

**IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT, IN AND  
FOR LEON COUNTY, FLORIDA**

**Steven R. Andrews,**

Plaintiff,

v.

**CASE NO. 2012 CA 859**

**Governor Rick Scott, Attorney General  
Pam Bondi, Chief Financial Officer  
Jeff Atwater, and Commissioner  
Adam Putnam, as the Board of Trustees  
for the Internal Improvement Trust Fund,**

Defendants.

---

---

**First Amended Complaint for Declaratory Judgment and Other Relief**

---

---

Plaintiff, Steven R. Andrews, files this Complaint seeking a declaratory judgment pursuant to section 86.011, Florida Statutes, and claims relating to violations of the Florida Sunshine Act and alleges:

**Jurisdictional Allegations**

1. This is an action for declaratory judgment and all other judicially cognizable relief under Chapter 86, Florida Statutes as well as Plaintiff's claims under the Florida Sunshine Act.
2. Steven R. Andrews is an individual residing in Leon County, Florida.
3. The Board of Trustees for the Internal Improvement Trust Fund [hereinafter "Defendant," "Board of Trustees," "Board" or "State"] is a Florida government agency responsible for the disposition of State-owned property. The Board is comprised of the Florida Governor and the Cabinet. This suit is brought in the Board's official capacity and not individually as to each Board member.
4. This Court has jurisdiction and venue is appropriate in Leon County because the

Plaintiff resides in Leon County, the Board is located in Leon County, and the rights and privileges in controversy concern real property located in Leon County, for which declaratory judgment is appropriate. *See generally Cushman v. Smith*, 528 So. 2d 962 (Fla. 1st DCA 1998). Further, various acts of statutory violations of the Florida Sunshine Act occurred within Leon County.

5. The amount in controversy exceeds \$15,000.

### **General Facts**

#### ***The Property and the Right of First Refusal***

6. Grove Properties Limited ["GPL"] and John Aurell, as Trustee of Mary Call Darby Collins Revocable Trust Under Agreement dated December 17, 1998, are the current owners of the real properties and improvements located at 822 North Monroe Street in Tallahassee, Florida, and more particularly described in the attached **Exhibit "1"** [hereinafter the "Properties"].

7. The Properties at issue in this cause are located adjacent to former Governor LeRoy Collins' home known as The Grove Plantation ["The Grove"] and also situated near the Governor's Mansion. In 1985, former Governor LeRoy Collins and his wife, Mary Call Darby Collins, conveyed The Grove to the Board subject to a life estate granted to Governor Collins' widow, Mary Call Darby Collins ["Mrs. Collins"]. A copy of the Warranty Deed dated March 1, 1985 evincing a sales price of The Grove to the state for \$2,285,500 is attached hereto as **Exhibit "1-A"**.

8. On March 1, 1985, Governor Collins and Mrs. Collins, as part of the conveyance of The Grove, signed and delivered a Grant and Right of First Refusal to the Board regarding the Properties. The Right of First Refusal was recorded at Official Records Book 1150, Page 1512

of the Public Records of Leon County, Florida, and is attached hereto as **Exhibit “2”**.

9. Paragraph A on page one of the Right of First Refusal contains the following pertinent provisions:

9.1. “The Right of First Refusal will remain in effect until final discharge of the personal representative of the estate of the later LeRoy Collins or Mary Call Collins to die”;

9.2. The owners must give the Board “six months’ written notice and opportunity to purchase the subject lot or lots at a price equal to that of the proposed sale”; and

9.3. If the Board has not purchased the Property at the same price as the third-party offer within six months of receiving notice, the Property may be sold free from burden of the Right of First Refusal.

10. In the State of Florida, a “right of first refusal is a right to elect to take specified property at the same price and on the same terms and conditions as those contained in a good faith offer by a third person if the owner manifests a willingness to accept the offer.” Old Port Cove Holdings, Inc. v. OldPort Cove Condominium Assoc. One, Inc., 986 So.2d 1279, 1285 (Fla. 2008) (quoting Pearson v. Fulton, 497 So.2d 898, 900 (Fla. 2d DCA 1986)).

11. A right of first refusal is akin to an option agreement insofar as it neither creates an equitable interest nor an equitable remedy in the property; however, a right of first refusal is unlike an option agreement insofar as it “does not grant the power to compel an unwilling owner to sell.” Old Port Cove Holdings, Inc., 986 So.2d at 1285-86. As such, until a right of first refusal is properly exercised, the holder of the right of first refusal has no estate, either legal or equitable in the lands involved.” Id. at 1286-87.

12. In 1997, the Florida Legislature codified Florida Statute 267.075 for the use of The Grove as a museum. Section 267.075(4)(a), Fla. Stat. requires the Department of State's Division of Historical Resources to maintain the structure, style, character, and landscaping of The Grove at the time that the State acquired physical possession of The Grove from Mary Call Darby Collins.

13. In August of 2010 the Plaintiff in a separate cause of action filed suit against Governor Scott demanding access to a videotaped deposition Governor Scott had previously taken with respect to allegations of Medicare fraud. On August 21, 2010 media reports discussed copies of the transcript of Governor Scott's deposition related to the suit brought by the Plaintiff and it was widely reported that Governor Scott asserted his Fifth Amendment Right against self-incrimination seventy-five (75) times. In response to the Plaintiffs' suit, Governor Scott's campaign released statements to the media in which the Plaintiff was described as "sleazy". See media reports related to these matters attached hereto as **Composite Exhibit "3"**.

14. After it was revealed in the media that Governor Scott had asserted his Fifth Amendment rights against self-incrimination seventy-five (75) times in the prior deposition, his polling numbers experienced a precipitous drop and as a result on August 21, 2010 Governor Scott promptly loaned twelve million dollars (\$12,000,000) to his campaign. By way of contrast, former Attorney General Bill McCollum raised a total of 7.7 million dollars for the primary election against Governor Scott. Suffice it to say, Governor Scott has millions of reasons to dislike the Plaintiff. See August 21, 2010 Tampa Bay Times news article, attached hereto as **Exhibit "4"**.

***The Proposed Sale of the Properties and the Defendant's Bad Faith***

15. Governor Collins died on March 12, 1991, and the Personal Representative of his

Estate was discharged by court order.

16. Mrs. Collins died on November 29, 2009, rendering hers as the controlling Estate with respect to the Grant of Right of First Refusal. Upon Mrs. Collins' passing, the State took physical possession of The Grove on November 29, 2009.

17. After Mrs. Collins' passing, Mr. John Aurell acted as her Estate's Representative<sup>1</sup> in dealings involving the State of Florida and The Grove.

18. As such, Mr. Aurell had regular communications with Representatives of the Florida Department of State, Division of Historical Resources.

19. After Mrs. Collins' passing, the State of Florida struggled with issues related to funding the restoration of The Grove and, in many instances, struggled to allocate the monies necessary to simply preserve the integrity of the asset. See email from Barbara Leonard to Skip Martin, dated January 11, 2012, including fixed capital outlay appropriations for the renovation of The Grove for the Fiscal Year 2010-2011, attached hereto as **Composite Exhibit "5"** (appropriation proviso reading "lack of funding will prevent the Division from carrying out its statutory mandates, potentially breach the conditions of the 1985 warranty deed and subject the State to judicial enforcement by injunction or other appropriate remedy."). Simply put, the Department of State, Division of Historical Resources lacked the minimum funding necessary to comply with State Statutes as it pertained to the preservation of The Grove, much less to entertain a notion of acquiring additional properties.

20. On March 2, 2011, Scott Stroh, Director and State Historic Preservation Officer for the Florida Department of State, sent an email to Mr. John Aurell indicating the State's interest in obtaining an easement for emergency vehicles across the Properties at issue in this cause, by which first responders could access The Grove in the event of an emergency. A copy

---

<sup>1</sup> No estate opened originally.

of the electronic message is attached hereto as **Exhibit “6”**. Within minutes of receiving this email, Mr. Aurell responded and indicated that the Collins family would take such request under advisement.<sup>2</sup>

21. Internal communications within the Florida Department of State reveal that in March of 2011 the Department of State was struggling to acquire the funds necessary to furnish The Grove once it opened as a museum. *See* email<sup>3</sup> from Scott Stroh to JuDee Dawkins, indicating the State’s intent to host a fundraiser to obtain private monies for the purchase of furnishings, dated March 11, 2011, attached hereto as **Exhibit “7”**.

22. Moreover, the internal communications within the Department of State reveal that at this same time the Department of State had considered, and essentially eliminated, any possibility of purchasing the Properties at issue in this cause given the limited funding available for The Grove museum. *See* email from Scott Stroh, dated March 11, 2011, attached hereto as **Exhibit “8”**.

23. The State’s lack of funding with respect to The Grove museum prevented it from performing even basic maintenance at the property. Internal communications within the Department of State reveal that in April of 2011 a tree limb fell from The Grove and damaged an adjoining property’s fence line. This prompted the private property owner to file a complaint with the Department of State, given that his “out of pocket expense” was substantial as it related to his insurance deductible. According to the internal communications, the property owner alleged that he had complained regarding the deterioration of the trees on The Grove property

---

<sup>2</sup>The “emergency easement” was never granted by GPL to the State.

<sup>3</sup> The vast majority of Exhibits relied upon in this Complaint were received through public records requests. Unfortunately, the database wherein relevant public records should have been stored contains “corrupt indexes” and as a result the search designed to identify all relevant public records was incapable of ensuring that messages responsive to the public records request were not missed within the search. Confirmation that the database containing the public records relevant to this cause of action has been corrupted is evidenced by a screen shot obtained as a public record with a warning message affirming the presence of “missing messages” and “corrupt indexes.” *See* attached **Exhibit “9”**.

prior to this incident. Nonetheless, he was informed that he could file a claim with risk management, but was advised that such claims are “usually denied.” *See* email chain terminating on April 6, 2011, attached hereto as **Exhibit “10”**.

24. On April 12, 2011, Scott Stroh sent another email to Mr. John Aurell inquiring about the status of the State’s request for an easement across the Properties at issue in this cause for emergency vehicle access, as outlined in the email attached hereto as **Exhibit “11”**. The grant of the easement was time sensitive; given that, according to Mr. Stroh, the Department of State was “close to moving ahead with the final construction drawings and permitting.”<sup>4</sup>

25. On May 16, 2011, John Aurell spoke with Scott Stroh regarding the possibility of the State purchasing the Properties at issue in this cause, as evidenced in the email from Scott Stroh to JuDee Dawkins, dated May 17, 2011, attached hereto as **Exhibit “12”**.

26. On that same date, JuDee Dawkins responded to Scott Stroh and expressed interest in the idea of purchasing the Properties with “emergency funds” administered by the Department of Environmental Protection. *See* attached **Exhibit “13”**.

27. On May 20, 2011, Scott Stroh sent an email to Roderick Petrey, wherein Mr. Stroh inquired regarding any updates on funding for the purchase of furnishings originally belonging to the Collins Estate, for which the State had negotiated a purchase for such furnishings with Mr. John Aurell. The email indicates that the State was facing a June 8, 2011 deadline for the purchase of the furnishings, and Mr. Stroh noted that Mr. Aurell had already granted one extension for the temporary use of the furnishings. *See* attached **Exhibit “14”**.

28. On May 23, 2011, a meeting was conducted regarding the status of the rehabilitation of The Grove, at which the rehabilitation project was estimated, at that time, to be \$1,125,754 over budget. A copy of the notes related to the May 23, 2011 meeting is attached

---

<sup>4</sup>This “emergency easement” was never granted by GPL to the State.

hereto as **Exhibit “15”**. Internal communications within the Department of State reveal that the estimated budget for the rehabilitation of The Grove, as of May 25, 2011, totaled \$3,016,235. *See* email from Paul Arnaldo, dated May 25, 2011, attached hereto as **Exhibit “16”**.

29. Given that The Grove rehabilitation project was originally estimated at less than two million dollars, an additional meeting was scheduled for May 26, 2011 to discuss the Department of State adding new money to the rehabilitation project. *See* attached **Exhibit “17”**.

30. Internal communications within the Department of State reveal that the revised estimate for The Grove rehabilitation project did not include necessary asbestos abatement.<sup>5</sup> *See* “Phase II Cost Estimate Breakdown”, at page one, attached hereto as **Exhibit “18”**. At this same time, internal communications within the Department of State reveal that a meeting between Scott Stroh and former Secretary of State Kurt Browning occurred regarding the State’s interest in purchasing the Properties at issue in this cause. *See* attached **Exhibit “19”**.

31. On May 27, 2011, Roderick Petrey informed Scott Stroh that the State was struggling to raise the funds necessary to purchase the furnishings for The Grove museum and informed Mr. Stroh that the June 8, 2011 deadline would not be met “by any means.” *See* attached **Exhibit “20”**.

32. On June 1, 2011, the members of The Governor’s Mansion Commission were briefed on their obligations under the Sunshine Laws of Florida and were provided a handout prepared by Department of Management Services Deputy General Counsel, Matt Minno.

33. On June 2, 2011, in response to budget overruns, JuDee Dawkins prepared a draft request for a bid exemption related to The Grove rehabilitation project, increasing the total cost

---

<sup>5</sup>The building at 822 North Monroe has substantial asbestos primarily located in the roof shingles which, upon information and belief, were the original shingles placed on that building at the time of its construction in 1924. The presence of asbestos was mentioned in the Plaintiff’s appraisal obtained in connection with his purchase of the Property. *See* appraisal excerpts attached hereto as **Exhibit “21”**. (summary appraisal report).

for the repairs by \$1,300,000. Ms. Dawkins' draft request for the bid exemption states that it was necessary to address emergency structural issues for The Grove and was a request pursued in "rare and significant instances". *See* email from JuDee Dawkins, with attached bid exemption request of The Grove, wherein Ms. Dawkins seeks input regarding the efficacy of the exemption request from a political and contracting perspective, dated June 2, 2011, attached hereto as **Exhibit "22"**.

34. On June 8, 2011, John Aurell made a formal written offer to the State for the lease or purchase of the Properties at issue in this cause. That same day, said offer was forwarded to JuDee Dawkins by Scott Stroh. *See* attached **Exhibit "23"**.

35. On June 8, 2011, Scott Stroh informed Mr. Aurell that the offer to purchase the Properties at issue had been forwarded to the Secretary of State and the Office of the General Counsel. *See* attached **Exhibit "24"**.

36. On June 9, 2011, JuDee Dawkins, Deputy Secretary of State, sent an email to Mike Wisenbaker, inquiring as to whether Florida Forever funding could be used to purchase the Properties at issue in this cause. *See* attached **Exhibit "25"**.

37. Internal communications reveal that on June 13, 2011, Deputy General Counsel Matt Minno approved Allstate Construction's exempt status for performing restoration work at The Grove in excess of two million dollars without submitting such work to a competitive bidding process. *See* legal memorandum of Deputy General Counsel Matt Minno, attached hereto as **Exhibit "26"**. This \$2 Million dollar "change order" was never taken before or approved by the Board of Trustees or the Cabinet.

38. On June 15, 2011, John Aurell inquired with Scott Stroh regarding the status of the State's interest in purchasing or leasing the Properties at issue in this cause. At that time, Mr.

Aurell stressed that time was of the essence and expressed the intent of the Collins family to pursue private purchasers for the Properties at issue. *See* attached **Exhibit “27”**.

39. Internal communications between JuDee Dawkins, Jennifer Kennedy, and John Boynton reveal that the Florida Department of Environmental Protection, Division of State Lands considered purchasing the Properties at issue in this cause and determined that Florida Forever funding would have to be allocated if the purchase price of the Properties at issue exceeded \$500,000.00. Given this limitation, it was widely understood that the State’s purchase of the Properties at issue in this cause was **“unlikely, unless it was something that Governor Scott supported”**. It was also widely understood that the purchase of the Properties at issue would require the involvement of the former Secretary of State Kurt Browning, as well as the involvement of Department of Environmental Protection Secretary, Herschel Vinyard. *See* attached **Exhibit “28”** (emphasis added).

40. On June 16, 2011, John Aurell once again inquired as to the State’s interest in purchasing or leasing the Properties at issue in this cause. Mr. Aurell also noted his concern about dealing fairly with the Plaintiff should the State not be interested in purchasing the Properties, given that the Plaintiff had previously expressed his interest in purchasing the Properties at issue. The communications make clear that the Collins family, through Mr. Aurell, was intent on providing the State the first opportunity to purchase the Properties at issue in this cause, given its proximity in relationship to The Grove. *See* attached **Exhibit “29”**.

41. On June 16, 2011, Scott Stroh responded to Mr. Aurell and stated that a decision regarding the purchase of the Properties at issue in this cause would require the input of Kurt Browning, former Secretary of State, and JuDee Dawkins, Deputy Secretary of State. Mr. Stroh further noted that a meeting was scheduled the following Monday, during which Mr. Browning

and Ms. Dawkins were expected to render a decision regarding the State's intent to explore purchasing the Properties at issue. Mr. Stroh also informed Mr. Aurell that Deputy Secretary of State JuDee Dawkins would further serve as the contact person for Mr. Aurell, given that Mr. Stroh was resigning and would no longer be employed by the State of Florida. *See* attached **Exhibit "30"**.

42. Internal communications within the Department of Management Services show that Jack Miles, former Secretary of the Department of Management Services, was notified regarding the State's offer to purchase the Properties at issue in this cause, as the Properties might relate to the "Legacy Project". The Legacy Project is intended to be an *homage* to Governor Rick Scott's service to the State of Florida.<sup>6</sup> *See* email from Pam Donaldson to former Department of Management Services Secretary, Jack Miles, dated June 21, 2011, attached hereto as **Exhibit "31"**.

43. It is customary for a Governor to leave some monument to their tenure. For instance, former Governor Lawton Chiles left a life-size sculpture of children playing follow-the-leader as a testament to his tenure. Approximately five months after assuming his role, Governor Scott began working on the shrine in honor of himself. In the past, these projects were funded by the non-profit Florida Governor's Mansion Foundation, Inc. However, public records reveal that Governor Scott intended to break from this tradition and use State funds to complete his Legacy Project. The use of State funds is necessary, as he has proposed a project that is much larger in scope than any of the previous monuments, including monuments erected for Governors who served two terms as Governor of the State of Florida. Public records further reveal that Governor Scott's Legacy Project will involve the purchase and demolition of several properties adjacent to the Governor's Mansion and the redevelopment of said properties to accentuate the

---

<sup>6</sup>At this time Governor Scott's service to the State of Florida was approximately six months in duration.

Governor's Mansion. At least two and a half million dollars have been allocated by Governor Scott from the **State's funds** for the completion of Governor Scott's Legacy Project. *See* Budget Proviso, attached hereto as **Exhibit "32"** (emphasis added); *see also* email from former Secretary of State, Kurt Browning, to Jennifer Ungru, dated July 18, 2011, attached hereto as **Exhibit "33"**; *see also* Governor's Mansion Commission meeting minutes, discussing the Governor's Legacy Project, dated May 24, 2011, attached hereto as **Exhibit "34"**.

44. Internal communications between JuDee Dawkins and Phil Wisley reveal that, as of July of 2011, the rehabilitation project related to The Grove continued to suffer from a lack of funding, and that such lack of funding jeopardized basic renovations essential for providing a safe environment, such as stairs, ramps, and railings. *See* attached **Exhibit "35"**.

45. As of July 7, 2011, the State had determined that it would not pursue the purchase or lease of the Properties at issue in this cause, as indicated in an email from JuDee Dawkins. As such, the various entities asked to consider the proposed purchase of the Properties at issue had determined that the Properties possessed no significant value as to either The Grove or the Legacy Project, nor any significant historic value independent of any other State owned properties. *See* attached **Exhibit "36"**.

46. Engineering designs were undertaken in July of 2011 to provide emergency vehicle access to The Grove from the Properties at issue in this cause, as evidenced in an email from Beth Eby to JuDee Dawkins. *See* email from Beth Eby to JuDee Dawkins, dated July 7, 2011, attached hereto as **Exhibit "37"**. These expenditures were undertaken despite the fact that no "emergency easement" had ever been granted by GPL over the Properties and neither the Trustees nor the Cabinet approved such expenditures.

47. On July 7, 2011, JuDee Dawkins, Deputy Secretary of State, confirmed in writing

to Mr. Aurell that the Department of State was NOT INTERESTED in purchasing the Properties at issue in this cause. *See* email from JuDee Dawkins to John Aurell, dated July 7, 2011, attached hereto as **Exhibit “38”** (emphasis added).

48. On that same date, JuDee Dawkins, Deputy Secretary of State, confirmed to other colleagues within the Department of State that the State was “NOT” pursuing the purchase of the Properties at issue in this cause “any longer.” *See* email from JuDee Dawkins to John Boynton and Robert Taylor, dated July 7, 2011, attached hereto as **Exhibit “39”** (emphasis in original).

49. As a result of the State’s decision not to pursue the purchase of the Properties at issue in this cause, the Division of Historical Resources, within the Department of State, began expending resources to address parking and emergency vehicle access for The Grove, as evidenced in an email from Dr. Robert Krause to Phil Wisley. *See* email from Dr. Robert Krause to Phil Wisley, dated July 7, 2011, attached hereto as **Exhibit “40”**.

50. On July 7, 2011, JuDee Dawkins, Deputy Secretary of State, contacted Tom Berger at the Department of Management Services to notify the Department of Management Services that the State had “**decided NOT to pursue purchasing** or leasing the Monroe Street properties” given that the State had determined that said purchase was “not a great use of State funds.” *See* email from JuDee Dawkins to Tom Berger, dated July 7, 2011, attached hereto as **Exhibit “41”** (emphasis added).

51. On July 14, 2011, JuDee Dawkins, Deputy Secretary of State, reiterated her earlier sentiments via a second email to Tom Berger, wherein she once again explained that the purchase of the Properties at issue in this cause was determined not to be “cost effective or efficient.” Deputy Secretary Dawkins informed the Department of Management Services “since (sic) we have **opted out**, the Collins family is pursuing purchase with the current tenants

[Plaintiff].” *See* email from JuDee Dawkins to Tom Berger, dated July 14, 2011, attached hereto as **Exhibit “42”** (emphasis added).

52. On September 2, 2011, MLD Architects sought a permit waiver from Grove Management in order to revise the existing driveway to The Grove Plantation in order to accommodate emergency vehicle access. The modification included widening the driveway and reinforcing portions of the existing driveway as requested by the City Fire Department. The modifications also included relocating the fire service line and fire hydrants. The permit waiver was approved and the changes were made and paid for, negating the justification that acquiring the Properties would be necessary for ingress and egress of emergency vehicles. *See* attached **Composite Exhibit “43”**.

53. Robert Bendus, as Director of Division of Historical Resources and Chief Historical Officer, began to act as the contact person with Mr. Aurell on behalf of the State regarding issues related to The Grove, assuming the position vacated by Scott Stroh’s resignation, which had been temporarily filled by Deputy Secretary of State JuDee Dawkins.

54. Internal communications between JuDee Dawkins and Robert Bendus reveal that in November of 2011, unforeseen conditions related to the rehabilitation of The Grove once again significantly increased the estimated cost for the rehabilitation project. These communications reveal that the Department of State was significantly concerned that there was inadequate funding to “prevent further permanent deterioration or loss to the structure or (its) contents.” As such, additional funding, totaling \$3.5 million, was requested to address “structural repairs, life safety upgrades, handicapped accessibility and mechanical upgrades.” *See* email chain between JuDee Dawkins and Robert Bendus, dated November 10, 2011, attached hereto as **Exhibit “44”**.

55. An Order of Summary Administration was entered in Mrs. Collins' probate case on December 9, 2011. The Order was recorded at Official Records Book 4317, Page 2061 of the Public Records of Leon County, Florida, and is attached hereto as **Exhibit "45"**. By the express terms of the Right of First Refusal, the State's Right of First Refusal was extinguished.

56. The words "final discharge of the personal representative of the estate," in the Right of First Refusal clearly references the conclusion of probate proceedings for the last surviving spouse. The Order of Summary Administration was proper and in no way prejudiced the Board in that the Board, through its agents, had been put on substantial written notice of GPL's intent to market the Properties to third parties<sup>7</sup>, and the State, through its agents, had firmly denied any interest in acquiring the Properties at issue in this cause.

57. An Order of Summary Administration, under Section 735.206, Florida Statutes, concludes the probate proceedings in a summary administration in the same way that a final Order of Discharge, under Section 733.901, concludes the proceedings in a formal administration.

58. Accordingly, the Board's Right of First Refusal was terminated by its own terms on December 9, 2011, when the Court entered the Order of Discharge in Mrs. Collins' estate. Due to the length of time between Mrs. Collins' death and the Order of Summary Administration, the putative personal representative of Mrs. Collins' estate, John Aurell, was discharged from all liability for any claims, pursuant to 735.206, Florida Statutes.

#### ***Andrews' Contract to Purchase Property***

59. On October 18, 2011, Plaintiff Steven Andrews agreed to purchase the Properties from Grove Properties Limited, a partnership comprised of the heirs of former Governor and

---

<sup>7</sup>The purpose of the revocable trust of Mary Collins was to cause, or attempt to cause, an expedited probate of her estate as a routine estate planning device.

Mrs. Collins. The Contract for Sale and Purchase, as subsequently amended, is attached hereto as **Exhibit “46”**.

60. On December 15, 2011, the Secretary of State informed the Department of Environmental Protection (which performs various duties for the Board related to State lands) that it “has no interest in pursuing a purchase or lease of these properties **in the future.**” The Secretary of State’s December 15<sup>th</sup> letter is attached hereto as **Exhibit “47”**.

61. On December 19, 2011, GPL notified the Board of the Andrews Contract and requested that they formally waive any rights under the Right of First Refusal. The December 19, 2011 letter is attached hereto as **Exhibit “48”**.

