

## Greater Las Vegas Area Description Continued

New home sales in the Greater Las Vegas Area have generally consisted of 85% 90% detached homes, historically, with the balance consisting of attached homes such as condominiums, townhomes and duplexes. New home sales has grown steadily from 1991 through 2003, with there being approximately 10,719 new home sales in 1991, increasing to 25,230 new home sales in 2003. During this period of time, there was only two years which showed a slight decline, being the year 2000, with 21,246 new home sales, declining from 21,710 and in 1992, with 22,374 new home sales, declining from 23,749. Again, 2003 reflects new home sales well above any previously for the previous 12 years.

### Utilities

Water is supplied by the Las Vegas Valley Water District. Las Vegas and Clark County areas, electricity by Nevada Power Company, natural gas by Southern California Company and sewer is owned by respective municipalities. Public water is supplied by the city in both North Las Vegas and Henderson. Utility services have proven adequate and dependable with rates comparable to or below those in adjoining western states.

### Schools

There are approximately 269 public schools in the Clark County School District. In addition to public schools, there are 32 private and church sponsored schools having enrollments of 100 or more students. Higher education is provided by the Southern Nevada Vocational Technical Center, Area Technical Training Center, Clark County Community College and the University of Nevada at Las Vegas. Fourteen private colleges and universities exist. The University of Nevada at Las Vegas has a current enrollment of approximately 26,393 students and has a wide curriculum with approximately 185 different undergraduate, master and doctoral programs. The 10 year enrollment increase has been approximately 40%. There are currently 263,337 students enrolled in the Clark County School District, ranked 6th largest in the nation. Development of new school facilities has been rapid, successfully funded by major state bond issues and generally kept pace with local growth. Clark County Schools are of an excellent quality, with an education level above the national average.

### Community Services

In addition to the hotels and motels previously mentioned, there are 13 modern hospitals licensed for 3,463 beds, 619 places of worship, 33 banks, 16 credit unions, two major newspapers, 30 radio stations, 20 television stations, 37 day centers, 139 parks, eight bowling centers, six marinas at Lake Mead and other recreational and community facilities.

The Flamingo Field complex offers 132,000 square feet of exhibit space, a 2,000 seat amphitheater and a 10,000 seat baseball stadium for the Triple A team. The Thomas and Mack Center and Sam Boyd Stadium are home to UNLV sports teams as well as hosting a wide variety of concerts, sporting and other events. Numerous concerts and shows are available for local residents and tourists alike, including a variety of long running shows.



## Greater Las Vegas Area Description Continued

in the various hotel/casinos and special appearances by numerous celebrities, bands and other showmen in the numerous varied venues throughout the area. Some of the largest venues include the Thomas and Mack Center, the MGM Grand Garden, the Flamingo Theater for the Performing Arts and some of the largest showrooms in *Bally's*, *Flamingo Boy* and *Flamingo's Palace*. Open air concerts and similar events are held in many local parks as well.

The Las Vegas Motor Speedway is a motor sports entertainment complex encompassing over 1,000 acres just northwest of Nellis AFB. LVMS has 24 different racing venues including a 1.5 mile Super Speedway, 2.5 mile road course, 4,000 foot drag strip, paved and dirt short tracks, motor cross circuits, stadium track racing facilities, go carts, BMX, etc. The main facility seats approximately 107,000 people along the 1.5 mile Super Speedway, has a 40,000 car parking area and 100 spaces RV park. Host to an Annual NASCAR race, the \$200 million facility opened in September 1996 for the Indycar League's Las Vegas 500, breaking all previous attendance records for a Nevada sporting event, with over 60,000 race fans in attendance. Speedway International Park, an integral part of the Las Vegas Motor Speedway facility, completed 1.4 million square feet of industrial floor space in 1997/98.

### Taxes

Nevada has no personal or corporate income taxes, no inheritance, gift or gift taxes or taxes on intangibles. Property taxes in Clark County range from \$2.342 to \$3.4286 per \$100.00 of assessed valuation. The assessed valuation is limited to 75% of full cash value by the rate constitution. The State sales tax is 2.5% and does not apply to food products for home use. Nevada's Freeport Law, which exempts goods in transit and not to be delivered within the State from taxation, has caused a great influx of warehousing to the State. Primarily because of the state gaming taxes, Nevada has an individual tax load well below most states. However, state and local combined are below that of other states with any legal form of gaming. Of the Nevada casinos, special care is given to the out-of-state gaming markets.

### Government

The County operates as an independent political entity, administered by a County Manager who is supervised by an elected seven man Board of Commissioners. It is the only county in the nation where County government tends to control rural areas, with city governments controlling urbanized areas. The substantial urban areas, most notably the Las Vegas Strip, located within unincorporated areas of the county give Clark County government substantial political and economic clout. Occasional political discussion of consolidation or expanded city incorporation have always been advanced, a trend which is likely to continue. The City of Las Vegas and the County do, however, share a common police force. The Las Vegas Metropolitan Police Department



## Greater Las Vegas Area Description Continued

The three cities within the area all have council-manager forms of government, with elected Mayor's having an equal vote on an elected council, and a City Manager facilitating daily operations at the direction of the council. Each city operates independent fire departments, jail and court systems with North Las Vegas and Henderson each having a police force. The County and City's administrations have proven to be effective in providing for and protecting public and private interests.

### Recreation Areas

Las Vegas is located approximately 3 miles southeast of the Mt. Charleston ski and recreation area with neighboring trails and camping in the Toiyabe National Forest, Spring Mountains National Recreation Area. Just west of and visible from most of the valley are the sheer, red sandstone cliffs of Red Rock National Recreation Area, among which is Spring Mountain Ranch State Park. Lake Mead National Recreation Area is within one-half hour of most of the valley, including the largest man-made lake in the country, Lake Mead, as well as Lake Mohave. In addition, within daily driving distance are Hoover Dam, Valley of Fire State Park and John Bryan's Grand Canyon and Death Valley National Parks. Floyd Lamb State Park is located at the northern portion of the valley. These recreation areas are open year-round and offer a variety of governmental controlled facilities. A large off-road recreation area is available in Las Vegas Bures, at the northeast corner of the valley, and numerous protected wilderness areas and various points of interest are in immediate surrounding areas.

### Summary

The Greater Las Vegas Area has grown at an rapid rate throughout recent history, and should continue to do so into the foreseeable future. The 9th reversion act and a substantial, but apparently temporary, setback on the Las Vegas tourism market, causing slight dampening local annual economic indicators that had been posting stable growth. However, occupancies have improved and visitors are spending in Las Vegas, indicating the long term strength of the local economy and strong demands for Las Vegas' diversified tourist opportunities.

Utility and community services have been maintained at a level to adequately serve the population. Area forecasts indicate that Las Vegas area population could reach well over 1 million without experiencing any major problems of furnishing utility services, including an adequate water supply. Plans are underway to secure added water from a number of sources which would allow additional growth. An ample supply of vacant land exists to allow Las Vegas to grow at a healthy rate for some time to come. However, land prices are escalating rapidly, due to the timed release of vacant land by the BLM, coupled with the continued rapid rate of development.

Increasing visitor revenues and various plans for additions in the hotel/casino industry indicate that the growth of tourism will likely continue into the foreseeable future. This



## Greater Las Vegas Real Estate Market Continues

Occupancy levels in apartments are affected by the increased population in providing more housing for new residents drawn by recently created jobs, as well as home affordability. Despite low home mortgage rates over the recent past and a fair supply of new homes, as well as significant new apartment construction, occupancy levels for apartments have remained high, with only modest decline.

Occupancy levels in the office market have remained comparatively stable. Construction of new space has generally been consistent with demand, with little change in occupancy levels. A total inventory of 10,936,000 square feet of space existed at the end of 2001, with a total of 1,716,000 square feet constructed over the year. However, Class "A" office space is experiencing the highest occupancy levels, 92.7% at the end of 2001. Class "B" and Class "C" office space experienced the bulk of vacancy and also represents the majority (25,202,996 square feet, 84% of total office space in the market) indicating 88.5% and 91.4% occupancy at end of 2001, respectively. The Southwest and Southwest Suburban areas can be readily characterized as overbuilt, with 88.7% and 84.3% occupancy levels, respectively. The Central North Submarket experienced the highest occupancy, 95.3% with 1,131,616 square feet of space.

The dip in 1998-1999 indicated that occupancy was heavily due to the impact of the Stripway Industrial Park. Some 2.4 million square feet located at the bottom of the valley, this park was initially very slow to absorb due to over aggressive leasing practices versus its location. Demand has increased sharply over the past few years. In 1992, 1,992,000 square feet were absorbed versus 1,000,000 square feet absorbed in 1985, and general improvement in occupancy rates. 2001 saw 2,050,507 square feet signed absorption, with 2002 seeing 2,374,022 square feet. 2000 had 2,143,000 square feet absorbed.

There is a limited amount of heavy industry in the Las Vegas area, with much of it located in Henderson or near the location of the former World War II military plants, such as a RMI, an acronym for the consortium of companies that established Lockheed and include such companies as Shafter Chemical, American Potash and Chemical, and the Franklin Metals of America. And, as Moller Chemical Corporation. Several large facilities, many of which process mineral products, are also located just outside the valley. These make the Apex industrial area and a new development area, industrial in terms of located just north of Apex on land recently acquired from the BLM, where a new, natural gas fueled electric power plant is being built.

Edcorp, Ford Aerospace, Levi Strauss, All Capital, P&T and Airborne, and a Nabisco Pepsi Cola, Elmer's, Chocolate, Ocean Spray and Coca-Cola all have major facilities in the Las Vegas Valley, an example of the high technology and computer in the metropolitan area. Hotschold National recently built a major facility in



# Greater Las Vegas Area Description - Continued

processing facility in the Summerlin area. Beginning with 1992, the following chart contains data errors which cannot be explained.

Inventory and Acquisition  
 Limited to Base Only in 1992

	Office			Industrial			Military		
Year	Total Inventory	New Inventory	Net Acquisition	Total Inventory	New Inventory	Net Acquisition	Total Inventory	New Inventory	Net Acquisition
1997	15,719,901	1,578,215	1,054,747	16,714,956	1,711,125	1,085,512	15,701,000	1,600,000	1,000,000
1998	17,459,621	1,812,652	1,175,234	17,761,427	1,912,017	1,224,450	16,714,956	1,711,125	1,085,512
1999	18,556,157	1,992,331	1,267,340	18,571,457	2,000,000	1,277,000	17,459,621	1,812,652	1,175,234
2000	19,131,406	2,057,312	1,301,406	19,244,238	2,100,000	1,317,747	18,556,157	1,992,331	1,267,340
2001	20,521,027	2,400,000	1,500,000	20,521,027	2,400,000	1,500,000	19,131,406	2,057,312	1,301,406
2002	21,101,207	2,100,000	1,400,000	21,101,207	2,100,000	1,400,000	20,521,027	2,400,000	1,500,000
2003	20,821,051	1,800,000	1,100,000	20,821,051	1,800,000	1,100,000	21,101,207	2,100,000	1,400,000

Number of Employees: Authorized Community and Net Acquisition figures only. Source: Census Bureau, 1992-2003.

A number of major federal government facilities operate in the area. The Ronald Reagan Air Force Base in the northeast part of the valley and the Nellis Auxiliary Air Base, located 25 miles northwest of the Las Vegas Valley, and its surrounding bombing and gunnery range (operated by Nellis AFB). The Department of Energy's (DOE) operations center and the Nevada Test Site (NTS) encompasses approximately 1,300 square miles, which is essentially an outdoor testing and research laboratory where the primary function was for testing of nuclear weapons. Located roughly 70 miles northwest of the Las Vegas Valley, most of the facilities employment and supporting services are located in the Las Vegas area. A number of other nuclear weapons testing has been in a test since 1992. A wide variety of alternative uses are being considered for the facility, including NASA usage for the Mars and other missions, with the future of the center has also uncertain. The NTS has other missions in addition to nuclear testing including the operation of national test and demonstration facilities, nuclear non proliferation treaty implementation and verification, environmental restoration, waste management and technical and administrative support for the Yucca Mountain nuclear waste repository project. Salary costs are approximately \$300 million and approximately 1,000 DOE employees reside in Southern Nevada with the DOE's total local budget that amount to \$60 million.

Nellis Air Force Base includes 12,000 square miles of air space north of the Las Vegas Valley and approximately 3,000,000 acres of land. This is the largest installation in the Air Combat Command. Currently, Nellis AFB accounts for approximately 5% of the



## Greater Las Vegas Area Description - Continued

County's gross product. Nellis AFB is one of the largest employers in Southern Nevada with 7,100 military and 2,700 civilian personnel. Additionally, the base averages about 1,000 temporary duty personnel. Its primary purpose is for Air Combat Training, hosting domestic as well as allied aircraft for this function. The world famous Thunderbirds Air Demonstration Squadron is also based at this facility. The base continues to grow as other facilities around the nation are downsized or closed. An example of this is the recent \$1.7 million for 35,000 square feet of hangar and shop space, flight support and administration for the F-22, the air force's next generation fighter aircraft.

### Construction

Construction in the Las Vegas area, as noted earlier, provides for approximately 10% of the employment base. Many of the construction jobs are involved in residential housing which has generated record or near record new home sales over the course of the past few years. The following building permits summary includes single family construction, multifamily construction, public buildings, hotel and motel construction, as well as commercial buildings. The permits reported do not include miscellaneous permits which may include garages, spas and pools, fences, patios and mobile homes. The inflation in the valuation of the permits is primarily due to the timing of major projects, i.e., large resorts which generally have project values in excess of \$500 million. The bulk of issued permits were for single family residential housing totaling some 26,763 issued in 2005.

### Clark County New Construction - all in permits summary

Year	Permits issued	% Change	Total valuation	% Change
1991	26,256	1.9%	\$1,746,600,440	1.4%
1992	26,716	1.7%	\$1,848,746,725	5.8%
1993	27,723	3.7%	\$1,954,430,969	5.7%
1994	28,362	2.3%	\$2,462,720,615	26.0%
1995	26,472	-6.7%	\$3,240,623,277	31.6%
1996	27,232	2.9%	\$4,525,420,600	39.6%
1997	27,687	1.6%	\$5,525,965,160	22.3%
1998	27,267	-1.5%	\$5,707,329,000	3.2%
1999	27,482	0.8%	\$7,900,139,000	39.2%
2000	22,801	-17.0%	\$3,657,671,000	-53.1%
2001	23,860	4.6%	\$2,335,644,000	-33.7%
2002	23,762	-0.4%	\$3,562,317,000	52.5%
2003	29,617	24.6%	\$6,256,492,000	75.6%

Source: Clark County Development Department, compiled from municipal building permit reports.



## Greater Las Vegas Area Description Continued

eventually be demolished for a planned multi phase development including additional hotel/casinos, office and condominium development, etc. Caesar's Palace has a 949 room addition under construction and 140,000 square feet of convention space and the Bellagio has a 923 room addition under construction. Although slightly north of "The Strip", but nonetheless on Las Vegas Boulevard, the *Sin City Sphere* hotel and hotel/casino (2,444 rooms after a 1,000 room expansion in 2001) opened in 1997 with the tallest structure west of the Mississippi River. The *Sin City Sphere* dominates the Las Vegas skyline with its 1,197 foot high observation tower with two thrill rides on top and revolving restaurant level.

