Board of Regents to approve institutional property purchases that exceed \$500,000. The University of Utah requests Board approval to purchase 3.26 acres of vacant property located adjacent to the campus just north of North Campus Drive in Salt Lake City for the appraised value of \$2,450,000 using non-state appropriated institutional funds.

Background

The University is land-locked between the mountain and the surrounding residential neighborhoods. The property to be purchased is located in a residential neighborhood between the University owned Rosenblatt and Eccles homes on Military Way and Penrose Drive in Salt Lake City, Utah and represents some of the last remaining vacant land in the area. The property has come available for purchase and the University would like authorization to make this strategic acquisition for future use. As part of the purchase agreement (attached), the University agrees to use the property for housing and hospitality consistent with the surrounding neighborhood and agrees not to subdivide the property for development purposes. No state funds will be requested or used for the acquisition or operation and maintenance of the property.

Additional information about this request may be found in the attached letter from the University with an accompanying map, an executive summary of the appraisal report, and the addendum to the purchase contract indicating the terms of the agreement. Representatives from the University of Utah will be in attendance at the meeting to provide additional information and respond to questions from the Board.

Commissioner's Recommendation

The Commissioner recommends that the Board authorize the University of Utah to acquire property located at 1490 East Military Way in Salt Lake City.

David L. Buhler
Commissioner of Higher Education

DLB/KLH/RPA
Attachments

October 16, 2017

Mr. David Buhler
Commissioner
Board of Regents Building, The Gateway
60 South 400 West
Salt Lake City, Utah 84101-1284

Dear Commissioner Buhler:

The University of Utah hereby requests approval from the Board of Regents' for the acquisition of the vacant land located at 1490 East Military Way, 1566 and 1578 East Penrose Drive in Salt Lake City, Utah between the University-owned Rosenblatt Home and Eccles Home. The purchase price has been set at \$2,450,000 for the entire 3.26 acres. Attached for your reference is an aerial view of the property outlined in red. The acquisition will be funded by non-state appropriated, discretionary University funds.

Over the last ninety (90) days the following due diligence items have been successfully completed on the property:

- Appraisal (market value conclusion of \$2,450,000 as is)
- Title Report and Insurance Commitment
- Phase I Environmental
- ALTA Survey

The future anticipated O&M costs are estimated to be minimal and will also be funded from non-state appropriated, discretionary University funds.

While a future use for this property has yet to be determined, the lack of available land adjacent to the University of Utah makes this acquisition strategic for future University uses alignment with the adjacent residential neighborhoods.

Accordingly, Jonathon Bates, Executive Director of Real Estate Administration, would appreciate an opportunity to present this acquisition to the Finance and Facilities Committee at the November 17, 2017 Board of Regents meeting.

Thank you, for your consideration and support.

Sincerely,



Patricia A. Ross
Chief Strategy Officer

c: Dr. David W. Pershing
Dr. Kimberly Henrie
Richard P. Amon
John E. Nixon
Jonathon Bates

Attachment





Valbridge
PROPERTY ADVISORS

Appraisal Report

1490 East Military Way
Salt Lake City, Salt Lake County, Utah 84103

Report Date: March 15, 2017



FOR:

American Investment Company
Mr. Patrick Egbert

529 East South Temple
Salt Lake City, Utah 84102

**Valbridge Property Advisors |
Free and Associates, Inc.**

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Salt Lake City, Utah 84121
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Valbridge File Number:
UT01-17-0089



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Mr. Patrick Egbert

American Investment Company
529 East South Temple
Salt Lake City, Utah 84102

RE: Appraisal Report

1490 East Military Way
Salt Lake City, Salt Lake County, Utah 84103

Dear Mr. Egbert:

In accordance with your request, we have performed an appraisal of the above referenced property. This appraisal report sets forth the pertinent data gathered, the techniques employed, and the reasoning leading to our value opinions. This letter of transmittal is not valid if separated from the appraisal report.

The subject property, as referenced above, is located on the southwest corner of Military Way and Penrose Drive and is further identified as Assessor's Parcel Number (APN) 09-33-379-004, 09-33-379-005, 09-33-379-007, 09-33-379-008, 09-33-379-009, 09-33-379-010, 09-33-379-011, 09-33-452-013. The subject is a 3.260-acre or 142,006-square-foot site. The subject is a residential parcel located on a well-traveled road is considered to have average functional utility and a good competitive rating.

We developed our analyses, opinions, and conclusions and prepared this report in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation; the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute; and the requirements of our client as we understand them.

The client in this assignment is American Investment Company and the intended user of this report is American Investment Company and no others. The intended use is for internal decision making purposes and no other use. The value opinions reported herein are subject to the definitions, assumptions and limiting conditions, and certification contained in this report.

The acceptance of this appraisal assignment and the completion of the appraisal report submitted herewith are subject to the General Assumptions and Limiting Conditions contained in the report. The findings and conclusions are further contingent upon the following extraordinary assumptions and/or hypothetical conditions which might have affected the assignment results:

Extraordinary Assumptions:

- The subject is appraised with the extraordinary assumption the proposed lots as described can be legally subdivided.
- The 14 proposed lots are based on drawings provided by the property owner. It is assumed that this configuration is the highest and best use of the land, however further engineering and cost to build the lots is required to determine if this is the case.