62. Grove Properties Limited [“GPL”], through its representative John Aurell, offered the Department of State the opportunity to purchase the Properties at issue in this cause prior to engaging the Plaintiff with an offer to purchase the Properties. According to Mr. Aurell’s sworn testimony, the Collins family believed that the State should be provided the first opportunity to purchase the Properties at issue in this cause, irrespective of the Grant of Right of First Refusal, given the Properties’ proximity to The Grove.

63. GPL’s offer to purchase or lease the Properties at issue in this cause was extended to the Department of State as late as May of 2011. The Department of State examined the possibility of purchasing the Properties at issue with the offer ultimately being rejected by former Secretary of State Kurt Browning. This particular rejection was not based on lack of money, but rather the expressed lack of need.

64. Internal documents, obtained through public records requests, reveal that the Division of State Lands, within the Department of Environmental Protection, was suffering from a shortfall of funding to the extent that critical repairs essential for the preservation of The Grove

structure were jeopardized. Essentially, the State indicated to GPL that it lacked the necessary funding to purchase the Properties at issue in this cause given its outstanding management obligations to the properties already owned.

65. GPL's offer to purchase or lease the Properties was communicated to former Department of Management Services Secretary, Jack Miles. On July 7, 2011, Deputy Secretary of State JuDee Dawkins confirmed in writing to Mr. Aurell that the Department of State was not interested in purchasing or leasing the Properties at issue in this cause. The Department of State internal communications, obtained through public records requests, reveal that the Department of State and the Department of Management Services both rejected the idea of purchasing or leasing the Properties at issue in this cause, as any such endeavor was "not a great use of State funds" and "was not cost effective or efficient."

66. These sentiments were expressed directly to John Aurell, as the representative for GPL. At the time Mr. Aurell extended the offer to purchase or lease the Properties to the State, he was unaware of the preexisting Grant of Right of First Refusal to purchase said Properties.

67. It would appear that those officials within the Department of State and the Department of Management Services, with whom Mr. Aurell was negotiating the potential lease or purchase of the Properties at issue, were also unaware that the Board of Trustees had been granted a Right of First Refusal to purchase the Properties.

68. Nonetheless, Mr. Aurell informed Deputy Secretary of State, JuDee Dawkins, of his intent to negotiate a purchase of the Properties by the Plaintiff in this cause, as a result of the State's rejection of GPL's offer to lease or purchase the Properties.

69. On August 30, 2011, John Aurell accepted Mr. Andrews' conditional offer to purchase the Properties at issue, for \$700,000. The offer was a byproduct of significant

negotiations between Mr. Andrews and Mr. Aurell, and was subject to appraisals, inspections, and a survey. *See* email from John Aurell to Steve Andrews, dated August 30, 2011, attached hereto as **Exhibit “49”**.

70. On September 4, 2011, John Aurell tendered a contract to the Plaintiff for the proposed sale and purchase of the Properties at issue in this cause, wherein the original \$700,000 offer had been reduced to \$695,000 pursuant to negotiations between Mr. Aurell and the Plaintiff. This reduction recognized a credit to the Plaintiff for improvements he made during his tenancy. *See* email from John Aurell to Steve Andrews, with proposed sale contract, dated September 4, 2011, attached hereto as **Exhibit “50”**.

71. On September 29, 2011, Mr. Aurell accepted Mr. Andrews’ offer (contingent upon appraisal) for a purchase price of \$612,500. The \$82,500 reduction was predicated upon the discovery of environmental contaminants, including asbestos. Mr. Aurell, on behalf of the Collins family, agreed to the negotiated reduction in sales price, based upon the unknown environmental contaminants that were discovered upon inspection of the Properties. The reduction in price related to the necessary remediation of the contaminants and other miscellaneous repairs was memorialized in a letter sent by the Plaintiff to Mr. Aurell on September 27, 2011, a copy of which is attached hereto as **Composite Exhibit “50-A”**.

72. On November 12, 2011, John Aurell, on behalf of the Collins family, negotiated a final purchase price for the Properties with the Plaintiff of \$580,000. The additional \$32,500 reduction in the purchase price was the result of the appraisal of the Properties, which valued the Properties at \$570,000.00. The appraisal value was significantly impaired due to the presence of environmental contaminants within the Properties, including asbestos. This price reduction was primarily based upon the need for asbestos remediation of the asbestos roof and its anticipated

cost of approximately \$50,000.

73. As such, the environmental contaminants identified within the Properties resulted in an agreed reduction in sales price of \$115,000, as accepted by Mr. John Aurell, on behalf of the Collins family. *See* email from John Aurell to Colleen Andrews, dated November 12, 2011, attached hereto as **Exhibit “51”**; *see also* appraisal dated October 26, 2011, attached hereto as **Exhibit “52”**.<sup>8</sup>

74. On November 15, 2011, the Plaintiff and John Aurell, on behalf of the Collins family, amended the proposed contract for sale of the Properties to reflect the final agreed sales price of \$580,000. A copy of the addendum to the contract reflecting the final sales price of \$580,000, as executed on November 15, 2011 between the Plaintiff and Mr. Aurell, is attached hereto as **Exhibit “53”**.

75. On November 15, 2011, John Aurell spoke telephonically with Robert Bendus and notified Mr. Bendus of the proposed sale of the Properties to the Plaintiff, after negotiating the final sales price of \$580,000 with the Plaintiff, Mr. Andrews.

76. On November 15, 2011, John Aurell notified Robert Bendus, through **written correspondence**, of the proposed sale of the Properties to the Plaintiff. Through this **written correspondence**, Mr. Aurell requested a release from the Defendant of its Right of First Refusal and attached a proposed release. *See* email from John Aurell to Robert Bendus, dated November 15, 2011, attached hereto as **Exhibit “54”**.

77. On that same date, Robert Bendus replied, in writing, to Mr. Aurell and acknowledged the proposed sale and request for release of the Defendant’s Right of First Refusal

---

<sup>8</sup>Mr. Aurell’s original verbal offer to the Plaintiff was for \$1.1 million dollars. In essence, should the Court enforce the expired Right of First Refusal, the Court should also award the Plaintiff under its claim for Quantum Meruit the sum of \$520,000, given that the possibility of the State exercising their Right of First Refusal would have clearly colored the negotiations.

with respect to the Properties at issue in this cause. Mr. Bendus assured Mr. Aurell that the request **for the release** would be included on the next agenda for the Board of Trustees. *See* email from Robert Bendus to John Aurell, dated November 15, 2011, attached hereto as **Exhibit “55”**.

78. On November 21, 2011, Robert Bendus contacted Joseph Duncan, with the Division of State Lands, and forwarded the proposed release of the Right of First Refusal for the Defendant’s consideration. *See* email from Robert Bendus to Joseph Duncan, dated November 21, 2011, attached hereto as **Exhibit “56”**.

79. Thereafter, Robert Bendus informed John Aurell that the matter had been forwarded to Joseph Duncan, and Mr. Bendus assured Mr. Aurell that he would have an update “in the next day or two.” *See* email from Robert Bendus to John Aurell, dated November 21, 2011, attached hereto as **Exhibit “57”**.

80. On that same date, Joseph Duncan replied to Robert Bendus regarding the requested release of the Defendant’s Right of First Refusal and informed Mr. Bendus that the “Bureau of Acquisition is reviewing this request and doing some further research on the property in question. We will be in contact with you in the next couple of days.” *See* attached **Exhibit “58”**.

81. On November 23, 2011, Joseph Duncan informed Robert Bendus that “management” was reviewing the request for the waiver of the Right of First Refusal and informed Mr. Bendus that an answer was expected within a week. *See* attached **Exhibit “59”**.

82. Public records reveal that, as of November 29, 2011, no contingency funds were available with respect to The Grove renovations and obviously no funds had been appropriated for the purchase of the Properties in the 2011 budget. *See* attached **Exhibit “60”**.

83. On November 30, 2011, Mike Long, Assistant Director of State Lands for the Florida Department of Environmental Protection, sent an email to Scott Woolam, Bureau Chief of Public Land Administration, in which Lynda Godfrey, Bureau Chief of Land Acquisition, was copied, informing Mr. Woolam that Joseph Duncan was working on presenting the request for **the release** of the Right of First Refusal to the Defendant. Attached to the email was an “Issue Sheet” outlining the request and acknowledging that the Properties were **not** included on the Florida Forever Work Plan and further noting no specific appropriation for the acquisition. The Issue Sheet included a recommendation that an agenda item be prepared recommending the **release** of the Right of First Refusal. *See* email from Mike Long to Scott Woolam, with attached “Issue Sheet,” dated November 30, 2011, attached hereto as **Composite Exhibit “61”**. The issue of the obvious legal estoppel resulting from the State’s prior comments to Mr. Aurell was not addressed.

84. On November 30, 2011, Scott Woolam sent an email to Robert Bendus, in which the following were copied: Vicki Thompson, Program Administrator within the Bureau of Public Lands Administration, Joseph Duncan, Karl Rasmussen, Director of Cabinet Affairs, Mike Long, Lynda Godfrey, Judy Warrick, Division of State Lands, Michael Morelly, Assistant General Counsel for the Department of Environmental Protection, Rod Maddox, Division of State Lands, Bureau of Surveying and Mapping, Gary Heiser, Assistant General counsel for the Department of Environmental Protection, Gloria Barber, Supervisor of Uplands Management within the Bureau of Public Lands Administration, and Karri MacInnes, Division of State Lands, General Operations Consultant. In his email, Mr. Woolam indicated that the “go ahead to prepare an agenda item **to waive** are (sic) right of first refusal” had been obtained and the item was tentatively scheduled to be presented to the Board at its January 18, 2012 meeting. *See* email

from Scott Woolam to Robert Bendus, dated November 30, 2011, attached hereto as **Exhibit “62”** (emphasis added).

85. On December 2, 2011, Cason Environmental Company was called to The Grove renovation project to abate some asbestos insulation, which had been previously overlooked. *See* email from Walter Vidak to Bill Swanson, dated December 2, 2011, attached hereto as **Exhibit “63”**.

86. On December 7, 2011, John Aurell sent an email to Robert Bendus requesting an update as to the status of the Defendant’s grant of the waiver of its Right of First Refusal. Mr. Aurell reiterated the desire to close the sale with the Plaintiff by the end of December. *See* email from John Aurell to Robert Bendus, dated December 7, 2011, attached hereto as **Exhibit “64”**.

87. Also on December 7, 2011, Director of Cabinet Affairs for the Department of Environmental Protection, Karl Rasmussen, sent an email to Senior Cabinet Aides, Jessica Field and Connie Byrd, regarding the requested **waiver**. *See* email from Karl Rasmussen to Jessica Field and Connie Byrd, dated December 7, 2011, attached hereto as **Exhibit “65”**.

88. On December 9, 2011, Program Administrator, Vicki Thompson, sent an email to Robert Bendus requesting a letter from the Department of State expressing its **lack of interest** in acquiring the Properties at issue in this cause, and noting that the Properties had **no historic** significance. Ms. Thompson “suggested” a letter from Mr. Aurell requesting that the Defendant release its Right of First Refusal, although the express terms of the grant of Right of First Refusal contained no such requirements. *See* email from Vicki Thompson to Robert Bendus, dated December 9, 2011, attached hereto as **Exhibit “66”**.

89. On December 9, 2011, Senior Cabinet Aide, Jessica Field, forwarded a proposed agenda item for the January 18, 2012 Board of Trustees meeting, as prepared by Vicki

Thompson and Joseph Duncan, to Director of Cabinet Affairs Karl Rasmussen and Senior Cabinet Aide Connie Byrd. The proposed agenda item relating to **the release** of the Right of First Refusal indicated that the “Florida Dept. of State, manager of The Grove, has stated they are **not interested** in purchasing the property.” *See* email from Jessica Field to Karl Rasmussen and Connie Byrd, dated December 9, 2011, attached hereto as **Composite Exhibit “67”** (emphases added).

90. On December 9, 2011, John Aurell requested an update from Robert Bendus as to the status of **the waiver** and expressed the urgency of obtaining the waiver for the release of the Right of First Refusal to purchase the Properties. *See* email from John Aurell to Robert Bendus, dated December 9, 2011, attached hereto as **Exhibit “68”**.

91. On that same date, Robert Bendus replied to John Aurell’s request for an update and advised Mr. Aurell that **Clay Smallwood**, the Director of the Division of State Lands for the Department of Environmental Protection, **was aware** of the request for the release of the Right of First Refusal. Mr. Bendus further informed Mr. Aurell that the item could not be brought before the Board of Trustees until January 18, 2012, as the Board of Trustees had no regularly scheduled meeting in December of 2011. Mr. Bendus also forwarded the suggestion from Vicki Thompson that the representative for the Collins family write a letter requesting the release of the Right of First Refusal. *See* email from Robert Bendus to John Aurell, dated December 9, 2011, attached hereto as **Exhibit “69”**.

92. On December 10, 2011, Mr. Aurell forwarded a draft letter requesting the waiver to Robert Bendus. Mr. Aurell indicated to Mr. Bendus that he would execute a letter upon its review and approval by Mr. Bendus. *See* email from John Aurell to Robert Bendus, with attached draft letter, dated December 10, 2011, attached hereto as **Composite Exhibit “70”**.

93. On that same date, Robert Bendus responded and confirmed that the draft letter, sent by Mr. Aurell, was sufficient. *See* email from Robert Bendus to John Aurell, dated December 10, 2011, attached hereto as **Exhibit “71”**.

94. On December 11, 2011, John Aurell notified Robert Bendus that the executed letter requesting that the Board of Trustees waive the Right of First Refusal, as approved to form by Mr. Bendus, had been mailed to the Department of State. *See* email from John Aurell to Robert Bendus, dated December 11, 2011, attached hereto as **Composite Exhibit “72”**.

95. On December 12, 2011, Robert Bendus informed Vicki Thompson that John Aurell had drafted and executed a letter requesting the Board of Trustees waive the Right of First Refusal, as suggested by Ms. Thompson, and that Mr. Aurell’s letter, along with an executed letter from the Department of State, Division of Historical Resources, were being forwarded to Ms. Thompson. *See* email from Robert Bendus to Vicki Thompson, dated December 12, 2011, attached hereto as **Exhibit “73”**.

96. On December 12, 2011, Vicki Thompson forwarded, to Karl Rasmussen and Marjorie Woolam, Government Operations Consultant for the Division of State Lands, the proposed Board of Trustees agenda item regarding the Defendant’s **release** of its Right of First Refusal, wherein the agenda item notes that the Division of Historical Resources had determined that the Properties at issue in this cause had no unique conservation value or historical significance related to The Grove. The proposed agenda item also notes that the acquisition of the Properties at issue in this cause was **not on the Florida Forever Work Plan** and that no funding had been appropriated for the purchase of the Properties. The proposed agenda item concluded by noting that **the Department of Environmental Protection recommended that the Defendant release** and disclaim the grant of Right of First Refusal with respect to the

Properties at issue in this cause. *See* attached **Composite Exhibit “74”**.

97. On December 13, 2011, Vicki Thompson informed Robert Bendus that, in her estimation, the letter from Mr. Aurell, requesting that the Board of Trustees release the Right of First Refusal, would need to contain the dollar amount of the proposed sales price for the Properties at issue in this cause. Once again, the express terms of the Right of First Refusal contain no such requirement. *See* email from Vicki Thompson to Robert Bendus, dated December 13, 2011, attached hereto as **Exhibit “75”**.

98. On December 15, 2011, a Correspondence Review Form was distributed by Robert Bendus, noting that, “The Collins family are in negotiations to sell an adjacent property to The Grove. The Grove Purchase Agreement between the Collins and the Board of trustees included a right of first refusal for the adjacent properties on Monroe Street. The Collins family is seeking a waiver of the right of first refusal in order to clear the title for sale. This letter informs the Board of trustees through DEP that the Department is not pursuing a purchase or lease of said properties.” The form provides five signature blocks, one for the “Division Director,” one for the “Deputy Secretary,” one for “General Counsel,” one for the “Assistant Secretary,” and one for the “Secretary.” The form was executed by all relevant parties, including former Secretary of State, Kurt Browning; Deputy Secretary, JuDee Dawkins; Assistant Secretary, Jennifer Kennedy; and Division Director, Robert Bendus. *See* attached **Exhibit “76”**.

99. On December 18, 2011, Robert Bendus forwarded Mr. Aurell’s letter requesting that the Board of Trustees waive the Right of First Refusal to Vicki Thompson, along with a letter from former Secretary of State, Kurt Browning, regarding the Department of State’s indication of no interest in pursuing a lease or purchase of the Properties at issue in this cause. Former Secretary of State, Kurt Browning’s letter indicates that **the Department of State had**

**previously considered the lease or purchase of the Properties at issue, and had declined to** lease or purchase the Properties given their lack of historical significance or conservation value. *See* email from Robert Bendus to Vicki Thompson, with attached letters from John Aurell and former Secretary of State Kurt Browning, dated December 18, 2011, attached hereto as **Composite Exhibit “77”**. It’s clear that Mr. Aurell had no legal impediment to obtaining the Order of Summary Administration on December 9, 2011 terminating the Right of First Refusal when at all times the State had led Mr. Aurell to believe that any such Right of First Refusal would be waived.

100. On December 19, 2011, Vicki Thompson replied to Robert Bendus and referenced her December 13, 2011 email to Mr. Bendus, wherein she claimed that Mr. Aurell’s letter needed to include the sales price of the Properties at issue in this cause. Ms. Thompson also expressed to Mr. Bendus her belief that the requested waiver would not appear on the January 18, 2012 Board of Trustees Agenda given that additional documentation was needed from other State agencies. By Ms. Thompson’s estimation, the six month period during which the Board of Trustees could exercise their Right of First Refusal would begin to run upon her receipt of a revised letter from Mr. Aurell, including the sales contract purchase price. Ms. Thompson also noted that a copy of the sales contract was needed to be used in the agenda item to be presented to the Board of Trustees. *See* email from Vicki Thompson to Robert Bendus, dated December 19, 2011, attached hereto as **Exhibit “78”**.

101. On December 19, 2011, Robert Bendus forwarded the items requested by Vicki Thompson, with respect to the waiver of the Right of First Refusal, to John Aurell. *See* email from Robert Bendus to John Aurell, dated December 19, 2011, attached hereto as **Exhibit “79”**.

102. **Forty-one minutes after receiving Vicki Thompson’s most recent directives,**

as forwarded by Robert Bendus, John Aurell provided a revised written request for waiver of the Right of First Refusal, specifying the proposed sales contract price. *See* email from John Aurell to Robert Bendus, dated December 19, 2011, attached hereto as **Exhibit “80”**.

103. On that same date, Robert Bendus replied and, once again, indicated to Mr. Aurell that the letter was satisfactory. *See* email from Robert Bendus to John Aurell, dated December 19, 2011, attached hereto as **Exhibit “81”**.

104. Before the close of business on December 19, 2011, the additional documents, which were **requested** by Vicki Thompson, were provided to Robert Bendus. *See* email from Pat Freeman to Robert Bendus, attaching the sales contract and addendum to the sales contract<sup>9</sup>, along with a WORD version of the proposed release and disclaimer, dated December 19, 2011, attached hereto as **Composite Exhibit “82”**.

105. On December 20, 2011, Scott Woolam sent an email to Vicki Thompson and Sandra Stockwell; also copied were Gary Heiser, Clay Smallwood, and Mike Long. Mr. Woolam’s email reveals that those considering the option to purchase the Properties at issue in this cause believed that the Defendant had already waived its Right of First Refusal, with respect to the Properties at issue. Mr. Woolam’s email deals solely with the question of potentially preserving the Defendant’s Right of First Refusal as to a third adjacent property, which was not included within the proposed sale to the Plaintiff, given that the Collins family was seeking a waiver of the Right of First Refusal for two of three parcels for purposes of a proposed sale to the Plaintiff. Mr. Aurell, on behalf of the Collins family, went forward with requesting that the Defendant grant a waiver of its Right of First Refusal as to all three parcels, including that parcel not contemplated in the proposed sale to the Plaintiff, despite there being no proposed sale of the

---

<sup>9</sup> The Sales Contract was not included in the packet of documents presented to the Defendant at the meeting, contrary to Ms. Thompson’s proclamation that such documents were necessary before the Defendant could begin considering the proposed sale.

third parcel. *See* email from Scott Woolam to Vicki Thompson and Sandra Stockwell, dated December 20, 2011, attached hereto as **Composite Exhibit “83”**. *See also* email from Robert Bendus to John Aurell, dated December 20, 2011, attached hereto as **Composite Exhibit “84”**.

106. The request for a waiver of the third lot, for which there was no proposed sale, caused significant confusion for Vicki Thompson, as she questioned whether the Board of Trustees could consider a release of its Right of First Refusal over the extraneous parcel without having a sales contract for the parcel which could be attached to the Board of Trustees agenda item. On December 27, 2011, Ms. Thompson sent an email to Robert Bendus outlining her confusion with respect to the release of the third parcel sans proposed sale contract, and Ms. Thompson readily admitted that the necessity of a sales contract, with respect to the Board of Trustees granting a waiver of the Right of First Refusal, was a **legal question** for which she lacked the expertise to render an opinion. *See* Email from Vicki Thompson to Robert Bendus, dated December 27, 2011, attached hereto as **Exhibit “85”**.

107. As such, Vicki Thompson inquired with the Office of General Counsel regarding the Defendant’s ability to consider a waiver of a Right of First Refusal for a property where no proposed sale was pending. On December 27, 2011, Ms. Thompson emailed Robert Bendus to inform him that the Office of General Counsel **confirmed** that a proposed sales contract **was not required** by the Board of Trustees prior to the request being set as an agenda item. *See* email from Vicki Thompson to Robert Bendus, dated December 27, 2011, attached hereto as **Composite Exhibit “86”**.<sup>10</sup>

108. In a letter dated December 27, 2011, Vicki Thompson, as agent for Division of

---

<sup>10</sup>Obviously, if General Counsel had taken the time to review the Probate file for Mrs. Collins, he would have seen clearly that the Estate had been closed by Order of Judge Karen Gievers and that the Right of First Refusal was a nullity at that time. The Right of First Refusal did not prohibit the Estate of Mrs. Collins from being closed at any time nor did it require that the State receive notice of the Order of Summary Administration nullifying the Right of First Refusal.

State Lands, notified all respective agencies and educational institutions of the notice of proposed sale and the requested release of the Right of First Refusal. The notice indicated that **any agency** or educational institution interested in obtaining the Properties through the Defendant's Right of First Refusal must provide written notification of such interest on or before January 16, 2012, and that a failure to respond to the notice would be received as an indication that said agency or educational institution had **no interest** in the Properties. *See* letter dated December 27, 2011, from Vicki Thompson, subject: Notice of Right of First Refusal to purchase three lots, attached hereto as **Composite Exhibit "87"**.

109. On December 28, 2011, Robert Bendus provided John Aurell with a proposed agenda item regarding **the release** of the Right of First Refusal that, according to Mr. Bendus, would appear on the next Board of Trustees agenda. The proposed agenda item once again noted that the Properties at issue in this cause had "no unique conservation value or historical significance related to The Grove." The proposed agenda item also noted that the Properties at issue "are not on the Florida Forever Work Plan and no funding has been appropriated by the legislature to acquire the lots." According to the proposed agenda item, the Board of Trustees' Right of First Refusal was scheduled to expire on June 19, 2012 if the Board failed to purchase the Properties at issue in this cause on or before that date. The June 19, 2012 date was predicated merely upon the legal musings of Vicki Thompson and ignored Mr. Aurell's written notice of proposed sale provided on November 15, 2011, December 10, 2011, and December 18, 2011. *See* email from Robert Bendus to John Aurell, dated December 28, 2011, attached hereto as **Composite Exhibit "88"**.

110. On that same date, John Aurell acknowledged receipt of the proposed agenda item. *See* email from John Aurell to Robert Bendus, dated December 28, 2011, attached hereto

as **Composite Exhibit “89”**.

111. On January 3, 2012, Department of Environmental Protection Director of Cabinet Affairs, Karl Rasmussen, circulated six proposed agenda items for the Board of Trustees’ February 8, 2012 agenda to Erma Slager and Sandra Stockwell. Number three on the list was titled the Release of Right of First Refusal. The proposed agenda item describes the Properties at issue in this cause, along with the extraneous third parcel, and notes that the Florida Department of State, as manager of The Grove, denied any interest in purchasing the Properties at issue. *See* email from Karl Rasmussen to Erma Slager, Department of Environmental Protection Program Coordinator, and Sandra Stockwell, dated January 3, 2012, attached hereto as **Composite Exhibit “90”**.

112. On January 4, 2012, a revised agenda item for The Grove was circulated by Karl Rasmussen to Marjorie Woolam, Connie Byrd, and Jessica Field, which included changes offered by Erma Slager. *See* attached **Composite Exhibit “91”**.

113. Internal communications, obtained through public records requests, reveal that the Properties at issue in this cause do not fall within the auspices of either Florida Forever or CARL,<sup>11</sup> and, as such, the Properties cannot be purchased as conservation lands absent a fraud being perpetrated by the State of Florida. *See* email from Scott Woolam to Vicki Thompson, dated January 5, 2012, attached hereto as **Composite Exhibit “92”**. Clearly the Properties at issue are not conservation lands and it seemingly would constitute a fraud to obtain funds for such Properties under the guise of conservation.

114. On January 5, 2012, Karl Rasmussen, Department of Environmental Protection

---

<sup>11</sup>Florida Forever and CARL are common terms used within the State government to describe the statutory framework which the State must follow to acquire certain types of properties commonly called conservation lands. *See* Florida Statutes 259. *See also* Florida’s Landmark Programs for Conservation and Recreation Land Acquisition authored by James A. Farr, Ph.D. and O. Greg Brock, Ph.D., which appeared in the Spring/Summer 2006 issue of *Sustain*. *See* attached **Exhibit “95”**.