The *Freemont Street Experience* developed in 1994 at a cost of \$70 million in the Downtown Central Business District includes a computer controlled 12.5 million L.B. Module color light display which forms a nearly 1/4 mile long canopy over Fremont Street. Part of a comprehensive pedestrian mall (closing vehicular traffic) along what has historically been called "Chinatown", this project revitalized the older downtown casino district helping it remain competitive as the mega resort trend continued on "The Strip". A new 240,000 square foot \$100 million retail mall recently opened in this area. *Neonopolis* includes a 14 screen movie theater and is the site of the neon museum featuring many of Las Vegas historical neon signs. Other potential projects include a new facility by MGM on the site adjacent north of the *Flamingo* hotel as well as a project by *Wynn* on a site being assembled adjacent to McCarran International Airport. *Las Vegas* Associates has plans for a London themed hotel/casino to be built on the former *Flamingo* site at the north end of "The Strip", which has at least temporarily been closed. The *Flamingo* Las Vegas has currently constructed a new timeshare project adjacent to its hotel/casino. Other timeshare projects are also being contemplated for the resort corridor. The *Wynn* Promoter is also planning a new project with demolition of the existing *Flamingo* planned. A long list of other proposed and current projects exist in addition to numerous major expansion and renovation projects evident of a flourishing economy.

Generally, reliable estimates indicate each new hotel room adds 1.25 to 1.75 employees in direct employment and upwards of 2.5 to 3 total employees to the economy which is absorbed over the course of two to three years subsequent to the development of the hotel rooms. Sustained growth in the tourist industry is demonstrated by the total visitor volume over the course of the past years. Visitor volume declined 1.3% in 2001, the only decline in recent history, attributed to the effect of the 9/11 terrorist attacks. 2002 resulted in a near flat year with visitor volume increasing 0.2% and 1993 resulted in a 1.9% increase. Double digit increases in 1994-1997 and 1999 are directly linked to the introduction of numerous new rooms in "mega-resort" type facilities. Las Vegas seems to continually demonstrate the "build it they will come" philosophy in a big way. The following summarizes historic visitor volume and gross visitor revenues.



# reater Las Vegas Area Description Continued

Clark County Visitor Volume and Gross Visitor Revenue				
Year	Visitors	% Change	Gross Revenue	% Change
1992	20,886,265	0.0%	\$15,000,431,000	0.0%
1993	23,522,593	7.5%	\$17,127,286,800	0.4%
1994	28,214,362	19.9%	\$21,612,270,442	25.0%
1995	29,061,432	2.8%	\$20,686,807,000	-4.0%
1996	29,543,651	2.7%	\$22,333,237,750	8.0%
1997	30,484,633	3.2%	\$24,052,184,800	10.7%
1998	30,605,128	0.4%	\$24,577,404,000	2.2%
1999	33,809,134	10.5%	\$25,695,178,000	4.5%
2000	33,843,691	0.1%	\$27,464,649,000	6.9%
2001	35,017,317	3.6%	\$31,907,981,000	16.2%
2002	35,079,504	0.2%	\$32,572,743,000	2.1%
2003	35,840,126	2.2%	\$33,377,733,000	2.4%

Source: Clark County Convention and Visitors Bureau

Convention business also has a significant impact as a part of the total visitor volume and revenues. Las Vegas hosts six of the top ten trade shows in the nation and 14 of the top 200 trade shows. Las Vegas has the most exhibit space of any city in the nation and the largest base of hotel rooms. Upwards of 9 million square feet of meeting and exhibition space is available in the Las Vegas area with the largest, single level convention facility in the United States being the center piece, the Las Vegas Convention Center, containing 3.2 million square feet. A 1.6 million square foot convention facility has recently opened as an addition to the 2.7 million square foot facility. Total convention attendance continues to see significant increases which in 2002 included 5,103,450 conventioners, up 4.3% over the prior year's convention attendees and 5,057,796 attendees in 2001, up 10.8% over 2000. Economic input was estimated at \$6.92 billion, up 1.9% over 2001, despite the 9.11 attacks and \$6.55 billion in 2000, an increase of 9.8% over 2002.



## Greater Las Vegas Area Description - Continued

## Hotel and Motel Occupancy Levels

Year	Hotel %	Motel %	Combined %
1993	92.6%	89.7%	91.6%
1994	92.6%	75.3%	89.0%
1995	91.4%	72.4%	86.0%
1996	91.4%	75.7%	83.4%
1997	90.1%	68.8%	79.4%
1998	90.1%	67.8%	78.4%
1999	91.1%	68.4%	79.8%
2000	92.5%	70.9%	81.7%
2001	88.9%	69.3%	74.1%
2002	88.4%	68.2%	74.0%
2003	89.6%	68.5%	74.0%

With the tremendous increase in new hotel/motel room inventory over the last decade, it would normally be expected for hotel occupancy levels to decline, which, in fact, declined. Motel occupancy levels during the absorption/stabilization period. Compared to many other facilities were constructed with family-oriented tourist attractions and strategies, attracting a new market segment not previously tapped by Las Vegas tourist industry. As a result, occupancy levels in hotels, as well as motels, have remained comparatively stable. Declines from mid-1990s to mid-1990s are partially a result of near full airline gate capacity at McCarran since remedied. 2001 and 2002 occupancy undersaturation reflected the 9-11 tragedy and the downturn in the economy, but stated a strong recovery in 2003.

## Average Annual Occupancy Levels - Greater Las Vegas Area

Year	Apartment Occupancy	Office Occupancy	Hotel/Motel Occupancy	Retail Occupancy
1997	95.1%	89.4%	91.6%	90.7%
1998	91.7%	88.1%	90.0%	91.3%
1999	94.6%	88.0%	89.4%	90.5%
2000	94.1%	89.5%	82.9%	90.7%
2001	93.8%	87.4%	89.1%	88.4%
2002	92.2%	88.4%	74.0%	88.0%
2003	92.9%	88.4%	74.0%	88.0%

End of Year Source: Apartments - Zillow.com; Office and Commercial Research - CBRE; Hotels/Motels - STRADA



## Greater Las Vegas Area Description Continued

### TRANSPORTATION

Clark County  
Nevada

Clark County

Clark County

Clark County

Other public projects underway or recently completed to accommodate increasing tourism include a public-private partnership expanding the existing monorail system into a system extending from McCarran International Airport north to the Las Vegas Convention Center and the Sahara Hotel. Phase I development of this \$50 million system was recently completed and runs from the MGM Grand to the Sahara Hotel. The Regional Transportation Commission is proceeding with studies to construct a publicly funded monorail that would link with the Sam's system in downtown Las Vegas. The proposed three-mile route would generally follow Main Street north of Sahara Avenue to the Sam's Station. Existing privately owned and operated "monorail" systems also exist between Bellagio and Monte Carlo and between MGM-Mirage, Bay and Exotic, all on the west side of "The Strip."

In 2003, 45% of the visitors traveling to Las Vegas, was by air, 43% by automobile, 9% by bus and 3% by RV. In 2002, 44% of the visitors traveling to Las Vegas arrived by air, 43% by automobile, 10% by bus and 3% by RV. In 2001, distribution was similar. McCarran International Airport, now ranked 7<sup>th</sup> busiest in the world, was ranked 16<sup>th</sup> less than one decade ago. Many visitors to Las Vegas originate in the California area, particularly those visiting on weekends and by automobile. Other transportation services available in the area include limousine service by truck and car. Tourist flights are available to the Grand Canyon and other destinations, as well as sight seeing tours around the Las Vegas area.

### Economy

The economic base of the Las Vegas area is predominated by the tourist service industries, trade industries, construction industry and governmental/municipal agencies, including substantial military base employment. The total Clark County labor force at the end of 2003 was 778,500, an increase over 2002 of 4.02%. 2002 was 761,300, a 3.0% increase from the 739,950 employed in 2001. 2001 employment represented a 4.6% increase from the 694,500 employed in 2000. The largest employment sector is the service industries, which includes most tourist industry employment such as hotel gaming and recreation, as well as typical service industries such as retail and restaurant employees, accounting for



### Greater Las Vegas Area Description Continued

43.7% of total employment. Job growth in the Greater Las Vegas Area, on a percentage basis, has led the nation for much of the past five-plus years. Despite rapid immigration, unemployment rates have remained comparatively lower than most western states. As of May 2004, Nevada unemployment was 4.3% and in the Las Vegas MSA, the unemployment rate was 3.3%. Employment distribution is illustrated in the following chart.

#### Clark County Employment Distribution

Clark County Employment Distribution

Approximately 402 hotel/casinos or more, exceeding 200 rooms exist in the Las Vegas area and 120 total in Clark County. Current room inventory is estimated at 64,732. Recent major additions to tourist facilities include a number of impressive resort hotel/casinos all located along the "Las Vegas Strip," generally recognized as Las Vegas Boulevard between Sahara Avenue and Russell Road. The Flamingo Las Vegas, built in 1946, is recognized as the first major resort hotel/casino in Las Vegas, featuring a 30-million-volcano and demonstrating the demand for such world class resort facilities in the



## Greater Las Vegas Area Description - Continue

Vegas. Touted as the first private \$1 billion construction project in Nevada, the MGM Grand introduced the world's largest hotel in 1993 with 5,005 rooms, two large auditoriums, convention/meeting space and retail mall located on 117 acres at the Tropicana Avenue intersection. Located diagonally from the former world's largest hotel, *The Flamingo* (4,000 rooms built in 1990). 1993 also saw the construction of *Flamingo Las Vegas* adjacent to, and (then) owned by *The Mirage* with its 2,900+ rooms and outdoor pirate ship battles which attract thousands of spectators every night. Other Mirage now owned by MGM ventures include the 3,046 room *Belagio* (1993) on the former *Flamingo Hotel* site. Targeted to upper income visitors, offering only suite type accommodations, the *Belagio* boasts a large lagoon with the largest water fountain show in the world, as well a large retail mall with numerous exclusive retailers.

The Circus Circus and the Mirage Corporations partnered in developing the *Flamingo Las Vegas* (1996) a 3,024 room facility located near the intersection of Tropicana Avenue. The MGM, along with the Pennwoods Corporation, developed the New York New York resort hotel/casino (1997) a 2,119 room project reminiscent of the New York City skyline with retail mall and roller coaster located at the intersection of Tropicana Avenue and "The Strip". This intersection now bills itself as the world's busiest with more hotel rooms than the entire city of San Francisco, among many other cities. *The Strip* (1999) a 2,914 room project near Flamingo Road on part of the former *Flamingo* site includes a retail mall and large scale replica of the Eiffel Tower and Arc de Triumphe. The site of the former *Vandalia Hotel* has been developed with the *Venetian* (1999) resort hotel/casino with 3,056 rooms and a large retail mall themed to look like Venice, Italy, complete with bridges and gondolas, as well as a Shakespeare Museum showcasing various traveling art exhibits. The planned second phase of the *Venetian* has recently been confirmed adding 1,000+ rooms. A second 1,000+ room hotel/casino on this site has recently been approved.

At the south end of "The Strip," Circus Circus Corporation opened *Wendover Bay* (1999) a 2,576 room hotel/casino and *Excalibur* (1995), a prominent pyramid shaped facility on the former site of the *Blazing Hoof*. *Luxor* (4,400+ rooms) with all its rooms in the pyramid along outside walls, includes the world's largest atrium containing a large indoor entertainment complex. *Mandalay Bay* includes a world renowned *Wynn Las Vegas Hotel* located on the top of the tower, *Flamingo & Bay*, and other nightclub, accommodation and restaurant facilities. This property has a 1,122 room addition which was completed in early 2004.

After demolition of its original facility, the new *Mandalay* resort hotel/casino opened in the year 2000 with 2,567 rooms and an extensive retail mall. The acquisition of the *Flamingo Las Vegas Hotel* and its golf course (encompassing 200+ acres) by Steve Wynn, former *Mandalay* CEO, occurred in 2000 and was subsequently demolished for a planned 2,701 room resort hotel/casino now under construction and to be known as *Wynn Resort and Casino*. This project is budgeted at almost \$2,000,000,000. It is anticipated that the golf course will



## Greater Las Vegas Area Description - Continued

2004 Estimated Retail Trade Potential (Resident Dollars in Millions)	
Total Retail Sales	\$23,092
Apparel & Accessory Stores	\$893
Automotive Dealers	\$5,277
Automotive & Home Supply Stores	\$291
Drug & Proprietary Stores	\$824
Eating & Drinking Places	\$2,568
Food Stores	\$3,386
Furniture & Home Furnishings Stores	\$557
Home Appliance, Radio, & TV Stores	\$549
Gasoline Service Stations	\$1,106
General Merchandise	\$2,651
Department Stores	\$1,746
Hardware, Lumber & Garden Stores	\$1,172

Further illustration of Greater Las Vegas Area population growth including population by city is illustrated in the preceding chart.

### Transportation

Las Vegas has excellent transportation connections with neighboring metropolitan areas. In addition to Union Pacific rail service, which helped originate the community, it is served by two interstate interstates, I-15, which connects with such metropolitan areas as Los Angeles, California (289 miles to the southwest) and Salt Lake City, Utah; and I-515/US-95, which connects to Phoenix, Arizona (251 miles to the southeast) and Reno, Nevada (448 miles to the northwest). Interstate 15 is used as a major north-south commuter route in the Las Vegas area, running parallel to and near the Las Vegas Strip. Continued construction along this thoroughfare within the Las Vegas Valley is underway, expanding and enhancing the roadway to accommodate added traffic flow and to ease congestion at major intersections. Major widening of I-15 is underway in segments within Nevada and planned from Las Vegas into Southern California. Interstate I-515/US-95 Highway consists of a continuous divided highway within the valley providing for southeast to northwest commuting across the valley and traversing the central portion of the valley in an east-west direction. A major widening project is also underway for US-95 segments west of the downtown area, with an accelerated plan recently approved by the governor.



## Greater Las Vegas Area Description - Continued

### Basic Alignment and Initial Facility Timetable

Basic Alignment and Initial Facility Timetable

Interstate 15, although providing no direct interstate connections, is a new, developing major freeway loop around the south west and north sides of the valley, connecting with both I-15 and I-515. Significant developments also known as the Las Vegas Area Beltway system, not all of which has been completed, with interchanges and improvements. However, appropriate right-of-way has been acquired for each and the entire system is open. This system provides an easy, convenient enhancement to the local highway network.

Bus service is provided by Greyhound. Public transportation in the area is serviced by CAT, Citizens Area Transit Buses, as well as Downtown and Strip trolley services. Several companies provide charter bus services. There are approximately 200 limousines and approximately 50 car rental agencies. Air service is furnished by approximately 30 commercial air carriers. Total commercial air passenger activity over the past 10 years is summarized as follows:



## Greater Las Vegas Area Description Continued

McCarran International Airport  
Air Passenger Traffic

Year	Passengers	% Change
1992	24,912,385	6.9%
1993	22,497,156	7.6%
1994	26,830,185	19.4%
1995	28,017,339	4.4%
1996	30,439,002	8.7%
1997	30,313,090	0.4%
1998	30,127,787	0.6%
1999	32,715,128	8.6%
2000	30,837,868	5.7%
2001	35,322,398	14.5%
2002	35,009,011	0.9%
2003	36,165,912	3.3%

Source: McCarran International Airport

The decrease in 2001 and 2002 are considered attributable to the September 11, 2001 terrorist attacks and the downturn in the economy. The recovery in 2003 continues into 2004. Private and charter aircraft also contribute to airport volume, with Nellis Air Force Base, Henderson Executive Airport, as well as McCarran providing private aircraft services. Nonstop commercial air service is provided to many of the major population centers, with connections to almost every major city in the nation. Capital improvements and renovation expenditures for McCarran International Airport have totaled roughly \$1.2 billion over the past ten years, excluding the \$200 million expended for a 2,700 foot under runway tunnel and three mile freeway section, completed in early 1995, linking the airport to the I-15 freeway south of Sunset Road. The current five year plan is budgeted at \$293 million. Other expansion projects are proposed for McCarran to accommodate increasing passenger traffic, with plans for an additional full service airport to be built on land recently acquired about 25 miles south of Las Vegas. Connections to McCarran via high speed, possibly magnetic levitation, Mag Lev, train or monorail are being considered. Las Vegas air transport system is considered well positioned to meet the demands of continued growth in tourism.