Hypothetical Conditions:

- None

Based on the analysis contained in the following report, our value conclusions are summarized as follows:

Value Conclusions

Component	As Is	Prospective Gross Sellout
Value Type	Market Value	Market Value
Property Rights Appraised	Fee Simple	Fee Simple
Effective Date of Value	February 15, 2017	August 15, 2017
Value Conclusion	\$2,450,000	\$4,150,000
	\$751,534 per acre	\$296,429 per lot

Respectfully submitted,
 Valbridge Property Advisors | Free and Associates, Inc.



GARY R. FREE, MAI, SRA
 Senior Managing Director

Utah State - Certified General Appraiser
 License # 5451769-CG00 (Exp. 6/30/17)



TYLER A. FREE
 Senior Appraiser

Utah State-Certified General Appraiser
 License#6050225-CG00 (Exp. 12/31/18)

ADDENDUM NO. 1
TO
REAL ESTATE PURCHASE CONTRACT

Page 1 of 6
(including the
form agreement
attached hereto)

THIS IS AN ☒ ADDENDUM [] COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of August 25, 2017, including all prior addenda and counteroffers, between University of Utah as Buyer, and Cumming Investment Company as Seller, regarding the Property located at 1490 E. Military Way, 1566 and 1578 E. Penrose Dr.. The following terms are hereby incorporated as part of the REPC.

Buyer and Seller agree to enter into at Closing an agreement in the form attached hereto, which attached form is incorporated into this Addendum No. 1 by this reference.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX): ☒ REMAIN UNCHANGED [] ARE CHANGED AS FOLLOWS: _____

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. ☒ Seller [] Buyer shall have until 4:00 [] AM ☒ PM Mountain Time on November 20, 2017 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

☒ Buyer [] (Date) (Time) [] Buyer [] Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

[] ACCEPTANCE: [] Seller [] Buyer hereby accepts the terms of this ADDENDUM.

[] COUNTEROFFER: [] Seller [] Buyer presents as a counteroffer the terms of attached ADDENDUM NO. ____.

(Signature) (Date) (Time) (Signature) (Date) (Time)

[] REJECTION: [] Seller [] Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

AGREEMENT

This AGREEMENT (this "**Agreement**") is entered into as of the ____ day of _____, 2017 (the "**Effective Date**"), by and between the University of Utah, a body politic and corporate of the State of Utah ("**Buyer**") and Cumming Investment Company, L.C., a limited liability company ("**Seller**") (collectively, "**Parties**," or individually, "**Party**").

Recitals

- A. Effective as of the Effective Date, Buyer purchased from Seller that certain property located at 1490 E. Military Way and at 1566 E. and 1578 E. Penrose Drive, in Salt Lake City, Utah 84104, more specifically described in Exhibit "A" attached hereto (the "**Property**").
- B. The Parties desire to enter into this Agreement to set forth the Parties' mutual understanding concerning the use of such Property by Buyer.

Agreement

NOW, THEREFORE, in consideration of the terms and conditions set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. Term. The term of this Agreement (the "**Term**") shall be twenty (20) years, commencing as of the Effective Date (defined above).
- 2. Use Provisions. During the Term:
 - a. The Property will be used by Buyer to provide housing and hospitality for senior leadership at the University, subject to Buyer obtaining the approvals referenced below. The housing and hospitality facilities shall be designed consistent with the surrounding neighborhood, including the two residences currently owned by the University adjacent to the Property, as determined by Buyer in Buyer's reasonable discretion. Seller acknowledges that the construction of housing and hospitality facilities on the Property (which Property is currently vacant land), is subject to (i) Buyer's receipt of funding for such construction and related design, and (ii) approval by Buyer's governing boards and any other governmental authorities having jurisdiction over the Property.
 - b. Buyer will not subdivide the Property for development purposes.
 - c. Buyer will strive to maintain the current traffic access for Penrose Drive from North Campus Drive. Seller acknowledges that, as of the Effective Date, Penrose Drive and North Campus Drive are not under the ownership or control of Buyer.

3. Miscellaneous Provisions.

- a. No Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person other than the Parties and their respective successors and permitted assigns.
- b. Entire Agreement. The recitals set forth above and Exhibit "A" attached hereto are incorporated into this Agreement by this reference. This Agreement constitutes the entire agreement among the Parties and supersedes any prior understandings, agreements, or representations by or among the Parties, written or oral, to the extent they relate in any way to the subject matter hereof.
- c. Counterparts. This Agreement may be executed in one or more counterparts (including by means of facsimile), each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
- d. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.
- e. Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the Parties. No waiver by any Party of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the Party making such waiver.
- f. Succession. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors.
- g. Dispute Resolution. Prior to either Party to this Agreement pursuing any legal remedy in connection with any controversy or claim arising out of this Agreement, the Parties shall engage in a nonbinding mediation with a mutually acceptable mediator. It is not the intent of either Party to incur by contract any liability for the negligent operations, acts, or omissions of the other Party and nothing in this Agreement shall be so interpreted or construed. Buyer is a governmental entity under the Utah Governmental Immunity Act of the Utah Code, Section 63G-7-101 et seq. 1953 (as amended) (hereinafter, the "**Act**"). Nothing in this Agreement shall be construed to be a waiver by University of any protections, rights, or defenses applicable to Buyer under the Act.
- h. Force Majeure. Neither Party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, floods, storm, epidemics, quarantine restrictions, explosions, earthquakes, acts of God, acts of terrorism, war, governmental action, freight embargoes, earthquakes, electrical outages, computer or communications failures, severe weather, or any other force majeure event that is beyond the reasonable control of such Party or a supplier or contractor of such Party (each, a "**Force Majeure Event**").