Director of Cabinet Affairs, circulated a summary regarding The Grove Right of First Refusal to Jessica Field and Connie Byrd. The summary reiterates that the Properties at issue in this cause had been reviewed and determined to possess “no unique conservation value or historical significance related to The Grove.” *See* attached **Composite Exhibit “93”**.

115. On January 5, 2012, Vicki Thompson finalized revisions of the **release and disclaimer** of the Right of First Refusal for the Board of Trustees’ consideration and execution, a copy of which was provided to Robert Bendus. *See* email from Vicki Thompson to Robert Bendus, with revised release, dated January 5, 2012, attached hereto as **Exhibit “94”**.

116. On January 5, 2012, Sandra Stockwell sent an email to Jim Farr and Greg Brock, copying Marianne Gengenbach and Vicki Thompson, wherein she confirmed that the Properties at issue in this cause did not meet the criteria for conservation lands, which also served to confirm that same conclusion previously reached by Greg Brock and Jim Farr. More importantly, Jim Farr had previously participated within the email chain by stating that, “it seems to me that we have a right of first refusal and we are exercising that right by refusing. If you want me to send an email to ARC informing them of this, that’s fine. My guess is that no one will care one way or the other.” Obviously, Mr. Farr appreciates the concept of estoppel. *See* attached **Exhibit “96”**.

117. On January 6, 2012, Robert Bendus forwarded John Aurell the final release and disclaimer of Right of First Refusal, to be presented to the Board of Trustees. *See* email from Robert Bendus to John Aurell, dated January 6, 2012, attached hereto as **Exhibit “97”**.

118. On January 6, 2012, Director of Division of State Lands, **Clay Smallwood**, executed a Negative Response Memorandum, with the subject descriptor reading “Request to release and disclaim the right of first refusal to acquire three lots on North Monroe Street,

Tallahassee, Florida.” In his Negative Response Memo, Mr. Smallwood outlined, once again, that the Properties at issue in this cause have no “unique conservation value or historical significance related to the Grove.” The ultimate recommendation provides that “the Grant be released, waived, and disclaimed in order for GPL to complete the sale of all lots.” According to the terms of the Negative Response Memo, the Board of Trustees was directed to contact the Bureau of Public Land Administration within ten days of receiving the Negative Response Memo; otherwise “if no response is received by January 20, 2012, then DEP will proceed with processing the release which will be forwarded to Board of Trustees for signature.” *See* Negative Response Memo, executed by Clay Smallwood, Director of Division of State Lands, dated January 6, 2012, attached hereto as **Exhibit “98”**.

119. On January 7, 2012, Robert Bendus confirmed with Vicki Thompson that Mr. Aurell had reviewed the final release, as prepared by DEP Senior Attorney Michael Morelly, to be presented to the Board of Trustees and that Mr. Aurell had approved the release as drafted. *See* email from Robert Bendus to Vicki Thompson, dated January 7, 2012, attached hereto as **Exhibit “99”**.

120. On January 9, 2012, the “Negative Response Memo,” previously prepared by Clay Smallwood, recommending that the Board of Trustees waive the Right of First Refusal for the Properties at issue in this cause was provided to Karl Rasmussen, as well as Clay Smallwood, Erma Slager, and Mike Long by Scott Woolam. *See* email from Scott Woolam to Clay Smallwood, Erma Slager, Mike Long, and Karl Rasmussen, dated January 9, 2012, attached hereto as **Exhibit “100”**.

121. On January 9, 2012, a call was made to Gerald Bailey regarding any interest the Florida Department of Law Enforcement may have had in the purchase or lease of the Properties

at issue in this cause. This inquiry was made with respect to any security concerns the Florida Department of Law Enforcement possessed and the utility of owning the Properties at issue with respect to addressing any outstanding security concerns, as indicated in an email from Clay Smallwood to Erma Slager, copying Karl Rasmussen. *See* attached **Exhibit “101”**.

122. On January 10, 2012, Clay Smallwood spoke with Florida Department of Law Enforcement Special Agent Mark Zadra regarding the Florida Department of Law Enforcement’s interest in obtaining the Properties at issue in this cause, if any. *See* email from Clay Smallwood to Erma Slager, dated January 11, 2012, attached hereto as **Exhibit “102”**.

123. On January 11, 2012, Karl Rasmussen, Director of Cabinet Affairs, informed Clay Smallwood and Erma Slager that the Negative Response Memo would be forwarded to Governor Rick Scott’s office for consideration once it had been revised to include the Florida Department of Law Enforcement’s position regarding the acquisition of the Properties at issue in this cause. *See* email from Karl Rasmussen to Clay Smallwood and Erma Slager, dated January 11, 2012, attached hereto as **Exhibit “103”**.

124. On January 13, 2012, Karl Rasmussen provided the Negative Response Memo, executed by Clay Smallwood, to the Governor’s Office for review, via an email to Rachel Goodson, Chief Cabinet Aide for the Executive Office of the Governor, in which Kristin Olsen, Cabinet Aide for the Executive Office of the Governor, was copied. The Negative Response Memo provided a deadline of January 20, 2012 for the Governor to object to the release of the Right of First Refusal and request that the matter be set as an agenda item for the Board of Trustees. *See* attached **Exhibit “104”**.

125. On January 13, 2012, Alissa Slade, Bureau Chief of Historic Preservation, informed Robert Bendus that the Division of State Lands was concerned about resolving the

issue of the waiver of the Right of First Refusal. Robert Bendus responded and informed Ms. Slade that the waiver of the Right of First Refusal did not require any further attention given that former Secretary of State Kurt Browning had previously authored a letter requesting that the waiver be granted. *See attached **Exhibit “105”**.*

126. On January 13, 2012, a **second** Negative Response Memo was approved by **Clay Smallwood**, Director of Division of State Lands, and circulated to Jessica Field, Karl Rasmussen, Elaine Mann, Connie Byrd, and Marjorie Woolam. The revised Negative Response Memo extended the response date from January 20, 2012 to January 27, 2012, during which time the Board of Trustees could request that the waiver of Right of First Refusal be placed on the agenda. *See email chain between Jessica Field, Karl Rasmussen, Elaine Mann, Connie Byrd, and Marjorie Woolam, with revised Negative Response Memo, dated January 13, 2012, attached hereto as **Composite Exhibit “106”**.*

127. On January 17, 2012, Scott Woolam inquired as to the Governor’s response on the request for a waiver of the Right of First Refusal, and he was informed, by Karl Rasmussen, that the Negative Response Memo **had been provided to the Governor** for initial review without receipt of any response from the Governor’s Office, as of that time. *See email from Karl Rasmussen to Scott Woolam, dated January 17, 2012, attached hereto as **Exhibit “107”**.*

**Actions taken after the Right of First Refusal is brought to Governor Scott**

128. On January 18, 2012, Clay Smallwood, Director of Division of State Lands and author of the Negative Response Memo previously forwarded to Governor Scott on January 17, 2012, was suddenly summoned to the Capitol for an unscheduled meeting according to an email from Pam Donaldson to Tom Berger. *See attached **Exhibit “108”**.*

129. On January 20, 2012, Vicki Thompson inquired of Scott Woolam regarding the

status of the release of the Right of First Refusal. Scott Woolam responded and informed Vicki Thompson that the matter **had been brought to the Governor's attention** and that a response had yet to be received. *See* email from Scott Woolam to Vicki Thompson and Karl Rasmussen, dated January 20, 2012, attached hereto as **Exhibit "109"**.

130. Later on January 20, 2012, Karl Rasmussen circulated the Negative Response Memo, amended for a second time to indicate that the Board of Trustees had until **February 1, 2012** to request that the waiver of the Right of First Refusal be brought before the Board of Trustees as an agenda item. Mr. Rasmussen's email, circulating the second amended Negative Response Memo, directed the recipients to forward any "questions, comments or concerns" to Scott Woolam or Vicki Thompson at 850-245-2720. *See* email from Karl Rasmussen, with attached Negative Response Memo, dated January 20, 2012, attached hereto as **Composite Exhibit "110"**.

131. After receiving the second amended Negative Response Memo on January 20, 2012, Kent Perez, General Counsel for the Office of the Attorney General, immediately forwarded said second amended Negative Response Memo to Pat Gleason, Special Counsel Sunshine Laws, Office of the Attorney General. *See* email from Kent Perez to Pat Gleason, dated January 20, 2012, attached hereto as **Exhibit "111"**.

132. On January 20, 2012, Scott Woolam sent an email to Vicki Thompson and Karl Rasmussen with the subject line reading, "RE: any word on The Grove memo?" The email topic originated from Vicki Thompson on January 20, 2012, and in his response Mr. Woolam stated, "Rachel Goodson did seem to get a deed signed by the Governor yesterday so was wondering if she ever called you back on okaying the draft." *See* attached **Exhibit "112"**.

133. At 1:55 P.M. on January 23, 2012, John Aurell sent an email to Robert Bendus

inquiring if **the waiver** for the release of the Right of First Refusal was available for his retrieval, as previously discussed. *See* email from John Aurell to Robert Bendus, dated January 23, 2012, attached hereto as **Exhibit “113”**.

134. At 2:30 P.M. on January 23, 2012, Robert Tornillo, Director of Cabinet Affairs for the Department of Financial Services, sent an email to Chris Tanner, Senior Cabinet Aide for the Department of Financial Services, regarding the Negative Response Memo and requested waiver of the Right of First Refusal, wherein Robert Tornillo stated, “**had a feeling there was more to this.**” *See* email from Robert Tornillo to Chris Tanner, dated January 23, 2012, attached hereto as **Exhibit “114”** (emphasis added).

135. At 2:33 P.M. on January 23, 2012, Chris Tanner sent an email to Karl Rasmussen regarding the Negative Response Memo and request of waiver of the Right of First Refusal, wherein he inquires “what are the Gov.’s office option (sic) since the property is so close to the mansion?” This email contradicts Mr. Tanner’s email provided to Karl Rasmussen at 11:34 A.M. on January 23, 2012, wherein Mr. Tanner wrote “Karl – Just talked to Robert about the right of first refusal and **we didn’t have any questions. All sounds good.**” *See* email chain between Chris tanner and Karl Rasmussen, dated January 23, 2012, attached hereto as **Exhibit “115”** (emphases added).

136. On January 24, 2012, Robert Bendus sent an email to John Aurell in response to Mr. Aurell’s inquiry regarding the status of the executed waiver releasing the Board of Trustees’ Right of First Refusal, sent by Mr. Aurell on January 23, 2012. In his response, Mr. Bendus explained that the Negative Response Memo “got stuck in DEP’s Office of Cabinet Affairs and just went out via email this past Friday.” Mr. Bendus reiterated that the Board of Trustees had until February 1, 2012 to set the matter for agenda and, according to Mr. Bendus, **two members**

had already indicated approval of the release of the Right of First Refusal. *See* email from Robert Bendus to John Aurell, dated January 24, 2012, attached hereto as **Exhibit “116”**.

137. On that same date, John Aurell responded to Robert Bendus’ email regarding the waiver of the Right of First Refusal and requested that every step be taken to expedite the process. *See* email from John Aurell to Robert Bendus, dated January 24, 2012, attached hereto as **Exhibit “117”**.

138. On Wednesday, January 25, 2012, Scott Woolam sent an email to Mike Long, Clay Smallwood, Terry Bentley, assistant to Clay Smallwood, Vicki Thompson, Sandra Stockwell, Erma Slager, Mike Herran, Bureau Chief of Bureau of Appraisals within the Division of State Lands, Greg Brock, Bureau Chief for the Office of Environmental Services within the Division of State Lands, Teresa Johnson, IT coordinator for the Division of State Lands, and Lynda Godfrey; Karl Rasmussen was also copied on the email. The subject line of Mr. Woolam’s email notes, “Karl asked me to go downtown with him tomorrow for an 11:00 am meeting with the AGs office to discuss possibly purchasing ‘The Grove’ 2 lots.” *See* email from Scott Woolam, dated January 25, 2012, attached hereto as **Exhibit “119”**. It should be noted that prior to this time the Bureau of Appraisals within the Division of State Lands had not been copied with any of the available public records related to the request for a waiver of the Right of First Refusal. Public records will reveal that after this point the Bureau of Appraisals within the Division of State Lands begins expediting an appraisal of the Properties subject to this action.

139. On that same date, Mike Long, Assistant Director of State Lands, responded to Scott Woolam’s missive regarding the “AG’s” interest in purchasing the lots by stating, “**Interesting**, so we may want to execute the option rather than release?” *See* email from Mike Long to Scott Woolam, dated January 25, 2012, attached hereto as **Exhibit “120”** (emphasis

added).

140. Scott Woolam replied by stating, “Yep (sic) Kent mentioned that the reason they had that in there is for one day to have a nice entrance to the Governor’s mansion off Monroe Street rather than a back alley.” It should be noted that the Properties at issue in this cause can provide no reasonable access to the Governor’s Mansion absent demolition and unlawful disturbance to the grounds surrounding The Grove, contrary to Florida Statute 267.075. *See* email from Scott Woolam to Mike Long, dated January 25, 2012, attached hereto as **Exhibit “121”**.

141. At 10:49 A.M. on January 25, 2012, Marjorie Woolam disseminated the Division of State Lands’ proposed agenda items for the February 28, 2012, Cabinet meeting. The list of proposed agenda items reflected that no agenda item would be brought forth by the Division of State Lands for the Cabinet’s consideration on February 28, 2012, despite the assurances of Robert Bendus to John Aurell, just two days prior on January 23, 2012, that the request **to release** the Right of First Refusal would be brought before the Cabinet in the month of February. *See* email from Marjorie Woolam, attached hereto as **Exhibit “122”**.

142. At 1:58 P.M. on January 25, 2012, Marjorie Woolam sent out an updated proposed agenda item document for the month of February, and once again, despite the assurances of Robert Bendus to John Aurell, just two days prior, the updated proposed agenda item did not include **the recommendation for the release** of the Right of First Refusal nor did it include the waiver prepared by Mr. Morelly. *See* email from Marjorie Woolam, attached hereto as **Exhibit “123”**.

143. On January 26, 2012, Vicki Thompson forwarded the second amended Negative Response Memo to Tom Berger, indicating that a response was required by February 1, 2012.

*See* email from Vicki Thompson to Tom Berger, dated January 26, 2012, attached hereto as **Exhibit “124”**.

144. In response to Ms. Thompson’s email, Tom Berger began forwarding a chain of emails from 2011 indicating that the State had previously considered purchasing the Properties at issue in this cause and already determined that the Properties had no “historic or conservation value.” *See* emails from Tom Berger, dated January 26, 2012, attached hereto as **Composite Exhibit “125”**.

145. After forwarding Robert Bendus the numerous emails indicating that the State had previously considered purchasing the Properties at issue in this cause and declined to do so, Tom Berger sent an email to Jack Miles, former Department of Management Services Secretary, requesting that Mr. Miles discuss the Negative Response Memo as soon as Mr. Miles became available. *See* email from Tom Berger to Jack Miles, dated January 26, 2012, attached hereto as **Exhibit “126”**.

146. At 11:25 A.M. on January 27, 2012, Vicki Thompson sent Tom Berger, via email, the Negative Response Memo dated January 20, 2012 and accompanying documents related thereto. *See* email from Vicki Thompson to Tom Berger, dated January 27, 2012, attached hereto as **Exhibit “127”**.

147. Similarly, at 11:33 A.M. on January 27, 2012, Jessica Field forwarded Tom Berger a link to electronically access the Negative Response Memo with attachments and maps. *See* email from Jessica Field to Tom Berger, dated January 27, 2012, attached hereto as **Exhibit “128”**.

148. Moreover, at 11:41 A.M. on January 27, 2012, Pam Donaldson forwarded Tom Berger a map of The Grove which delineates the parcels subject to the Right of First Refusal at

issue in this cause. *See* email from Pam Donaldson to Tom Berger, dated January 27, 2012, attached hereto as **Exhibit “129”**.

149. At 12:04 P.M. on January 27, 2012, Tom Berger sent an email to Carrie O’Rourke, Governor Scott’s Deputy Chief of Staff, Carly Hermanson, Assistant General Counsel for the Executive Office of the Governor, Jack Miles, and Kurt Browning, and copied Charlie Lee, Real Estate Broker for Regional Real Estate Group contracted by the Governor’s Mansion Commission to assist in the acquisition of properties related to the development of Governor Scott’s Legacy Project. Mr. Berger’s email outlines the agenda items scheduled for a conference call at 2:00 P.M. on January 27, 2012. Listed amongst the agenda items is “Grove adjacent properties.” *See* email from Tom Berger, dated January 27, 2012, attached hereto as **Exhibit “130”**.

150. At 12:37 P.M. on that same date, Jack Miles, former Secretary of the Department of Management Services, replied to Tom Berger indicating that the 2:00 P.M. conference call was “NOT” on his calendar and requesting confirmation as to whether Mr. Berger desired Mr. Miles to participate in the conference call. Mr. Berger responded at 1:06 P.M., sending former Secretary Miles a copy of the agenda items scheduled for the 2:00 P.M. conference call. The attached agenda is exclusively related to Governor Scott’s Legacy Project items, and includes design and construction estimates between one million and two million dollars for completion of the project, along with status updates of negotiations to purchase the properties implicated by Governor Scott’s Legacy Project. The agenda notes that the “Scotts” need to be placed into contact with the architect as soon as possible, so as to provide the vision and conceptualization of Governor Scott’s Legacy Project. *See* attached **Exhibit “131”**.

151. At 1:22 P.M. on January 27, 2012, Tom Berger sends an email to Kathryn

Benbow, Executive Assistant to former Secretary Jack Miles and Pam Donaldson, Executive Assistant to Tom Berger, requesting that the 2:00 P.M. conference with Governor Scott's Deputy Chief of Staff and Assistant General Counsel regarding Governor Scott's Legacy Project be placed on Secretary Miles' calendar as soon as possible. *See* email from Tom Berger to Kathryne Benbow and Pam Donaldson, dated January 27, 2012, attached hereto as **Exhibit "132"**.

152. At 1:31 P.M. on January 27, 2012, Tom Berger sent another email to Pam Donaldson requesting confirmation as to whether or not former Secretary Miles would be participating in the 2:00 P.M. conference call. *See* email from Tom Berger to Pam Donaldson, dated January 27, 2012, attached hereto as **Exhibit "133"**.

153. At 2:12 on January 27, 2012, while Mr. Berger was involved in his conference call with the Governor's Office, Vicki Thompson sent an email to Robert Bendus and Tom Berger, copying Karl Rasmussen, requesting times of availability during the following week (Tuesday-Friday) for a meeting at the Capitol with the Cabinet Aides regarding the Right of First Refusal. *See* Email from Vicki Thompson to Robert Bendus and Tom Berger, dated January 27, 2012, attached hereto as **Exhibit "134"**.

154. On January 30, 2012, John Aurell sent an email to Robert Bendus inquiring as to when the waiver of the Right of First Refusal would be available. It should be noted that from this point forward, Mr. Bendus stopped responding to John Aurell's inquiries regarding the waiver. *See* email from John Aurell to Robert Bendus, dated January 30, 2012, attached hereto as **Exhibit "135"**.

155. On January 30, 2012, Carly Hermanson, Assistant General Counsel to Governor Rick Scott, determined that a meeting should be held on Friday, February 3, 2012, to discuss the

Legacy Project and the waiver of the Right of First Refusal. *See* email from Carly Hermanson to Carrie O’Rourke and Diane Alborn, dated January 30, 2012, attached hereto as **Exhibit “136”**.

156. The public records do not reveal how the participants of the February 3, 2012 meeting were notified of the upcoming meeting on February 3, 2012, but on January 31, 2012, Cabinet Affairs Director within the Office of the Attorney General, Rob Johnson (one of the attendees of the February 3, 2012 meeting), contacted the Department of Environmental Protection telephonically to request that the February 1, 2012 response date for the Negative Response Memo be extended past the meeting scheduled for Friday, February 3, 2012. The Department of Environmental Protection Office of Cabinet Affairs Representative, Jessica Field, informed Rob Johnson that the extension was indeed granted. *See* email from Jessica Field to Karl Rasmussen, dated January 31, 2012, attached hereto as **Exhibit “137”**.

157. In response to Mr. Johnson’s inquiry regarding the status of the February 1, 2012 response date to the Negative Response Memo, Department of Environmental Protection Director of Cabinet Affairs, Karl Rasmussen, distributed an email to the anticipated participants of the February 3, 2012 meeting. In the email, Mr. Rasmussen noted that, “we are putting the response by date [February 1] on hold until further discussion has been had on the request.” *See* attached **Exhibit “138”**.

158. Twenty four minutes after Mr. Rasmussen announced that the February 1, 2012 response date for the Negative Response Memo had been extended, Assistant General Counsel to the Executive Office of the Governor, Carly Hermanson, sent an email to Governor Rick Scott’s Deputy Chief of Staff, Carrie O’Rourke, requesting that Ms. O’Rourke call Ms. Hermanson to discuss “the project.” *See* email from Carly Hermanson to Carrie O’Rourke, dated January 31, 2012, attached hereto as **Exhibit “139”**.

159. At 2:04 P.M. on January 31, 2012, Department of Environmental Protection Secretary Herschel Vinyard's Chief of Staff, Jennifer Fitzwater, emailed Governor Rick Scott's Deputy Chief of Staff, Carrie O'Rourke, stating "Carrie- On Friday, you asked for some information regarding the two parcels on Monroe Street in front of The Grove. Attached is a snapshot of where we are with regard to these properties. Please let me know if you have any questions or need any additional information." The email included a summary attached, which outlined that the Division of Historical Resources determined that the Properties had no unique conservation or historical significance related to The Grove, and that the Florida Department of Law Enforcement had indicated that the Properties were not needed for purposes of providing security to The Governor's Mansion. However, the summary concludes by noting that the meeting on Friday, February 3, 2012 was slated to include representatives from "all of the Cabinet offices, as well as DEP, DMS, and DHR to discuss **whether the property should be acquired** by the Board of Trustees." *See* email from Jennifer Fitzwater to Carrie O'Rourke, copying Assistant General Counsel for the Executive Office of the Governor, Andrew Grayson, Department of Environmental Protection Secretary, Herschel Vinyard, Erma Slager, and Assistant to the Executive Office of the Governor, Dianne Alborn, dated January 31, 2012, attached hereto as **Exhibit "140"**.

160. Assistant General Counsel to the Executive Office of the Governor, Andrew Grayson, responded, within an hour of receiving Ms. Fitzwater's email and attached summary, by email to Dianne Alborn, insisting that Ms. Alborn ensure that Ms. O'Rourke review the attached summary, calling particular attention to the fact "that neither FDLE nor Hist (sic) Resources needs these properties." *See* email from Andrew Grayson to Dianne Alborn, dated January 31, 2012, attached hereto as **Exhibit "141"**.

161. Thereafter, on January 31, 2012, Governor Rick Scott's Deputy Chief of Staff, Carrie O'Rourke, forwarded Ms. Fitzwater's email and attached summary (which indicated that neither the Florida Department of Law Enforcement nor the Division of Historical Resources considered the properties to be worthy of acquisition) to Assistant General Counsel to Governor Rick Scott, Carly Hermanson, and copied Tom Berger. *See* email from Carrie O'Rourke to Carly Hermanson, copying Tom Berger, dated January 31, 2012, attached hereto as **Exhibit "142"**.

162. On January 31, 2012, in response to the demand made by Carrie O'Rourke, Deputy Chief of Staff for the Executive Office of the Governor, on January 27, 2012, insisting the Department of Environmental Protection provide a summary of the status regarding any utility associated with exercising the Right of First Refusal and acquiring the Properties at issue in this cause, Karl Rasmussen forwarded to Jennifer Fitzwater a summary previously prepared by the Department of Environmental Protection, reflecting that the Right of First Refusal should be waived. *See* email from Karl Rasmussen to Jennifer Fitzwater, dated January 31, 2012, attached hereto as **Exhibit "143"**.

163. On February 3, 2012, Director of the Division of Real Estate for the Department of Management Services, Tom Berger, provided Bryan Bradner, Deputy Director of the Division of Real Estate for the Department of Management Services, with the contact information for Deputy Chief of Staff for the Executive Office of the Governor, Carrie O'Rourke, apparently assuming that Deputy Director Bradner would need to communicate with Deputy Chief O'Rourke in the future. *See* email from Tom Berger to Bryan Bradner, dated February 3, 2012, attached hereto as **Exhibit "144"**.

164. On February 3, 2012, a meeting was held at the Attorney General's Office, from

3:00 to 4:00 P.M., regarding the Right of First Refusal, which, prior to this date, had been previewed and considered by: the Department of Environmental Protection, Division of State Lands; the Department of Management Services; the Department of State, Division of Historical Resources; and the Florida Department of Law Enforcement; all of which determined that the Properties at issue in this cause were not worth acquisition, as they furthered no legitimate State interest. Similarly, a blanket notice of the availability of the Properties at issue in this cause, vis-à-vis the grant of Right of First Refusal, was disseminated to all State agencies, universities, and community colleges with no indication of an interest being expressed in response thereto.

165. Prior to the meeting on February 3, 2012, Robert Bendus requested the attendance of Ernest Reddick, Department of State Assistant General Counsel, and John Boynton, Department of State Director, Division of Administrative Services. Within the request, Mr. Bendus offered the following background for the edification of the Department of State's General Counsel and Director of Administrative Services:

“DOS was initially interested in the properties as potential ingress for emergency vehicles. An alternative ingress was designed and this past July DOS communicated to the family that **we no longer had an interest in the properties**. The family now has a pending contract of sale for the properties and needs the waiver in order to clear the title. The waiver is currently on a Negative Consent agenda for the Board of Trustees of the Internal Improvement Trust Fund. We received word from DEP on Friday that **the AG's office may be interested** in the properties. This meeting was organized by Karl Rasmussen from DEP with cabinet staff to discuss the issues.”