## Greater Las Vegas Area Description continued

### Population Distribution 200

by Area	Population
Henderson	120,340
Las Vegas	575,300
North Las Vegas	147,000
Unincorporated Urban Clark County	813,600
Unincorporated Las Vegas Area - Urban Clark County	1,383,170
Boulder City	12,310
Primm	14,070
Unincorporated and Clark County	29,750
Total Clark County Population	1,641,320

Source: U.S. Department of Commerce, Bureau of Economic Analysis

roughly 5% of county residents are located in the Greater Las Vegas Area in accordance with current and historic growth patterns. It is projected that population growth will continue at an approximate 4% to 5% annual rate into the foreseeable future. The projected rate of growth is anticipated to be slightly lower than over the recent past, however historical projections by the Nevada Air Demographers or others have been conservative with actual growth generally outpacing projections. The following chart illustrates population growth.



# Greater Las Vegas Area Description Continued

Demographics (Las Vegas Valley)	
Population (2004 Estimate)	423,005
2009 Projection	510,000
2000 Census	326,737
1990 Census	218,300
1980 Census	144,097
Growth 1990 - 2000	46.5%
Growth 1990-2000 - Average Annual Rate (Compounded)	0.4%
2004 Estimated Households by Income	357,767
\$150,000	3,257
\$100,000 to \$149,999	4,007
\$75,000 to \$99,999	12,346
\$50,000 to \$74,999	21,015
\$35,000 to \$49,999	18,235
\$25,000 to \$34,999	32,733
\$15,000 to \$24,999	18,702



# Greater Las Vegas Area Description - Continue

Under \$15,000	17.49%
2004 Estimated Average Household Income	\$67,930
2004 Estimated Median Household Income	\$48,431
2004 Estimated Per Capita Income	\$28,531
2004 Average Household Size	2.6
Median Age	34.39
2004 Estimated Occupied Units	600,039
Owner Occupied	63.95%
Renter Occupied	36.05%
2004 Estimated Population by Household Type	600,039
Family Households	65.81%
Non-Family Households	34.19%
2004 Estimated Population 16+ By Occupation	751,588
Executive and Managerial	11.57%
Professional/Technical	13.70%
Sales and Office	24.06%
Services	26.34%
Farming, Forestry and Fishing	0.01%
Construction, Extraction and Maintenance	10.05%
Production, Transportation and Material Moving	9.24%
2004 Estimated Population 25+ by Education Level	1,057,480
Elementary (0-4)	6.43%
Some High School (9-11)	14.41%
High School Graduate (12)	20.89%
Some College (13-15)	26.78%
Associate's Degree Only	5.57%
Bachelor's Degree Only	27.08%
Graduate Degree	17.95%
2004 Estimated Owner Occupied Property Values	365,706
Median Property Value	\$153,116
2004 Estimated Housing Units by Year Built	655,619
Built in 1999 to Present	21.75%
Built in 1995 to 1998	19.47%
Built 1990 to 1994	15.44%
Built 1980 to 1989	15.39%
Built 1970 to 1979	14.45%
Built 1960 to 1969	11.22%
Built 1950 to 1959	8.06%
Built 1940 to 1949	4.26%
Built 1939 or Earlier	3.41%



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### General Information

Located in the central portion of Clark County, Nevada, the Greater Las Vegas Area consists of a valley basin of about 430 square miles bounded on the north by the Las Vegas and Sheep Mountain Ranges (Desert National Wildlife Range), on the east by Spring Mountain and Lake Mead (National Recreation Area), on the south by the McCullough Mountain Range and on the west by the Spring Mountain Range including the Spring Mountain National Recreation Area, Toiyabe National Forest and the Red Rock Canyon National Recreation Area. The Greater Las Vegas Area includes the vast majority of organized areas as well as population, industry and employment within the 900 square miles encompassed by Clark County's borders.

The Greater Las Vegas Area is comprised of three cities: City of Las Vegas, City of North Las Vegas and City of Henderson as well as a substantial portion of unincorporated areas being located within unincorporated portions of Clark County. Despite the four different municipalities governing the Greater Las Vegas Area, most residents simply refer to themselves as Las Vegasans, with a similar level of services, similar and using similar ordinances and relatively similar property tax levels throughout the area. Most of the outlying portions of Clark County, as well as substantial portions of land within the Las Vegas Valley, are owned by the U.S. Bureau of Land Management (BLM). Substantial lands to the immediate west, east and north of the valley are owned or controlled by other governmental entities such as the National Forest Service, National Park Service and Defense Department.

### History

After various mining, farming and ranching efforts ranging from the mid to late nineteenth century, most of which failed, the first urban area originated to support a railroad stop in 1905 at what is now downtown Las Vegas. The City of Las Vegas, comprising a population of approximately 1,750, was incorporated in 1911. Although there were various wooden saloons, rooming operations and the like, the saloon district came to a brief downturn in 1907 and still stands today as the Old Las Vegas. At a brief period when gaming was made illegal, accompanied by the prohibition era, it was during the Hoover Dam project (authorized 1933 and completed in 1936) and the expansion of power and land began a thriving industry that the Las Vegas area experienced significant growth. It was around this time that the gaming (gambling) industry also became notable, centered around "Flamingo Gulch" (now the Flamingo Las Vegas) in the downtown area and eventually evolving into the major tourist, convention and resort industry that now serves as the primary economic force in the area.

The "Las Vegas Strip," actually located in unincorporated portions of Clark County, began developing in the late 1940s and includes all of the new "big resort" properties developed over the last decade plus. The Las Vegas area gaming and hotel resorts now include a wide variety of facilities, including "neighborhood hotel-casinos," generally



## Greater Las Vegas Area Description Continue

located away from the established tourist corridors and offering neighborhood amenities such as bowling centers, movie theaters, skating rinks, day care, restaurants and fast food chain outlets. Although generally, a minimum of 400 hotel rooms are required to permit full casino type gambling (known as an *unrestricted gaming license* which permits table games, etc.), hotel operations are significantly subordinate to gaming and other operations at these neighborhood facilities. *Restricted gaming licenses*, permitting a maximum of fifteen slot machines, are generally granted to taverns, convenience and grocery stores throughout the area.

### Climate

The Greater Las Vegas Area lies at an altitude generally between 1,900 and 2,400 feet above sea level. The climate of the Valley is characterized as semi arid with an average of 4.5 inches of annual rainfall. The high temperature on summer days averages 102 degrees and evening temperatures average 74 degrees. The mean temperature is approximately 64.1 degrees. Daytime winter temperatures are rarely below freezing. The altitude and climate are conducive to many retirees' needs, contributing to the substantial immigration of retirees. The tax climate is favorable for retirees as well, with no state income tax and a state inheritance tax 100% paid for by *ceded Tax Credit*.

### Population

The 2003 Clark County population estimate was 1,641,329, a 19.3% increase over 1990. With a census population of 1,375,765 in 2000, an 89.3% increase was realized over the decade since the 1990 census (741,459). The 1980-1990 decade saw a 66% increase beginning with a population of 463,087 persons, an increase of approximately 70% over the 1970 census (277,200). Only 3.5% of the county population is native born. There are 2.65 persons per household with 48.9% having resided in Clark County for ten years or less, further illustrating the continuing rapid immigration of residents.

The 2003 Las Vegas Perspective (a major demographic study published annually) estimates 243,549 retirees living in Clark County in 2003, with 232,403 in 2002. Within the Las Vegas Valley, there are 124,752 households with retirees. Median retiree household income is estimated at \$33,424.00. The 2004 retirement population increased 11.4% from 2000 and increased 40.5% between 1999 and 2003, one of the fastest growing demographic sectors in the county. 2005 population is distributed in Clark County as follows:



## Method of Valuation and Scope of Work

The market value opinions of the subject property, under both scenarios, represent the fee simple interest and are based on a Direct Sales Comparison Approach in Vacant Land. The Direct Sales Comparison Approach, also identified as the Market Approach, involves direct comparison to recent transfers of comparable type land parcels known to have sold within the subject market area and throughout the greater Las Vegas Valley. Two separate land valuations or scenarios have been set forth within this report. Additionally, we have set forth our highest and best use analysis and conclusions for the property, under the two separate or individual valuation scenarios. All market value opinions or valuation scenarios are in the after condition and presumes completion of the realignment of the State Route 1-9 and Interstate 1 interchange. The comparable land parcels included within this analysis and valuation are considered to have somewhat similar highest and best use characteristics in relationship to that of the subject property, under the two individual or separate valuation scenarios.

Where the selected comparable properties deviated from characteristics of the subject, considerations have been made, given these identified differences. A discussion of these considerations is included in the body of this appraisal report, in the Valuation section and were utilized as the basis for the concluded opinion of the market value of the subject property, in the after condition, under the stated hypothetical condition as a vacant, unimproved parcel and again as a part of the adjoining Assant ownership.

In the valuation of real property, typically, three approaches to value are employed and/or considered.

The Cost Approach to Value involves the estimation of cost new, from improvements upon the site. Physical, functional and external depreciation or obsolescence is then deducted from the cost new of the improvement, which is then added to the land value opinion, as if vacant, to obtain a total value indication of the subject property, by the Cost Approach.



The Income Capitalization Approach involves analyzing and forecasting net operating income to the subject property, from comparison of similar income producing properties and then capitalizing that income into an indication of value, based on a market derived rate.

The Sales Comparison Approach involves the direct comparison of similar properties, which have recently transferred, in relationship to that of the subject. Considerations for various qualitative and quantitative differences are then applied to obtain value indications for the subject.

Depending upon the nature of the property under appraisal, any and/or all of the three approaches may be utilized.

In our analysis of the subject property, the Cost Approach and Income Capitalization Approach were not applicable, as the subject is presently vacant, unimproved land. Therefore, only the Direct Sales Comparison Approach or Market Approach, is considered applicable and has been employed in the valuation of the subject property. The Sales Comparison Approach is considered the only reliable method for valuation of vacant land in the local market.

The market data utilized within this report, has been obtained through a variety of sources which have been cross referenced in an attempt to obtain the most recent sales of comparable type properties. Sales transaction information has been obtained from MetroScan, an independent property information company, which collects and computerizes the County Tax Assessor's and County Recorder's records and maps information for retrieval on CD ROM media, COMPS, Inc., COSTAR Comp's, a monthly subscription sales research service, which is widely used and proven reliable, and in house data and information. Additionally, we have referenced the Trade Property, Inc. which is a commercial sales and listing web site, of which these appraisers do subscribe. In addition to consulting these data sources to obtain a particular sales transaction, the appraisers have referenced most sales transactions with a principal party involved in the transaction, or via other independent sources considered reliable, such as, work prospectus, escrow, leasing and purchase agreements or summaries, etc. Actual transfer documentation, i.e.



Grant, Grant and Sale deeds, have been reviewed for nearly all transactions. Since the State of Nevada is considered a full disclosure state, the real property transfer tax amounts must lawfully be based on the actual consideration less assumed liens, if any.

In the preparation of this appraisal report, we have considered all applicable data as well as market conditions within the immediate and general market area. The comparable data set forth within this analysis and valuation, is presumed accurate and reliable, as stated.



### Just Compensation Criteria:

Based on our understanding of N. S. 7101 a direct Damages Assessment and Assessment Damages, the just compensation criteria recognized by Nevada Courts in compensation cases is made not only for the gain taken but also for the diminution of value in the value of the remainder of directly owned by the taking and/or by interest in which the owner has a right. This diminution is of an interest referred to as severance damages but may be more generally termed as compensable damages. In such a situation when the remainder of the owner's interest is a result of the project the amount of benefit is to be deducted from the compensation due the landowner and is generally referred to as Offsetting Benefits. In the same vein, a special assessment that is only to be deducted from the compensation of severance damages and not from the value of the remainder. Construction of individual damages are not considered compensable. The kinds of damages that the courts have held to be compensable and therefore uncompensable include loss of or damage to business, expense of moving, removal of fixtures and personal property, depreciation of value of furniture and fixtures, equipment, structures, plants, animals and outbuildings, relocation of employees and the expense of moving or readjusting manufacturing operations.

Furthermore, although a current market value opinion is to be provided, any decrease in the market value of real property prior to the taking is not compensable in itself. However, for which such a decrease is required by the fact that the owner would be required for such improvement. Other than that due to physical destruction or when there is some control of the owner's interest in determining the compensation for the property.

The market value and just compensation opinions in this report are all indicated by the owner's assumed use and a list of all items under encumbrances. It is noted in the Assessor's and Working Conditions section of this report for the fact that the owner's and the Assessor's have been trained.

### Exponent Defined:

An exponent of property that involves the personal ownership of a particular interest in property.



## **Property is appraised interest valued**

Included within this analysis and valuation are market value opinions of the subject parcels I and II again in the after condition and under the above discussed hypothetical condition of fee simple interest.

## **Estimated Typical Marketing and Exposure Time**

Based on a review of typical marketing periods experienced for similar sites, we have estimated a typical marketing, as well as exposure time of the subject surplus parcels in the after condition at between six and nine months, presuming the parcels were available for sale on the open market at or near an economic or market level.



ner of the road and Ten year lease for

based upon information made available to these appraisers. It is presumed that the subject properties, i.e. surplus parcels I and II are in the ownership of or under the control of the State of Nevada Nevada Department of Transportation. No annuity type transfers or transactions have affected the property under appraisal during the past 10 years.



The easement was obtained for road purposes & typically an alternate use would violate the original grant. Since I does not have a fee simple interest or ownership in the road easement Parcel V, a legal opinion may be appropriate to address the marketable rights of the easement. If any, this analysis and valuation of the subject surplus parcels does not include the Parcel V road easement.



## Purpose, Client and Intended User of the Appraisal

The purpose of this appraisal report is to develop an opinion of the market value of the subject surplus parcels and as a "standalone" site or development parcel and also as a part of the adjoining Nassau ownership or landholding, considering its contribution value in the after condition. The market value opinions concluded herein represent or reflect the fee simple interest, presuming the properties are free and clear of all liens and encumbrances.

The intended use of this report is limited to developing market value opinions of the subject property in the after condition, under the hypothetical condition that the realignment and reconstruction of SR 10 and Interstate 1 interchange has been completed, but does not reflect or represent a current valuation date. The intended user of and client of this report is the State of Nevada Department of Transportation (NDOT) or assignees, nominees, for the ultimate disposal of the surplus parcels or properties and for future negotiation purposes. The appraiser is not responsible for the misapplication or unintended use of this report.

## Definitions

### Market Value Nevada Revised Statutes Chapter 7 Eminent Domain Defined

The following definition of market value is provided by Nevada State law for Eminent Domain:

"Value" means the most probable price which a property should bring in a competitive and open market under the conditions of a fair sale, with the price being affected by market stimulus, whereby the sale is consummated on a specified date and the title to the property is passed from seller to buyer under the following conditions:

- (a) The buyer and seller are acting prudently and knowledgeably;
- (b) The buyer and seller are typically motivated;
- (c) The buyer and seller are well informed or well advised and acting in what they consider their own best interests;



- (d) A reasonable time is allowed to expose the property for sale on the open market;
- (e) Payment is made with United States dollars in cash or pursuant to another financial arrangement comparable thereto; and
- (f) The sale price represents the normal consideration for the property and is unaffected by special or creative financing or sales concessions granted by any person associated with the sale.

Source: Canada Appraisal Standards, 1990

#### **Reasonable Marketing Time Defined:**

The reasonable marketing time is an estimate of the amount of time it might take to sell a property interest in real estate at the estimated market value level during the period immediately after the effective date of an appraisal.

#### **Reasonable Exposure Time Defined:**

The estimated length of time the property interest being appraised would have been exposed on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal, a retrospective estimate based upon an analysis of past events assuming a competitive and open market.