*See* notice of February 3, 2012, meeting, organized by Robert Bendus and requiring the attendance of John Boynton and Ernest Reddick, attached hereto as **Exhibit “145”** (emphases added).

166. On February 6, 2012, Vicki Thompson began circulating, amongst fellow Department of Environmental Protection employees, a script of draft questions intended for Tom

Berger. The scripted questions were purportedly developed during the February 3, 2012 meeting at the Attorney General's Office regarding the potential acquisition of the Properties at issue in this cause. Reading the scripted questions for Mr. Berger suggests that his absence from the February 3, 2012 meeting at the Attorney General's Office rendered him as the designated point person assigned with justifying the State's acquisition of the Properties at issue in this cause, which up until that point, had been rejected by every State agency which had considered the utility of the Properties at issue in this cause. Karl Rasmussen and Scott Woolam approved the scripted questions, as prepared by Vicki Thompson, whereafter the questions were dispatched for Tom Berger's consideration. Primary, amongst the questions posed for Mr. Berger, was the following: "they [Cabinet Aides] would like to know if there are any reasons that you may be aware of as Director of Real Estate with the Department of Management Services that would necessitate purchasing the lots." *See* email from Karl Rasmussen to Scott Woolam and Vicki Thompson, approving the scripted questions for Tom Berger, dated February 6, 2012, attached hereto as **Exhibit "146"**.

167. On February 6, 2012, MLD Architects provided a preliminary project budget estimate for Governor Rick Scott's "Legacy Project" with a preliminary order of magnitude project budget estimate being \$2,325,390. As reflected in previous communications, the estimate is subject to significant fluctuations based upon Governor Scott's "vision" for his "Legacy Project". *See* attached **Exhibit "147"**.

168. On February 6, 2012, Tom Berger, Director, Division of Real Estate Development Management, forwarded the preliminary project budget estimate for the "Legacy Project" to Carrie O'Rourke, Governor Rick Scott's Deputy Chief of Staff. Mr. Berger notes that the estimated cost of \$2,325,390 to complete the "Legacy Project" was subject to a potential twenty

(20) percent adjustment in construction costs, based upon the “Governor’s vision”. *See* attached **Exhibit “148”**.

169. On February 7, 2012, Vicki Thompson forwarded to Robert Bendus the scripted questions regarding any potential utility the Properties at issue in this cause may provide to the state, as provided to Tom Berger on February 6, 2012. Ms. Thompson, in sending the scripted questions to Robert Bendus, noted that Mr. Bendus was being provided a copy of the questions for his informational purposes. *See* email from Vicki Thompson to Robert Bendus, dated February 7, 2012, attached hereto as **Exhibit “149”**.

170. Immediately upon returning to work on Tuesday, February 7, 2012, Mr. Berger began desperately attempting to receive some guidance regarding Ms. Thompson’s obvious implication to Mr. Berger that he was expected to legitimize the acquisition of the Properties at issue in this cause. At 9:15 A.M. on February 7, 2012, Erma Slager was notified that Mr. Berger was intent on speaking with her that afternoon. Ms. Slager inquired of her assistant as to why Mr. Berger was interested in speaking to her, to which Ms. Slager’s assistant responded that Mr. Berger’s assistant did not provide a specific explanation regarding his desire to speak to Ms. Slager, but noted, “I do know Clay [Smallwood] had lunch with Tom Berger Friday [February 3, 2012] and that Mr. Berger was on the invite for The Grove meeting downtown [at the Attorney General’s office].” *See* attached **Exhibit “150”**.

171. On Tuesday, February 7, 2012, Tom Berger, prior to sending a reply to Ms. Thompson, forwarded the scripted questions prepared for his consideration to Deputy Chief of Staff for the Executive Office of the Governor, Carrie O’Rourke. In his message for Deputy Chief of Staff, Carrie O’Rourke, Mr. Berger expressed a sense of desperation in being appointed the responsibility of offering some semblance of justification behind the State’s acquisition of

the Properties at issue in this cause. Mr. Berger's message to Ms. O'Rourke states:

"I am not aware **of any reason** the state needs to own those parcels. But it is probably not for DMS to say. As the managing agency, the Department of State should make the determination. Please let me know if you want to discuss **before** I respond. Thank you."

Deputy Chief of Staff, Carrie O'Rourke, recognized the wisdom in coaching Mr. Berger regarding his reply, and as such, she responded to Mr. Berger by saying, "Okay. That makes sense." *See* email from Carrie O'Rourke to Tom Berger, dated February 7, 2012, attached hereto as **Exhibit "151"** (emphases added).

172. At 9:41 A.M. on February 8, 2012, John Aurell once again inquired, via email, of Robert Bendus regarding the status of the waiver. Mr. Aurell wrote "Please send us a written (email is fine) report on where our waiver issue stands, how it is being handled, timing, prospects, who is pushing what questions, etc. We and our purchaser are becoming concerned over the continuing delay after being assured that the matter would be routinely approved. To say the least, we are confused and frustrated." *See* email from John Aurell to Robert Bendus, dated February 8, 2012, attached hereto as **Exhibit "152"**.

173. At approximately 8:30 A.M. on February 8, 2012, Vicki Thompson called Tom Berger's office and urgently requested that Mr. Berger call her as soon as possible and provided her direct line at 850-245-2688. Ms. Thompson's urgent request was relayed to Mr. Berger as being related to "information on the Mansion from you for the Cabinet... since (sic) you were not at the Cabinet Aides meeting." *See* email from Pam Donaldson to Tom Berger, dated February 8, 2012, at 8:39 A.M., attached hereto as **Exhibit "153"**.

174. Assumedly after he had spoken to Carrie O'Rourke, on February 7, 2012, Tom Berger replied to Ms. Thompson on February 8, 2012, at 12:33 P.M. Mr. Berger also copied Scott Woolam, Karl Rasmussen, and Robert Bendus. Mr. Berger's justifications for the State's

acquisition for the Properties at issue in this cause can best be described as lukewarm, but Mr. Berger's response to Ms. Thompson does indicate that he experienced a slight epiphany after discussing the matter with Ms. O'Rourke on February 7, 2012. Whereas, prior to his discussion with Deputy Chief of Staff, Carrie O'Rourke, Mr. Berger was "not aware of **any** reason" the State needed the Properties at issue in this cause, after speaking with Deputy Chief of Staff, Carrie O'Rourke, Mr. Berger was able to offer the following justification for the state to acquire the properties at issue in this cause: "While it [the Properties at issue in this cause] does not impact the Mansion or DMS operations, it seems to make sense **from a real estate perspective**, providing there is a funding source." *See* email from Tom Berger to Vicki Thompson, copying Scott Woolam, Karl Rasmussen, and Robert Bendus, dated February 7, 2012, attached hereto as **Exhibit "154"** (emphases added).

175. Internal communications, obtained through public records requests, reveal that Mr. Berger did return Ms. Thompson's phone call on February 8, 2012, but the records do not conclusively reveal whether Mr. Berger's phone call occurred prior to his written response to the scripted questions he received from Ms. Thompson on February 7, 2012. *See* email from Tom Berger to Pam Donaldson, confirming that he returned Ms. Thompson's phone call, dated February 8, 2012, attached hereto as **Exhibit "155"**.

176. Inexplicably, Scott Woolam read Mr. Berger's response, noting that the Properties did not impact the Governor's Mansion or Department of Management Services operations, as an expression by Tom Berger that the Governor's Mansion Commission endorsed acquiring the Properties. Mr. Woolam, upon receipt, forwarded Mr. Berger's email response to Marc Slager, Rachel Goodson, Kristin Olson, Rob Johnson, Erin Sumpter, Robert Tornillo, Abby Vail, Chris Tanner, Gail Robinson, Jim Boxold, Brooke McKnight, Dexter Harris, and Kent Perez, copying

Karl Rasmussen, Robert Bendus, Tom Berger, Vicki Thompson, Mike Long, Erma Slager, Clay Smallwood, Jessica Field, Connie Byrd, and Marjorie Woolam. In spite of Mr. Berger's explicit refutation of any suggestion that the Properties at issue in this cause provided some utility to the Governor's Mansion Commission, Scott Woolam noted that the following needed to occur so that the Properties could be acquired: preparation of a Board of Trustees agenda item, an appraisal of the Properties, signing of the deed, and closing on the Properties. *See* email from Scott Woolam, dated February 8, 2012, attached hereto as **Exhibit "156"**.

177. Prior to forwarding Mr. Berger's response, purportedly endorsing the acquisition of the Properties at interest in this cause, Scott Woolam sent an email to Karl Rasmussen, copying Vicki Thompson, Clay Smallwood, Mike Long, Theresa Johnson, Lynda Godfrey, Michael Morelly, Jessica Field, Connie Byrd, and Erma Slager; wherein, Mr. Woolam inquisitively stated, "Karl, do you plan to forward this [Mr. Berger's alleged endorsement] on to Aides?" *See* email from Scott Woolam to Karl Rasmussen, dated February 8, 2012, sent at 1:00 P.M., attached hereto as **Exhibit "157"**.

178. At 1:18 P.M. on February 8, 2012, Scott Woolam sent an email to Lynda Godfrey and Mike Herran, prior to his forwarding Mr. Berger's response to the Cabinet Aides; wherein, Mr. Woolam wrote, "Lynda, I need to talk to you ASAP on the Grove....(sic) Mike I need an estimate for time frame and cost to get an appraisal for The Grove... (sic) not sure if it's the 2 or 3 lots yet". *See* email from Scott Woolam to Lynda Godfrey and Mike Herran, copying Clay Smallwood, Mike Long, Elaine Mann, Marjorie Woolam, Karl Rasmussen, and Vicki Thompson, dated February 8, 2012, attached hereto as **Exhibit "158"**.

179. At 1:30 P.M. on February 8, 2012, Mike Herran responded to Mr. Woolam's inquiry regarding an appraisal and requested "the **current** contract price" and noted to Mr.

Woolam that the current contract price would dictate whether one or two appraisals would be required, along with a review of the appraised value. *See* email from Mike Herran to Scott Woolam, dated February 8, 2012, attached hereto as **Exhibit “159”** (emphasis added).

180. At 3:19 P.M. on February 8, 2012, shortly after Mr. Woolam had forwarded Mr. Berger’s response to the Cabinet Aides, Jessica Field, obviously unaware of Mr. Woolam’s prior communication with Mr. Herran regarding the need to move forward with an appraisal, responded to Karl Rasmussen, after reading Mr. Berger’s message, and noted, “so much for a timeline of the steps needed”. Apparently, Ms. Field was incapable of interpreting Mr. Berger’s response as an endorsement by the Governor’s Mansion Commission for the acquisition for the Properties at issue in this cause. *See* email from Jessica Field to Karl Rasmussen, dated February 8, 2012, attached hereto as **Exhibit “160”**.

181. Apparently, Robert Tornillo also failed to appreciate Mr. Berger’s endorsement on behalf of the Governor’s Mansion Commission of acquiring the Properties at issue in this cause, as was gleaned from Mr. Berger’s response by Scott Woolam. As such, Mr. Tornillo responded and stated, “So is this a yes that the Commission wants the property? Tommy [Mr. Berger] mentions DMS and DOS, but not the Commission. Does the Commission have a long-range plan that includes this property in its plans? I would like to see something in writing from the Commission that they want or don’t want.” *See* email from Robert Tornillo to Scott Woolam and Chris Tanner, dated February 8, 2012, attached hereto as **Exhibit “161”**.

182. On February 9, 2012, in response to Mr. Tornillo’s request to Mr. Berger that he provide actual written confirmation on behalf of the Governor’s Mansion Commission that the Properties at issue in this cause were needed, Scott Woolam requested that Mr. Berger respond to Robert Tornillo’s email. *See* email from Scott Woolam to Tom Berger, dated February 9, 2012,

attached hereto as **Exhibit “162”**.

183. Internal communications obtained through public records requests do not reveal that Mr. Berger provided the written confirmation, as requested by Robert Tornillo. As such, one must conclude that Mr. Berger remains unwilling to provide written confirmation, as its representative, that the Governor’s Mansion Commission endorsed acquiring the Properties at issue in this cause.

184. On February 10, 2012, Tom Berger sent an email to Florida Department of Law Enforcement Special Agent, Mark Zadra, requesting a meeting regarding “Mansion/Grove security”. *See* email from Tom Berger to Mark Zadra, dated February 10, 2012, attached hereto as **Exhibit “163”**.

185. On February 10, 2012, Tom Berger forwarded to Deputy Chief of Staff for the Executive Office of the Governor, Carrie O’Rourke, Scott Woolam’s demand that Tom Berger respond to Robert Tornillo’s request for written confirmation by the Governor’s Mansion Commission that the Properties at issue in this cause were needed. In forwarding the demand to Ms. O’Rourke, Tom Berger requested an opportunity to speak with Ms. O’Rourke regarding this issue of written confirmation<sup>12</sup>. *See* email from Tom Berger to Carrie O’Rourke, dated February 10, 2012, attached hereto as **Exhibit “164”**.

186. On February 10, 2012, Ms. O’Rourke acknowledged receipt of Mr. Berger’s request, and, in her email response, Ms. O’Rourke also copied Carly Hermanson, Assistant General Counsel for the Executive Office of the Governor, and stated “Okay. Let’s discuss.” *See* email from Carrie O’Rourke to Tom Berger, dated February 10, 2012, attached hereto as **Exhibit**

---

<sup>12</sup> Noticeably absent from this correspondence is a single staff member within the Attorney General’s Office. This is quite strange, given that the Attorney General was the first public official identified as having some unknown interest in acquiring the Properties. This continues to be a recurring theme throughout, with the Executive Office of the Governor clearly directing the actions related to acquiring the Properties.

**“165”.**

187. Assistant General Counsel for the Executive Office of the Governor, Carly Hermanson, also replied to Mr. Berger’s request for a discussion involving written confirmation by the Governor’s Mansion Commission, and asked Mr. Berger to “call me Monday when you have some time to discuss”. *See* email from Carly Hermanson to Tom Berger, dated February 10, 2012, attached hereto as **Exhibit “166”**.

188. At 8:29 A.M. on Monday, February 13, 2012, Scott Woolam sent an email to Karl Rasmussen, copying Clay Smallwood and Vicki Thompson; wherein the subject asked, “Are we to do an item for the Grove?” Mr. Woolam’s inquiry ignores the fact that **an agenda item had already been prepared** and leads to the indisputable conclusion that the preparation of a new agenda item would indicate that the previous recommendation, that the Right of First Refusal be waived, would not be adopted by the Board of Trustees. Otherwise, there would be no need to revise the agenda item in support of the Board of Trustees exercising the Right of First Refusal. *See* email from Scott Woolam to Karl Rasmussen, dated February 13, 2012, attached hereto as **Exhibit “167”**.

189. At 8:35 A.M., Karl Rasmussen responded to Scott Woolam’s inquiry regarding the necessity of revising the agenda item, and informed Mr. Woolam that he would contact him regarding this matter at the conclusion of that morning’s staff meeting. *See* email from Karl Rasmussen to Scott Woolam, copying Clay Smallwood and Vicki Thompson, dated February 13, 2012, attached hereto as **Exhibit “168”**.

190. On February 13, 2012, Scott Woolam once again forwarded Robert Tornillo’s request that the Governor’s Mansion Commission provide written confirmation regarding its support for the acquisition of the Properties at issue in this cause, and asked Mr. Berger, “any

news?” *See* email from Scott Woolam to Tom Berger, dated February 13, 2012, copying Vicki Thompson and Karl Rasmussen, attached hereto as **Exhibit “169”**.

191. On February 13, 2012, Robert Tornillo sent an email to Chris Tanner following up on Mr. Woolam’s redirection of Mr. Tornillo’s request that the Governor’s Mansion Commission provide written confirmation as to its need to acquire the Properties at issue. In his follow-up to Mr. Tanner, Mr. Tornillo asked, “have you heard anything? I never call (sic) a response?” *See* email from Robert Tornillo to Chris Tanner, dated February 13, 2012, attached hereto as **Exhibit “170”**.

192. On February 15, 2012, Department of Management Services Deputy General Counsel, Matt Minno, accepted Tom Berger’s invitation to participate in a conference call regarding the Department of Management Services’ justification for the acquisition of the Properties at issues in this cause. *See* attached **Exhibit “171”**.

193. On February 16, 2012, Jamie DeLoach, Staff Director for the Budget Subcommittee on General Government Appropriations, confirmed she would participate in the conference call, regarding the State’s acquisition for the Properties at issue in this cause, under the guise that said desire to acquire the Properties at issue originated within the Governor’s Mansion Commission. *See* email, dated February 16, 2012, attached hereto as **Exhibit “172”**.

194. On February 16, 2012, Robert Bendus sent an email to Scott Woolam requesting an update on the waiver of the Right of First Refusal. In his request, Mr. Bendus noted the necessity of providing an update to the Collins family regarding the status of the waiver of Right of First Refusal. As of this date, Mr. Bendus’ prior communications had indicated that the Board of Trustees’ deadline for requesting that the waiver of Right of First Refusal be set as an agenda item elapsed on February 1, 2012. *See* email from Robert Bendus to Scott Woolam, dated

February 16, 2012, attached hereto as **Exhibit “173”**.

195. On February 16, 2012, Florida Department of Law Enforcement Special Agent, Mark Zadra, confirmed a meeting with Tom Berger on February 22, 2012, at 1:30 P.M., regarding security issues at The Grove. *See* attached **Exhibit “174”**.

196. On February 16, 2012, at 8:17 P.M., Mr. Aurell sent an additional inquiry to Robert Bendus regarding the status of the waiver of the Right of First Refusal. Mr. Aurell’s exasperation with the dearth of information being provided by Mr. Bendus regarding this matter is plainly revealed in Mr. Aurell’s communication, where he noted, “We and our purchaser really do not know what to do with respect to our request for a waiver re the Monroe Street property. Please let us have a status report.” *See* email from John Aurell to Robert Bendus, dated February 16, 2012, attached hereto as **Exhibit “175”**.

197. On February 20, 2012, Karl Rasmussen sent an email to Scott Woolam regarding Mr. Woolam’s previous request that Mr. Berger respond to Robert Tornillo’s inquiry regarding written confirmation that the Governor’s Mansion Commission desired to obtain the Properties at issue in this cause, and noted that the issue was a topic of discussion for “our call this morning.” *See* email from Karl Rasmussen to Scott Woolam, dated February 20, 2012, attached hereto as **Exhibit “176”**.

198. On February 20, 2012, Robert Bendus questioned the value of Mr. Berger’s contrived endorsement for the purchase of the Properties at issue in this cause, on behalf of the Governor’s Mansion Commission; wherein Mr. Bendus wrote to Mr. Woolam, “Hey Scott, **not sure if this works but here is what Tom sent.**” *See* email from Robert Bendus to Scott Woolam, dated February 20, 2012, attached hereto as **Exhibit “177”** (emphasis added).

199. Public records reveal that Governor Rick Scott had lunch with Tom Berger on

Tuesday, February 21, 2012. *See* attached **Exhibit “178”**.

200. On February 20, 2012, Scott Woolam sent an email to Karl Rasmussen noting that he had recently spoken with Rob Bendus, but cautioned that he was:

“Not sure if we will have any discussion tomorrow when the commission meets. I do have concerns that time is starting to propose (sic) an issue of getting something on an agenda... appraising it, other due diligent items, signing of deeds, and closing of property. Rob stressed that the family is getting nervous that they will lose the sale, which is why he is asking what to relay to them.”

Mr. Woolam’s comments reveal that the Board of Trustees, through its agent Robert Bendus, was **intentionally** engaging in a course of conduct which can only be described as bad faith, with respect to John Aurell and the Collins family. Otherwise, why would the Defendant’s agents continue to express such consternation and continuously grapple with their strategy for communicating with John Aurell. Clearly, the truth was not a viable option, otherwise there would be no need to constantly struggle with the appropriate phrasing of any response provided to Mr. Aurell’s inquiries regarding the status of the waiver. Apparently, Mr. Bendus was either unwilling to repeatedly deceive Mr. Aurell, or incapable of effectively doing so; as such, Mr. Bendus opted for providing no response at all to Mr. Aurell’s inquiries. Nonetheless, the record clearly reflects the Defendant’s bad faith, with respect to its dealings with the Collins family, regarding the Right of First Refusal. *See* email from Scott Woolam to Karl Rasmussen, dated February 20, 2012, attached hereto as **Exhibit “179”**.

201. On February 21, 2012, Attorney General Pam Bondi met with State Senator J.D. Alexander, as evidenced in a meeting reminder attached hereto as **Exhibit “180”**, to discuss important budget issues related to the Attorney General’s priorities. Public records reveal that Attorney General Bondi discussed the issue of obtaining funding for the acquisition of the Properties at issue in this cause. It is important to note that Attorney General Bondi was

desperately seeking \$1.6 million dollars of general revenue funding, but the Florida House of Representatives was indicating that it would approve only \$1.2 million dollars in increased revenue funding for the Attorney General. The issue, with respect to the Attorney General's general revenue funding, was the result of budget cuts in previous years, which had left a \$4.1 million dollar deficit in the Attorney General's general revenue funding. In 2011, Attorney General Bondi succeeded in restoring \$2.5 million dollars of general revenue funding, leaving a \$1.6 million dollar difference recognized in the original reduction of \$4.1 million dollars. As such, Attorney General Pam Bondi's primary budget concern was the restoration of the remaining \$1.6 million dollars in general revenue funding, thereby actualizing the full return of the \$4.1 million dollars, by which the Attorney General's general revenue fund was previously diminished. Attorney General Bondi's meeting agenda with State Senator Alexander included a request that he convince the Florida House of Representatives to fully restore her general revenue funding to its high water mark, as supported by the Florida Senate.

202. It should also be noted that, at this same time, Senator Alexander was fastidiously lobbying Governor Rick Scott to convert the University of South Florida's Polytechnic campus, located in Lakeland, Florida, into Florida Polytechnic, as the State's twelfth university. Political observers offered very little chance that Senator Alexander would succeed in convincing Governor Scott from vetoing a proposal that the University of South Florida's Polytechnic campus be recognized as a stand-alone university. Governor Scott's solid Tea Party credentials ran opposite to this proposal, militating towards a conclusion that Senator Alexander was overly polyanna in his Polytechnic proposal.

203. On February 22, 2012, John "Jack" Miles announced his resignation as Florida Department of Management Services Secretary. *See* attached **Exhibit "181"**.

204. On February 23, 2012, Carol Beck, on behalf of the Executive Office of the Governor, sent an email to Tom Berger indicating that a conference call had been scheduled for February 24, 2012, regarding an update that Deputy Chief of Staff, Carrie O'Rourke, deemed important. *See* email from Carol Beck to Tom Berger, dated February 23, 2012, attached hereto as **Exhibit "182"**.

205. On February 24, 2012, Sandra Stockwell sent an email to John Aurell informing him that the Attorney General's Office had requested that the "question" of the exercise of the Right of First Refusal be brought forth as an agenda item. *See* email from Sandra Stockwell to John Aurell, attached hereto as **Exhibit "118"**.

206. On February 24, 2012, communications within the Department of State reveal significant concern regarding the final costs for rehabilitation and construction at The Grove. Department of Management Services Construction Project Administrator, Mary Lynn Shearer, noted that the final estimated contract price was perhaps higher than four million dollars, and well past the two million dollar threshold for exempt bidding status. *See* email from Mary Lynn Shearer, dated February 24, 2012, attached hereto as **Exhibit "183"**.

207. On February 26, 2012, Deputy General Counsel, Matt Minno responded to a request by Mary Lynn Shearer for a second waiver of the competitive bidding requirement pursuant to Section 267.031, Florida Statutes. Ms. Shearer's request noted that the original contract estimate of \$1.8 million with respect to the repairs and renovations of The Grove had been previously revised upward to \$2.2 million, for which Mr. Minno had originally approved a waiver. Ms. Shearer's subsequent request noted that the Department of State hoped to receive an additional three million dollars in funding, bring the total contract price to an estimated \$5.2 million, and for which Ms. Shearer was once again seeking a waiver of the competitive bidding

requirement. Deputy General Counsel Minno informed Ms. Shearer that the Department of State would need to provide a second letter requesting the waiver in order for the current construction manager (Allstate Construction) to continue to serve as a construction manager sans competitive bidding. Deputy General Counsel Minno assured Ms. Shearer that, once the Department of State had provided the letter seeking the waiver of competitive bid requirement, “we can run it like before.” *See* email from Matt Minno to Mary Lynn Shearer, dated February 26, 2012, attached hereto as **Exhibit “187”**.

208. On February 27, 2012, Marjorie Woolam distributed to Sandra Stockwell (General Counsel for Division of State Lands) and Jason Garner a draft copy of an agenda item recommending that the Board **exercise** the Right of First Refusal. The email included an assurance to Jason Garner that “Sandra is going to tweak the item with wording that will help protect the BOT [Board of Trustees].... ‘XYZ’ contingencies must be met prior to closing on the Grove property.” Additionally, Ms. Woolam requested that Mr. Garner forward a copy of the “**existing** contract” between the Plaintiff and Grove Properties Limited. *See* email from Marjorie Woolam to Sandra Stockwell and Jason Garner, dated February 27, 2012, attached hereto as **Exhibit “185”** (emphasis added).

209. On February 28, 2012, Sandra Stockwell sent, via email, to Marjorie Woolam and Gary Heiser her proposed edits to the draft agenda item related to **the exercise** of the Right of First Refusal. Interestingly, Ms. Stockwell struck through the portion of the draft agenda item denoting that the Division of State Lands was bringing forth the item as consideration of a “request to exercise” the Right of First Refusal. *See* email from Sandra Stockwell, attached hereto as **Exhibit “186”**.

210. On February 28, 2012, Jim Farr sent an email regarding a Negative Response

Memo, which had been created with respect to an amendment of a conservation easement implicating Cypress Gardens. Mr. Farr states in his email “We just got **word** from our cabinet affairs staff that the **Governor and Cabinet will not accept our request as a negative response memo**. They want us to take it as a full agenda item to present to a public meeting sometime in the future. [...] I was assured by no fewer than four people before I started this that we could do it as a negative response memo and **avoid a full meeting of the Cabinet.**” *See* email from Jim Farr, attached hereto as **Exhibit “187”** (emphases added).

211. On February 29, 2012, Department of Environmental Protection Officials began working feverously towards assisting in the appraisal process for the Properties at issue in this cause, as well as in having the purchase of the Properties at issue identified as a Florida Forever agenda item. *See* attached **Exhibit “188”**.

212. On February 29, 2012, Karl Rasmussen circulated language for a Board of Trustees agenda item to consider **the exercise** of the Right of First Refusal. *See* email from Connie Byrd to Jessica Field and Karl Rasmussen, dated February 29, 2012, with edits to the proposed language by Mr. Rasmussen, attached hereto as **Exhibit “189”**.

213. On March 1, 2012, Executive Assistant to former Department of Management Services Secretary Jack Miles, Kathyne Benbow, forwarded Carrie O’Rourke’s mobile telephone number to Tom Berger, in the event that Mr. Berger needed such contact information. Shortly thereafter, Ms. Benbow forwarded Marc Slager’s (Executive Office of the Governor’s Director of Cabinet Affairs) office and mobile telephone numbers to Mr. Berger. *See* emails from Kathyne Benbow to Tom Berger, dated March 1, 2012, attached hereto as **Composite Exhibit “190”**.

214. On March 1, 2012, Tom Berger sent an email to Charlie Lee assuring Mr. Lee that

he would relay any information received from Carrie O'Rourke regarding the funding of "Legacy Project" as soon as such information became available from Ms. O'Rourke. *See* email from Tom Berger to Charlie Lee, dated March 1, 2012, attached hereto as **Exhibit "191"**.

215. On March 1, 2012, Michelle Purvis, Curator with the Florida Historic Capitol Museum, sent Tom Berger an email wishing Mr. Berger good fortune in obtaining his funding request relating to The Grove. *See* email from Michelle Purvis to Tom Berger, dated March 1, 2012, attached hereto as **Exhibit "192"**.

216. On March 1, 2012, Debbie Goodson emailed Debra Forbess, Tom Berger, Christopher Campbell, Barbara Crosier, Jason Dimitris, David Disalvo, Sharon Larson, Stephanie Leeds, Kelly Loll, Kris Purcell, Brett Rayman, Steve Rumph, Kelley Scott, Sarabeth Snuggs, Michael Weber, Joe Wright, Cliff Chroust, Tim Traylor, Andrea Simpson, Libby Farmer, Michael Kyvik, Jessica West, and Karen Edwards regarding State Senator J.D. Alexander's progress in obtaining the funding, via "back of the bill language," to purchase the Properties at issue in this cause, for which, prior to this time, no specific division of government had identified a need to purchase said Properties, and for which the Board of Trustees had conducted no public meetings. *See* email from Diane Goodson, dated March 1, 2012, attached hereto as **Exhibit "193"**.

217. Throughout March 2, 2012, Attorney General Pam Bondi continued to receive updates from Kendall Case, regarding the status of Attorney General Bondi's request for an additional 1.6 million dollars in the general revenue budget. As was previously noted, the House agreed to a 1.2 million dollar increase in Attorney General Bondi's general revenue funding, while the Senate was recommending a 1.6 million dollar increase to Attorney General Bondi's general revenue funding. In essence, the Attorney General, Pam Bondi's efforts related strictly

to a \$400,000 budget deficit in general revenue funding between what she was requesting and what both chambers of the legislature had readily agreed to provide. Nonetheless, irrespective of Attorney General Bondi's desired \$400,000 increase in general revenue funding, she still found the intrinsic value of purchasing the properties at issue in this cause warranted, risking the potential rejection of her requested \$400,000 increase in general revenue funding in exchange for \$580,000 being ear-marked as back-of-the-bill language, by which to purchase the Properties at issue in this cause, despite these Properties having no discernible utility to the Office of the Attorney General. *See* attached **Exhibit "194"**.

218. On March 1, 2012, Clay Smallwood forwarded to Karl Rasmussen Florida Department of Law Enforcement Special Agent Mark Zadra's January 11, 2012 email, wherein Special Agent Zadra informed Mr. Smallwood that the Florida Department of Law Enforcement, after considering the issue of the Right of First Refusal, had "discussed it internally and we do not believe that we currently have or would be able in the near future to provide a compelling justification for which to acquire the property for FDLE's use and benefit." *See* email from Clay Smallwood to Karl Rasmussen, dated March 1, 2012, attached hereto as **Exhibit "195"**.

219. Shortly thereafter, Karl Rasmussen responded to Clay Smallwood to inform him that Florida Department of Law Enforcement Special Agent Zadra's email was sufficient, to which Mr. Smallwood responded, "Glad I could find it." *See* email from Clay Smallwood to Karl Rasmussen, dated March 1, 2012, attached hereto as **Exhibit "196"**.

220. On March 1, 2012, Department of Environmental Protection Officials began to toil with the strategy of either amending the Negative Response Memo to request that the Board of Trustees exercise the Right of First Refusal or whether to submit the agenda item as originally prepared recommending that the Board of Trustees grant a waiver of the Right of First Refusal.

Scott Woolam, as Chief of Public Land Administration, ultimately recommended that the Office of General Counsel make this decision. *See* email from Scott Woolam to Marjorie Woolam, Karl Rasmussen, Connie Byrd, Jessica Field, Elaine Mann, Vicki Thompson, Mike Long, and Clay Smallwood, dated March 1, 2012, attached hereto as **Exhibit “197”**.

221. On March 1, 2012, Deputy Secretary of State, JuDee Dawkins, forwarded to the Assistant Secretary of State/Chief of Staff, Jennifer Kennedy, the email Ms. Dawkins sent to John Aurell on July 7, 2011 rejecting John Aurell’s offer for the purchase of the Properties at issue in this cause. The email offers no explanation as to why Assistant Secretary of State/Chief of Staff developed an interest in this email eight months after the fact. *See* email from JuDee Dawkins to Jennifer Kennedy, dated March 1, 2012, attached hereto as **Exhibit “198”**.

222. On March 1, 2012, Christie Burrus, with the Office of the Secretary, Florida Department of State, sent an email to Chris Finkbeiner, with the **Executive Office of the Governor**, indicating that Secretary of State, Ken Detzner, and Assistant Secretary of State, Jennifer Kennedy, were available to speak about the acquisition of the Properties at issue in this cause at the request of Governor Scott’s Chief of Staff, Carrie O’Rourke, and requested that Mr. Finkbeiner call Assistant Secretary Kennedy’s direct line as soon as possible. *See* attached **Exhibit “199”**.

223. On March 2, 2012, Karl Rasmussen finalized the revised agenda item for the Board of Trustees requesting that the Board of Trustees **exercise** the Right of First Refusal to acquire the Properties at issue in this cause, and striking any language that the exercise would be contingent upon the purchase price of \$580,000 being no more than ninety percent of an approved appraisal value. *See* email from Karl Rasmussen to Marjorie Woolam, Connie Byrd, Jessica Field, copying Elaine Mann, Mike Long, Clay Smallwood, Jason Garner, Lynda Godfrey,

Vicki Thompson, and Scott Woolam, dated March 2, 2012, attached hereto as **Exhibit “200”**.

224. On March 5, 2012, Mike Herran requested authority to obtain quotes for the appraisal of the Properties at issue in this cause. Mr. Herran noted that obtaining quotes for the appraisal would allow the appraisal to “start right away after the Cabinet meeting”. *See* email from Mike Herran to Clay Smallwood and Mike Long, dated March 5, 2012, attached hereto as **Exhibit “201”**.

225. On March 5, 2012, Jennifer Fitzwater forwarded a summary, prepared by Karl Rasmussen in January of 2012, to Jamie DeLoach, Staff Director for the Budget Subcommittee on General Government Appropriations, and Dawn Pigott, Legislative Analyst for the Budget Subcommittee on General Government Appropriations. The email sent by Ms. Fitzwater included an attempt to summarize the Properties in anticipation of the drafting of a budget proviso. In her email, Ms. Fitzwater notes “back of the bill language” is needed, and that existing Florida Forever funding would be required. It should be noted that Governor Rick Scott zeroed out the Florida Forever budget during the 2011 to 2012 General Appropriation Act. It should also be noted that the summary prepared by Karl Rasmussen attached to Ms. Fitzwater’s email was prepared prior to the February 3, 2012 Cabinet Aides meeting, and reflected the original understanding that the Board of Trustees would waive the Right of First Refusal for the Properties at issue in this cause. As such, Karl Rasmussen’s summary truthfully reported that the Division of Historical Resources had determined the Properties at issue had no unique conservation value or historical significance, and that the Florida Department of Law Enforcement had also reviewed the Properties and indicated no need to acquire the Properties. *See* email from Jamie DeLoach, forwarding Jennifer Fitzwater’s email, dated March 5, 2012, attached hereto as **Exhibit “202”**.

226. Shortly after receiving Ms. Fitzwater's email, attaching the summary prepared by Karl Rasmussen, Stephanie Massengale, Budget Chief for the Agriculture and Natural Resources Appropriations Subcommittee, inquired as follows: "If it's not needed by DOS or FDLE why are we purchasing it? How will it be used?" The public records do not reveal Ms. Massengale having received an answer to her questions. *See* email from Stephanie Massengale to Jennifer Fitzwater, dated March 5, 2012, attached hereto as **Exhibit "203"**.

227. On March 5, 2012, \$580,000 was approved as "back of the bill language" for the purchase of the Properties at issue in this cause. \$3,593,133 was also appropriated for the funding of Phase II of The Grove rehabilitation. Lastly \$2.5 million dollars was allocated for the purchase of "The Grove – Purchase of Adjacent Properties and Development" related to realizing Governor Scott's vision for his Legacy Project. These appropriations were still subject to final approval, but this date marked the first occasion where the "back of the bill language" appeared as a budget item. *See* email from Skip Martin to Susan Raymond, with "new issues attached", dated March 5, 2012, attached hereto as **Composite Exhibit "204"**.

228. Upon information and belief, the appropriation for the Board's purchase of the Properties at issue in this cause was introduced for the first time at a Senate Budget Conference Committee on or about March 5, 2012 without any legislation being filed concerning any appropriation. This appropriation occurred after Governor Scott's Chief of Staff, Steve McNamara, appeared at the Conference Committee meeting and after a discussion between McNamara and the Chair of the Conference Committee, Senator J.D. Alexander. The appropriation was placed in the budget without specific conferral with the House Budget Committee. The Houses' initial budget proposal contained no appropriations for the purchase of the Properties at issue. *See* **Composite Exhibit "205"**.

229. At 3:12 P.M. on March 5, 2012, Sandra Stockwell circulated the draft agenda item with additional edits and comments. Ms. Stockwell's first comment related to concerns over the potential that the purchase price might exceed the appraised value for the Properties at issue. This potentiality caused significant concern, as evidenced by previous drafts of the agenda item, given that standard operating procedure would have required that the proposed purchase price not exceed more than ninety percent of the appraised value. This standard contingency regarding the purchase price not exceeding ninety percent of the properties appraised value had been previously stricken from the draft agenda item, leaving in its absence no qualifying language regarding the minimum acceptable appraisal value obtained. Upon realizing that the draft agenda item offered no expectations as to appraised value, as compared to the proposed contract price, Ms. Stockwell inquired "Do we **no longer care** whether the **appraisal supports** the purchase price?" See email from Sandra Stockwell, attached hereto as **Exhibit "206"** (emphases added).

230. On March 6, 2012, Governor Scott's list of "Hot Topics" was circulated. The second item appearing on the list of "Hot Topics" is described as "land purchase near Grove," and the third item on the list "USF Polytech". The "Hot Topic" described as "Land Purchase Near Grove" states, "DEP is working on a proposal to purchase the two properties adjacent to the Grove. They plan to present that proposal on March 20 for approval. **Once approved**, they'll purchase the land and turn it over to Dept. of State to manage. The properties will be used for parking and other improvements." The "Hot Topic" related to "USF Polytech" states, "I [Governor Scott] will wait to see what comes out of the Legislative session by the way of funding and direction before taking a position." See email from Jackie Schutz, Deputy Press Secretary for the Executive Office of the Governor, to Lisa Meyer and Tracey Fannon, Office of

Policy and Budget Chief Analyst, and Office of Policy and Budget Policy Coordinators, dated March 6, 2012, with Governor Scott's "Hot Topics", attached hereto as **Composite Exhibit "207"** (emphasis added).

231. On March 6, 2012, Jennifer Fitzwater, at the direction of Carrie O'Rourke, forwarded to Andrew Grayson the summary for the Right of First Refusal and noted, "please let me know if you need anything else." *See* email from Jennifer Fitzwater to Carrie O'Rourke, copying Andrew Grayson, dated March 6, 2012, attached hereto as **Exhibit "208"**.

232. On March 6, 2012, Mike Herran inquired as to whether the appraisal should include a "lease rate analysis." Mr. Herran noted that including a "lease rate analysis" within the appraisal could delay completion of the appraisal, and Clay Smallwood responded by stating, "We may cause the law firm to leave, but I say we cross that bridge when we get there." *See* email from Clay Smallwood to Mike Long, dated March 6, 2012, in response to Mr. Herran's original email inquiry, attached hereto as **Composite Exhibit "209"**.

233. On March 6, 2012, Mike Long instructed Mike Herran to forgo the "lease rate analysis" until such time it was determined that a "lease rate analysis" was necessary. This email clearly reveals that the true purpose for obtaining the Properties at issue in this cause had not yet been determined. *See* email from Mike Long to Mike Herran, dated March 6, 2012, attached hereto as **Exhibit "210"**.

234. On March 6, 2012, Department of State Communications Director, Chris Cate, confirmed that \$2.1 million would have been spent rehabilitating the Grove as of April or May of 2012, and further stated that an additional \$3.5 million would be required to complete the rehabilitation project. *See* email from Chris Cate to Gary Fineout, dated March 6, 2012, attached hereto as **Exhibit "211"**.

235. On March 6, 2012, Jim Boxold sent to Rob Johnson the proposed budget appropriations for the “back of the bill language” related to the acquisition of the Properties at issue in this cause, and the two and a half million dollar appropriation for purchase of properties adjacent to The Grove. *See* email from Jim Boxold to Rob Johnson, dated March 6, 2012, attached hereto as **Exhibit “212”**.

236. On March 6, 2012, Mike Herran requested clarification from Department of Environmental Protection Bureau Chief, Greg Brock, as to the funding limitations within the Florida Forever Act, specifically how value can be assessed for properties purchased outside of the boundary of a recognized Florida Forever project. Mr. Herran’s concern stemmed from his understanding that pursuant to §259.105, the Florida Forever Act, the property lying beyond the boundary of a recognized Florida Forever project could not exceed an estimated value of \$500,000.00. Given that the total contract price of the Properties at issue in this cause totaled \$580,000.00, Mr. Herran inquired as to whether the estimated value could be done through an “in-house memo” or if the estimated value could “be based on the tax assessed value.” Department of Environmental Protection Bureau Chief, Greg Brock, responded that the Florida Forever Act was not explicitly clear and recognized that it would be “problematic if the just value is below \$500,000, but when appraised it is above that amount... that’s one for which our attorneys should opine.” Mr. Herran forwarded Mr. Brock’s nondescript response onto Department of Environmental Protection General Counsel, Sandra Stockwell, copying Karl Rasmussen, Mike Long, Marjorie Woolam, and Clay Smallwood. *See* email from Mike Herran to Sandra Stockwell, dated March 6, 2012, attached hereto as **Exhibit “213”**.

237. At 11:08 A.M. on March 6, 2012, Sandra Stockwell continued to question the format of the proposed agenda item and expressed further confusion regarding the issue of an

appraisal in an email to Jason Garner, Marjorie Woolam, Bevin Reardon, and Gary Heiser. Ms. Stockwell asked, “and since you aren’t getting an appraisal (or are you, I’m confused) you may be **paying more** than what would have been DSL-approved value so you **probably need a paragraph about the public interest being served** by paying more.” Attached to Ms. Stockwell’s email were her edits to the most recent draft agenda item. Within Ms. Stockwell’s edits are comments that she offered with respect to the language in the proposed draft agenda item, including the following inquiry, “Don’t we need to ask for permission to exceed DSL-approved value if the appraisal comes in low?” Ms. Stockwell also noted that if any environmental contaminants (asbestos) were identified within the property and in the event the seller failed to clear those contaminants, that the agenda item should include a provision that the Board of Trustees would “sue for breach” if the seller refused to cure those contaminants. *See* email from Sandra Stockwell, attached hereto as **Exhibit “214”** (emphases added).

238. At 12:30 P.M. on March 6, 2012, Sandra Stockwell circulated the latest draft agenda idea, including the most recent revisions. The edited version reveals a comment offered by Marjorie Woolam in response to Ms. Stockwell’s suggestion that the agenda item include language indicating that the Board of Trustees would sue the seller for breach of contract in the event the seller refused to remediate any environmental contaminants discovered. Ms. Woolam’s comment noted that this option might be best left unspoken and posited, “do we want to mention suing for breach?” *See* email from Sandra Stockwell, attached hereto as **Exhibit “215”**.

239. At 1:11 P.M. on March 6, 2012, Karl Rasmussen forwarded a copy of the draft agenda item, recommending that the Board of Trustees **exercise** the Right of First Refusal, to Rachel Goodson for review and **approval by the Executive Office of the Governor**. *See* email

from Karl Rasmussen to Rachel Goodson, with attached draft agenda item, dated March 6, 2012, attached hereto as **Exhibit “216”**.

240. Approximately twenty four minutes later, at 1:35 P.M. on March 6, 2012, Karl Rasmussen submitted a second draft agenda item, recommending that the Board of Trustees exercise the Right of First Refusal, to Rachel Goodson for review and approval by the Executive Office of the Governor. The public records make clear that the Executive Office of the Governor played almost an exclusive role (as opposed to the other Cabinet Offices) in ensuring that the Board of Trustees received the Right of First Refusal as an agenda item and with a recommendation that the Right of First Refusal be exercised. *See* email from Karl Rasmussen to Rachel Goodson, with attached amended draft agenda item, dated March 6, 2012, attached hereto as **Exhibit “217”**.

241. On March 6, 2012, at 6:00 P.M., Chris Tanner sent an email to Robert Tornillo, with the subject, “Budget – the Grove **purchase.**” Inexplicably, the body of the email contains no text, but the subject line eliminates any doubt as to the status of the Board of Trustees’ intention with respect to the issue of the Right of First for Refusal. *See* email from Chris Tanner to Robert Tornillo, dated March 6, 2012, attached hereto as **Exhibit “218”** (emphasis added).

242. On March 7, 2012, the Department of State Communications Director, Chris Cate, disseminated media references to the proposed budget items for the purchase of the Properties at issue in this cause to senior staff within the Department of State, noting that the reports thus far were limited to social media “tweets.” Mr. Cate questioned whether a full story regarding the purchase of the Properties at issues in this cause was forthcoming. *See* email from Chris Cate to Jennifer Kennedy, JuDee Dawkins, Pierce Schuessler, and John Boynton dated March 7, 2012, attached hereto as **Exhibit “219”**.

243. On March 7, 2012, the House of Representatives agreed to the Senate's proposal for \$2.5 million dollars fixed capital outlay for purchase of properties "adjacent" to The Grove. See email from Susan Raymond, Legislative Analyst for the Transportation and Economic Development Appropriations Subcommittee, Florida House of Representatives attaching conferences summaries, dated March 7, 2012, attached hereto as **Exhibit "220"**.

244. On March 8, 2012, Karl Rasmussen sent an email to Connie Byrd and Jessica Field addressing Mr. Herran's concerns regarding the fact that the purchase price is likely to exceed the appraised value of the Properties at issue in this cause, and the ramifications with respect to utilizing Florida Forever funding for the purchase of the Properties in that event. Mr. Rasmussen notes that, "should the \$580,000 purchase price exceed the DSL [Division of State Lands] approved value, then under the provisions of section 259.041(3), F.S., the BOT must determine the purchase to be in the public interest." As such, Mr. Rasmussen stated, "I have attempted to make the PI [public interest] determination more clear. My proposal is below. Please take a look and make your suggested changes to make it better." Mr. Rasmussen's proposed public interest finding states that, "the acquisition will provide increased public access opportunities to The Grove via a major thoroughfare, North Monroe Street; and will allow for potential expansion of The Grove's historical property." See email from Karl Rasmussen to Connie Byrd and Jessica Field, dated March 8, 2012, attached hereto as **Exhibit "221"**.

245. On March 8, 2012, Karl Rasmussen circulated a "New and Improved summary for The Grove". Mr. Rasmussen noted that his "New and Improved summary" contained "significant changes." The new and improved summary recommended that the Board of Trustees **exercise** the Right of First Refusal and requested "a delegation of authority to the Secretary of DEP to purchase the property contingent upon: Appraisal, survey, environmental

site assessment, and Division of Historical Resources committing to manage the properties.”

The new and improved summary includes Karl Rasmussen’s newly discovered public interest in purchasing the Properties at issue in this cause. *See* email from Karl Rasmussen to Jessica Field and Connie Byrd, dated March 8, 2012, attached hereto as **Exhibit “222”**.

246. On March 8, 2012, many of the officials involved in the Board of Trustees’ exercise of the Right of First Refusal began to circulate news articles, published on March 7, 2012, regarding the Board of Trustees’ intention of exercising the Right of First Refusal for the Properties at issue in this cause. The news articles were obviously in response to the eleventh hour insertion of the “back of the bill language” into the budget by Senator J.D. Alexander. A link to a news article, regarding the Board of Trustees’ intent to exercise the Right of First Refusal, along with the “back of the bill language” appropriating the monies earmarked for the purchase of the Properties at issue in this cause, and the Budget Provisos appropriating \$1,370,047 of additional funding for renovations/rehabilitation for The Grove and \$2,500,000 of additional funding for purchase of properties related to the fulfillment of Governor Scott’s vision for his Legacy Project were forwarded to Tom Berger. *See* email from Deborah Forbess to Tom Berger and Tim Traylor, dated March 8, 2012, attached hereto as **Exhibit “223”**.

247. After receiving this email from Ms. Forbess, Mr. Traylor forwarded the email to Carolyn Jones and Chip Mikell on March 8, 2012. Likewise, Tom Berger forwarded the email to Carrie O’Rourke and Carly Hermanson, with a caveat, “just in case you didn’t see this.” Ms. Hermanson immediately forwarded this same email to Andrew Grayson and Mary Thomas. *See* email from Carly Hermanson to Andrew Grayson and Mary Thomas, dated March 8, 2012, attached hereto as **Exhibit “224”**.

248. On March 8, 2012, Ms. Hermanson replied to Mr. Berger, thanking him for

providing her the “back of the bill language” and informed Mr. Berger that she intended to call him “in a little while to talk about something related.” See email from Carly Hermanson to Tom Berger and Carrie O’Rourke, dated March 8, 2012, attached hereto as **Exhibit “225”**.

249. Approximately twenty-two minutes after receiving Ms. Hermanson’s notice to anticipate her call, Mr. Berger, via email, requested that Robert Bendus and Scott Woolam call Mr. Berger at their earliest convenience. See emails from Tom Berger to Robert Bendus and Scott Woolam, dated March 8, 2012, attached hereto as **Composite Exhibit “226”**.

250. On March 8, 2012, Connie Byrd forwarded to Karl Rasmussen a revised Board of Trustees agenda item related to The Grove. The revised agenda item states that the Properties at issue in this cause **qualified as conservation lands** for which Florida Forever funding could be expended for the acquisition of the Properties. The revised agenda item also states that the Division of State Lands would obtain an environmental site assessment for the Properties, and notes that, “The Board of Trustees **shall** obtain any survey and environmental site assessment desired.” Similarly, the revised agenda item notes that “any purchase agreement with GPL [Grove Properties Limited] **shall contain the contingencies required by law**, such as the contingency for Legislative appropriation and the requirement that GPL complete beneficial interest disclosures.” See email from Connie Byrd to Karl Rasmussen, dated March 8, 2012, with attached revised Board of Trustees agenda item, attached hereto as **Composite Exhibit “227”** (emphases added).

251. Approximately one hour later, Ms. Byrd forwarded the revised agenda item to Jason Garner, Marjorie Woolam, Sandra Stockwell, Gary Heiser, Karl Rasmussen, Jessica Field, and Bevin Reardon. In the email, Ms. Byrd notes that the agenda item has been “revised and reorganized” and states “we look forward to your input.” See email from Connie Byrd, dated

March 8, 2012, attached hereto as **Exhibit “228”**.

252. Shortly thereafter, Karl Rasmussen responded to Ms. Byrd, including Jessica Field in his response, stating “I too look forward to their input.” *See* email from Karl Rasmussen to Connie Byrd and Jessica Field, dated March 8, 2012, attached hereto as **Exhibit “229”**.