Exposure time is always presumed to precede the effective date of the appraisal.

As market conditions preceding the effective date of this valuation are more or less relatively stable, the presumed exposure time is considered sufficient to our estimate of marketing time.

#### **Highest and Best Use Defined:**

The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are: *it is permissible, physically possible, financially feasible, and maximally profitable.*

#### **Fee Simple Ownership Defined:**

The absolute ownership unincumbered by any other interest or estate and except to the four powers of government.



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## Summary Statement

Location:	The subject surplus land parcels, in the after condition, are located within the existing SR 160 right of way and to the north and south sides of the existing SR 160 right of way just west of Las Vegas Boulevard South and east of the Interstate 15 right of way, Las Vegas, Clark County, Nevada.
APNs:	Not Applicable
Legal Description:	Portion of the Southeast 1/4 of Section 3, Township 22 South, Range 61 East, M.D.B., M.
Property owner:	State of Nevada, Nevada Department of Transportation
Present Use:	Vacant land and existing roadways
zoning:	HL, H-2, M-D, R-E, Clark County
Highest and Best Use:	The highest and best use of the subject surplus land parcels, in the after condition, has been considered under two separate, or individual, scenarios, and a hypothetical condition. Scenario 1 represents or reflects a "standalone" 23.80-acre parcel and Scenario 2 as a part of the adjoining Nassart ownership, considering its contribution to the land. Under Scenario 1, or as a "standalone" parcel, we have concluded the highest and best use of the property, in the after condition, is high density, residential, residential or secondary tourist commercial. Under Scenario 2, or as a part of the adjoining Nassart ownership, we have concluded that the highest and best use is, more tourist commercial type development.
Land Use:	Parcel I      14.90 acres Parcel II     8.90 acres Total        23.80 acres
Existing improvements:	The subject property is being appraised in the after condition, presuming reconstruction and realignment of the State Route 160 Interstate 15 interchange. In the after condition, we have presumed generally vacant, unimproved land only. As a "standalone" parcel, we have determined



presumed ingress and egress from Las Vegas Boulevard by way of a road easement identified on available NDOT Mapping as Parcels I and IV. Under the valuation of the subject surplus land, presuming its adjoining the Nassari ownership, represents the after condition and presumes the property is vacant land only. All public utilities are generally available within the immediate neighborhood and submarket.

**Effective Date of Report:** August 30, 2004

**Effective Date of Valuation:** August 16, 2004

**Last Date of Inspection:** August 16, 2004

**Property Rights Appraised:** The market value opinions of the subject property represent or reflect the fee simple interest. Presumed that the properties are free and clear of all liens and encumbrances.

**Market Value Opinion(s):** The market value opinion of the subject property, in the after condition, under the hypothetical condition that the parcel is vacant land and a standalone development site containing approximately 25.0 acres is \$11,550,000.00.

The market value opinion of the subject surplus land parcels as a part of the adjoining Nassari ownership, considering its contributory value, is \$22,650,000.00.

As part of this analysis and valuation, we have developed a market value opinion of the entire Nassari landholding or ownership, along with the NDOT surplus parcels, which combined, would contain approximately 66.91 acres. This analysis and valuation presumes a hypothetical condition, presuming completion of the realignment reconstruction of Interstate 45 and State Route 160 Interchange. The market value opinions under the two separate or individual scenarios does not include any contributory value to Parcel V, which is a road easement, containing approximately one acre. This parcel is located adjacent south of subject surplus Parcel I. Given the lack of known or identified market transactions for abandoned easements and generally presuming that the abandonment of an easement or parcel, would revert the parcel back to the fee owner which, in the case of the subject Parcel V, would be the United States Government (BLM).



Ms. Patricia K. Springer  
Supervisory Flight Officer Agent  
State of Nevada  
Department of Transportation  
August 30, 2004  
Page Three

File No. 374 B4 MIN  
Tax ID: SF 012111

This letter of Transmittal must be used in conjunction with the following completed description, detail, appraisal procedures and analysis and is therefore not considered a report standing on its own merit.

Thank you for giving us the opportunity of appraising this property for you.

Sincerely,  
Gary H. Kent, Inc.

Gary H. Kent, MAI  
Certified General Appraiser  
Nevada License No. 0002  
Expiration Date: April 30, 2005

Mark D. Munney  
Certified General Appraiser  
Nevada License No. 0003  
Expiration Date: June 30, 2005

CHK/MDM/nc



**Certificate of Appraiser - Nevada Department of Transportation**

Project: SPSR-160 (006)  
SR-160 (The Diamond Road) - Phase I  
E.A. 72495  
RFP: SR-160 - Phase I  
ND - 7 Parcels I and II

I hereby certify:

That on August 16, 2004, we personally made a field inspection of the property herein appraised, and that we have afforded the property owner, or his designated representative, the opportunity of accompanying us at the time of the inspection. Additionally, on August 10 through August 25, 2004, we personally made field inspections of the comparable sales relied upon in this analysis and valuation. The subject and the comparable sales relied upon in making said appraisal are represented by the photographs and aerial photographs contained in this document.

That to the best of our knowledge and belief the statements contained in the appraisal herein set forth are true, and the information upon which the opinions expressed herein are based is correct, subject to the limiting conditions therein set forth.

That any decrease or increase in the fair market value of real property prior to the date of valuation caused by the proposed public improvement for which said property is acquired, or by the likelihood that the property would be acquired for such improvement other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property.

That we understand said appraisal is to be used in connection with the acquisition of right of way for a highway interchange to be constructed by the State of Nevada with the assistance of Federal aid highway funds, or other Federal funds.

That said appraisal has been made in conformity with the appropriate State laws, regulations, policies and procedures applicable to appraisal of right of way for such purposes, and that to the best of our knowledge no portion of the value assigned to such property consists of items which are non-compensable under the established law of said state.

That the provisions of Public Law 92-646, Title I, Section 10, were taken into consideration in the performance of this appraisal.

That neither our employment nor our compensation for preparing this appraisal are in any way contingent upon the values reported herein.

That we have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.



That we have not revealed the findings and results of said appraisal to any one other than the proper officials of the Nevada State Department of Transportation or said state officials or the Federal Highway Administration and will not do so until so authorized by State officials, or until we are required to do so by due process of law, or until we are released from this obligation by having been publicly testified as to such findings.

That our independent opinion of the market value, in fee simple interest, under the above discussed hypothetical condition, presuming completion of the Interstate 15 S. 160 realignment or in the alternative condition as of the 16 day of August, 2004, and that the conclusions set forth in this appraisal was reached within collaboration or direction as to value.

**Surplus Parcel I and II as a Standalone Parcel Containing 23.0 Acres**

**\$15,550,000.00**

**Surplus Parcel I and II, as Part of the Admining Nassart Ownership  
Considering its Contributory Value**

**\$12,650,000.00**

Signature

Date August 20, 2004

Gary H. Smith, MAI, Certified General Appraiser

Signature

Date August 30, 2004

Mark D. Manning, Certified General Appraiser



**A Complete Appraisal of the Contained Report**  
**of the**

**Nevada Department of Transportation (NDOT) Surplus Land**  
**Identified as Parcels I and II, as Part of the Interstate 15/Diamond**  
**Road Interchange Realignment/Reconstruction**  
**Project: SPSR-160 (006)**  
**SR-160 (Blue Diamond Road) Phase I - E.A. 7 - E**

**Property Owned**  
**by**

**Nevada Department of Transportation**

**Located**  
**within and to the**

**North and South Sides of the Existing SR 160 Right of Way, i.e., Blue Diamond Road,**  
**West of Las Vegas Boulevard, Las Vegas, Clark County, Nevada**

**Legally Described**  
**as a**

**Portion of the Southeast**  
**of Section 3, Township 22 South, Range 01 East, M.D.B. 34**

**For the Purpose**  
**of**

**Developing an Opinion of Market Value Prospective Under a Hypothetical**  
**Condition in the After Condition Presuming Realignment and Reconstruction of**  
**the Interstate 15/State Route 160 Blue Diamond Road Interchange**  
**as of**

**August 16, 2004**

**Date of Appraisal Report**

**August 30, 2004**

**File Number**  
**3-4-04-MW**

**F.R.T.E. 107-091**



August 30, 2004

Ms. Patricia Springer  
Supervisory Right of Way Agent  
State of Nevada  
Department of Transportation  
123 East Washington Avenue  
Las Vegas, Nevada 89101

File No. 374-04 MM  
Trac ID: 88-0121119  
Project: SPSR 160 (006)  
SR 160 (Blue Diamond Road) Phase I  
E.A. 72495  
REP: SR 160 Phase I  
NDOT Parcels I and II

Dear Ms. Springer:

In compliance with your request and authorization, we have prepared a complete appraisal, self-contained report of the Nevada Department of Transportation (NDOT) owned parcels of land identified as Parcels I and II, generally located within and north and south of the existing State Route 160 right-of-way. These surplus land parcels are being appraised in the after condition, under a hypothetical condition, presuming realignment and reconstruction of the highway to State Route 160 interchange. The surplus land areas are identified by your mapping, as 14.90 acres within Parcel I and approximately 8.90 acres in Parcel II. This indicates a total land area containing approximately 23.80 acres.

As part of this analysis and valuation, we have appraised the properties under two separate, individual scenarios.

Scenario 1 is the valuation of the 23.80-acre parcel as a "standalone" property. This valuation assumes that NDOT will provide perpetual access by way of existing road easements, adjacent to Parcels III and IV, from the existing Las Vegas Boulevard right-of-way.

Scenario 2 includes a market value opinion of the surplus land Parcels I and II combined, as part of the adjoining Nassari ownership, based on its contributory value to the 23-acre landholding. This analysis and valuation, presumes the Nassari ownership will have a remainder, in the after condition, of approximately 41.36 acres on the north side of the realigned State Route 160 and an approximate 18-acre remainder on the south side of the realigned roadway. The market value opinion of the 23.80-acre NDOT surplus parcels, as part of the adjoining Nassari ownership, is based on the contributory value. In the after condition, the Nassari ownership will maintain its frontage on Las Vegas Boulevard and will include direct ingress and egress from the realigned State Route 160, at K 2, Blue Diamond Road, and include a full interchange with Interstate 15.



Ms. Patricia Springer  
Supervisory Right of Way Agent  
State of Nevada  
Department of Transportation  
August 30, 2004  
Page Two

File No. 474.04 MM  
Tax ID: 88-042111

Data setting forth the analysis used and descriptive details are included within the body of this report. Analysis and conclusions of all the data utilized, results in the opinion of the market value of the subject property as a "standalone" parcel, containing approximately 23.80 acres, has been concluded by us, in fee simple interest, under the hypothetical condition that the realignment and reconstruction of the Interstate 15 SR 160 has been completed, or in the "as if completed" condition, with a current valuation date of August 16, 2004, is:

**Fifteen Million, Five Hundred Fifty Thousand Dollars  
(\$15,550,000.00)**

Analysis and conclusions of all the data utilized, results in the opinion of the market value of the subject property, e.g., Parcels 1 and 2, as part of the adjoining Nassari ownership, based on its contributory value under the hypothetical condition, presuming completion of the realignment and reconstruction of the Interstate 15 SR 160 interchange, in fee simple interest, as of August 16, 2004, is:

**Twenty Two Million, Six Hundred Fifty Thousand Dollars  
(\$22,650,000.00)**

This report has been prepared as a complete, self-contained appraisal, intended to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and the Code of Professional Ethics, as adopted by the Appraisal Institute, the Uniform Standards for Federal Land Acquisitions (NDOT Appraisal Reporting Requirements), as well as with applicable provisions of Nevada Revised Statutes.



**IN THE SUPREME COURT OF THE STATE OF NEVADA**

FRED NASSIRI, an individual; NASSIRI  
LIVING TRUST, a trust formed under  
Nevada law,

Appellants,

vs.

STATE OF NEVADA, on relation of its  
Department of Transportation,

Respondent.

Supreme Court No. 76660

Eighth Judicial District Court

Case No. A-12-672841-C

Electronically Filed  
Sep 05 2018 08:31 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**ADDITIONAL ATTACHMENTS TO  
DOCKETING STATEMENT**



## CERTIFICATE OF SERVICE

I certify that on the 4th day of September, 2018, I served a copy of the Additional Attachments to Docketing Statement, upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By E-Service through Nevada Supreme Court; email and/or first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

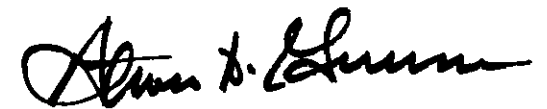
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/s/ Anna Diallo

An employee of  
GARMAN TURNER GORDON LLP





CLERK OF THE COURT

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8 Las Vegas, Nevada 89169  
9 (702) 796-5555  
10 Attorneys for Plaintiffs

7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

9 FRED NASSIRI, an individually and as trustee  
10 of the NASSIRI LIVING TRUST, n trust  
11 formed under Nevada law,

11 Plaintiffs,

12 vs.

13 STATE OF NEVADA, on relation of its  
14 Department of Transportation; DOE  
15 GOVERNMENT AGENCIES I-X inclusive;  
16 DOE INDIVIDUALS I-X; and DOE ENTITIES  
17 1-10, inclusive;

16 Defendants.

CASE NO. A672841  
DEPT. NO. XXVII

**AMENDED COMPLAINT**

**Arbitration Exempt:  
Action Concerning Title to Real Property**

17 COMES NOW Plaintiffs, Fred Nassiri and the Nassiri Living Trust, by and through their  
18 counsel, the law firm of Gordon Silver, and hereby complains and allege against Defendants,  
19 State of Nevada, as follows:

20 **I.**  
21 **THE PARTIES, JURISDICTION AND VENUE**

22 1. Plaintiff the Nassiri Living Trust is a trust which, on information and belief, is  
23 formed pursuant to the laws of the State of Nevada. Plaintiff's Trustee, Fred Nassiri, has at all  
24 times relevant been a resident of Clark County, Nevada.

25 2. Plaintiff Fred Nassiri (collectively with the Nassiri Living Trust, "Plaintiffs") is  
26 an individual who, on information and belief, has at all times relevant herein been a resident of  
27 Clark County, Nevada.

28 . . .



3. Defendant State of Nevada (“Defendant”) on relation of its Department of Transportation (“NDOT”, duly created, organized, existing and acting under and by virtue of Nevada Revised Statutes Chapter 408 is subject to the provisions of the Nevada Revised Statutes, including NRS 342.105.

4. Defendants designated herein as Does Government Agencies, Individuals or Entities are individuals and legal entities that are liable to Plaintiffs for the claims set forth herein. In addition to possible alter egos of the above-named Defendants, if discovery should reveal the individual Defendants, or any of their trusts, affiliated entities, family members or ex-spouses are participating in fraudulent transfers for the purpose of avoiding creditors such as Plaintiffs, then members of these entities, trusts and/or third-party transferees, including but not limited to ex-spouse transferees and/or new entities formed for the purpose of holding property and assets, shall be added as Defendants herein. Any transactions and the true capacities of Does and Roe Entities are presently unknown to Plaintiffs and, therefore, Plaintiffs sue said Defendants by such fictitious names. Plaintiffs will amend this Complaint to assert the true names and capacities of such Doe and Roe Entities when more information has been ascertained.

5. Jurisdiction and venue are proper with this Court because Plaintiff is a Clark County, Nevada resident, the events in dispute took place in Clark County, Nevada, and the amount in dispute exceeds this Court's jurisdictional threshold.