253. At 3:09 P.M. on March 8, 2012, Jessica Field responded to Ms. Byrd’s email, including, as an attachment, her proposed edits to the summary previously prepared by Karl Rasmussen. The majority of Ms. Field’s edits related to formatting issues; however, one of Ms. Field’s edits includes a comment where she inquires as to the wisdom of including a reference to the potential purchase of an additional property, given that such reference “**may lead to more questions.**” *See* email from Jessica Field to Connie Byrd, attaching Ms. Field’s proposed edits to the summary previously prepared by Karl Rasmussen, dated March 8, 2012, attached hereto as **Composite Exhibit “230”** (emphasis added).

254. At 3:52 P.M. on March 8, 2012, Sandra Stockwell replied to Ms. Byrd, indicating that she had reviewed and approved the revised agenda item. *See* attached **Exhibit “231”**.

255. At 5:45 P.M. on March 8, 2012, Carly Hermanson requested that Carrie O’Rourke contact her, when convenient, to discuss the acquisition of the Properties at issue in this cause. *See* email from Carly Hermanson to Carrie O’Rourke, dated March 8, 2012, attached hereto as **Exhibit “232”**.

256. On March 8, 2012, Carly Hermanson forwarded the “back of the bill language” regarding the purchase of the Properties at issue in this cause, and the Legislative Provisos regarding funding for the ongoing renovation of The Grove and the \$2.5 million dollar appropriation for the purchase of properties related to the Governor’s vision for his Legacy

Project, along with a news article, published March 7, 2012, related to the Board of Trustees exercising the Right of First Refusal to Andrew Grayson and Mary Thomas. *See* email from Carly Hermanson to Andrew Grayson and Mary Thomas, dated March 8, 2012, attached hereto as **Exhibit “233”**.

257. At 6:31 P.M. on March 8, 2012, Jackie Schutz, Deputy Press Secretary for Governor Rick Scott, sent an email to Russ Abrams, Jose Bermudez, Casey Caldwell, Michael Dew, Sarah Finebloom, Adam Giery, Cole Hoopingarner, Trent Morse, Brad Piepenbrink, Roger Roscoe, Robin Stublen, Sheela Venero, and Gregory Williams, attaching Governor Scott’s “Hot Topics” for March 9, 2012. The list of “Hot Topics” continued to state “land purchase near the Grove” as a hot topic, but after Senator J.D. Alexander approved funding, via “back of the bill language,” and the \$2.5 million dollar appropriation earmarked for the purchase of the properties related to the fulfillment of Governor Scott’s vision for his Legacy Project, The Grove item no longer appeared as the second item listed as a hot topic for Governor Scott, and was instead relegated to the penultimate hot topic for Governor Scott. Nonetheless, the “land purchase near Grove” item continued to state that “**once approved** [by the Board of Trustees] [...] the properties **will be used** for parking and other improvements.” *See* email from Jackie Schutz, with attached “Hot Topics,” dated March 8, 2012, attached hereto as **Composite Exhibit “234”** (emphases added).

258. At 6:54 P.M. on March 8, 2012, Carly Hermanson forwarded to Phillip Miller, the email sent previously on March 8, 2012, by Tom Berger, containing the March 7, 2012 news article, “back of the bill language,” and Budget Provisos related to the Properties at issue in this cause. *See* email from Carly Hermanson to Phillip Miller, dated March 8, 2012, attached hereto as **Exhibit “235”**.

259. At 7:51 A.M. on March 9, 2012, Karl Rasmussen sent Rachel Goodson, copying Kristin Olson, an email attaching the revised summary sheet recommending the execution of the Right of First Refusal with the Leon County Property Appraiser's assessed values for each parcel. *See* email from Karl Rasmussen to Rachel Goodson, copying Kristin Olson, dated March 9, 2012, attached hereto as **Exhibit "236"**.

260. At 10:38 A.M. on March 9, 2012, Steve Bousquet, Tallahassee Bureau Chief for the *Tampa Bay Times*, sent an email to Kris Purcell requesting additional documentation related to "budget item 3148(A)." The budget item referenced by Mr. Bousquet is the \$2.5 million dollar appropriation for the covert purchase of the properties "adjacent to the Grove" which are being purchased for the purposes of fulfilling Governor Scott's vision of his "Legacy Project." *See* email from Steve Bousquet to Kris Purcell, dated March 9, 2012, attached hereto as **Exhibit "237"**.

261. At 10:39 A.M. on March 9, 2012, Kris Purcell forwarded Steve Bousquet's request for information related to the \$2.5 million dollar appropriation to Debora Forbess, Tom Berger, and Meredith Brock. In forwarding Mr. Bousquet's email, Mr. Purcell inquired "do we have anything that could be released on this?" *See* email from Kris Purcell, dated March 9, 2012, attached hereto as **Exhibit "238"**.

262. At 10:41 A.M. on March 9, 2012, Tom Berger replied to Kris Purcell's inquiry by stating, "That money is appropriated to the Department of State. It is designated DMS managed because we do the development and construction for other agencies [...] any specifics about the appropriations should be referred to DOS." *See* email from Tom Berger to Kris Purcell, dated March 9, 2012, attached hereto as **Exhibit "239"**.

263. At 10:43 A.M. on March 9, 2012, Meredith Brock responded to Kris Purcell's

inquiry by stating, “Just so you have the back story [...] (sic) this is a DOS appropriation line item. DMS REDM [Real Estate Development and Management] manages construction projects for other state agencies, which is why this is a DMS managed project.” *See* email from Meredith Brock to Kris Purcell, dated March 9, 2012, attached hereto as **Exhibit “240”**.

264. At 10:45 A.M. on March 9, 2012, Kris Purcell responded to Steve Bousquet’s earlier inquiry by quoting the language provided by Meredith Brock, stating simply,

“This is a DOS appropriation line item. DMS REDM manages construction projects for other state agencies, which is why this is a DMS managed project.

DOS – Historical Resources

3148A FIXED CAPITAL OUTLAY  
THE GROVE – PURCHASE OF ADJACENT  
PROPERTIES AND DEVELOPMENT – DMS MGD  
FROM GENERAL REVENUE FUND . . . . . 2,500,0000”

*See* attached **Exhibit “241”**.

265. At 11:35 A.M. on March 9, 2012, Karl Rasmussen forwarded Rachel Goodson an email originally sent to Erma Slager, copying Barbara Rouse, with the “latest draft of the Grove item proposed for the March 20, 2012 BOT Agenda.” *See* email from Karl Rasmussen to Rachel Goodson, dated March 9, 2012, attached hereto as **Exhibit “242”**.

266. At 11:51 A.M. on March 9, 2012, Karl Rasmussen forwarded Rachel Goodson and Kristin Olson, with the Executive Office of the Governor, an email originally sent by Connie Byrd attaching aerial maps of the Properties at issue in this cause. Interestingly, the attachments are titled “Gov Mans Right of First AERIAL with retained parcel.pdf.” *See* email from Karl Rasmussen to Rachel Goodson and Kristin Olson, dated March 9, 2012, attached hereto as **Exhibit “243”**.

267. At 10:58 A.M. on March 9, 2012, Chris Cate forwarded Steve Bousquet’s inquiry

to Jennifer Kennedy, John Boynton, and Pierce Schuessler. The public records do not indicate Mr. Bousquet having received information revealing that the \$2.5 million dollar appropriation is not related to The Grove and is instead related to the completion of Governor Scott's Legacy Project. *See* email from Chris Cate to Jennifer Kennedy, John Boynton, and Pierce Schuessler, dated March 9, 2012, attached hereto as **Exhibit "244"**.

268. At 1:28 P.M. on March 9, 2012, Karl Rasmussen sent to Kristin Olson and Rachel Goodson a second aerial map with the streets labeled. Once again the attachments were designated as "Gov Mans Right of First agenda AERIAL 2.pdf." *See* email from Karl Rasmussen to Kristin Olson and Rachel Goodson, dated March 9, 2012, attached hereto as **Exhibit "245"**.

269. At 3:10 P.M. on March 9, 2012, Jessica Field forwarded to Connie Byrd a list of Board of Trustees proposed agenda items through June of 2012, listing "Exercise Right of First Refusal/The Grove" as the primary issue. The proposed agenda item notes that a "line item has been added to the legislature's budget, directing the Department to purchase the lots with allocated **Florida Forever funds**." *See* email from Jessica Field to Connie Byrd, with attached Board of Trustees proposed agenda items, dated March 9, 2012, attached hereto as **Composite Exhibit "246"** (emphasis added).

270. At 4:43 P.M. on March 9, 2012, Kris Purcell sent an email to Mary Leslie requesting that Marc Slager be advised of Mr. Bousquet's inquiry regarding The Grove appropriation. *See* email from Kris Purcell to Mary Leslie, dated March 9, 2012, attached hereto as **Exhibit "247"**.

271. At 4:45 P.M. on March 9, 2012, Mary Leslie acknowledged Kris Purcell's request that Marc Slager be advised of Mr. Bousquet's inquiry. *See* email from Mary Leslie to Kris

Purcell, dated March 9, 2012, attached hereto as **Exhibit “248”**.

272. After receiving **approval from the Governor’s Office**, at 4:47 P.M. on March 9, 2012, Karl Rasmussen forwarded the draft agenda item, recommending that the Board of Trustees exercise the Right of First Refusal to purchase the Properties at issue in this cause, to Abby Vail, Brooke McKnight, Chris Tanner, Dexter Harris, Erin Sumpter, Gail Robinson, Jim Boxold, Kent Perez, Marc Slager, Mary Alice McElheney, Kristin Olson, Rachel Goodson, Rob Johnson, Robert Tornillo, Jessica Field, Connie Byrd, and Erma Slager. *See* email from Karl Rasmussen, dated March 9, 2012, attached hereto as **Exhibit “249”**.

273. At 5:25 P.M. on March 9, 2012, Kris Purcell responded to Mary Leslie, thanking her for her acknowledgment and advised her that the “Governor’s office is calling about it.” *See* email from Kris Purcell to Mary Leslie, dated March 9, 2012, attached hereto as **Exhibit “250”**.

274. At 5:35 P.M. on March 9, 2012, Kris Purcell forwarded Steve Bousquet’s inquiry, and the response provided, to Marc Slager and “commsagencies@eog.myflorida.com.” *See* email from Kris Purcell to Marc Slager and commsagencies@eog.myflorida.com, dated March 9, 2012, attached hereto as **Exhibit “251”**.

275. At 5:46 P.M. on March 9, 2012, Kris Purcell forwarded Mr. Bousquet’s inquiry, and the response provided, to Kristin Olson, and advised her that “Someone else was supposed to send [the response] at 3.” *See* email from Kris Purcell to Kristin Olson, dated March 9, 2012, attached hereto as **Exhibit “252”**.

276. On March 12, 2012, Karl Rasmussen emailed Robert Bendus regarding the draft agenda item for the Board of Trustees regarding the Properties at issue in this cause. In his email, Mr. Rasmussen informs Robert Bendus that any questions regarding the agenda item should be directed to Mr. Rasmussen telephonically and, in support thereof, Mr. Rasmussen

provided his direct telephone line to Mr. Bendus. *See* email from Karl Rasmussen to Robert Bendus, dated March 12, 2012, attached hereto as **Exhibit “253”**.

277. On March 12, 2012, Pierce Schuessler emailed Robert Bendus the 2012-2013 General Appropriations Act in .pdf format. In his email, Mr. Schuessler directs Mr. Bendus’ attention to page 398 of 423 and pasted into the email is the “back of the bill language” related to the purchase of the Properties at issue in this cause. *See* email from Pierce Schuessler to Robert Bendus, dated March 12, 2012, attached hereto as **Exhibit “254”**.

278. On March 12, 2012, Robert Bendus forwarded to Erma Slager, Acting Department of Environmental Protection Deputy Secretary, the 2012-2013 General Appropriations Act in .pdf format as previously provided by Pierce Schuessler. Similarly, Mr. Bendus directed Ms. Slager’s attention to page 398 of 423 and pasted the “back of the bill language” into the email as well. Mr. Bendus also noted that he had “drafted a letter for Secretary Detzner’s signature” and assured Ms. Slager that he would forward that letter for her consideration as soon as Secretary Detzner had executed the letter. *See* email from Robert Bendus to Erma Slager, dated March 12, 2012, attached hereto as **Exhibit “255”**.

279. On March 12, 2012, Karl Rasmussen sent an email to Abby Vail, Brooke McKnight, Chris Tanner, Dexter Harris, Erin Sumpter, Gail Robinson, Kim Boxold, Kent Perez, Marc Slager, Kristin Olson, Rachel Goodson, Rob Johnson, Robert Tornillo, and copied Jessica Field, Connie Byrd, and Erma Slager with the draft agenda for the March 20, 2012 Board of Trustees meeting. The draft agenda indicates that the exercise of The Right of First Refusal was the only item on the agenda. *See* email from Karl Rasmussen, dated March 12, 2012, attached hereto as **Exhibit “256”**.

280. At 11:16 A.M. on March 13, 2012, Gary Heiser sent an email to Greg Brock,

Mike Herran, Marjorie Woolam, Elaine Mann, Mike Long, Clay Smallwood, Scott Woolam, Vicki Thompson, Lynda Godfrey, Jason Garner, Sandra Stockwell, and Bevin Reardon, wherein he questioned the legitimacy of the agenda item insofar as the item suggested that the “DSL-approved value” of the Properties at issue in this cause would “be determined in accordance with section 259.041(3), F.S. is this correct? Shouldn’t it be 253.041(7) instead?” At 11:41 A.M. on that same day, Mike Herran responded by stating that it was his belief that the Properties at issue were “on a **conversation land list** (for historical property acquisition) [...] Then it probably should be Chapter 259.” Mr. Heiser concludes the email chain with a response stating, “I am not referring to the Grove acquisition in 1985. I am referring to the **acquisition of the 2 lots** on the March 20, 2012 agenda.” The public records do not reveal whether the overall confusion as to the justification for the acquisition of the Properties at issue in this cause, as expressed by Mr. Heiser, or whether the lingering confusion by which the Properties were to be valued were ever resolved. See email from Gary Heiser, attached hereto as **Exhibit “257”** (emphases added).

281. On March 13, 2012, Erma Slager, acting Deputy Secretary for the Department of Environmental Protection, inquired as to whether the Board of Trustees agenda item should include a reference to the “back of the bill” appropriation or whether the Board of Trustees agenda item should include the “back of the bill” proviso, as found in the General Appropriations Act. See email from Karl Rasmussen to Connie Byrd, forwarding Erma Slager’s inquiry, dated March 13, 2012, attached hereto as **Exhibit “258”**.

282. On March 13, 2012, Stephanie Massengale, Budget Chief for the Agriculture and Natural Resources Appropriations Subcommittee, responded to an inquiry from Bruce Ritchie, senior writer with the *Florida Current*, regarding Florida Forever spending in the 2012-2013 General Appropriations Act. Specifically, Mr. Ritchie’s inquiry touched on the “back of the bill”

proviso related to the budgeting of \$580,000 for the purchase of the Properties at issue in this cause. It would appear that Ms. Massengale's original confusion regarding the purpose of the acquisition of the Properties at issue in this cause, as indicated in Ms. Massengale's March 5, 2012 email wherein she had inquired "if it's not needed by DOS or FDLE why are we purchasing it? How will it be used?" was never alleviated given that Ms. Massengale was incapable of providing a solid justification related to the purpose of the acquisition in response to Mr. Ritchie's inquiry. As such, Ms. Massengale simply said, "\$585K (sic) for purchasing property in near the Grove, which is around the Governor's mansion." *See* email from Stephanie Massengale to Katherine Betta, dated March 13, 2012, attached hereto as **Exhibit "259"**.

283. On March 13, 2012, Gary Heiser sent an email to Marjorie Woolam, copying Bevin Reardon, requesting a copy of the "form purchase agreement that **will be used for the acquisition**" regarding the purchase of the Properties at issue in the cause. *See* email from Marjorie Woolam to Jason Garner, copying Gary Heiser and Bevin Reardon, forwarding Mr. Heiser's request for the "form purchase agreement," dated March 13, 2012, attached hereto as **Exhibit "260"** (emphasis added).

284. On March 13, 2012, Erma Slager emailed Robert Bendus and copied Karl Rasmussen, inquiring as to the status of the signed letter from Secretary Detzner. Ms. Slager further inquired as to Mr. Bendus' intent to attend and participate in the Cabinet Aides meeting scheduled for March 14, 2012. Lastly, Ms. Slager noted that the issue related to the exercise of the Right of First Refusal was listed as the first item on the Board of Trustees scheduled agenda, which Ms. Slager described as "unusual." *See* email from Erma Slager to Robert Bendus and Karl Rasmussen, dated March 13, 2012, attached hereto as **Exhibit "261"**

285. On March 13, 2012, Erma Slager sent an email to Karl Rasmussen requesting a

status report on obtaining price quotes for the appraisal of the Properties at issue in this cause. Mr. Rasmussen responded by noting that the appraisal was scheduled to be ordered on March 20, 2012, the same day as the Board of Trustees meeting to “consider the exercise of The Right of First Refusal.” *See* email from Karl Rasmussen to Jessica Field and Connie Byrd, forwarding Ms. Slager’s inquiry, dated March 13, 2012, attached hereto as **Exhibit “262”**.

286. Seven days prior to the Board of Trustees vote regarding the exercise of the Right of First Refusal, Department of Environmental Protection staff attorneys began finalizing the contract for the purchase of the Properties. Similarly, the internal communications reveal a significant amount of confusion regarding the source of the funding. Specifically, Gary Heiser requested clarification as to whether “FF [Florida Forever] funds [were] being used for this acquisition.” Mr. Heiser requested that the specific “pot of money” as delineated within Section 259.105(3), Florida Statutes, be specifically identified if Florida Forever funds were being used for the acquisition of the Properties. Mr. Heiser further requested that the specific source of funding be identified “for this acquisition” in the event Florida Forever funds were not being utilized. Unfortunately, the answers to Mr. Heiser’s inquiries proved elusive, as evidenced by the fact that Marjorie Woolam forwarded Mr. Heiser’s request for clarification regarding the funding source to Greg Brock, Bureau Chief within the Division of State Lands, obviously assuming that Mr. Brock, as Bureau Chief within the acquiring agency, would be capable of answering Mr. Heiser’s questions. Ms. Woolam also noted that a prompt answer was needed, given that the Cabinet Aides meeting was scheduled for the following day. Unfortunately, Mr. Brock proved incapable of answering the question regarding the source of funding and noted that either Mike Long or Clay Smallwood would need to answer the question; however, Mr. Brock did note that he was “not aware of other funds [apart from Florida Forever] that could be

used...” *See* email chain between Teresa Johnson, Greg Brock, Marjorie Woolam, Mike Long, Bevin Reardon, Gary Heiser, and Jason Garner, dated March 13, 2012, attached hereto as **Exhibit “263”**.

287. At 5:07 P.M. on March 13, 2012, Robert Bendus indicated to Erma Slager that Secretary Detzner had not yet signed the letter regarding **the exercise** of The Right of First Refusal, and further inquired as to the location of the Cabinet Aides meetings scheduled for March 14, 2012. *See* email from Robert Bendus to Erma Slager, dated March 13, 2012, attached hereto as **Exhibit “264”**.

288. On or about March 13, 2012, Robert Bendus circulated a Correspondence Review Form, providing that, “this letter is in support of Item #1 on the agenda for the Board of Trustees of the Internal Improvement Trust Fund meeting of March 20, 2012 for consideration of a request to exercise the right of first refusal for the 2 adjacent lots to The Grove.” The form, once again, provides five signature blocks, one for the “Division Director,” one for the “Deputy Secretary,” one for “General Counsel,” one for the “Assistant Secretary,” and one for the “Secretary.” The form was executed by all relevant parties, including Secretary, Ken Detzner; Deputy Secretary, JuDee Dawkins; Assistant Secretary, Jennifer Kennedy; and Division Director, Robert Bendus. The form contains no explanation from either Robert Bendus, JuDee Dawkins, or Jennifer Kennedy which would explain the reversal of their opinion held on December 15, 2011 when they executed a similar form, but with the reverse recommendation that the Right of First Refusal be waived. *See* attached **Exhibit “76”**. The original version of this document, as obtained through public records requests, revealed a post-it note had been affixed to the document with the notation, “Grove Letter SOS to sign after Carrie O’Rourke reviews.” This is one more instance which reveals the significant level of involvement and

control exerted by the Executive Office of the Governor over the acquisition of the Properties. *See* attached **Exhibit “265”**.

289. On March 14, 2012, Erma Slager responded to Mr. Bendus by noting that she would not be attending the Cabinet Aides meeting, but indicated that Karl Rasmussen would be attending and directed Mr. Bendus to meet with Mr. Rasmussen prior to the meeting. *See* email from Erma Slager to Robert Bendus, copying Karl Rasmussen, dated March 14, 2012, attached hereto as **Exhibit “266”**.

290. At 8:16 A.M. on March 14, 2012, Robert Bendus sent an email to Erma Slager indicating that he would meet with Karl Rasmussen prior to the Cabinet Aides meeting and thanking her “for all the help with this.” *See* email from Robert Bendus to Erma Slager, copying Karl Rasmussen, dated March 14, 2012, attached hereto as **Exhibit “267”**.

291. On March 14, 2012, after attending the Cabinet Aides meeting, Karl Rasmussen circulated draft notes prepared on behalf of Herschel Vinyard, Secretary of the Department of Environmental Protection, regarding Secretary Vinyard’s presentation to the Board of Trustees wherein the Secretary would recommend approval of his agency’s request that the Board of Trustees exercise the Right of First Refusal, including an affirmation that the acquisition of the Properties would serve the public interest. *See* email from Karl Rasmussen to Jessica Field and Connie Byrd, dated March 14, 2012, attached hereto as **Exhibit “268”**.

292. On March 14, 2012, Debbie Lollie sent an email to Mary Lynn Shearer requesting that Ms. Shearer call on the morning of March 15, 2012 to discuss the second waiver of the competitive bidding requirement for Allstate Construction to continue serving as construction manager for The Grove rehabilitation project, despite the fact that the estimated cost for the project was more than two times the threshold amount requiring competitive bidding, pursuant to

Florida Statute. *See* email from Debbie Lollie to Mary Lynn Shearer, dated March 14, 2012, attached hereto as **Exhibit “269”**.

293. On March 15, 2012, Erma Slager sent an email to Robert Bendus, copying Karl Rasmussen, inquiring if the letter signed by Secretary Detzner was ready. *See* email from Erma Slager to Robert Bendus and Karl Rasmussen, dated March 15, 2012, attached hereto as **Exhibit “270”**.

294. At 5:00 P.M. on March 15, 2012, Robert Bendus forwarded to Erma Slager and Karl Rasmussen the executed letter by Secretary of State Ken Detzner acknowledging that the Department of State would manage the Properties being acquired by the Department of Environmental Protection. Essentially, the Department of State offered its assurance, through Secretary Detzner’s letter, to manage property purchased by a sister agency. According to the text within Mr. Bendus’ email, Secretary Detzner’s letter was being offered “in support of Agenda Item number one.” *See* email from Robert Bendus to Erma Slager and Karl Rasmussen, with attached letter from Secretary of State, dated March 15, 2012, attached hereto as **Exhibit “271”**.

295. At 5:05 P.M. on March 15, 2012, Erma Slager acknowledged receipt of Secretary Detzner’s letter and inquired of Mr. Bendus as to Secretary Detzner’s availability to attend the March 20, 2012 Board of Trustees meeting. *See* email from Erma Slager to Robert Bendus and Karl Rasmussen, dated March 15, 2012, attached hereto as **Exhibit “272”**.

296. At 5:13 P.M. on March 15, 2012, Robert Bendus replied to Erma Slager’s request regarding Secretary Detzner’s attendance at the Board of Trustees meeting scheduled for March 20, 2012 by noting that he had spoken to Secretary Detzner regarding his attendance and that his attendance would be confirmed in a subsequent communication. *See* email from Robert Bendus

to Erma Slager, dated March 15, 2012, attached hereto as **Exhibit “273”**.

297. At 8:18 A.M. on March 16, 2012, Karl Rasmussen forwarded Secretary Detzner’s executed letter “in support of Agenda Item number one” to Jessica Field and Connie Byrd. *See* email from Karl Rasmussen to Jessica Field and Connie Byrd, dated March 16, 2012, attached hereto as **Exhibit “274”**.

298. At 10:01 A.M. on March 16, 2012, Karl Rasmussen forwarded Secretary Detzner’s executed letter “in support of Agenda Item number one” to Rachel Goodson, with the **Executive Office of the Governor**. *See* email from Karl Rasmussen to Rachel Goodson, dated March 16, 2012, attached hereto as **Exhibit “275”**.

299. Shortly after receiving Secretary Detzner’s letter from Karl Rasmussen on March 16, 2012, Rachel Goodson forwarded Secretary Detzner’s letter to Diane Alborn. *See* email from Rachel Goodson to Dianne Alborn, dated March 16, 2012, attached hereto as **Exhibit “276”**.

300. At 3:17 P.M. on March 16, 2012, Erma Slager inquired once again of Robert Bendus as to Secretary Detzner’s intent to attend the Board of Trustees meeting on March 20, 2012. *See* email from Erma Slager to Robert Bendus, dated March 16, 2012, attached hereto as **Exhibit “277”**.

301. At 8:22 P.M. on March 16, 2012, Robert Bendus confirmed for Erma Slager that Secretary Detzner would attend the Board of Trustees meeting scheduled for March 20, 2012. *See* email from Robert Bendus to Erma Slager, dated March 16, 2012, attached hereto as **Exhibit “278”**.