## II.

## GENERAL ALLEGATIONS

6. Through the course of events described herein, Plaintiff became and remains the fee simple owner of property location in Clark County, Nevada, known as APN# 177-08-803-013 (the “Exchange Property”), approximately 24.41 acres. The Exchange Property, together with an approximate 43 acre adjacent property that Plaintiff at all times relevant owned (collectively with the Exchange Property, the “Subject Property”), is located on the North East side of the intersection of I-15 and Blue Diamond Road, abutting the I-15 on the West border, Blue Diamond Road on the South Border and South Las Vegas Boulevard on the Eastern



border.<sup>1</sup>

## **Acquisition of the Exchange Property**

7. On or about August 31, 2004, the Nevada Department of Transportation filed a condemnation action against Plaintiffs in the Eighth Judicial District Court, Clark County, Nevada, Case No. A491334 (the "Condemnation Action"), to acquire certain property Plaintiffs owned in fee simple, in connection with the construction and reconstruction of the I-15/Blue Diamond interchange and the attendant widening and realignment of Blue Diamond Road.

8. The parties resolved the Condemnation Action by entering into a Settlement Agreement and Release of All Claims dated April 28, 2005 (the "Settlement Agreement"). (A First Amendment to Settlement Agreement and Release of All Claims, was entered into on or about June 14, 2005.)<sup>2</sup> Pursuant to the terms of the Settlement Agreement, NDOT acquired 4.21 acres from Plaintiffs for \$4,810,000.00 and, as an "exchange," Plaintiffs acquired the Exchange Property from NDOT for \$23,239,004.50

9. As for the 4.21 acres, Plaintiffs did not question NDOT, and simply accepted NDOT's asking price of \$4,810,000.00.

10. During his discussions with NDOT concerning the Plaintiffs' acquisition of the Exchange Property, Plaintiffs repeatedly requested that NDOT provide him with a copy of the appraisal relating to the Exchange Property. NDOT refused to disclose its appraisal. In addition, NDOT failed to provide Plaintiffs with a written statement of, and summary of the basis for, the amount established as just compensation, as required by Federal and State law; or failed to provide a true and accurate statement of the same.

11. Plaintiffs ultimately completed acquisition of the Exchange Property from NDOT for \$23,239,004.50, as part of the settlement. Together with all applicable title fees, Plaintiffs paid \$23,396,223.00 to Nevada Title Co. to close escrow.

...

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<sup>1</sup> See Diagram of the land attached hereto as Exhibit 1.

<sup>2</sup> See Settlement Agreement and Release of Claims and First Amendment thereto attached collectively hereto as Exhibit 2.



1           12.     NDOT did not convey the Exchange Property to Plaintiffs by Warranty Deed.  
2     Instead, NDOT only conveyed the Exchange Property by Quit Claim, with specific knowledge of  
3     a potential or threatened litigation by a neighboring landowner, thus exposing Plaintiffs to  
4     litigation. Plaintiffs not only paid NDOT a very large sum of money and become exposed to  
5     third party litigation, but they also incurred expenses in the amount of \$200,000 to resolve a  
6     claim by Carolyn Ann Chambers relating to an alleged reversionary interest in a portion of the  
7     Exchange Property. Plaintiffs are also informed and believe that the Exchange Property may be  
8     subject to other reversionary and/or residual rights of third parties that may expose them to  
9     further costs of litigation and potential liability.

10           13.     On or about March 6, 2007, Alexandra Properties, LLC, Oasis Las Vegas, LLC,  
11     and New Horizon 2001, LLC filed an action against the Plaintiffs in the Eighth Judicial District  
12     Court, Clark County Nevada, Case No. A537215 (the "Koroghli Litigation"), alleging claims  
13     against Plaintiffs relating directly to the acquisition of the Exchange Property.

14           14.     On or about November 17, 2008, the parties entered into a Settlement Agreement  
15     to resolve the Koroghli Litigation. Pursuant to the terms of the Settlement Agreement, the parties  
16     each agreed to a mutual exchange of parcels that were contiguous to other large parcels of land.  
17     In addition to fees and costs expended to defend that litigation, Plaintiffs were required to pay a  
18     settlement to the Koroghli Litigation plaintiffs.

19           15.     Together with legal expenses, Plaintiffs incurred over \$7 Million in expenses in  
20     connection with the Koroghli Litigation. NDOT exposed Plaintiffs to this claim by conveying  
21     the Exchange Property to them by Quit Claim, instead of by Warranty Deed, and with  
22     knowledge of potential litigation by the Koroghli Litigation plaintiffs resulting from NDOT's  
23     condemnation of neighboring property owed by those parties.

24           16.     It was not until late 2008 that Plaintiffs obtained a copy of NDOT's 2004  
25     appraisal of the Exchange Property.<sup>3</sup> A review of that appraisal showed the value of the  
26     Exchange Property was only \$15,550,000.00. The appraisal also concluded that the Exchange  
27

28     <sup>3</sup> See 2004 NDOT Appraisal, a true and correct copy is attached hereto as Exhibit 3.



1 Property had a premium "assemblage value" of \$22,650,000.00. As it turned out, NDOT had  
2 charged Plaintiffs approximately \$8,000,000.00 over and above the appraised value of the  
3 Exchanged Property, without ever telling Nassiri.

4 17. Plaintiffs were denied knowledge of the extent to which they were being charged  
5 an "assemblage" premium. NDOT essentially penalized Plaintiffs, with a hidden premium of  
6 approximately 45.65%, for buying an adjoining parcel of land. Such premium was two and one-  
7 half to four times higher than any reasonable premium. (Plaintiffs did not charge NDOT a  
8 premium on its end of the Exchange, though NDOT needed to assemble land for its right-of-  
9 way.) The effect was to mislead Plaintiffs into believing the comparative fair market value  
10 (without an assemblage premium) was substantially higher than it actually was determined to be.  
11 Plaintiffs would not have paid the price demanded for the Exchange Property had they know of  
12 the secret premium of nearly 50%.

13 18. This secret premium resulted not only in Plaintiffs overpaying for the Exchange  
14 Property, but in being required to pay additional interest on money borrowed to make this  
15 overpayment and required to pay additional property taxes based on the inflated value.

16 **Changes in the Blue Diamond Interchange**

17 19. In 2004, Plaintiffs, in connection with his purchase of the Exchange Property,  
18 inquired of NDOT as to NDOT's plans for the Blue Diamond Interchange construction.

19 20. NDOT provided plans for the Blue Diamond Road Interchange. The plans  
20 depicted that the 22.4 acre Exchange Property would benefit from enhanced I-15 traffic flow and  
21 approximately 1,500 feet of visual I-15 exposure. Visual exposure of the Subject Property along  
22 I-15 and Blue Diamond Road was of tremendous value to the Plaintiffs. In fact, because it was  
23 landlocked, most of the Exchange Property's value to Plaintiffs was in its visibility to traffic, in  
24 particular freeway traffic coming from Southern California.

25 21. Plaintiffs later learned that NDOT's own appraisal of the Exchange Property  
26 expressly took into account the visual benefit the owner of the Exchange Property would receive.  
27 Specifically, the 2004 appraisal stated: "The subject property, in the after condition, will have  
28 good visibility from Las Vegas Boulevard, Interstate 15 and the realigned Blue Diamond



1 Road...".<sup>4</sup> In addition, NDOT's appraisal went on to state that "with the assemblage or plottage  
2 of the subject site, would include and/or benefit from direct visibility along the Interstate 15  
3 right-of-way."<sup>5</sup> NDOT specifically appreciated the value of the projects (and related signage)  
4 visibility, particularly at one of the southernmost interchanges in Las Vegas.

5 22. Plaintiffs acquired the Exchange Property in reliance on the Blue Diamond Road  
6 Interchange plans NDOT provided Plaintiffs, and specifically the 1,500 feet of visibility the  
7 Exchange Property would have once NDOT completed the Blue Diamond Road Interchange.  
8 NDOT was aware that Plaintiffs relied upon NDOT's representation of the Blue Diamond Road  
9 Interchange when Plaintiffs purchased the Exchange Property.

10 23. The Blue Diamond Road Interchange Plans that NDOT provided Plaintiffs  
11 disclosed and explained the construction to be performed at the Blue Diamond Road Interchange,  
12 but did not include the "fly over" at the Blue Diamond Road Interchange, as now constructed.

13 24. On October 24, 2008, NDOT prepared an Environmental Assessment report of  
14 the I-15 South improvements. Therein, the report mentions that "[a] flyover ramp would be  
15 added to accommodate eastbound (EB) Blue Diamond Report traffic destined for NB I-15."

16 25. On March 24, 2010, NDOT held a public meeting on the I-15 South  
17 improvements. A review of meeting materials reveals that NDOT, and its agent Las Vegas  
18 Paving, discussed and presented a new "fly over" at the Blue Diamond Road Interchange.  
19 NDOT did not provide notice of that meeting to Plaintiffs, even though Plaintiffs were adjoining  
20 landowners, NDOT had sold them the land, and NDOT knew the Exchange Property's visibility  
21 had value. NDOT did not provide the materials describing the new "flyover" to Plaintiffs.

22 26. Three weeks later, on April 15, 2010 NDOT's agent and partner, Las Vegas  
23 Paving Corporation ("LV Paving"), entered into a Ground Lease Agreement with Plaintiffs to  
24 use a portion of the Subject Property as a storage and staging area for I-15 construction. (See  
25 Exhibit 4 attached hereto.) At that time LV Paving provided, and incorporated into the  
26 Agreement, a diagram of the Blue Diamond Road Interchange improvements. That diagram,

27 <sup>4</sup> See Exhibit 3 at p. 64.)

28 <sup>5</sup> (Id. at p. 68.)



1 however, did not depict the “fly over” that actually planned at that time; the “fly over” would  
2 obstruct the Subject Property’s visibility, limit its access, and devastate its value. Las Vegas  
3 Paving, NDOT’s agent, clearly knew of the plans for an obstructing “fly over,” because Las  
4 Vegas Paving was the “design and build” contractor for the entire I-15 corridor improvement  
5 project, which included the Blue Diamond Interchange.

6 27. At some point in 2010, without providing Plaintiffs with any notice whatsoever,  
7 NDOT began construction of the new “fly over” at Blue Diamond Road. The “fly over” was  
8 constructed to a height of approximately 60 feet. The “fly over” completely blocks the view of  
9 the Subject Property and any possible signage from I-15, and that the new “fly over”  
10 dramatically and negatively impacts the entire Subject Property, with significant impact to the  
11 Exchange Property.

12 28. As a further result of the “fly over,” access to the Subject Property from Blue  
13 Diamond Road has been eliminated. Prior to the “fly over’s” construction, a means of ingress  
14 and egress to the Subject Property existed along Blue Diamond Road. The new “fly over” also  
15 included the construction of massive retaining walls along the North end of Blue Diamond Road,  
16 from Las Vegas Boulevard west until I-15 – the Subject Property’s southern border. The only  
17 remaining access to the Subject Property is from southbound traffic on South Las Vegas  
18 Boulevard, as medians prevent access from northbound traffic on South Las Vegas Boulevard.

19 29. Further, the new “fly over” has prevented vehicle traffic from I-215 from reaching  
20 the Subject Property, as traffic from I-215 can access either I-15 South or westbound Blue  
21 Diamond Road. It is no longer possible to go eastbound on Blue Diamond Road from I-215, as it  
22 had previously been at the time Plaintiffs purchased the Exchange Property.

23 30. The Blue Diamond Road Interchange “fly over” is contrary to plans shown to  
24 Plaintiffs at the time of the exchange transaction. The Blue Diamond Road Interchange “fly  
25 over” is contrary to plans shown to Plaintiffs in April 2010, at a time after the plans had already  
26 been changed. Each time the plans were shown to Plaintiffs, they reasonably relied on the plans  
27 in taking or refraining from taking action, including action to object to the changed and  
28 damaging construction, or to seek judicial relief to alter or halt the planned construction.



1           31.     Once constructed, the “fly over” has had an enormous and disastrous impact on  
2 the Subject Property, resulting in a significant decline in the value and the possible development  
3 uses of both the Exchange Property and Plaintiffs’ existing contiguous parcel. The loss in value  
4 is due to both the loss of visibility from I-15 and loss of access to the Subject Property.

5           32.     As the I-15 visual exposure was a central consideration to this transaction,  
6 Plaintiffs never would have purchased the landlocked Exchange Property from NDOT, let alone  
7 for nearly \$24 Million if Plaintiffs had known that NDOT intended to ever construct a “fly over”  
8 at Blue Diamond Road and utterly destroy the property’s visibility from I-15.

9           33.     Despite having sold the Exchange Property to Plaintiffs at 46.65% premium, with  
10 the specific knowledge that visibility had material value, NDOT failed to provide Plaintiffs with  
11 notice of the “fly over.” NDOT, through its agent, also made misrepresentations to Plaintiffs, that  
12 the interchange improvements would not block the Subject Property’s visibility and access, after  
13 NDOT was aware of the plan for the for the “fly over”.

14           34.     NRS 37.110(3) provides that if “property, though no part thereof is taken, will be  
15 damaged by the construction of the proposed improvement, the amount of such damage” is to be  
16 determined by the jury, Court, commissioners, or master.

17           35.     NDOT has deprived Plaintiffs of visibility and access rights to the Subject  
18 Property, of which Plaintiffs’ purchased the Exchange Property from NDOT under the  
19 representation that the Blue Diamond Road Interchange development did not include any  
20 improvements that impaired access or visibility of the Exchange Property.

21           36.     As a result of NDOT’s breaches, bad faith, misrepresentation, and concealment  
22 concerning the property value and the “fly over” constructed at the Blue Diamond Road  
23 Interchange, Plaintiffs has suffered significant damages, in the millions of dollars.

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III.

**CLAIMS FOR RELIEF**

**FIRST CLAIM FOR RELIEF  
(Inverse Condemnation)**

37. Plaintiffs repeat and reallege the allegations set forth in each of the preceding paragraphs, as though set forth fully herein.

38. In 2010, NDOT reconfigured the Blue Diamond Road Interchange. NDOT constructed a “fly over” with an approximate height of 60 feet and removed all access to the parcels abutting the North side of Blue Diamond Road between I-15 and South Las Vegas Boulevard.

39. The Subject Property abuts the North side of Blue Diamond Road between I-15 and South Las Vegas Boulevard. As a result of the “fly over” access to the Subject Property from Blue Diamond road has been eliminated. Further, the Subject Property is no longer visible from I-15 or from Blue Diamond west of the I-15.

40. Nevada law entitles a property owner access to a public way that is adjacent to the property, and that access is a property right. Blue Diamond Road is adjacent to the Subject Property. As a result of the building of the “fly over,” the Subject Property cannot be accessed from Blue Diamond Road.

41. Nevada law, under NRS 37.110(3), provides that if “property, though no part thereof is taken, will be damaged by the construction of the proposed improvement, the amount of such damage” is to be determined by the jury, Court, commissioners, or master.

42. Nevada law, including the Nevada Revised Statutes and the Nevada Constitution, consistent with the U.S. Constitution, assure that citizens whose property is taken by the government are entitled to just compensation. Nevada law also recognizes inverse condemnation may result from a taking or impairment of a citizen’s property without a physical taking of land. The “fly over” eliminates the visibility of the Subject Property from I-15, the primary route into Las Vegas and a significant local thoroughfare. NDOT specifically used the visibility of the Exchange Property to demand a higher asking price from Plaintiffs, and Plaintiffs relied on the



1 visibility of the Exchange Property when it purchased the Exchange Property.

2 43. Despite repeated requests, Defendant has not offered Plaintiffs any compensation  
3 for the deprivation of Plaintiffs' access to the Subject Property nor for Defendant's Blue  
4 Diamond Road Interchange improvements significantly affecting the visibility of the Subject  
5 Property, even though NDOT itself profited from the value of that same visibility in completing  
6 the Exchange with Plaintiffs.

7 44. The Nevada Constitution, and the U.S. Constitution, require the payment of just  
8 compensation whenever a government entity takes property even though no eminent domain  
9 proceedings were undertaken. NDOT has failed to pay any such compensation for this taking.

10 45. As a direct and proximate cause of Defendant's Inverse Condemnation, Plaintiffs  
11 has been damaged in an amount exceeding \$10,000.00.

12 **SECOND CLAIM FOR RELIEF**  
13 **(Breach of Contract)**

14 46. Plaintiffs repeat and reallege the allegations set forth in each of the preceding  
15 paragraphs, as though set forth fully herein.

16 47. Plaintiffs and Defendant entered into the Settlement Agreement on or about April  
17 28, 2005. The Settlement Agreement was a valid and enforceable contract. Pursuant to that  
18 agreement, Defendant was to convey the Exchange Property for a just and reasonable price.

19 48. Defendant withheld the 2004 appraisal of the property. It also failed to provide  
20 Plaintiffs with a written of and summary of the basis for the amount established as just  
21 compensation for the Settlement and Exchange. By doing so, the Defendant hid from a Nevada  
22 citizen, whom it serves, the fact a 45.65% premium to the market price was being charged to him  
23 by virtue of his simply owning the adjoining parcel. The appraisal reflects that Defendant  
24 knowingly charged Plaintiffs in excess of the value of the Exchange Property, without disclosing  
25 this to Plaintiffs. To complete acquisition of the Exchange Property, Plaintiffs were also required  
26 to pay an additional \$200,000 not included in the contract to address the "Chambers Claim."  
27 NDOT exposed the Plaintiffs to the Koroghli Litigation, which cost Plaintiffs millions of dollars.  
28 NDOT exposed the Plaintiffs to potential residual or reversionary interests of third parties.



1           49.     The contract was premised upon settlement of litigation, exchange of property and  
2 payment of cash by Plaintiffs, for equivalent value. Defendant's failure to provide equivalent  
3 value is a breach of the Settlement Agreement.

4           50.     Moreover, the contract between the parties included continuing duties owed by  
5 the Defendant coextensive with the project that included the reconstruction of the interchange at  
6 I-15 and Blue Diamond Road. Prior to and, again, subsequent to Plaintiffs' purchase of the  
7 Exchange Property, Defendant's presented Plaintiffs with the Blue Diamond Interchange  
8 development plan. That plan reflected that the Exchange Property had in excess of 1,500 feet of  
9 visibility from I-15. After Plaintiffs' purchase of the Exchange Property, Defendant, by and  
10 through NDOT, changed the Blue Diamond Road Interchange development plan, such that a "fly  
11 over" entirely eliminated the Exchange Property's 1,500 feet of visibility from I-15, which  
12 amounts to a breach of the Settlement Agreement.

13           51.     As a direct and proximate cause of Defendant's breach of the Settlement  
14 Agreement, Plaintiffs has been damaged in an amount exceeding \$10,000.00.

15                               **THIRD CLAIM FOR RELIEF**  
16                               **(Breach of Implied Covenant of Good Faith and Fair Dealing)**

17           52.     Plaintiffs repeat and reallege the allegations set forth in each of the preceding  
18 paragraphs, as though set forth fully herein.

19           53.     The Settlement Agreement constituted a valid and existing contract between  
20 Plaintiffs and Defendant.

21           54.     Every contract in Nevada imposes upon the contracting parties a duty of good  
22 faith and fair dealing.

23           55.     Defendant owed an implied duty of good faith and fair dealing to Plaintiffs under  
24 the Contract.

25           56.     Defendant was aware that Plaintiffs' purchased the Exchange Property based on  
26 the express representations of NDOT by and through the Blue Diamond Road Interchange  
27 development plan.

28     ...



1           57. Defendant breached its duty of good faith and fair dealing by failing to disclose  
2 that it charged Plaintiffs a 45.65% premium prior to its sale of the Exchange Proper to Plaintiffs,  
3 which is unfaithful to the basis for and purpose of the Settlement Agreement.

4           58. Defendant breached its duty of good faith and fair dealing by failing to disclose  
5 that it intended, contemplated, or that it was otherwise possible that NDOT would construct a  
6 “fly over” at the Blue Diamond Road Interchange that would obstruct Plaintiffs’ ingress and  
7 egress to the Exchange Property and/or visibility of the property from I-15. Defendant was aware  
8 that Plaintiffs paid valuable consideration for both rights of access and visibility. Defendant’s  
9 impairment of those rights is unfaithful to the purpose of the Settlement Agreement.

10          59. Defendant further breached its duty of good faith and fair dealing when it planned  
11 and began construction on the “fly over,” despite express representations to Plaintiffs that the  
12 Blue Diamond Road Interchange would not include a “fly over.” Defendant’s failure to maintain  
13 its representation to Plaintiffs regarding the Blue Diamond Road Interchange is unfaithful to the  
14 purpose of the Settlement Agreement. Indeed, NDOT specifically and intentionally failed to  
15 provide notice of the “fly over,” notwithstanding the duty of good faith and special relationship  
16 that arose out of the Settlement Agreement. Furthermore, NDOT, through its agent, Las Vegas  
17 Paving, affirmatively represented to Plaintiffs, even after it had finalized plans for the obstructive  
18 “fly over,” that the reconstruction of the Blue Diamond Road Interchange would not obstruct the  
19 visibility of the Subject Property, including northbound I-15 visibility and eastbound Blue  
20 Diamond Road visibility.

21          60. Defendant owes a duty to the citizens and landowners of the State, and  
22 particularly the Plaintiffs who entered into a contract with NDOT, such that Plaintiffs are  
23 justified in relying on Defendant’s representation, including the value of the Exchange Property  
24 and NDOT’s plan to develop the adjacent Blue Diamond Road Interchange. NDOT breached all  
25 of its duties of good faith to Plaintiffs.

26          61. As a direct and proximate cause of Defendant’s breach of the covenant of good  
27 faith and fair dealing, Plaintiffs has been damaged in an amount exceeding \$10,000.00.

28 . . .



1 **FOURTH CLAIM FOR RELIEF**  
2 **(Breach of Implied Covenant of Good Faith and Fair Dealing-Tortious Breach)**

3 62. Plaintiffs repeat and reallege the allegations set forth in each of the preceding  
4 paragraphs, as though set forth fully herein.

5 63. The Settlement Agreement constituted a valid and existing contract between  
6 Plaintiffs and Defendant.

7 64. Every contract in Nevada imposes upon the contracting parties a duty of good  
8 faith and fair dealing.

9 65. Defendant owed an implied duty of good faith and fair dealing to Plaintiffs under  
10 the Contract.

11 66. Defendant, as the State of Nevada, owes the people of the State of Nevada a  
12 fiduciary duty, such that Defendant is in a trusted position, wherein it is reasonable for Plaintiffs'  
13 to rely on the representations of Defendant. Furthermore, Defendant, as a trusted agency and  
14 servant to the people of the State of Nevada, and having superior knowledge and control over  
15 highway projects, including those on land adjoining the Exchange Property, had a special  
16 relationship to the Plaintiffs.

17 67. Defendant was aware that Plaintiffs' acquired the Exchange Property based on the  
18 express representations of NDOT by and through the Blue Diamond Road Interchange  
19 development plan and Defendant's representation of the value of the property. It also knew  
20 specifically from its own appraisal that a substantial part of the value of the landlocked Exchange  
21 Property was its visibility along both I-15 and Blue Diamond Road.

22 68. Defendant breached its duty of good faith and fair dealing by failing to disclose  
23 the value of the Exchange Property or that it charged Plaintiffs a 45.65% premium prior to its  
24 sale of the Exchange Proper to Plaintiffs, which is unfaithful to the purpose of the Settlement  
25 Agreement.

26 69. Defendant breached its duty of good faith and fair dealing by failing to disclose  
27 that it intended, contemplated, or that it was otherwise possible that NDOT would construct a  
28 "fly over" at the Blue Diamond Road Interchange that would obstruct Plaintiffs' ingress and



1 egress to the Exchange Property and/or visibility of the property from I-15. Defendant was aware  
2 that Plaintiffs paid valuable consideration for both rights of access and visibility. Defendant's  
3 impairment of those rights is unfaithful to the purpose of the Settlement Agreement.

4 70. Defendant further breached its duty of good faith and fair dealing when it planned  
5 and began construction on the "fly over," intentionally failing to provide notice to the Plaintiffs,  
6 notwithstanding the fact the Exchange Property was acquired in full or in part for its visibility,  
7 and that the NDOT's valuation was in part based on the value of its visibility, and despite  
8 express representations to Plaintiffs that the Blue Diamond Road Interchange would not include  
9 a "fly over." Defendant further breached the duty when it represented, through its agent Las  
10 Vegas Paving, even after specific plans for the "fly over" were determined, that the construction  
11 of the Interchange would not obstruct visibility, and was unfaithful to the purpose of the  
12 Settlement Agreement.

13 71. Defendant owes a duty to the citizens and landowners of the State, such that  
14 Plaintiffs is justified in relying on Defendant's representation, including the value of the  
15 Exchange Property and NDOT's plan to develop the adjacent Blue Diamond Road Interchange.

16 72. As a direct and proximate cause of Defendant's breach of the covenant of good  
17 faith and fair dealing, Plaintiffs have been damaged in an amount exceeding \$10,000.00.

18 73. To the extent allowed by law, Plaintiffs are entitled to an award of punitive  
19 damages in excess of \$10,000.

20 **FIFTH CLAIM FOR RELIEF**  
21 **(Negligent Misrepresentation)**

22 74. Plaintiffs repeat and reallege the allegations set forth in each of the preceding  
23 paragraphs, as though set forth fully herein.

24 75. Defendant, as the seller of the Exchange Property, possessed a pecuniary interest  
25 in any sale of the Exchange Property.

26 76. Defendant, as the seller and as a state entity, owes Plaintiffs the duty of candor  
27 and full disclosure. The duty of full disclosure extends to any fact that is pertinent to Plaintiffs'  
28 decision to purchase the property.



1           77. Defendant was required to accurately disclose the fair market value of the  
2 property it offered Plaintiffs. Defendant refused to produce the appraisal for the property.

3           78. Defendant was required to disclose that it charged Plaintiffs a premium based on  
4 assemblage or any other factor. Defendant, unbeknownst to Plaintiffs, charged Plaintiffs a  
5 premium of 46% based on assemblage.

6           79. Defendant was required to disclose any and all intent or plans to impact the  
7 visibility or access to the Subject Property. Defendant was aware that the visibility of the  
8 Exchange Property was a key selling factor that increased the value of the property. Defendant  
9 was also aware that access to the property from Blue Diamond Road was essential. Defendant's  
10 failed to disclose to Plaintiffs the Blue Diamond Road Interchange plan that included the "fly  
11 over." Defendant's never provided Plaintiffs notice of any change to the Blue Diamond Road  
12 Interchange, such that Plaintiffs could seek administrative remedies. Indeed, NDOT's agent  
13 represented to Plaintiffs by way of a diagram, after plans for the "fly over" were finalized, that  
14 the reconstruction would not include any obstructive feature.

15           80. Plaintiffs were justified in relying on Defendant's representation. Defendant, as  
16 the State, has a duty to faithfully serve the people of the State of Nevada.

17           81. As a direct and proximate cause of Defendant's Negligent Misrepresentation,  
18 Plaintiffs has been damaged in an amount exceeding \$10,000.00.

19                           **SIXTH CLAIM FOR RELIEF**  
20                           **(Intentional Misrepresentation)**

21           82. Plaintiffs repeat and reallege the allegations set forth in each of the preceding  
22 paragraphs, as though set forth fully herein.

23           83. Defendant's made false representations regarding the value of the property, in  
24 order to obtain greater value for the Exchange Property. Despite the existence of a valid  
25 appraisal, Defendant failed and refused to disclose the substance of the appraisal or that fact that  
26 Defendant charged Plaintiffs a 46% premium for assemblage.

27           84. Defendant intended to induce Plaintiffs' purchase of the property for an amount in  
28 excess of its maximum value; profiteering at the expense of its citizen.



1           85. To further entice Plaintiffs into purchasing the property, Defendant failed to  
2 disclose that Defendant intended and/or contemplated the building of a "fly over" that would  
3 significantly impact the visibility of the property from I-15, which Defendant's appraisal  
4 identified as a significant feature of value.

5           86. Plaintiffs were justified in relying of Defendant's representation of value and  
6 future plans based on the fact that Defendant is the State and bound to serve its citizens,  
7 including Mr. Nassiri.

8           87. Defendant never disclosed that it charged Plaintiffs for the property not based on  
9 comparable market values and some reasonable assemblage value, but upon a secret premium of  
10 45.65%, or that it could at any time plan to eliminate one path of entry to the Subject Property  
11 and obscure the Subject Properties visibility from I-15, a major factor leading to Plaintiffs'  
12 purchase of the property. Had Plaintiffs known the appraised values obtained by NDOT, they  
13 would not have entered into the Settlement Agreement and acquired the Exchange Property. Had  
14 they known any of these things, Plaintiffs would not have entered into the Settlement Agreement.  
15 Furthermore, had NDOT, through its agent Las Vegas Paving, not misrepresented the nature and  
16 configuration of the "fly over" in April 2010, Plaintiffs would have taken action to object, as a  
17 citizen and purchaser from the State, or to obtain relief from the courts to change or halt these  
18 altered plans.

19           88. As a direct and proximate result of Defendant's breach of contract, Plaintiffs has  
20 been damaged in an amount exceeding \$10,000.00.

21           WHEREFORE, Plaintiffs prays for judgment against Defendant as follows:

- 22           1. For an award against Defendant in favor of Plaintiffs in an amount in excess of  
23 \$10,000.00;
- 24           2. For the rescission of the Exchange Property transaction;
- 25           3. For punitive damages, to the extent any are allowed by law;
- 26           4. For pre-judgment and post-judgment interest at the statutory rate of interest;
- 27           5. For an award to Plaintiffs of its costs;
- 28           6. For an award to Plaintiffs of its reasonable attorneys' fees; and



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7. For such other and further relief that the Court deems just and proper.

Dated this 27<sup>th</sup> day of March, 2013.