302. On March 16, 2012, Lane Wright, Press Secretary for Governor Rick Scott, sent an email to Jackie Schutz, updating Governor Scott’s “Hot Topics.” The email references three

“Hot Topics,” the first two hot topics are related to the USF Polytechnic issue, wherein the Governor’s talking points were modified to include the following statement, “I am not going to comment on legislation I have not seen or the process by which it ends up in the budget.” The third hot topic referenced by Governor Scott’s Press Secretary was related to the exercise of The Right of First Refusal regarding the Properties at issue in this cause. *See* email from Lane Wright to Jackie Schutz, dated March 16, 2012, attached hereto as **Exhibit “279”**.

303. On March 16, 2012, Jackie Schutz disseminated, via electronic message, Governor Rick Scott’s “Hot Topic” list for March 17, 2012. The “hot topics” list included the modifications proposed by Lane Wright, Press Secretary for Governor Rick Scott, and, in this instance, the first two hot topics involved USF Polytechnic and the third hot topic was the acquisition of the Properties at issue in this cause. *See* email from Jackie Schutz to Lisa Meyer, Tracy Fannon, OPB Chief Analysts, and OPB Policy Coordinators, dated March 16, 2012, attached hereto as **Exhibit “280”**.

304. On March 19, 2012, Robert Bendus sent an email to Erma Slager inquiring as to the nature of Secretary Detzner’s involvement in the Board of Trustees meeting. Mr. Bendus noted that Secretary Detzner would be available to answer questions during the Board of Trustees meeting, but he sought confirmation from Ms. Slager that the Department of Environmental Protection would introduce the agenda item related to the acquisition of the Properties at issue in this cause. Shortly after receiving Mr. Bendus’ message, Ms. Slager responded and indicated that she would give Mr. Bendus a call regarding Secretary Detzner’s level of participation. *See* email from Erma Slager to Robert Bendus, dated March 19, 2012, attached hereto as **Exhibit “281”**.

305. On March 19, 2012, Bruce Ritchie sent the following inquiries to Department of

Environmental Protection, regarding the acquisition of the Properties at issue in this cause:

“Can you tell me whether DEP’s position of purchase The Grove additions on South Monroe has changed? A Jan. 20 memo from Clay Smallwood to the Cabinet that the property has ‘no unique conservation value or historical significance,’ that the property is not on the Florida Forever Work Plan and no funding has been appropriated. Yet DEP is recommending approval of the purchase on Tuesday’s Cabinet agenda. Can you tell me why the recommendation is for approval and what has changed?”

Jennifer Diaz, press secretary for the Department of Environmental Protection, responded to Mr.

Ritchie’s inquiry by stating that since Mr. Smallwood’s original memo was drafted,

“the Board of Trustees requested that DEP bring the purchase of the two lots as an agenda item to the March 20 Cabinet meeting. DEP is recommending approval due to the fact that the Department of State Division of Historic Resources will manage the property if DEP is approved to purchase the lots. If the Board of Trustees had not asked to see this as an agenda item, DEP would have moved forward with DSL’s recommendation that the Grant be released, waived and disclaimed in order for Grove Properties Limited to complete the sale of the two lots.”

*See* email from Jennifer Diaz to Bruce Ritchie, dated March 19, 2012, attached hereto as **Exhibit “282”**.

306. On March 19, 2012, Jennifer Diaz forwarded to Lane Wright, Bruce Ritchie’s inquiries regarding the status of the Department of Environmental Protection’s position on the acquisition of the Properties at issue in this cause, as compared to Clay Smallwood’s January 20, 2012 memorandum, recommending that the Board of Trustees waive their Right of First Refusal given that the Properties had “no unique conservation value or historical significance.” Ms. Diaz advised Mr. Wright that she intended to refer Mr. Ritchie’s additional inquiry regarding the allocation of \$2.5 million dollars for the purchase of properties “adjacent to The Grove” to Mr. Wright for the Governor’s official response. *See* email from Jennifer Diaz to Lane Wright, dated March 19, 2012, attached hereto as **Exhibit “283”**.

307. On March 19, 2012, Sue Oshesky forwarded Karl Rasmussen an email sent on

March 14, 2012 from Ralph Perkins, Senior Governmental Analyst, Office of Policy and Budget – Environmental Policy Unit, within the Executive Office of the Governor, to Cynthia Kelly requesting that Karl Rasmussen provide his office a copy of the agenda item related to the acquisition of the Properties at issue in this cause. *See* email from Sue Oshesky to Karl Rasmussen, dated March 19, 2012, attached hereto as **Exhibit “284”**.

308. On March 19, 2012, Connie Byrd sent an email to Sue Oshesky, copying Karl Rasmussen, with the agenda item for the March 20, 2012 Cabinet Meeting attached, pursuant to Mr. Perkins’ previous request. *See* email from Connie Byrd to Sue Oshesky, dated March 19, 2012, attached hereto as **Composite Exhibit “285”**.

309. On March 19, 2012, Connie Byrd sent to Karl Rasmussen the “Speakers list” for the March 20, 2012 Board of Trustees meeting. Those listed as speakers included Ken Detzner, Rob Bendus, Gary Heiser, Mike Herran, Jason Garner, Lynda Godfrey, and Marjorie Woolam. The “speakers list” indicates that all of those persons slated to speak during the Board of Trustees meeting supported the agenda item as phrased. *See* email from Connie Byrd to Karl Rasmussen, with attached “speakers list,” dated March 19, 2012, attached hereto as **Composite Exhibit “286”**.

310. On March 19, 2012, Karl Rasmussen forwarded the “speakers list” to Rachel Goodson and Kristin Olson, within the Executive Office of the Governor. *See* email from Karl Rasmussen to Rachel Goodson and Kristin Olson, dated March 19, 2012, attached hereto as **Exhibit “287”**.

311. On March 19, 2012, Robert Bendus forwarded to Karl Rasmussen an email originally sent by John Aurell on June 8, 2011, outlining the annual rent charged to the Plaintiff pursuant to his lease agreement with GPL for the lease of the Properties at issue in this cause.

*See* email from Robert Bendus to Karl Rasmussen, dated March 19, 2012, attached hereto as **Exhibit “288”**.

312. On March 19, 2012, Karl Rasmussen forwarded to Jessica Field, Connie Byrd, and Gary Heiser, Mr. Aurell’s email dated June 8, 2011, outlining the terms of the Plaintiff’s lease for the Properties at issue in this cause. *See* attached **Exhibit “289”**.

313. On March 19, 2012, Connie Byrd sent to Jennifer Diaz, copying Karl Rasmussen, an email which attached a color, aerial map of The Grove and the Properties at issue in this cause. *See* email from Connie Byrd to Jennifer Diaz and Karl Rasmussen, dated March 19, 2012, attached hereto as **Composite Exhibit “290”**.

314. On March 19, 2012, Jennifer Diaz sent an email to Lane Wright, including the color aerial map of The Grove and the Properties at issue in this cause. *See* email from Jennifer Diaz to Lane Wright, dated March 19, 2012, attached hereto as **Composite Exhibit “291”**.

315. On March 19, 2012, Lane Wright sent to Jackie Schutz a revised version of the “hot topic” related to the \$2.5 million dollar appropriation for the purchase of land “adjacent to The Grove.” The revised “hot topic” noted that the appropriation would be used for purchase and development of properties, but details as to the type of development had not been made and would generally be designed to improve access and beautify the area. *See* email from Lane Wright to Jackie Schutz, dated March 19, 2012, attached hereto as **Exhibit “292”**.

316. On March 19, 2012, Jackie Schutz forwarded to Lisa Meyer the revised “hot topic” items and requested that the “hot topic” list include the revisions. *See* email from Jackie Schutz to Lisa Meyer, dated March 19, 2012, attached hereto as **Exhibit “293”**.

317. On March 19, 2012, a spokesman for Governor Scott was attributed with having stated that the Board of Trustees exercise of its Right of First Refusal and the acquisition of the

Properties at issue in this cause was a “good deal” for the State in a news article written by Bruce Ritchie. Mr. Ritchie forwarded a copy of the news article to Lane Wright, Governor Scott’s Press Secretary. *See* email from Bruce Ritchie to Lane Wright, dated March 19, 2012, attached hereto as **Exhibit “294”**.

318. On March 19, 2012, Mr. Ritchie’s article was forwarded to Jim Boxold by Brooke McKnight. Thereafter, Mr. Boxold forwarded the article to Rob Johnson. *See* email from Jim Boxold to Rob Johnson, dated March 19, 2012, attached hereto as **Exhibit “295”**.

319. Similarly, on March 19, 2012, Jim Boxold forwarded Mr. Ritchie’s article to Rachel Goodson. *See* emails from Jim Boxold to Rachel Goodson and Karl Rasmussen to Erma Slager, dated March 19, 2012, attached hereto as **Composite Exhibit “296”**.

320. On March 19, 2012, Rachel Goodson forwarded the Bruce Ritchie article to Marc Slager and Kristin Olson, within the Executive Office of the Governor. *See* email from Rachel Goodson to Marc Slager and Kristin Olson, dated March 19, 2012, attached hereto as **Exhibit “297”**.

321. On March 19, 2012, Lane Wright forwarded the Bruce Ritchie article to Jackie Schutz, Amy Graham, and Carrie O’Rourke. *See* emails from Lane Wright to Jackie Schutz, Amy Graham, and Carrie O’Rourke, dated March 19, 2012, attached hereto as **Composite Exhibit “298”**.

322. On March 19, 2012, Karl Rasmussen forwarded the Bruce Ritchie article to Erma Slager, who, thereafter, forwarded it Robert Bendus. *See* email from Erma Slager to Robert Bendus, dated March 19, 2012, attached hereto as **Exhibit “299”**.

323. The carousel of forwarding the news article related to the Board of Trustees’ anticipated exercise of Right of First Refusal for the purchase of the Properties housing the Law

Office of Governor Scott’s “outspoken critic” continued wherein Erma Slager forwarded a copy of the news article to Herschel Vinyard, Secretary of the Department of Environmental Protection, and his Executive Assistant, Rachel Cone, who in turn forwarded the news article to Chris Cate (Department of State Press Secretary), attached hereto as **Exhibit “300”**, who in turn forwarded the news article to Secretary of State Ken Detzner, Jennifer Kennedy, John Boynton, and Pierce Schuessler. *See* email from Chris Cate, dated March 19, 2012, attached hereto as **Exhibit “301”**.

324. On March 19, 2012, Rachel Goodson, Deputy Cabinet Affairs Director within the Executive Office of the Governor, sent to Marc Slager, Director of Cabinet Affairs and Deputy Chief of Staff within the Executive Office of the Governor, an email with the “Protocol” for the March 20, 2012 “Governor and Cabinet Meeting” attached thereto. The protocol for the meeting, as prepared, includes thirty-two separate proposals by way of either resolutions, agenda items, questions of reappointment, and other such items of official business. The section of the Protocol (script) regarding the exercise of The Right of First Refusal as prepared in advanced by the Executive Office of the Governor has been reproduced herein:

Board of Trustees of the Internal Improvement Trust Fund

**Proposed Script according to Governor’s Protocol**

“‘Now, I would like to recognize Secretary Herschel Vinyard to present the Board of Trustees agenda.’

Item 1: Exercise Right of First Refusal/Acquire Lots from Grove Properties Limited

Recommendation: APPROVE

‘Is there a motion to approve Item 1? Is there a second?  
Moved and seconded, Item 1 is approved without objection.  
Thank you, Herschel’”

See attached **Exhibit “302”**.

325. At first blush, the Governor’s prepared script might appear slightly presumptuous with respect to the outcome of the vote; however, a review of the Cabinet and/or the Board of Trustees voting record under Governor Rick Scott’s tenure reveals a remarkably reliable pattern.

326. Since January of 2011, either the Cabinet and/or the Board of Trustees have met on twenty-two separate occasions to conduct official business, after having properly noticed said meetings, pursuant to Chapter 286, Florida Statutes.

327. During the twenty-two meetings (as of April 24, 2012) the Cabinet took official action on 350 distinct items. Official action came in the form of either approval of an item, withdrawal of an item, deferral of an item, tabling an item, or abating a vote on an item. Of the 350 items upon which official action was taken, the Cabinet voted to **follow the recommendation** of the agency on 347.5 items. The half represents an item which consisted of two distinct parts, and on that occasion, pursuant to the Governor’s motion, half of the item was approved while the other half was withdrawn. Similarly, one item was tabled at the Governor’s motion, and one item was held in abeyance for future consideration at the Governor’s motion. Thus, the Governor and the Cabinet followed the recommendation of a proposing agency an impressive 99.28% of the time. Whereas, the Governor and the Cabinet failed to follow the recommendation of a proposing agency only 0.71% of the time; however, in those instances, the item was either withdrawn or postponed for future consideration. On no occasion did the Governor and the Cabinet reject or deny an agency recommendation. Essentially, one can predict the vote of an item by the Governor and the Cabinet, prior to such vote taking place, based solely upon the recommendation of the proposing agency, with the lone exception being that the proposed item, in the rarest of circumstances, could be withdrawn, tabled, or abated

pending future consideration by the Cabinet.

328. Based upon these findings, one must conclude that the Governor and the Cabinet serve as a rubber stamp for the recommendations of the proposing agencies. Whether that recommendation be one for approval, withdrawal, or deferral of the item, the Cabinet tirelessly proves pliable to the whims of the proposing agency, as evidenced by its 99.28% rate at which the Governor and Cabinet adopt the recommendation of the proposing agency.

329. On March 20, 2012, Deputy Chief Financial Officer Tami Torres instructed Communications Director for the Department of Financial Services, Alexis Lambert, to ensure that Chief Financial Officer Jeff Atwater had an opportunity to review the news article penned by Mr. Bruce Ritchie regarding the Plaintiff's lawsuit *sub judice* prior to the Cabinet meeting and vote. *See* email from Alexis Lambert to Tami Torres, dated March 20, 2012, attached hereto as **Exhibit "303"**.

330. On March 20, 2012, Robert Tornillo similarly instructed Chris Tanner to print a copy of Mr. Ritchie's article for Chief Financial Officer Jeff Atwater's review. *See* email from Robert Tornillo to Chris Tanner, dated March 20, 2012, attached hereto as **Exhibit "304"**.

331. On March 20, 2012, the article penned by Mr. Ritchie entitled Cabinet Being Asked to Buy Home that Houses Law Offices of Outspoken Scott Critic was designated as the "Story of the Day" by the Department of Environmental Protection, and was circulated as such amongst the staff. *See* email from Karl Rasmussen to Connie Byrd, dated March 20, 2012, attached hereto as **Exhibit "305"**.

332. The appeal of Mr. Ritchie's article was similarly recognized by and among the staff of the Office of the Attorney General, as evidenced by Mr. Ritchie's story being sent by Mr. Russell Kent to Mary Thomas, Rob Johnson, and Kent Perez. *See* email from Russell Kent,

dated March 20, 2012, attached hereto as **Exhibit “306”**.

333. On March 20, 2012, Senior Government Editor for the Tallahassee Democrat, Jeff Burlew, inquired of Lane Wright, Press Secretary of the Executive Office of the Governor, regarding the purpose behind the State’s purchasing the Properties for which \$2.5 million dollars had been allocated. *See* email from Jeff Burlew to Lane Wright, dated March 20, 2012, attached hereto as **Exhibit “307”**.

334. On March 20, 2012, Kent Perez sent an email to Chesterfield Smith acknowledging the service of process in the instant cause and also indicating that the Office of the Attorney General had contacted the Governor’s Office, along with the other Cabinet members, to notify all concerned that the Office of the Attorney General was interested in defending against the lawsuit. *See* email from Kent Perez to Chesterfield Smith, dated March 20, 2012, attached hereto as **Exhibit “308”**.

335. On March 20, 2012, at 9:23 A.M., Kris Purcell distributed a news clip stating that the Florida Cabinet was expecting to acquire the Properties at issue in this cause “as conservation lands using Florida Forever money.” *See* attached **Exhibit “309”**.

336. The long-form Agenda for the Meeting of the Governor and Cabinet, dated March 20, 2012, described the Agenda item related to the exercise of the Right of First Refusal as “Grove Properties Limited **Acquisition**,” (emphasis added). *See* Meeting of the Governor and Cabinet Agenda, dated March 20, 2012, attached hereto as **Exhibit “310”**.

337. On March 20, 2012, Governor Rick Scott was quoted in the press as having denied any correlation between the State’s potential purchase of the Properties at issue in this cause and the fact that the Plaintiff had previously filed suit against Governor Scott during the 2010 gubernatorial campaign. In that action, the Plaintiff sought access to a video-taped

deposition of Governor Scott, wherein Governor Scott asserted his fifth Amendment right to remain silent a reported seventy-five times. A copy of the news article quoting Governor Scott was provided to Tom Berger, prompting Mr. Berger to respond as follows, “Interesting. What is the publication?” Governor Scott was also quoted as saying that the purchase of the Properties at issue would, “honor the legacy of former Governor LeRoy Collins and his wife, Mary Call Collins.” *See* email chain between Tom Berger and Kris Purcell, dated March 20, 2012, attached hereto as **Exhibit “311”**.

338. On March 20, 2012, Lane Wright provided a response to multiple inquiries from the press regarding the State’s motivations for the purchase of the Properties at issue in this cause by claiming that, “Steve Andrew (sic) had nothing to do with the state’s decision to pursue this land [...] **Governor Scott** wants to give the historic grove and Collins house the much needed access and enhancements it deserves.” *See* email from Lane Wright to Jeff Burlew, copying “Media,” dated March 20, 2012, attached hereto as **Exhibit “312”** (emphasis added).

339. On March, 2012, at 3:00 p.m. (just hours after the Cabinet approved the recommendation of DEP Secretary Vinyard) Ms. Vicki Thompson met with Mr. Scott Woolam to “talk about USF Polytechnic.” No minutes of this meeting have been received by way of public records requests, so DEP’s involvement or interest in USF Polytechnic on March 20, 2012 remains unclear. *See* March 19-25, 2012 Calendar of Vicki Thompson attached hereto as **Exhibit “312-A”**.

340. At 7:56 P.M. on March 20, 2012, Jackie Schutz distributed the Hot Topics talking points for March 21, 2012, which listed The Grove as the first item of interest. In providing a voice for Governor Scott, the designed message listed five (5) bullet points regarding The Grove. The first bullet point disclaimed any relationship between Steve Andrews and the Governor’s

interest in voting to approve the purchase of the Properties at issue in this cause. *See* attached **Exhibit “313”**.

341. On March 21, 2012, The Florida Current carried a news article regarding the State’s decision to purchase the Properties at issue in this cause, and crediting Governor Scott and Secretary Detzner with having provided the impetus behind the decision to exercise the Right of First Refusal. The article states that Secretary of State Ken Detzner believed that the purchase was “**critical**” to the operation of The Grove. The article does not explain when Secretary of State Detzner first recognized the critical value of the Properties at issue and provides no explanation from Secretary Detzner as to why he originally supported a waiver of the exercise of the Right of First Refusal. *See* email from The Florida Current to Sarah Stuckey, outlining The Florida Current’s headlines for March 21, 2012, attached hereto as **Exhibit “314”** (emphasis added).

342. On March 21, 2012, Mike Morelly insisted upon having a meeting with Clay Smallwood and Mike Long regarding The Grove, and such meeting was scheduled at 3 P.M. on that same date. *See* email from Terry Bentley to Clay Smallwood and Mike Long, dated March 21, 2012, attached hereto as **Exhibit “315”**.

343. On March 21, 2012, Senator Paula Dockery sent an email to Kurt Hamon and Terry Rhodes requesting information on how she should respond to questions she had received from “several citizens” regarding the ramifications of a decision by Governor Scott to veto any funding within the General Appropriations Act for Florida Polytechnic University. *See* email from Paula Dockery to Kurt Hamon and Terry Rhodes, dated March 21, 2012, attached hereto as **Exhibit “316”**.

344. On March 21, 2012, Clay Courson, with the Department of Environmental

Protection Bureau of Appraisal, sent a letter to Rhonda Carroll, informing her firm, Carroll Appraisal Company, that it had been awarded the contract to perform an appraisal of the Properties at issue on behalf of the Defendant. The letter enclosed two “Task Assignment Notifications.” The Task Assignment Notification forms enclosed with the letter noted that the appraisal must not contain “extraordinary assumptions of hypothetical conditions and it also identified Florida Forever funds as being the project funding source. See letter from Clay Courson, with enclosed Task Assignment Notification forms, attached hereto as **Composite Exhibit “317”**.

345. The following day, on March 22, 2012, Mike Herran sent an email to Rhonda Carroll, attaching a copy of the contract between the Plaintiff and GPL for the purchase of the Properties. *See* attached **Exhibit “318”**.

346. On March 22, 2012, Chris Cate sent out, via email, to JuDee Dawkins and Jennifer Kennedy, the “Weekly EOG Agency Report,” outlining the “Successes for Week Ending March 15, 2012.” The second “success” story related to Secretary Detzner having presented information to the Cabinet in support of the purchase of the Properties at issue in this cause. *See* attached **Exhibit “319”**.

347. On or about April 14, 2012, Florida TaxWatch identified the \$2.5 million dollar appropriation for the purchase of land adjacent to The Grove as a “turkey,” given that the appropriation was added in conference and had not gone through “the proper review by the Legislature to be included in the budget.” *See* email from the Governor’s Press Office, dated April 15, 2012, with relevant news clips, attached hereto as **Exhibit “320”**.

348. On April 19, 2012, Karl Rasmussen disseminated an email outlining the level of funding (or lack thereof) available for Florida Forever projects. Estimates at that time showed

nineteen million dollars being available for the purchase of projects identified on the Florida Forever work plan. Those projects/anticipated acquisitions previously identified pursuant to the Florida Forever Work Plan totaled \$95.1 million. As such, the available funding was roughly twenty percent of that necessary to acquire those properties identified as critical conservation acquisitions pursuant to the Florida Forever work plan. It is important to note that the Properties at issue in this cause were never placed on the Florida Forever work plan, and as such were never vetted for conservation value as anticipated in the Florida Forever Act, Section 259.105, Florida Statutes. *See* attached **Exhibit “321”**.

349. The Florida Forever Act states that the acquisition of properties “should be based on a comprehensive assessment of Florida’s natural resources [...] [and that] a competitive selection process should be developed to select those projects best able to meet the goals of Florida Forever and **maximize the efficient use of the program’s funding.**” *See* Florida Forever Conservation Needs Assessment, at page one, attached hereto as **Exhibit “322”** (emphasis added).

350. The Florida Forever Conservation Needs Assessment ensures that the Florida Forever program funding is implemented so as to achieve measurable State goals and objectives. *See* Florida Forever Conservation Needs Assessment, at page one, attached hereto as **Exhibit “322”**.

351. The Conservation Needs Assessment is recognized as providing “an **objective, science based analysis** [...] involving many of Florida’s natural resource experts, and represents the general consensus of these experts.” *See* Florida Forever Conservation Needs Assessment, at page two, attached hereto as **Exhibit “322”** (emphasis added).

352. The rigorous vetting process afforded by the Conservation Needs Assessment

guarantees that Florida Forever funds are utilized for the purchase of priority lands designed to meet current conservation needs. *See* Florida Forever Conservation Needs Assessment, at page two, attached hereto as **Exhibit “322”**.

353. In addition to the Conservation Needs Assessment, the Acquisition and Restoration Council (ARC) is a nine member panel designed to rank, according to conservation value, those projects being considered for purchase with Florida Forever funding. The ARC members, through public hearings, vote on the ranking of each acquisition being considered, so as to identify “those considered most important for acquisition.” This process has been recognized as a valuable tool, through which to ensure that the expenditure of Florida Forever funds are not subject to the exertion of “**political or interest-group influence** on which projects are pursued.” *See* Florida’s Landmark Programs for Conservation and Restoration Land Acquisition, coauthored by James A. Farr, Ph.D., Environmental Supervisor, Office of Environmental Services, Division of State Lands and Greg Brock, Ph.D., Chief, Office of Environmental Services, Division of State Lands, at page six, attached hereto as **Exhibit “322”** (emphasis added).

354. The ranking process for the Florida Forever program results in projects considered for acquisition being categorized as either “A” projects or “B” projects, with “A” signifying that the acquisition is considered the highest priority for furthering the State’s conservation needs. The acquisition list, ranking the projects being considered for acquisition as either category “A” or “B,” is then submitted to the Governor and Cabinet for approval. The Cabinet maintains the authority to either approve or reject the list and can also remove individual projects, “but it may not move projects from ‘A’ to ‘B’ or vice versa.” *See* Florida’s Landmark Programs for Conservation and Restoration Land Acquisition, at page six, attached hereto as

**Exhibit “322”.**

355. Thereafter, the State may begin to pursue acquisition of those projects approved and ranked. Several steps are required to acquire the properties via the use of Florida Forever funding, including surveying, appraising, and obtaining an “environmental site assessment [...] to identify and remove any potential or hazardous substances on site.” *See* Florida’s Landmark Programs for Conservation and Restoration Land Acquisition, at pp. 6-7, attached hereto as **Exhibit “322”.**

356. Where the final purchase price exceeds \$250,000.00, an acquisition must be approved by a subsequent vote by the Governor and Cabinet during a publicly noticed meeting. *See* Florida’s Landmark Programs for Conservation and Restoration Land Acquisition, at page seven, attached hereto as **Exhibit “322”.**

357. The acquisition of the Properties at issue in this cause were not submitted to the requirements of Chapter 259, Florida Statutes, and as such the expenditure of Florida Forever funding for the acquisition of the Properties at issue would be contrary to Statute, and their purchase is *per se* susceptible to the exertion of undue political influence. *See* Florida’s Landmark Programs for Conservation and Restoration Land Acquisition, at page six, attached hereto as **Exhibit “322”.**

**Sworn Deposition Testimony of John Aurell**

358. Mr. Aurell is the son-in-law of former Governor LeRoy Collins and he is a well respected member of the Florida Bar, and has been for approximately forty-eight (48) years.