GORDON SILVER



---

ERIC R. OLSEN

Nevada Bar No. 3127

DYLAN T. CICILIANO

Nevada Bar No. 12348

3960 Howard Hughes Pkwy., 9th Floor

Las Vegas, Nevada 89169

(702) 796-5555

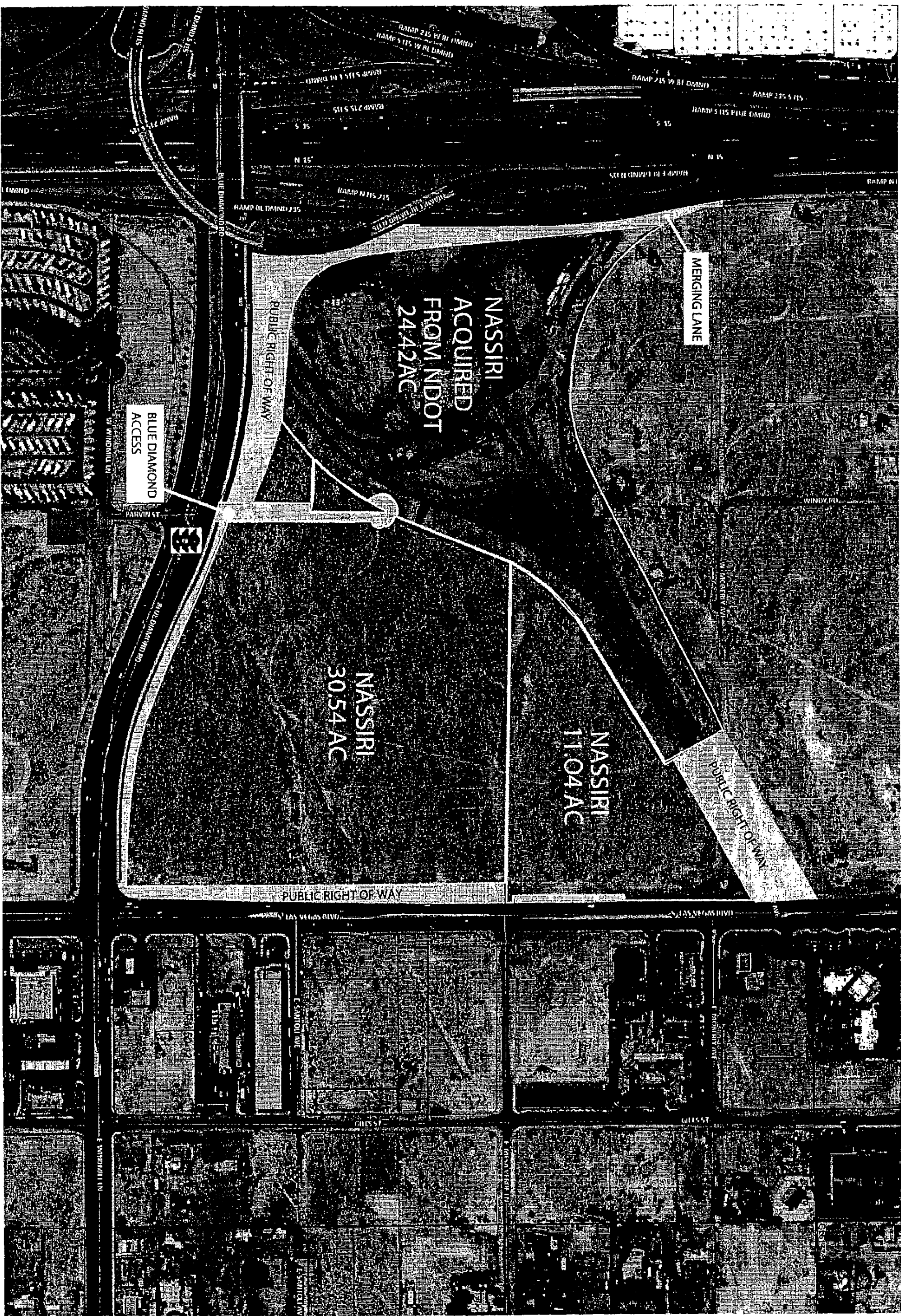
Attorneys for Plaintiffs



“EXHIBIT 1”

“EXHIBIT 1”







“EXHIBIT 2”

“EXHIBIT 2”



## SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Settlement Agreement and Release of All Claims (this "Agreement") is entered into this 28 day of April, 2005 (the "Execution Date") by and among The State of Nevada, on relation of its Department of Transportation ("NDOT" or "Plaintiff") and Fred Nassiri, a resident of Clark County, Nevada ("NASSIRI" or "Defendant", and together with NDOT, "the Parties").

### I.

#### Recitals

1.01 The Lawsuit. On or about August 31, 2004, NDOT filed its Complaint in condemnation ("Complaint") against, among others, NASSIRI, in the Eighth Judicial District Court, Clark County, Nevada, Case Number A491334 (the "Lawsuit") to acquire certain property owned by NASSIRI in fee simple and other property owned by NASSIRI for a two-year construction easement in connection with the construction and reconstruction of the interchange at I-15 and Blue Diamond Road, and the attendant widening and realignment of Blue Diamond Road (the "Project"). NDOT also named Clark County as a defendant in the Lawsuit. Clark County filed a disclaimer of any interest in the proceedings on October 13, 2004.

1.02 Funds on Deposit With Court Clerk. On September 27, 2004, NDOT deposited with the Clerk of the Court ("Clerk") the sum of FOUR MILLION EIGHT HUNDRED TEN THOUSAND and NO/100 DOLLARS (\$4,810,000.00) in connection with NDOT's motion for immediate occupancy (the "Deposit").

1.03 The Exchange Property. NDOT owns 24.41 acres (1,063,132 square feet) of land located generally southeast of the intersection of existing Blue Diamond Road and I-15 and east of NASSIRI's property, which land is more particularly described in the legal description attached hereto at Exhibit "1" and incorporated herein by this reference (the "Exchange Property"). NASSIRI desires to purchase the Exchange Property from NDOT.

1.04 Settlement. The parties hereto desire to enter into this Agreement, which among other things provides for full and final resolution of the Lawsuit, the release of the Deposit to NASSIRI, the conveyance in fee simple of certain property owned by Nassiri to NDOT by judgment, the conveyance of temporary construction easements over the Exchange Property to NDOT, and the conveyance of the Exchange Property to NASSIRI on the terms and conditions set forth herein.

...



## II.

### Agreement

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows.

2.01 Escrow. The Parties shall establish an escrow in Las Vegas, Nevada with Nevada Title Company ("Escrow"), establishing a certified escrow officer to act as the Escrow Agent, and this Agreement shall serve as the instructions to the Escrow Agent for handling the transaction. The Escrow Agent shall not take any action contrary to this Agreement absent the express direction of both Parties in writing. Closing shall occur on the Closing Date as defined in Section 2.07, below.

2.02 Stipulated Judgment and Condemnation Proceeds. On or before the Closing Date, the Parties shall execute and deliver to Escrow a stipulation ("Stipulated Judgment") in the form attached hereto as Exhibit "2" together with an executed Final Judgment and Final Order of Condemnation attached thereto ("Final Judgment"), which Stipulated Judgment shall provide, among other matters, that the Clerk shall release the Deposit to NASSIRI, and release the balance of any funds held by the Clerk in connection with the Lawsuit to NDOT.

2.03 Vesting of Title in NDOT. The property to be conveyed to NDOT by recordation of the Final Judgment is located in unincorporated Clark County, Nevada, and consists of portions of the property generally located at the southwest corner of the intersection of Las Vegas Boulevard South and existing Blue Diamond Road, having Clark County Assessor's Parcel Number 177-08-803-002 and an address of 8011 Las Vegas Boulevard South, Las Vegas, Nevada 89123, and more specifically described in the Complaint as a 183,823 square-foot portion of NDOT Parcel No. S-160-CL-000.016 in fee simple absolute, as further described and identified in Exhibit "2" attached hereto and incorporated herein by this reference (the "Fee Acquisition"), a temporary easement on a 705 square-foot portion of NDOT Parcel No. S-160-CL-000.016 TE, also as described in Exhibit "2" (the "TE"), and a 25,419 square-foot portion of NDOT Parcel No. S-160-CL-000.015, which the Complaint requested in fee simple but the Parties have agreed will serve instead as a temporary easement (the "Teardrop TE", and together with the TE and the Fee Acquisition, the "Subject Property"). The Subject Property shall be condemned and given over to NDOT through entry with the Clerk of the Stipulated Judgment attached hereto as Exhibit "1" and the recording with the Clark County Recorder of the Final Judgment attached thereto, or such other documentation as NDOT may require to vest fee simple title to the Fee Acquisition in NDOT and secure NDOT's TE and Teardrop TE.

2.04 Conveyance of Exchange Property to NASSIRI.

(a) Quitclaim Deed. NDOT shall convey the Exchange Property to NASSIRI by quitclaim deed in the form attached hereto as Exhibit "3", without warranty, "as-is", "where-is", and



"with all faults" (the "Quitclaim Deed"). NASSIRI acknowledges that he is aware of claims by Carolyn Ann Chambers or her representatives relating to an alleged reversionary interest or other right relating to the Exchange Property (the "Chambers Claims"), that he has performed his own investigation of the Chambers Claims, and, based upon such investigation, accepts the Exchange Property subject to any claims of Chambers, her assigns or successors.

(b) Title. NASSIRI may cause Escrow Agent to issue to NASSIRI (with a copy to NDOT) a preliminary title report with respect to the Exchange Property (the "Preliminary Report") on or before the close of business on the tenth business day following the Execution Date, together with copies of all documents relating to title exceptions referred to in the Preliminary Report. NASSIRI shall give NDOT notice if the Preliminary Report contains any exceptions that are not reasonably acceptable to NASSIRI on or before the close of business on the tenth (10<sup>th</sup>) business day prior to Closing ("NASSIRI's Title Notice"). NDOT shall notify NASSIRI on or before the close of business on the fifth (5<sup>th</sup>) business day following the date of NASSIRI's Title Notice if NDOT will satisfy any requirement or remove any exception before the Closing Date ("NDOT's Title Notice"). NDOT's failure to provide NDOT's Title Notice with respect to any requirement or exception shall constitute NDOT's refusal to satisfy or remove the requirement or exception. NASSIRI shall thereafter, but not less than two (2) business days prior to the Closing Date, approve the title contingency set forth herein, or terminate this Agreement. NASSIRI's failure to give such notice of termination shall constitute NASSIRI's agreement to all title exceptions or requirements and NASSIRI's agreement to consummate the transactions contemplated by this Agreement. If notice of termination is given, this Agreement shall terminate and the parties shall be released from any and all further obligations under this Agreement, except for any such obligation which survives termination. Those exceptions to title set forth in the Preliminary Report to which NASSIRI has not objected in writing to NDOT or that NDOT has not agreed to remove pursuant to this Section 9 shall, together with any interest of Carolyn Ann Chambers, her assigns or successors, constitute the "Approved Exceptions".

(c) Chambers Representation and Indemnity. Nassiri represents and warrants as of the Closing Date that Nassiri shall have secured an assignment to Nassiri of all right, title, and interest of Carolyn Ann Chambers, her successors or assigns, in or to the Chambers Claims. Nassiri shall indemnify and hold harmless the State of Nevada and NDOT, their managers, agents, employers, employees, attorneys, insurers, successors, and assigns, and their political subdivisions and sister agencies, of and from all claims, known or unknown, asserted or unasserted of whatever nature, now existing or hereafter arising, including but not limited to claims for attorney's fees and costs, relating in any way to the Chambers Claims.

2.05 Exchange Compensation. On or before the Closing Date, NASSIRI shall deposit in Escrow the sum of TWENTY-THREE MILLION TWO HUNDRED TWENTY NINE THOUSAND FIVE HUNDRED and NO/100 DOLLARS (\$23,229,500.00) (the "Exchange Compensation") in "Cash." For purposes of this Agreement, "Cash" means immediately available United States funds transferred by certified check or wire transfer.



2.06 Exchange Property Construction Easement. On or before the Closing Date, NASSIRI shall execute and deliver to Escrow a temporary construction easement in the form attached hereto as Exhibit "4" allowing NDOT to use certain portions of the Exchange Property in connection with Project planning, staging, and construction (the "Exchange Property Easement").

2.07 Closing.

(a) Date and Location. Closing shall occur at the offices of Escrow Agent at 10:00 a.m. on the thirtieth (30th) day after the Execution Date, or at such other time or place as the Parties may agree in writing (the "Closing Date").

(b) NASSIRI Deliveries on Closing Date. Unless previously provided, NASSIRI shall deliver the following to Escrow on the Closing Date:

- (i) Executed Stipulated Judgment together with executed Final Judgment and such other documentation as NDOT may require to vest fee simple title to the Fee Acquisition in NDOT and secure NDOT's TE and Teardrop TE;
- (ii) Executed Exchange Property Easement;
- (iii) Exchange Compensation;
- (iv) Any fees for issuance by Nevada Title Company of a policy of title insurance for the Exchange Property;
- (v) ½ of any fees of Escrow or Escrow Agent for handling this transaction; and
- (vi) Real property transferor other taxes, if any, that apply to the recording of the Quitclaim Deed.

(c) NDOT Deliveries on Closing Date. Unless previously provided, NDOT shall deliver the following to Escrow on the Closing Date:

- (i) Executed Stipulated Judgment together with executed Final Judgment and Final Order of Condemnation; and
- (ii) The Quitclaim Deed;

(d) Actions by Escrow Agent on Closing Date. On the Closing Date, Escrow Agent shall:



- (i) Collect the deliveries required by NASSIRI and NDOT as set forth in Sections 2.07(b) and (c), above;
- (ii) If desired and paid for by NASSIRI, issue an Owner's Policy of Title Insurance for the Exchange Property subject only to the Approved Exceptions;
- (iii) Record the Quitclaim Deed and the Exchange Property Easement;
- (iv) Deliver to NDOT, less ½ any applicable Escrow or Escrow Agent fees for handling this transaction, the Exchange Compensation; and
- (v) Prepare and deliver to the Parties a closing statement.

**2.08 NDOT Release.** NDOT hereby fully releases and forever discharges NASSIRI and his agents, employers, employees, attorneys, insurers, successors, and assigns, of and from all claims, known or unknown, asserted or unasserted, of whatever nature, now existing or hereafter arising, including but not limited to claims for attorney's fees and costs, relating in any way to the Lawsuit, or any matters asserted therein, or which could have been asserted therein, or its subject matter.

**2.09 NASSIRI Release.** NASSIRI hereby releases and forever discharges: (i) the Lawsuit, or any matters asserted therein, or which could have been asserted therein, or its subject matter, including but not limited to any claims related to the location on the Property of a public highway and necessary incidents thereto, and any claims for any severance damages to the remainder of NASSIRI's property; and (ii) the physical condition of the Exchange Property as of the Execution Date or matters affecting title or claims thereto.

**2.10 NDOT Ownership.** NASSIRI represents and warrants that, to the best of his knowledge, no third party has any right, title, or interest in the Fee Acquisition or TE or Teardrop TE land, and Nassiri covenants that he shall take no action between the Execution Date and Closing Date that will result in any third party having any right, title, or interest in or to the Fee Acquisition, TE, or Teardrop TE.

**2.11 Property Damage.** NASSIRI shall be responsible for any and all risk and liability for any injury or damage to persons or personal property or for any injury or damage to the Subject Property, including but not limited to any and all repairs and/or maintenance to the Property, until the Final Judgment and Final Order of Condemnation is recorded with the Clark County, Nevada Recorder. NDOT shall be responsible for any and all risk and liability for any injury or damage to persons or personal property or for any injury or damage to the Exchange Property, including but not limited to any and all repairs and/or maintenance to the Exchange Property, until the Closing Date

**2.12 Condition of TE and Teardrop TE.** NDOT shall leave the TE and Teardrop TE in as neat and presentable condition as it existed prior to NDOT's use of the TE and Teardrop TE, with



all fences, structures and other property belonging to NASSIRI that NDOT may remove or relocate in order to complete the Project to be replaced as nearly in their original condition as is reasonably possible.

2.13 Civil Rights Act. The regulations pertaining to nondiscrimination and Title VI of the Civil Rights Act of 1964, as contained in Title 23, Code of Federal Regulations Part 200, and Title 49, Code of Federal Regulations Part 21, are hereby incorporated by reference and made a part of this Agreement.

2.14 NRS Chapter 408. NDOT shall have the right to adapt and improve the whole or any part of the Property in accordance with the provisions of NRS Chapter 408, including but not limited to NRS 408.487.

2.15 Highway Engineer's Stationing. All Highway Engineer's Stationing is approximate and subject to slight adjustment as necessary to meet construction requirements. To the extent adjustments due to Highway Engineer's Stationing result in a net Fee Acquisition more than one hundred (100) square feet greater or less than 183,823 square feet, the rate of Twenty-Three dollars (\$23.00) per square foot shall be applied to such net change and a credit or invoice generated by NDOT at the conclusion of the Project or at such earlier time as the net area can be finally calculated. NDOT shall pay any credit owing Nassiri hereunder within sixty (60) days of calculating the final net Fee Acquisition, or, alternatively, Nassiri shall pay any invoice generated by NDOT hereunder within sixty (60) days of receipt.

2.16 Extension of TE and Teardrop TE Term. The termination date of the TE and Teardrop TE has been established in compliance with the best available information on the time frame needed for the Project. If NDOT determines that circumstances warrant an extension of the term of the TE and Teardrop TE to complete the Project, NASSIRI shall grant such an extension to NDOT at a rate of \$500.00 per month.

2.17 No Liability. By entering into this Agreement, no party shall be deemed to admit: (i) any liability for any claims, causes of action, or demands; (ii) any wrong doing or fault; nor (iii) violation of any law, precedent, rule, regulation, or statute. Further, nothing contained in this Agreement may be construed as an admission against the interest of any party.

2.18 Attorney's Fees. If any action is commenced to enforce the terms of this Agreement, the prevailing party shall be entitled to recover all of its expenses related to such action, including but not limited to, its reasonable attorney's fees and costs.

2.19 Acknowledgments. The parties mutually understand, agree, and warrant: (i) that NDOT and NASSIRI deny the legal liability and damages alleged in the Lawsuit, that the payment and distribution of the Condemnation Proceeds, and execution of the Judgment, as provided herein is not to be construed as admissions of liability on the part of NDOT or NASSIRI, but such payment and distribution is solely in compromise and settlement of disputed claims, and the amount of the



Condemnation Proceeds is not an admission by any party as to the fair market value of the Subject Property, or any claims for damages; (ii) that the releases contained herein extend and apply to and also cover and include all unknown, unforeseen, unsuspected, and unanticipated injuries, claims, damages, losses, and liabilities, if any, arising from the matters addressed herein; (iii) that no promise or inducement has been offered except as herein set forth; (iv) that this settlement is in good faith and is equitable; (v) that this Agreement is executed without reliance upon any statement or representation by any party or its representatives concerning the nature and extent of the claimed damages or legal liability therefor; (vi) the parties are legally competent to execute this Agreement and to accept full responsibility therefore; (vii) that this Agreement and the releases set forth herein have been carefully read in their entirety by the Parties, who have had the benefit and advice of counsel of their choosing, and this Agreement and the releases set forth herein are known by the Parties to be in full and final and complete compromise, settlement, release, accord and satisfaction, and discharge of all claims and actions as above stated; and (viii) that in entering into this Agreement and the settlement and releases that are encompassed herein, the Parties are acting freely and voluntarily and without influence, compulsion, or duress of any kind from any source, including, but not limited to, any other party or parties, their attorneys, representatives, or anyone acting or purporting to act on behalf of any party.

2.20 Integration. This Agreement constitutes the entire Agreement by and between the Parties and supersedes and replaces any and all previous agreements entered into or negotiated between the Parties.

2.21 Assignment. This Agreement shall not be assigned by NASSIRI, in whole or in part, to any third party, except to a buyer of all of the property NASSIRI owns within Parcel Number 177-08-803-002 as of the Execution Date, without the approval of NDOT in writing, and only then in the event such third party agrees to be bound by the terms herein. Any such assignment will not relieve NASSIRI of any obligations to NDOT hereunder.

2.22 Amendments. This Agreement may not be amended or modified except in writing and signed by each of the Parties.

2.23 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada.

2.24 Counterparts. This Agreement may be executed in any number of counterparts confirmed by facsimile signatures transmitted by telephone, each of which shall be deemed a duplicate original.

2.25 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, personal representatives, successors, or assigns, as the case may be.

2.26 Notices. Any Notice required or desired to be given under this Agreement shall be



in writing and personally hand delivered, given by overnight express delivery with receipt, or given by United States registered or certified mail, postage prepaid, return receipt requested. All Notices shall be sent to the receiving party at the following address or at such other address as the party may from time to time direct in writing:

If to NASSIRI:  
6590 Bermuda Road  
Las Vegas, Nevada 89119

With a copy to:  
Michael Chapman, Esq.  
9585 Prototype Court, #C  
Reno, Nevada 89521  
Fax: (775)827-1872

If to NDOT:  
Nevada Department of Transportation  
Attn: Jeffrey Fontaine, P.E., Director  
1263 S. Stewart St.  
Carson City, Nevada 89712

With a copy to:  
Gregory J. Walch, Esq.  
Santoro, Driggs, Walch et al.  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Fax: (702)791-0308

For purposes of this Agreement, Notices shall be deemed to have been given, delivered, or received upon personal delivery thereof or seventy-two (72) hours after having been deposited in the United States mail as provided herein.

2.27 Headings. All headings and subheadings employed within this Agreement are inserted only for convenience and ease of reference and shall not be considered in the construction or interpretation of any provision of this Agreement.

2.28 No Third Party Beneficiaries. This Agreement is for the benefit of the State of Nevada on relation of its Department of Transportation and NASSIRI only, and is not for the benefit of any other person or entity. Without limiting the generality of the preceding sentence, the Parties hereto agree that there are no third-party beneficiaries of this Agreement.

2.28 No Presumption Regarding Drafter. The Parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between NDOT and NASSIRI, and that this Agreement reflects their mutual agreement regarding the subject matter of this Agreement. Because of the nature of such negotiations and discussions, it would not be appropriate to deem either Party to be the drafter of this Agreement, and therefore no presumption for or against the drafter shall be applicable in interpreting or enforcing this Agreement.

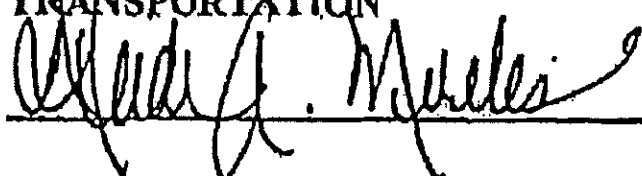
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2.29 Time is of the Essence. The Parties acknowledge that time is of the essence in every aspect of this Agreement.

THE STATE OF NEVADA, ON  
RELATION OF ITS DEPARTMENT OF  
TRANSPORTATION



By: Heidi A. Mireles  
Its: Chief Right-of-Way Agent  
Date: April 29, 2005

FRED NASSIRI

Date: \_\_\_\_\_

Approved as to Legality and Form:

SANTORO, DRIGGS, WALCH,  
KEARNEY, JOHNSON & THOMPSON

CHAPMAN LAW OFFICE

By: \_\_\_\_\_  
GREGORY J. WALCH, ESQ. .  
Nevada Bar No. 4780  
KIRBY C. GRUCHOW, JR., ESQ.  
Nevada Bar No. 6663  
400 South Fourth Street, Third Floor  
Las Vegas, NV 89101  
Phone: (702) 791-0308  
Attorneys for Plaintiff The State of  
Nevada, on relation of its Department  
of Transportation

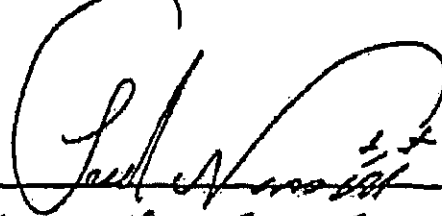
By: \_\_\_\_\_  
MICHAEL G. CHAPMAN, ESQ.  
Nevada Bar No. 1630  
9585 Prototype Court, #C  
Reno, Nevada 89521  
Phone: (775) 827-1866  
Attorney for Defendant Fred Nassiri



2.29 Time is of the Essence. The Parties acknowledge that time is of the essence in every aspect of this Agreement.

THE STATE OF NEVADA, ON  
RELATION OF ITS DEPARTMENT OF  
TRANSPORTATION

FRED NASSIRI



Date: 4-28-05

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to Legality and Form:

SANTORO, DRIGGS, WALCH,  
KEARNEY, JOHNSON & THOMPSON

CHAPMAN LAW OFFICE

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Attorneys for Plaintiff The State of  
Nevada, on relation of its Department  
of Transportation

By: \_\_\_\_\_  
MICHAEL G. CHAPMAN, ESQ.  
Nevada Bar No. 1630  
9585 Prototype Court, #C  
Reno, Nevada 89521  
Phone: (775) 827-1866  
Attorney for Defendant Fred Nassiri



2.29 Time is of the Essence. The Parties acknowledge that time is of the essence in every aspect of this Agreement.

THE STATE OF NEVADA, ON  
RELATION OF ITS DEPARTMENT OF  
TRANSPORTATION

FRED NASSIRI

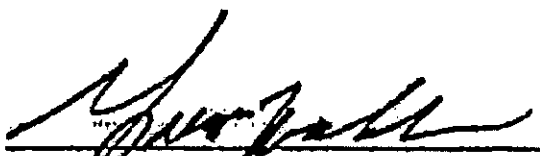
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Approved as to Legality and Form:

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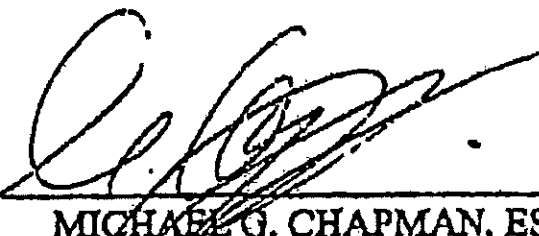
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# Nevada Title Company

## ESCROW DISCLAIMER

TO: Nevada Title Company  
ESCROW NO.: 05-05-0001-CLB  
DATE: May 8, 2005

The undersigned parties acknowledge that the Escrow Agent's function is to be a disinterested third party, taking mutual instructions from the parties to a transaction for preparation of documentation to complete the principal's prior agreements.

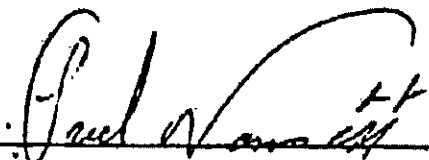
The Escrow Agent is NOT AN ATTORNEY and CANNOT ADVISE the parties as to any legal business, or tax consequences of any provisions or instrument set forth or prepared in connection with this transaction. The undersigned have read and understand each document to which we have affixed our signature and have authorized and instructed Escrow Agent in the manner in which any blanks remaining in said forms are to be completed.

With regard to any questions we may have had pertaining to the Escrow Instructions, the Escrow Agent's role or participation in the escrow, or to the roles of the Real Estate Broker, if any, we have received sufficient explanation. We understand that the subject escrow shall close in accordance with the matters set forth on the documents we have executed.

With regard to any questions we may have had pertaining to the new loan being obtained, if any, we have been made aware that the loan documents were not generated by Nevada Title Company, and that we have received sufficient explanation from the lender providing said loan.

**DO NOT AFFIX YOUR SIGNATURES BELOW UNTIL YOU HAVE READ AND AGREED WITH THE MATTERS SET FORTH ABOVE. SHOULD YOU STILL HAVE QUESTIONS WITH REGARD TO THE ABOVE, YOU ARE ADVISED TO SEEK THE ADVICE OF AN INDEPENDENT LEGAL COUNSEL.**

BUYERS:

  
Fred Nassiri

SELLERS:

State of Nevada Department of Transportation

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_





# Nevada Title Company

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BUYERS:

\_\_\_\_\_  
Fred Nassiri

SELLERS:

State of Nevada Department of Transportation

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Heldi A. Mireles*  
Heldi A. Mireles  
Chief R/W Agent



**FIRST AMENDMENT TO SETTLEMENT AGREEMENT  
AND RELEASE OF ALL CLAIMS**

This First Amendment to Settlement Agreement and Release of All Claims (the "First Amendment") is made and entered into this 7th day of June, 2005, by and among The State of Nevada, on relation of its Department of Transportation ("NDOT" or "Plaintiff") and Fred Nassiri, a resident of Clark County, Nevada ("NASSIRI" or "Defendant", and together with NDOT, "the Parties") to amend that certain Settlement Agreement and Release of All Claims (the "Settlement Agreement") entered into by the Parties on or about April 28, 2005.

**I.**

**Recitals**

1.01 The Lawsuit. On or about August 31, 2004, NDOT filed its Complaint in condemnation ("Complaint") against, among others, NASSIRI, in the Eighth Judicial District Court, Clark County, Nevada, Case Number A491334 (the "Lawsuit") to acquire certain property owned by NASSIRI in fee simple and other property owned by NASSIRI for a two-year construction easement in connection with the construction and reconstruction of the interchange at I-15 and Blue Diamond Road, and the attendant widening and realignment of Blue Diamond Road (the "Project"). NDOT also named Clark County as a defendant in the Lawsuit. Clark County filed a disclaimer of any interest in the proceedings on October 13, 2004.

1.02 Settlement Agreement. The Parties resolved the Lawsuit through the Settlement Agreement, which, among other things, provided that NDOT would convey to NASSIRI a 1,063,132 parcel of land defined therein as the "Exchange Property" and NASSIRI would pay NDOT TWENTY-THREE MILLION TWO HUNDRED TWENTY NINE THOUSAND FIVE HUNDRED and NO/100 DOLLARS (\$23,229,500.00) (the "Exchange Compensation") in exchange. The Parties have discovered that the Exchange Property legal description should be changed as set forth in this First Amendment, and that such revised legal description will be used in both the Quitclaim Deed and Exchange Property Easement.

1.03 Settlement Agreement Survival. The Parties also desire that the Settlement Agreement be modified to set forth more clearly the Parties' intention that the representations, warranties, indemnities, and all other rights and obligations of the Settlement Agreement shall not merge with the conveyance or recording of the Quitclaim Deed or Exchange Property Easement.



## II.

### Agreement

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows.

2.01 Defined Terms. All capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Settlement Agreement.

2.02 Exchange Property Legal Description. The Exchange Property shall be the 1,063,570 square foot property set forth in the legal description and diagram attached hereto as Exhibit A-1 and incorporated herein by this reference. The legal description set forth in Exhibit A-1 shall be attached to and incorporated into the Quitclaim Deed and the Exchange Property Easement.

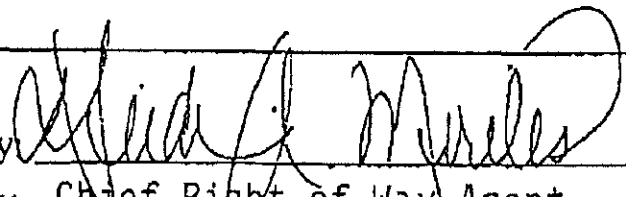
2.03 Exchange Compensation. The Exchange Compensation shall be TWENTY-THREE MILLION TWO HUNDRED THIRTY-NINE THOUSAND FOUR AND 05/100 DOLLARS (\$23,239,004.50) rather than TWENTY-THREE MILLION TWO HUNDRED TWENTY NINE THOUSAND FIVE HUNDRED and NO/100 DOLLARS (\$23,229,500.00) to reflect the additional square footage included in the Exchange Property legal description attached hereto as Exhibit A-1 at TWENTY-ONE AND 85/100 DOLLARS (\$21.85) per square foot.

2.04 Survival. The representations, warranties, indemnities, and all other rights and obligations provided in the Settlement Agreement shall not merge with the conveyance or recording of the Quitclaim Deed or Exchange Property Easement, or with the entry or recording of the Final Judgment.

This First Amendment shall be effective as of the date first written above.

THE STATE OF NEVADA, ON  
RELATION OF ITS DEPARTMENT OF  
TRANSPORTATION

FRED NASSIRI

By:   
Its: Chief Right-of-Way Agent  
Date: June 14, 2005

Date: \_\_\_\_\_



II.

Agreement

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows.

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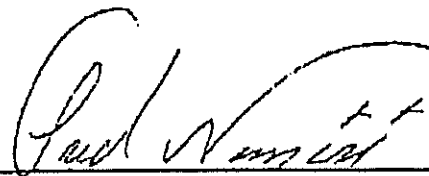
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THE STATE OF NEVADA, ON  
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TRANSPORTATION

FRED NASSIRI



Date: 6-7-05

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

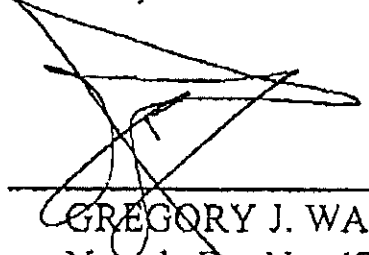
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“EXHIBIT 3”

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