359. Mr. Aurell is the general partner of Grove Properties Limited, a Florida Limited Partnership.

360. Grove Properties Limited was established in approximately 1998, and was created

as a vehicle in which to transfer the properties owned by Governor and Mrs. Collins into the Limited Partnership for purposes of estate planning. The Properties at issue in this cause were believed to have been transferred to GPL back in 1998, but it was later learned that the central parcel was inadvertently left within the Estate of Mary Call Collins.

361. Mr. Aurell, as the general partner of GPL, had numerous ongoing communications with the Division of State Lands related to issues with The Grove. Mr. Aurell also managed the lease of the Properties at issue in this cause to the Plaintiff. Mr. Aurell, throughout the years, has historically had a contact person with whom he would direct all communications related to The Grove and other issues implicating the properties owned by the Collins family.

362. Originally, Dave Farrow served as the contact person with the Department of State, Division of Historical Resources. After Mr. Farrow retired, Scott Stroh, on behalf of the Division of Historical Resources, became the contact person for Mr. Aurell. After Mr. Stroh resigned from his position with the Department of State, Mr. Robert Bendus served as the contact person with whom Mr. Aurell corresponded regarding issues related to The Grove. The course of dealings between Mr. Aurell and Mr. Stroh included the negotiation of the purchase of various furnishings which had remained in The Grove mansion, subsequent to the passing of Mary Call Collins, but which remained the property of the Collins family.

363. When Mr. Aurell originally contemplated the sale of the Properties at issue in this cause, he relayed the possibility of selling the Properties to Mr. Stroh, which is consistent with Mr. Aurell's prior course of dealings with the State.

364. After Deputy Secretary of State JuDee Dawkins informed Mr. Aurell in mid-2011 that the State was not interested in purchasing or leasing the Properties at issue in this cause, Mr.

Aurell, on behalf of GPL, began to negotiate the sale of the Properties with the Plaintiff.

365. At that time, Mr. Aurell was unaware that the Board of Trustees had been granted a Right of First Refusal for the purchase of the Properties at issue in this cause, back in 1985, but he had been informed by Mr. Stroh that numerous State agencies had been advised of the offer to purchase or lease the Properties at issue and that no agency had expressed an interest.

366. In November of 2011, Mr. Aurell discovered the issue of the Right of First Refusal and immediately made contact with Mr. Bendus, requesting that the Board of Trustees provide a waiver of the Right of First Refusal, given that all relevant agencies had theretofore denied any desire to purchase the Properties at issue in this cause. Mr. Bendus, acting through the scope of his agency, assured Mr. Aurell that he would move forward in obtaining the waiver of the Right of First Refusal, and at no time did Mr. Bendus indicate to Mr. Aurell that he would not forward the information to the Board of Trustees. According to Mr. Aurell's sworn testimony, Mr. Bendus indicated that "he would be happy to help us and get it to the right place." *See* deposition of John Aurell, attached hereto as **Exhibit "323"**, at page 33, lines 13-14.

367. In written communications with Mr. Aurell in November of 2011, Mr. Bendus indicated that he had the go ahead to get the waiver for the Right of First Refusal.

368. On November 15, 2011 Mr. Aurell sent an email to Robert Bendus attaching a proposed waiver of the Right of First Refusal, as drafted by Mr. Aurell's brother-in-law, Palmer Proctor. Clearly this would serve as written notice of the proposed sale consistent with the requirements of the Right of First Refusal as draft. *See* page (49), *see also* email from John Aurell to Robert Bendus, dated November 15, 2011, attached hereto as **Exhibit "54"**.

369. Given the manner in which Mary Call Collins' Estate was originally devised, there was no need to have a personal representative appointed to administer the estate. When it

was discovered, in approximately November of 2011, that the Properties at issue in this cause had not been transferred to Grove Properties Limited, Mr. Aurell, through counsel, opened a summary proceeding in order to transfer that parcel in accordance with the will of Mary Call Collins. *See* attached **Exhibit “324”**.

370. The contract with the Plaintiff states that closing on the sale is to occur on or before December 31, 2011. Mr. Aurell testified, under oath, that the Plaintiff fulfilled all of his contractual obligations and, as such, the Plaintiff continues to possess a valid contractual interest in the purchase of the Properties at issue in this cause, sans the December 31, 2011 deadline to close on the sale.<sup>13</sup> *See* attached **Exhibit “323”**, at page 38.

371. According to Mr. Aurell’s testimony, he was repeatedly assured that the Board of Trustees would grant a waiver for the exercise of the Right of First Refusal.

372. At one point, Mr. Aurell was informed that the Board of Trustees had until February 1, 2012 to act on the Right of First Refusal or else the Right would be deemed waived, as of that date. *See* attached **Exhibit “323”**, at page 46.

373. According to Mr. Aurell, he stopped receiving any response from Mr. Bendus after January 30, 2012 despite numerous attempts by Mr. Aurell to correspond with Mr. Bendus with respect to the status of the waiver of the Right of First Refusal.

374. Mr. Aurell testified that Mr. Bendus’ lack of response after January 30, 2012 was unusual, as Mr. Bendus “had always been extraordinarily responsive until that time.” *See* attached **Exhibit “323”**, at page 48, lines 20-21.

---

<sup>13</sup> *See Pan American Engineering Co., Inc. v. Poncho’s Construction Co.*, 387 So. 2d. 1052 (Fla. 5<sup>th</sup> DCA 1980) (holding that written contracts be modified by subsequent oral agreement by the Parties where there has been a waiver of the contract provision or where the contract was modified by the course of dealings); *See also DK Arena, Inc. v. EB Acquisitions I, LLC*, 31 So. 3d. 313 (Fla. 4<sup>th</sup> DCA 2010) (holding that Parties to a contract for the sale of real property may orally amend the time to perform to extend such time to perform without violating the Statute of Frauds).

375. Mr. Aurell testified that he grew frustrated with the delay in receiving the waiver of the Right of First Refusal from the Board of Trustees, so that he could proceed with closing on the sale of the Properties with the Plaintiff.

376. Mr. Aurell testified that after receiving no response from Mr. Bendus, he decided to call Deputy Secretary JuDee Dawkins directly. Mr. Aurell testified that the decision to call Ms. Dawkins stemmed from not only his growing frustration, but also his concern for the Plaintiff moving forward with the purchase as agreed. Unlike Mr. Bendus, Ms. Dawkins answered Mr. Aurell's telephone call whereupon Mr. Aurell informed Ms. Dawkins that he had been repeatedly assured that a waiver of the Right of First Refusal was forthcoming. Mr. Aurell testified that Ms. Dawkins seemed hesitant to discuss the issue and made it clear to Mr. Aurell that the request for a waiver had moved to a "pay grade higher than hers and that she just couldn't comment on it." *See* attached **Exhibit "323"**, at page 57, lines 5-6.

377. Mr. Aurell received a call later that same afternoon from the Department of Environmental Protection General Counsel Sandra Stockwell, who once again "indicated that something had happened above her pay grade, she couldn't really tell me precisely what was happening, but she would undertake to find out and get back to me." *See* attached **Exhibit "323"**, at page 57, lines 17-20.

378. On March 7, 2012, a spokesperson for Governor Scott released a statement to WCIV News announcing that Properties would be acquired and "used for parking." Governor Scott's announcement to the media ensured that a clear title binder would not be obtained for the sale of the Properties absent some authoritative declaration. The WCTV News article related to Governor Scott's announcement is attached hereto as **Exhibit "324-A"**.

379. Based upon the inability to receive honest feedback from the Board of Trustees

regarding the request for a waiver of the Right of First Refusal, Mr. Aurell “decided to just go ahead and ask the Court to please open the estate, make a determination that everything had been settled properly, and to discharge me formerly as executor, which would terminate the Right of First Refusal.” *See* attached **Exhibit “323”**, at page 53, lines 5-9.

380. On March 14, 2012, the Petition was filed and on March 21, 2012, an Order of Discharge, discharging Mr. Aurell as the personal representative of Mrs. Collins’ Estate, was entered.

381. The Petition clearly stated, for the Court’s consideration, that the relief being sought was “in connection with the execution of a contract to sell a portion of the property.” *See* **Exhibit “324”**.

382. Mr. Aurell testified, under oath, that prior to March 21, 2012, when the Order of Discharge was entered, he had not received written notice from the Board of Trustees of their intent to exercise their Right of First Refusal, *see* attached **Exhibit “323”**, at pages 55-56. Mr. Aurell testified at his deposition that according to the terms of the Right of First Refusal, which provided that the Right of First Refusal would “remain in effect until discharge of the personal representative of the estate of the latter of LeRoy Collins or Mary Call Collins to die,” he could only conclude that the Right of First Refusal, by its own terms, ceased to exist upon the entry of the March 21, 2012 Order discharging Mr. Aurell as the personal representative of Mary Call Collins’ Estate. *See* attached **Exhibit “323”**, at page 75, lines 12-21.

383. On March 23, 2012, two days after Mr. Aurell had been discharged as the personal representative for the Estate, he received a letter from Clay Smallwood, Director of the Division of State Lands, purportedly indicating that the Board of Trustees had “met and exercised its Right of First Refusal to purchase” the Properties at issue in this cause. Also

enclosed with Mr. Smallwood's letter was a check for \$20,000.00, described as "Binder deposit P&S Grove, 822 N. Monroe St." *See* letter from Clay Smallwood to John Aurell, dated March 23, 2012, attached hereto as **Exhibit "325"**.

384. On March 26, 2012, Mr. Aurell, through written correspondence, replied by returning the \$20,000.00 "Binder deposit" and further informing Mr. Smallwood that the contract submitted on March 23, 2012,

**"differs substantially** from the contract pursuant to which Mr. Andrews has agreed to purchase the property. I furnish the State with a copy of the Andrews contract in December, 2011. Any contract submitted by the State in connection with its exercise of the Right of First Refusal must be substantially and materially identical to the terms, conditions, and provisions of the Grove Properties Limited/Steven R. Andrews contract. It is **clear on its face that the form of contract submitted by the State is materially different from the Andrews contract.**"

*See* attached **Exhibit "326"**.

385. Mr. Aurell testified in his deposition, at May 15, 2012, that the contract submitted by the State on March 23, 2012 "had all sorts of terms and provisions which were different than and inconsistent with the contract **we have with Mr. Andrews**" (emphasis added). *See* attached **Exhibit "323"**, at page 61, lines 9-11. Primarily, Mr. Aurell pointed to the provisions related to environmental assessments and hazardous materials and, according to Mr. Aurell's testimony, the deviations are "a very material difference." *See* attached **Exhibit "323"**, at page 63, line 3. Mr. Aurell further testified that there were several other discrepancies between the provisions of the contract submitted by the State and the terms of the contract he continued to maintain with Mr. Andrews, but he noted that the environmental assessment issue alone had resulted in a \$120,000.00 reduction in the original negotiated purchase price with the Plaintiff.

386. On June 11, 2012, Clay Smallwood sent a letter to Mr. John Aurell claiming that

the Board of Trustees had “timely exercised its Right of First Refusal” via the March 23, 2012 correspondence.<sup>14</sup> Thereafter, Mr. Smallwood stated that “since the original Contract that was presented to you on March 23, 2012, DEP has completed its due diligence and the purchase of the Property is no longer subject to the conditions of paragraphs, 5, 6,7, 8, 9, 20, and the DSL Approved Value contingency of paragraph 2 of the Contract.” Once again enclosed in Mr. Smallwood’s letter was a check for \$20,000.00 purporting to be the “Binder deposit.” *See* letter from Clay Smallwood to John Aurell, dated June 11, 2012, attached hereto as **Exhibit “327”**.

387. On June 12, 2012, counsel for Mr. Aurell returned the “Binder deposit” to Mr. Smallwood and once again reiterated that “the Trustees have neither timely nor properly exercised the right of first refusal with respect to the contract between Grove Properties Limited and Mr. Andrews.” *See* letter from counsel to Clay Smallwood, dated June 12, 2012, attached hereto as **Exhibit “328”**.

388. On June 18, 2012, Clay Smallwood provided to Mr. Aurell a written letter, once again claiming that the Board of Trustees had timely exercised its Right of First Refusal, enclosing the State’s Warrant in the amount of \$560,027.00. Also enclosed was an affidavit regarding title, possession, and liens known to Mr. Aurell which implicated the Properties. The affidavit required Mr. Aurell to affirm that “there are no existing contracts for sale affecting the property except for the contract between Seller [GPL] and Purchaser [the Defendant]. Obviously, the Defendant’s demand that Mr. Aurell affirm this patently false statement is materially different from the contract between the Plaintiff and GPL, which required no such false affidavit be filed. Similarly, the affidavit required that Mr. Aurell, on behalf of GPL, affirm that there “is no civil action pending which involves the Property in any way.” *See* letter from Clay Smallwood, dated June 18, 2012, with enclosures, attached hereto as **Composite Exhibit**

---

<sup>14</sup> Once again, the March 23, 2012 letter was delivered two days after the Order of Discharge was entered.

**“329”.**

389. On June 19, 2012, counsel for Mr. Aurell returned a Warrant in the amount of \$560,027.00 to Mr. Smallwood and relied upon the previous letter dated June 12, 2012, wherein Mr. Smallwood was informed by Mr. Aurell’s counsel that the Trustees had failed to timely or properly exercise their Right of First Refusal. *See* letter from counsel to Clay Smallwood, dated June 19, 2012, attached hereto as **Exhibit “330”**.

### **Count One – Declaratory Judgment**

390. The Plaintiff restates the allegations in paragraphs 1 through 389 and incorporates them into this Count One as if fully alleged herein. Each of these paragraphs incorporated herein contain factual allegations which are relevant to the relief being sought in this Count.

391. The Plaintiff, at all times, has been ready, willing, and able to close on his contract to purchase the Properties at issue in this cause. The only obstacle to this closing was the interference by the Board through the issuance of public statements of the Board's sudden desire to acquire the Properties at issue resulting in GPL's inability to obtain a "clean title binder".

392. The Plaintiff is in doubt regarding the Board's rights, if any remain, under the Right of First Refusal.

393. There is a bona fide, actual, present, and practical need for a declaratory judgment.

394. There is a present ascertained set of facts or a present controversy over those facts.

395. The privileges and rights of the parties are dependent on these facts and the law applicable to those facts.

396. Both the Plaintiff and the Board have an actual, present, and adverse interest in the subject matter.

397. The adverse interests are all before the Court.

398. A declaratory judgment would not be mere legal advice. The parties cannot obtain relief in any other civil action.

Accordingly, the Plaintiff asks the Court to enter a judgment providing the following

relief:

- a. Finding that the Board's rights under the Right of First Refusal terminated on December 9, 2011, upon the entry of the Order of Summary Administration in the Estate of Mary Call Darby Collins;
- b. Finding that in the alternative to subsection "a" above, that the Board's Right of First Refusal terminated on March 21, 2012 when the Honorable Circuit Court Judge Karen Gievers entered the Order discharging Mr. Aurell as the Personal Representative of the Estate of Mary Call Darby Collins, thereby naturally terminating the Right of First Refusal, pursuant to its express terms given that such order discharging Mr. Aurell as the Personal Representative was entered prior to the Board having provided written notice to the Estate of Mary Call Collins of its intent to exercise the Right of First Refusal as required by the express terms in the grant of Right of First Refusal;
- c. Finding that in the alternative to subsection "a" and "b" above, that the Board's Right of First Refusal terminated on May 15, 2012 given that date marked six months after which the Defendant, by and through its delegated agents, had received written notice of the proposed sale as required under the Right of First Refusal and that the Defendant had failed to appropriately exercise its Right as of that date;
- d. Finding that in the alternative to subsections "a," "b," and "c" above, that the Board's Right of First Refusal terminated on June 10, 2012 given that date marked six months after which the Defendant, by and through its delegated agents, had received written notice of the proposed sale as required under the

Right of First Refusal and that the Defendant had failed to appropriately exercise its Right as of that date;

- e. Finding that in the alternative to subsections “a,” “b,” “c,” and “d” above, that the Board’s Right of First Refusal terminated on June 13, 2012 given that date marked six months after which the Defendant, by and through its delegated agents, had received written notice of the proposed sale as required under the Right of First Refusal and that the Defendant had failed to appropriately exercise its Right as of that date;
- f. Finding that the Defendant failed to properly exercise its Right of First Refusal insofar as it has not matched material terms of the Plaintiff’s contract and as such no longer enjoys its Right of First Refusal;
- g. Finding that the Defendant exercised its Right of First Refusal when it originally and repeatedly disavowed any interest in acquiring the properties and as such effectively waived its Right of First Refusal; and
- h. Finding that the use of Florida Forever funding for the acquisition of the properties at issue in this cause would violate Section 259.105, Florida Statutes;
- i. Ruling that the Board has no current rights under the Right of First Refusal;
- j. Ruling that the Property may be conveyed and encumbered free from any restrictions arising out of the Right of First Refusal; and
- k. Granting such other relief as the Court deems equitable.

### **Count Two – Sunshine Law Violation**

**(Board of Trustees serves as a rubber stamp for agency recommendations)**

402. Plaintiff restates and realleges paragraph 1 through 389 and incorporates them into this Count Two, as if fully alleged herein. Each of these paragraphs incorporated herein contain factual allegations which are relevant to the relief being sought in this Count.

403. This is an action for declaratory and injunctive relief pursuant to Section 286.011, Florida Statutes.

404. The Plaintiff, as a Florida citizen, has standing to bring this action pursuant to § 286.011, “to vindicate the public’s interest in open government.” Silver Express Company, etc., v. The District Board of Trustees of Miami-Dade Community College, 691 So. 2d 1099, 1101 (Fla. 3d DCA 1997).

405. Florida courts have long recognized that “the purpose of the Sunshine Law is ‘to prevent at non-public meetings the crystallization of secret decisions to a point just short of ceremonial acceptance.’” Zorc v. City of Vero Beach, Florida, 722 So. 2d 891, 896 (Fla. 4<sup>th</sup> DCA 1998)(quoting Monroe County v. Pigeon Key Historical Park, Inc., 647 So. 2d 857, 860 (Fla. 3d DCA 1994). Stated another way, § 286.011, Fla. Stat. is violated where the public action is “merely a ceremonial acceptance of secret actions...[and is] merely a ceremonial acceptance of secret decisions at a later meeting open to the public.” Tolar v. School Board of Liberty County, 398 So. 2d 427, 429 (Fla. 1981).

406. Moreover, “[i]n construing the statute, it is well settled that the Sunshine Law, enacted for the public benefit, should be liberally construed to give effect to its public purpose”. Zorc 722 So. 2d at 897 (*internal citations omitted*).

407. The record presented establishes that the decision to exercise the Right of First Refusal to purchase the Properties occurred at private meetings contrary to § 286.011, Fla. Stat.

408. The Defendant’s record of approving the recommendations of the presenting

agencies can lead to no other conclusion than the Defendant serves as a rubber stamp for the decisions of the recommending agencies, and accordingly the agencies are the decision makers with the Defendant's publicly noticed hearings serving as nothing more than a perfunctory ceremonial acceptance of the recommendations provided.

409. As was noted herein, the Defendant follows the recommendations of the presenting agencies a staggering 99.28% of the time, with the only exceptions being those rare occasions where the vote led to a withdrawal, deferral, or tabling of an agenda item. The voting record does not reveal a single instance where the Defendant and/or the Governor and Cabinet, denied the recommendation of the presenting agency. Thus, the Defendant denied a recommendation of a presenting agency 0.00% of the time. This type of subterfuge is contrary to the spirit and intent of § 286.011 and should not be countenanced.

410. Given that the Defendant's decision to exercise the Right of First Refusal occurred contrary to the strictures of § 286.011, the vote on the exercise of the Right of First Refusal must be declared void *ab initio*, as once a "violation is established, prejudice is presumed" and a finding that a Sunshine Law violation has occurred "does not depend on a finding of intent to violate the law." *Id.* at 902.

411. Plaintiff has incurred costs and attorneys' fees in prosecuting this action for violation of the Sunshine Law and is entitled to assessment of reasonable attorneys' fees against Defendant pursuant to Section 286.011(4).

**WHEREFORE**, Plaintiff, STEVEN R. ANDREWS, requests that this Honorable Court enter an order declaring the Defendant's purported exercise of the Right of First Refusal void *ab initio* as violative of § 286.011, Fla. Stat., and further demands judgment against the Defendant for costs and fees associated with bringing this suit along with all other relief deemed equitable

by the Court.

**Count III—Sunshine Law Violation**

**(Arguing in the alternative to Count II and alleging that the decision to Exercise the Right of First Refusal was made outside of public meetings with instructions having been provided to the presenting agencies to feign support for the exercise of the Right of First Refusal so as to legitimize the action)**

412. Plaintiff restates and realleges paragraph 1 through 389 and paragraphs 403 through 406 and incorporates them into this Count Three, as if fully alleged herein. Each of these paragraphs incorporated herein contain factual allegations which are relevant to the relief being sought in this Count.

413. Prior to the request for a *waiver* of the Exercise of the Right of First Refusal having been brought forth to Governor Scott, the record is replete with documents belying any proclaimed need or use for the Defendant's exercise of the Right of First Refusal.

414. These records include, the executed letter of Former Secretary of State Kurt Browning denying that the properties had any historic or conservation value, multiple negative response memoranda related to the exercise of the Right of First Refusal, a formal response from FDLE disclaiming any security interest in possessing the Properties, and dozens of electronic messages disclaiming any use of the Properties at issue in this cause.

415. Inexplicably, these records are diametrically opposed to those records that were created after the recommended waiver of the Right of First Refusal was first presented to Governor Scott. Moreover, the records suggest that two of the four Cabinet members had already approved the waiver prior to the recommendation having been brought forth to Governor Scott for his approval.

416. These records lead to the ineluctable conclusion that Governor Scott imposed his will on the process and hoisted his decision to exercise the Right of First Refusal upon the

Cabinet members thereafter.

417. This conclusion is supported by the realization that the Negative Response memorandum was not presented to the Cabinet (as was repeatedly promised to Mr. Aurell), because either the Governor demanded that a recommendation to exercise the Right of First Refusal be presented instead. The contrived Memorandum recommending the exercise of the Right of First Refusal was necessary either because the Defendant serves as a rubber stamp (see Count II above) or because the Defendant desired some political cover for the decision to exercise the Right of First Refusal, which had already been thoroughly discredited within the public record.

418. The record provides no explanation as to why multiple high ranking public officials experienced an absolute reversal in their position as to the utility behind exercising the Right of First Refusal after the issue had been formally presented to Governor Scott for his consideration, but the records firmly establish that these high ranking public officials underwent a change in philosophy after that time and signed documents diametrically opposed to positions they had previously taken with regard to the subject.

419. The fact that the newfound support for the Defendant's exercise of the Right of First Refusal occurred after the matter was presented to Governor Scott and the flurry of actions focused solely upon furthering the acquisition of the Properties thereafter proves that the decision to exercise the Right of First Refusal occurred outside of a publicly noticed meeting, and that the public action taken was merely a ceremonial acceptance of those secret actions.

420. This type of backroom dealing is eschewed by § 286.011, Fla. Stat., and renders the Defendant's perfunctory ratification of the predetermined action void *ab initio*.

421. Plaintiff has incurred costs and attorneys' fees in prosecuting this action for

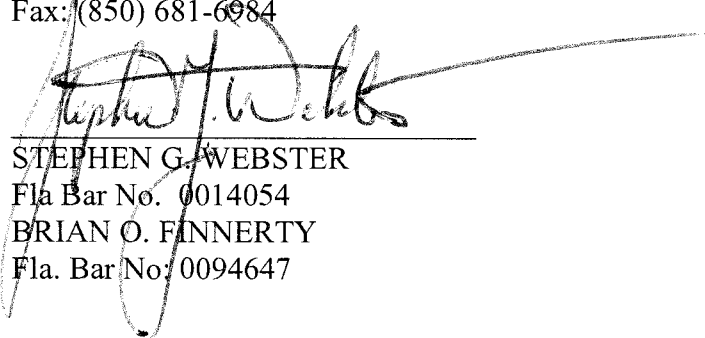
violation of the Sunshine Law and is entitled to assessment of reasonable attorneys' fees against Defendant pursuant to Section 286.011(4).

**WHEREFORE**, Plaintiff, STEVEN R. ANDREWS, requests that this Honorable Court enter an order declaring the Defendant's purported exercise of the Right of First Refusal void *ab initio* as violative of § 286.011, Fla. Stat., and further demands judgment against the Defendant for costs and fees associated with bringing this suit along with all other relief deemed equitable by the Court.

Dated: July 25<sup>th</sup>, 2012.

Respectfully submitted,

The Law Offices of  
STEVEN R. ANDREWS, P.A.  
822 Monroe Street  
Tallahassee, Florida 32303  
Tel: (850) 681-6416  
Fax: (850) 681-6984



---


STEPHEN G. WEBSTER  
Fla Bar No. 0014054  
BRIAN O. FINNERTY  
Fla. Bar No: 0094647

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been furnished via U.S. Mail and/or electronic transmission this 25<sup>th</sup> day of July, 2012, to:

James A. Peters  
Special Counsel  
Office of the Attorney General,  
The Capitol – PL-01  
Tallahassee, Florida 32399

Michele R. Forte-Osborne  
Senior Assistant General Counsel  
Florida Dept of Environmental Protection  
3900 Commonwealth, M.S. 35  
Tallahassee, FL 32399

  
\_\_\_\_\_  
STEPHEN G. WEBSTER  
Fla Bar No. 0014054  
BRIAN O. FINNERTY  
Fla. Bar No: 0094647